

2018

# LOUISIANA CRIMINAL CODE



**NICHOLAS M. GRAPHIA, ESQ.**  
GULF COAST LEGAL PUBLISHING, LLC

# **Louisiana Criminal Code 2018**

## **Title 14 of the Louisiana Revised Statutes**

The goal of this 2018 edition of the Criminal Code<sup>1</sup> is to provide the practitioner with a convenient copy to bring to court or the office. It contains all statutes of Title 14 as amended through the 2017 legislative sessions. Other titles such as Louisiana Code of Criminal Procedure, Louisiana Code of Evidence, Louisiana Civil Code, and Federal Rules of Civil Procedure are available at [www.gulfcoastlegalpublishing.com](http://www.gulfcoastlegalpublishing.com). For bulk and academic discount inquiries, email [info@gulfcoastlegalpublishing.com](mailto:info@gulfcoastlegalpublishing.com).

ISBN-13: 978-1979021227

ISBN-10: 1979021228

Nicholas M. Graphia, Attorney/Publisher  
Gulf Coast Legal Publishing, LLC

---

<sup>1</sup> No part of this edition of the Criminal Code may be sold, commercially distributed, or used for any other commercial purpose without the written permission of Gulf Coast Legal Publishing.



## Table of Contents

CHAPTER 1. CRIMINAL CODE.....	5
PART I. GENERAL PROVISIONS.....	5
SUBPART A. PRELIMINARY PROVISIONS.....	5
SUBPART B. ELEMENTS OF CRIMES.....	8
SUBPART C. CULPABILITY.....	9
SUBPART D. PARTIES.....	12
SUBPART E. INCHOATE OFFENSES.....	13
PART II. OFFENSES AGAINST THE PERSON.....	16
SUBPART A. HOMICIDE.....	16
SUBPART A-1. FETICIDE.....	22
SUBPART A-2. SUICIDE.....	28
SUBPART B. ASSAULT AND BATTERY (WITH RELATED OFFENSES).....	28
SUBPART C. RAPE AND SEXUAL BATTERY.....	55
SUBPART D. KIDNAPPING AND FALSE IMPRISONMENT.....	64
SUBPART E. DEFAMATION.....	71
PART III. OFFENSES AGAINST PROPERTY.....	73
SUBPART A. BY VIOLENCE TO BUILDINGS AND OTHER PROPERTY.....	73
SUBPART B. BY MISAPPROPRIATION WITH VIOLENCE TO THE PERSON.....	90
SUBPART C. BY MISAPPROPRIATION WITHOUT VIOLENCE.....	92
SUBPART D. COMPUTER RELATED CRIME.....	121
PART IV. OFFENSES AFFECTING THE FAMILY.....	127
SUBPART A. CRIMINAL NEGLECT OF FAMILY.....	127
SUBPART B. SEX OFFENSES AFFECTING THE FAMILY.....	130
SUBPART C. DOMESTIC VIOLENCE OFFENSES.....	130
SUBPART D. CRIMINAL ABANDONMENT.....	130
PART V. OFFENSES AFFECTING THE PUBLIC MORALS.....	134
SUBPART A. OFFENSES AFFECTING SEXUAL IMMORALITY.....	134
SUBPART B. OFFENSES AFFECTING GENERAL MORALITY.....	165
PART VI. OFFENSES AFFECTING THE PUBLIC GENERALLY.....	200
SUBPART A. OFFENSES AFFECTING THE PUBLIC SAFETY.....	200
SUBPART B. OFFENSES AFFECTING THE PUBLIC SENSIBILITY.....	236

SUBPART C. OFFENSES AFFECTING THE GENERAL PEACE AND ORDER.....	256
SUBPART D. OFFENSES AFFECTING LAW ENFORCEMENT .....	270
PART VII. OFFENSES AFFECTING ORGANIZED GOVERNMENT .....	280
SUBPART A. TREASON AND DISLOYAL ACTS .....	280
SUBPART B. BRIBERY AND INTIMIDATION.....	282
SUBPART C. PERJURY.....	286
SUBPART D. ANTI-TERRORISM.....	291
SUBPART E. MISCELLANEOUS OFFENSES AFFECTING JUDICIAL FUNCTIONS AND PUBLIC RECORDS .....	293
SUBPART F. OFFICIAL MISCONDUCT AND CORRUPT PRACTICES .....	300
PART VIII. CONCLUDING PROVISIONS .....	306
CHAPTER 2. MISCELLANEOUS CRIMES AND OFFENSES.....	308
PART I. OFFENSES AGAINST PROPERTY .....	308
PART II. OFFENSES AFFECTING PUBLIC MORALS .....	335
PART III. OFFENSES AFFECTING THE PUBLIC GENERALLY.....	342
PART IV. OFFENSES AFFECTING ORGANIZED GOVERNMENT .....	360
PART V. OFFENSES AFFECTING LAW ENFORCEMENT .....	375
PART VI. OFFENSES AGAINST THE PERSON.....	389
PART VII. LOANSHARKING.....	389
CHAPTER 3. LOUISIANA FELONY CLASS SYSTEM TASK FORCE .....	390

# CHAPTER 1. CRIMINAL CODE

## PART I. GENERAL PROVISIONS

### SUBPART A. PRELIMINARY PROVISIONS

#### **§1. Method of citation**

This Chapter shall be known as the Louisiana Criminal Code. The provisions hereunder may be referred to or cited either as Articles of the Criminal Code or as Sections of the Revised Statutes. Thus Article 30 of Louisiana Criminal Code may also be referred to or cited as R.S. 14:30.

Whenever reference is made herein to an Article of the Criminal Code, the same shall also relate to the corresponding Section of the Revised Statutes.

#### **§2. Definitions**

A. In this Code the terms enumerated shall have the designated meanings:

(1) "Another" refers to any other person or legal entity, including the state of Louisiana or any subdivision thereof.

(2) "Anything of value" must be given the broadest possible construction, including any conceivable thing of the slightest value, movable or immovable, corporeal or incorporeal, public or private, and including transportation, telephone and telegraph services, or any other service available for hire. It must be construed in the broad popular sense of the phrase, not necessarily as synonymous with the traditional legal term "property." In all cases involving shoplifting the term "value" is the actual retail price of the property at the time of the offense.

(3) "Dangerous weapon" includes any gas, liquid or other substance or instrumentality, which, in the manner used, is calculated or likely to produce death or great bodily harm.

(4) "Felony" is any crime for which an offender may be sentenced to death or imprisonment at hard labor.

(5) "Foreseeable" refers to that which ordinarily would be anticipated by a human being of average reasonable intelligence and perception.

(6) "Misdemeanor" is any crime other than a felony.

(7) "Person" includes a human being from the moment of fertilization and implantation and also includes a body of persons, whether incorporated or not.

(8) "Property" refers to both public and private property, movable and immovable, and corporeal and incorporeal property.

(9) "Public officer", "public office", "public employee", or "position of public authority" means and applies to any executive, ministerial, administrative, judicial, or legislative officer, office, employee or position of authority respectively, of the state of Louisiana or any parish, municipality, district, or other political subdivision thereof, or of any agency, board, commission, department, or institution of said state, parish, municipality, district, or other political subdivision.

(10) "State" means the state of Louisiana, or any parish, municipality, district, or other political subdivision thereof, or any agency, board, commission, department, or institution of said state, parish, municipality, district, or other political subdivision.

(11) "Unborn child" means any individual of the human species from fertilization and implantation until birth.

(12) "Whoever" in a penalty clause refers only to natural persons insofar as death or imprisonment is provided, but insofar as a fine may be imposed "whoever" in a penalty clause refers to any person.

B. In this Code, "crime of violence" means an offense that has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and that, by its very nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense or an offense that involves the possession or use of a dangerous weapon. The following enumerated offenses and attempts to commit any of them are included as "crimes of violence":

- (1) Solicitation for murder.
- (2) First degree murder.
- (3) Second degree murder.
- (4) Manslaughter.
- (5) Aggravated battery.
- (6) Second degree battery.
- (7) Aggravated assault.
- (8) Repealed by Acts 2017, No. 281, §3.
- (9) Aggravated or first degree rape.
- (10) Forcible or second degree rape.
- (11) Simple or third degree rape.
- (12) Sexual battery.
- (13) Second degree sexual battery.
- (14) Intentional exposure to AIDS virus.
- (15) Aggravated kidnapping.
- (16) Second degree kidnapping.
- (17) Simple kidnapping.
- (18) Aggravated arson.
- (19) Aggravated criminal damage to property.
- (20) Aggravated burglary.
- (21) Armed robbery.
- (22) First degree robbery.
- (23) Simple robbery.
- (24) Purse snatching.
- (25) Repealed by Acts 2017, No. 281, §3.
- (26) Assault by drive-by shooting.
- (27) Aggravated crime against nature.
- (28) Carjacking.
- (29) Repealed by Acts 2017, No. 281, §3.
- (30) Terrorism.
- (31) Aggravated second degree battery.
- (32) Aggravated assault upon a peace officer.
- (33) Aggravated assault with a firearm.
- (34) Armed robbery; use of firearm; additional penalty.

- (35) Second degree robbery.
- (36) Disarming of a peace officer.
- (37) Stalking.
- (38) Second degree cruelty to juveniles.
- (39) Aggravated flight from an officer.
- (40) Repealed by Acts 2014, No. 602, §7, eff. June 12, 2014.
- (41) Battery of a police officer.
- (42) Trafficking of children for sexual purposes.
- (43) Human trafficking.
- (44) Home invasion.
- (45) Domestic abuse aggravated assault.
- (46) Vehicular homicide, when the operator's blood alcohol concentration exceeds 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood.
- (47) Aggravated assault upon a dating partner.

Amended by Acts 1962, No. 68, §1; Acts 1976, No. 256, §1; Acts 1977, No. 128, §1; Acts 1989, No. 777, §1; Acts 1992, No. 1015, §1; Acts 1994, 3rd Ex. Sess., No. 73, §1; Acts 1995, No. 650, §1; Acts 1995, No. 1223, §1; Acts 2001, No. 301, §2; Acts 2002, 1st Ex. Sess., No. 128, §2; Acts 2003, No. 637, §1; Acts 2004, No. 651, §1; Acts 2004, No. 676, §1; Acts 2006, No. 72, §1; Acts 2008, No. 619, §1; Acts 2010, No. 387, §1; Acts 2010, No. 524, §1; Acts 2014, No. 194, §1; Acts 2014, No. 280, §1, eff. May 28, 2014; Acts 2014, No. 602, §7, eff. June 12, 2014; Acts 2015, No. 184, §1; Acts 2016, No. 225, §1; Acts 2017, No. 84, §1; Acts 2017, No. 281, §3.

### **§3. Interpretation**

The articles of this Code cannot be extended by analogy so as to create crimes not provided for herein; however, in order to promote justice and to effect the objects of the law, all of its provisions shall be given a genuine construction, according to the fair import of their words, taken in their usual sense, in connection with the context, and with reference to the purpose of the provision.

### **§4. Conduct made criminal under several articles; how prosecuted**

Prosecution may proceed under either provision, in the discretion of the district attorney, whenever an offender's conduct is:

(1) Criminal according to a general article of this Code or Section of this Chapter of the Revised Statutes and also according to a special article of this Code or Section of this Chapter of the Revised Statutes; or

(2) Criminal according to an article of the Code or Section of this Chapter of the Revised Statutes and also according to some other provision of the Revised Statutes, some special statute, or some constitutional provision.

### **§5. Lesser and included offenses**

An offender who commits an offense which includes all the elements of other lesser offenses, may be prosecuted for and convicted of either the greater offense or one of the lesser

and included offenses. In such case, where the offender is prosecuted for the greater offense, he may be convicted of any one of the lesser and included offense

#### **§6. Civil remedies not affected**

Nothing in this Code shall affect any civil remedy provided by the law pertaining to civil matters, or any legal power to inflict penalties for contempt.

### SUBPART B. ELEMENTS OF CRIMES

#### **§7. Crime defined**

A crime is that conduct which is defined as criminal in this Code, or in other acts of the legislature, or in the constitution of this state.

#### **§8. Criminal conduct**

Criminal conduct consists of:

- (1) An act or a failure to act that produces criminal consequences, and which is combined with criminal intent; or
- (2) A mere act or failure to act that produces criminal consequences, where there is no requirement of criminal intent; or
- (3) Criminal negligence that produces criminal consequences.

#### **§9. Criminal consequences**

Criminal consequences are any set of consequences prescribed in the various articles of this Code or in the other acts of the legislature of this state as necessary to constitute any of the various crimes defined therein.

#### **§10. Criminal intent**

Criminal intent may be specific or general:

- (1) Specific criminal intent is that state of mind which exists when the circumstances indicate that the offender actively desired the prescribed criminal consequences to follow his act or failure to act.
- (2) General criminal intent is present whenever there is specific intent, and also when the circumstances indicate that the offender, in the ordinary course of human experience, must have adverted to the prescribed criminal consequences as reasonably certain to result from his act or failure to act.

#### **§11. Criminal intent; how expressed**

The definitions of some crimes require a specific criminal intent, while in others no intent is required. Some crimes consist merely of criminal negligence that produces criminal consequences. However, in the absence of qualifying provisions, the terms "intent" and "intentional" have reference to "general criminal intent."

#### **§12. Criminal negligence**

Criminal negligence exists when, although neither specific nor general criminal intent is present, there is such 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.

#### SUBPART C. CULPABILITY

##### **§13. Infancy**

Those who have not reached the age of ten years are exempt from criminal responsibility. However, nothing in this article shall affect the jurisdiction of juvenile courts as established by the constitution and statutes of this state.

##### **§14. Insanity**

If the circumstances indicate that because of a mental disease or mental defect the offender was incapable of distinguishing between right and wrong with reference to the conduct in question, the offender shall be exempt from criminal responsibility.

##### **§15. Intoxication**

The fact of an intoxicated or drugged condition of the offender at the time of the commission of the crime is immaterial, except as follows:

(1) Where the production of the intoxicated or drugged condition has been involuntary, and the circumstances indicate this condition is the direct cause of the commission of the crime, the offender is exempt from criminal responsibility.

(2) Where the circumstances indicate that an intoxicated or drugged condition has precluded the presence of a specific criminal intent or of special knowledge required in a particular crime, this fact constitutes a defense to a prosecution for that crime.

##### **§16. Mistake of fact**

Unless there is a provision to the contrary in the definition of a crime, reasonable ignorance of fact or mistake of fact which precludes the presence of any mental element required in that crime is a defense to any prosecution for that crime.

##### **§17. Mistake of law**

Ignorance of the provision of this Code or of any criminal statute is not a defense to any criminal prosecution. However, mistake of law which results in the lack of an intention that consequences which are criminal shall follow, is a defense to a criminal prosecution under the following circumstances:

(1) Where the offender reasonably relied on the act of the legislature in repealing an existing criminal provision, or in otherwise purporting to make the offender's conduct lawful; or

(2) Where the offender reasonably relied on a final judgment of a competent court of last resort that a provision making the conduct in question criminal was unconstitutional.

## **§18. Justification; general provisions**

The fact that an offender's conduct is justifiable, although otherwise criminal, shall constitute a defense to prosecution for any crime based on that conduct. This defense of justification can be claimed under the following circumstances:

- (1) When the offender's conduct is an apparently authorized and reasonable fulfillment of any duties of public office; or
- (2) When the offender's conduct is a reasonable accomplishment of an arrest which is lawful under the Code of Criminal Procedure; or
- (3) When for any reason the offender's conduct is authorized by law; or
- (4) When the offender's conduct is reasonable discipline of minors by their parents, tutors or teachers; or
- (5) When the crime consists of a failure to perform an affirmative duty and the failure to perform is caused by physical impossibility; or
- (6) When any crime, except murder, is committed through the compulsion of threats by another of death or great bodily harm, and the offender reasonably believes the person making the threats is present and would immediately carry out the threats if the crime were not committed; or
- (7) When the offender's conduct is in defense of persons or of property under any of the circumstances described in Articles 19 through 22.

## **§19. Use of force or violence in defense**

A.(1) The use of force or violence upon the person of another is justifiable under either of the following circumstances:

(a) When committed for the purpose of preventing a forcible offense against the person or a forcible offense or trespass against property in a person's lawful possession, provided that the force or violence used must be reasonable and apparently necessary to prevent such offense.

(b)(i) When committed by a person lawfully inside a dwelling, a place of business, or a motor vehicle as defined in R.S. 32:1(40) when the conflict began, against a person who is attempting to make an unlawful entry into the dwelling, place of business, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, or motor vehicle, and the person using the force or violence reasonably believes that the use of force or violence is necessary to prevent the entry or to compel the intruder to leave the dwelling, place of business, or motor vehicle.

(ii) The provisions of this Paragraph shall not apply when the person using the force or violence is engaged, at the time of the use of force or violence in the acquisition of, the distribution of, or possession of, with intent to distribute a controlled dangerous substance in violation of the provisions of the Uniform Controlled Dangerous Substances Law.

(2) The provisions of Paragraph (1) of this Section shall not apply where the force or violence results in a homicide.

B. For the purposes of this Section, there shall be a presumption that a person lawfully inside a dwelling, place of business, or motor vehicle held a reasonable belief that the use of

force or violence was necessary to prevent unlawful entry thereto, or to compel an unlawful intruder to leave the premises or motor vehicle, if both of the following occur:

(1) The person against whom the force or violence was used was in the process of unlawfully and forcibly entering or had unlawfully and forcibly entered the dwelling, place of business, or motor vehicle.

(2) The person who used force or violence knew or had reason to believe that an unlawful and forcible entry was occurring or had occurred.

C. A person who is not engaged in unlawful activity and who is in a place where he or she has a right to be shall have no duty to retreat before using force or violence as provided for in this Section and may stand his or her ground and meet force with force.

D. No finder of fact shall be permitted to consider the possibility of retreat as a factor in determining whether or not the person who used force or violence in defense of his person or property had a reasonable belief that force or violence was reasonable and apparently necessary to prevent a forcible offense or to prevent the unlawful entry.

Acts 2006, No. 141, §1; Acts 2014, No. 163, §1.

## **§20. Justifiable homicide**

A. A homicide is justifiable:

(1) When committed in self-defense by one who reasonably believes that he is in imminent danger of losing his life or receiving great bodily harm and that the killing is necessary to save himself from that danger.

(2) When committed for the purpose of preventing a violent or forcible felony involving danger to life or of great bodily harm by one who reasonably believes that such an offense is about to be committed and that such action is necessary for its prevention. The circumstances must be sufficient to excite the fear of a reasonable person that there would be serious danger to his own life or person if he attempted to prevent the felony without the killing.

(3) When committed against a person whom one reasonably believes to be likely to use any unlawful force against a person present in a dwelling or a place of business, or when committed against a person whom one reasonably believes is attempting to use any unlawful force against a person present in a motor vehicle as defined in R.S. 32:1(40), while committing or attempting to commit a burglary or robbery of such dwelling, business, or motor vehicle.

(4)(a) When committed by a person lawfully inside a dwelling, a place of business, or a motor vehicle as defined in R.S. 32:1(40) when the conflict began, against a person who is attempting to make an unlawful entry into the dwelling, place of business, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, or motor vehicle, and the person committing the homicide reasonably believes that the use of deadly force is necessary to prevent the entry or to compel the intruder to leave the dwelling, place of business, or motor vehicle.

(b) The provisions of this Paragraph shall not apply when the person committing the homicide is engaged, at the time of the homicide, in the acquisition of, the distribution of, or possession of, with intent to distribute a controlled dangerous substance in violation of the provisions of the Uniform Controlled Dangerous Substances Law.

B. For the purposes of this Section, there shall be a presumption that a person lawfully inside a dwelling, place of business, or motor vehicle held a reasonable belief that the use of deadly force was necessary to prevent unlawful entry thereto, or to compel an unlawful intruder to leave the dwelling, place of business, or motor vehicle when the conflict began, if both of the following occur:

(1) The person against whom deadly force was used was in the process of unlawfully and forcibly entering or had unlawfully and forcibly entered the dwelling, place of business, or motor vehicle.

(2) The person who used deadly force knew or had reason to believe that an unlawful and forcible entry was occurring or had occurred.

C. A person who is not engaged in unlawful activity and who is in a place where he or she has a right to be shall have no duty to retreat before using deadly force as provided for in this Section, and may stand his or her ground and meet force with force.

D. No finder of fact shall be permitted to consider the possibility of retreat as a factor in determining whether or not the person who used deadly force had a reasonable belief that deadly force was reasonable and apparently necessary to prevent a violent or forcible felony involving life or great bodily harm or to prevent the unlawful entry.

Added by Acts 1976, No. 655, §1. Amended by Acts 1977, No. 392, §1; Acts 1983, No. 234, §1; Acts 1993, No. 516, §1; Acts 1997, No. 1378, §1; Acts 2003, No. 660, §1; Acts 2006, No. 141, §1; Acts 2014, No. 163, §1.

### **§20.1. Investigation of death due to violence or suspicious circumstances when claim of self-defense is raised**

Whenever a death results from violence or under suspicious circumstances and a claim of self-defense is raised, the appropriate law enforcement agency and coroner shall expeditiously conduct a full investigation of the death. All evidence of such investigation shall be preserved.

Acts 2012, No. 690, §1, eff. June 7, 2012.

### **§21. Aggressor cannot claim self defense**

A person who is the aggressor or who brings on a difficulty cannot claim the right of self-defense unless he withdraws from the conflict in good faith and in such a manner that his adversary knows or should know that he desires to withdraw and discontinue the conflict.

### **§22. Defense of others**

It is justifiable to use force or violence or to kill in the defense of another person when it is reasonably apparent that the person attacked could have justifiably used such means himself, and when it is reasonably believed that such intervention is necessary to protect the other person.

## **SUBPART D. PARTIES**

### **§23. Parties classified**

The parties to crimes are classified as:

- (1) Principals; and
- (2) Accessories after the fact.

#### **§24. Principals**

All persons concerned in the commission of a crime, whether present or absent, and whether they directly commit the act constituting the offense, aid and abet in its commission, or directly or indirectly counsel or procure another to commit the crime, are principals.

#### **§25. Accessories after the fact**

An accessory after the fact is any person who, after the commission of a felony, shall harbor, conceal, or aid the offender, knowing or having reasonable ground to believe that he has committed the felony, and with the intent that he may avoid or escape from arrest, trial, conviction, or punishment.

An accessory after the fact may be tried and punished, notwithstanding the fact that the principal felon may not have been arrested, tried, convicted, or amenable to justice.

Whoever becomes an accessory after the fact shall be fined not more than five hundred dollars, or imprisoned, with or without hard labor, for not more than five years, or both; provided that in no case shall his punishment be greater than one-half of the maximum provided by law for a principal offender.

### SUBPART E. INCHOATE OFFENSES

#### **§26. Criminal conspiracy**

A. Criminal conspiracy is the agreement or combination of two or more persons for the specific purpose of committing any crime; provided that an agreement or combination to commit a crime shall not amount to a criminal conspiracy unless, in addition to such agreement or combination, one or more of such parties does an act in furtherance of the object of the agreement or combination.

B. If the intended basic crime has been consummated, the conspirators may be tried for either the conspiracy or the completed offense, and a conviction for one shall not bar prosecution for the other.

C. Whoever is a party to a criminal conspiracy to commit any crime shall be fined or imprisoned, or both, in the same manner as for the offense contemplated by the conspirators; provided, however, whoever is a party to a criminal conspiracy to commit a crime punishable by death or life imprisonment shall be imprisoned at hard labor for not more than thirty years.

D. Whoever is a party to a criminal conspiracy to commit any other crime shall be fined or imprisoned, or both, in the same manner as for the offense contemplated by the conspirators; but such fine or imprisonment shall not exceed one-half of the largest fine, or one-half the longest term of imprisonment prescribed for such offense, or both.

Amended by Acts 1977, No. 538, §1; Acts 2013, No. 220, §4, eff. June 11, 2013.

#### **§27. Attempt; penalties; attempt on peace officer; enhanced penalties**

A. Any person who, having a specific intent to commit a crime, does or omits an act for the purpose of and tending directly toward the accomplishing of his object is guilty of an attempt to commit the offense intended; and it shall be immaterial whether, under the circumstances, he would have actually accomplished his purpose.

B.(1) Mere preparation to commit a crime shall not be sufficient to constitute an attempt; but lying in wait with a dangerous weapon with the intent to commit a crime, or searching for the intended victim with a dangerous weapon with the intent to commit a crime, shall be sufficient to constitute an attempt to commit the offense intended.

(2) Further, the placing of any combustible or explosive substance in or near any structure, watercraft, movable, or forestland, with the specific intent eventually to set fire to or to damage by explosive substance such structure, watercraft, movable, or forestland, shall be sufficient to constitute an attempt to commit the crime of arson as defined in R.S. 14:51 through 53.

C. An attempt is a separate but lesser grade of the intended crime; and any person may be convicted of an attempt to commit a crime, although it appears on the trial that the crime intended or attempted was actually perpetrated by such person in pursuance of such attempt.

D. Whoever attempts to commit any crime shall be punished as follows:

(1)(a) If the offense so attempted is punishable by death or life imprisonment, he shall be imprisoned at hard labor for not less than ten nor more than fifty years without benefit of parole, probation, or suspension of sentence.

(b) If the offense so attempted is punishable by death or life imprisonment and is attempted against an individual who is a peace officer engaged in the performance of his lawful duty, he shall be imprisoned at hard labor for not less than twenty nor more than fifty years without benefit of parole, probation, or suspension of sentence.

(2)(a) If the offense so attempted is theft or receiving stolen things, and is not punishable as a felony, he shall be fined not more than two hundred dollars, imprisoned for not more than six months, or both.

(b) If the offense so attempted is receiving stolen things, and is punishable as a felony, he shall be fined not more than two hundred dollars, imprisoned for not more than one year, or both.

(c)(i) If the offense so attempted is theft of an amount not less than seven hundred fifty dollars nor more than twenty-five thousand dollars, he shall be fined not more than five hundred dollars, imprisoned for not more than one year, or both.

(ii) If the offense so attempted is theft of an amount over twenty-five thousand dollars, he shall be fined not more than two thousand dollars, imprisoned, with or without hard labor, for not more than five years, or both.

(3) In all other cases he shall be fined or imprisoned or both, in the same manner as for the offense attempted; such fine or imprisonment shall not exceed one-half of the largest fine, or one-half of the longest term of imprisonment prescribed for the offense so attempted, or both.

E. For the purposes of Subsection D of this Section, the term "peace officer" means any peace officer, as defined in R.S. 40:2402.

Amended by Acts 1970, No. 471, §1; Acts 1975, No. 132, §1; Acts 1989, No. 609, §1; Acts 1995, No. 988, §1; Acts 2003, No. 166, §1; Acts 2003, No. 745, §1; Acts 2010, No. 531, §1; Acts 2013, No. 240, §1; Acts 2014, No. 255, §1.

**§28. Inciting a felony**

A. Inciting a felony is the endeavor by one or more persons to incite or procure another person to commit a felony.

B. Whoever commits the crime of inciting a felony shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than two years, or both.

C. If an offender over the age of seventeen years commits the crime of inciting a felony by endeavoring to incite or procure a person under the age of seventeen years to commit a felony, the offender shall be fined not more than one thousand dollars and imprisoned at hard labor for not more than five years.

Amended by Acts 1968, No. 647, §1; Acts 1994, 3rd Ex. Sess., No. 131, §1.

**§28.1. Solicitation for murder**

A. Solicitation for murder is the intentional solicitation by one person of another to commit or cause to be committed a first or second degree murder.

B. Whoever commits the crime of solicitation for murder shall be imprisoned at hard labor for not less than five years nor more than twenty years.

Acts 1985, No. 576, §1, eff. July 13, 1985; Acts 2001, No. 851, §1.

## CHAPTER 2. MISCELLANEOUS CRIMES AND OFFENSES

### PART I. OFFENSES AGAINST PROPERTY

#### **§201. Collateral securities, unauthorized use or withdrawal prohibited; penalty; proof of intent; of personal advantage**

A. No customer, nor any officer, member, or employee of any person who is a customer of any bank or banking institution, savings bank, or trust company organized under the laws of this state, of the United States, or of any foreign country, or of a private banker or of a person, or association that loans money on collateral security, doing business in this state, who is allowed to withdraw any collateral pledged by him, either personally or in his representative capacity, on a trust receipt or other form of receipt, shall do any of the following:

(1) Use, sell, repledge, or otherwise dispose of the collateral so withdrawn, for any other purpose other than that of paying the indebtedness for the security of which the collateral was pledged.

(2) Fail or refuse to return the collateral on demand.

(3) Fail or refuse in lieu of the return of the collateral to make the pledgee a cash payment equivalent to the full value of the collateral so withdrawn.

(4) If the collateral exceeds in value the indebtedness it secures, fail or refuse to make a cash payment to the pledgee equal to the full amount of the indebtedness.

(5) If the delivery of the collateral was to be made in the future and the customer has taken possession or control of the collateral, fails or refuses to deliver the collateral on demand.

B. Whoever violates this Section shall be imprisoned with or without hard labor, for not more than ten years.

C. Proof of any of the acts set forth in this Section shall be considered prima facie evidence of criminal intent. The state may proceed further and prove criminal intent by any competent evidence in its possession.

D. Where the person doing the acts denounced by this Section was an officer, agent, or employee of any person, who was a customer of any lender as provided in Subsection A of this Section loaning money on collateral security, it shall not be necessary, to complete the proof of the crime charged, for the state to prove that the person derived any personal benefit, advantage, or profit from the transaction. The state may always prove the crime charged by any competent evidence it may have in its possession.

Amended by Acts 1952, No. 82, §1; Acts 1980, No. 439, §1; Acts 2014, No. 791, §7.

#### **§202. Contractors; misapplication of payments prohibited; penalty**

A. No person, contractor, subcontractor, or agent of a contractor or subcontractor, who has received money on account of a contract for the construction, erection, or repair of a building, structure, or other improvement, including contracts and mortgages for interim financing, shall knowingly fail to apply the money received as necessary to settle claims for material and labor due for the construction or under the contract.

B. When the amount misapplied is one thousand dollars or less, whoever violates the provisions of this Section shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned for not less than ninety days nor more than six months, or both.

C. When the amount misapplied is greater than one thousand dollars, whoever violates this Section shall be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned with or without hard labor for not less than ninety days nor more than six months, or both, for each one thousand dollars in misapplied funds, provided that the aggregate imprisonment shall not exceed five years.

D. Any person, contractor, subcontractor, or agent of a contractor or subcontractor who knowingly fails to apply construction contract payments as required in Subsection A shall pay to the court, and the court shall transfer to the person whose construction contract payments were misapplied, an amount equal to the sum of the payments not properly applied and any additional legal costs resulting from the misapplication of construction fund payments, including a fee charged by the clerk of court for handling such payments.

Amended by Acts 1960, No. 554, §1; Acts 1984, No. 372, §1; Acts 1986, No. 1040, §1; Acts 1986, No. 625, §1; Acts 1990, No. 690, §1.

### **§202.1. Residential contractor fraud; penalties**

A. Residential contractor fraud is the misappropriation or intentional taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations by a person who has contracted to perform any home improvement or residential construction, or who has subcontracted for the performance of any home improvement or residential construction. A misappropriation or intentional taking may be inferred when a person does any of the following:

(1) Fails to perform any work during a forty-five-day period of time or longer after receiving payment, unless a longer period is specified in the contract.

(2) Uses, or causes an agent or employee to use, any deception, false pretense, or false promise to cause any person to enter into a contract for home improvements or residential construction.

(3) Damages the property of any person with the intent to induce that person to enter into a contract for home improvements or residential construction.

(4) Knowingly makes a material misrepresentation of fact in any application for a permit required by state, municipal, or parochial law.

(5) Knowingly makes a material misrepresentation of fact in any lien placed upon the property at issue.

(6) Fails to possess the required license for home improvements or residential construction required by applicable state, municipal, or parochial statute.

(7) Knowingly employs a subcontractor who does not possess the required license by applicable state, municipal, or parochial statute.

B. For purposes of this Section, "home improvement or residential construction" means any alteration, repair, modification, construction, or other improvement to any immovable or movable property primarily designed or used as a residence or to any structure within the residence or upon the land adjacent to the residence.

C.(1) When the misappropriation or intentional taking amounts to a value of less than one thousand dollars, the offender shall be imprisoned for not more than six months, fined not more than one thousand dollars, or both. If the offender in such cases has been convicted of theft two or more times previously, then upon conviction the offender shall be imprisoned, with or without hard labor, for not more than two years, or fined not more than two thousand dollars.

(2) When the misappropriation or intentional taking amounts to a value of one thousand dollars or more, but less than five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than three thousand dollars, or both.

(3) When the misappropriation or intentional taking amounts to a value of five thousand dollars or more but less than twenty-five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than ten thousand dollars, or both.

(4) When the misappropriation or intentional taking amounts to a value of twenty-five thousand dollars or more, the offender shall be imprisoned at hard labor for not more than twenty years, or may be fined not more than fifty thousand dollars, or both.

(5) In determining the amount of the misappropriation or intentional taking, the court shall include the cost of repairing work fraudulently performed by the contractor and the cost of completing work for which the contractor was paid but did not complete.

D. In addition to the penalties provided by the provisions of this Section, a person convicted of residential contractor fraud shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense. For the purposes of this Subsection, restitution to the victim shall include the cost of repairing work fraudulently performed by the contractor and the cost of completing work for which the contractor was paid but did not complete.

Acts 2008, No. 292, §1; Acts 2009, No. 268, §1; Acts 2012, No. 120, §1; Acts 2014, No. 62, §1; Acts 2014, No. 811, §6, eff. June 23, 2014; Acts 2017, No. 281, §1.

## **§202.2. Solar electric and solar thermal system contractors; solar tax credit fraud**

A.(1) It shall be unlawful for any person who has received money from a contract for the sale, installation, maintenance, or repair of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C), to claim a tax credit provided by R.S. 47:6030 or other provision of law against taxes owed to the state of Louisiana if the person:

(a) Has failed to perform or complete the installation of the system or failed to maintain or repair the system under the terms of the contract.

(b) Fails to maintain or repair the system under the terms of the contract subsequent to claiming the tax credit.

(2)(a) The knowing material failure by a contractor to perform or complete the installation of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C), or maintain or repair the system under the terms of the contract shall constitute solar installation fraud.

(b) Whoever commits the crime of solar installation fraud shall be subject to the penalty provisions provided for in R.S. 14:202.1.

B.(1) When the aggregate amount of the tax credit claimed is one thousand dollars or less, whoever violates the provisions of this Section upon conviction may be fined not less than

one hundred dollars nor more than five hundred dollars, or imprisoned for not more than six months.

(2) When the aggregate amount of the tax credit claimed is greater than one thousand dollars, whoever violates the provisions of this Section upon conviction may be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned, with or without hard labor, for not more than six months for each one thousand dollars of the tax credit claimed, provided that the aggregate imprisonment shall not exceed five years.

C. The district attorney shall notify the Department of Revenue in writing of any prosecution under this Section.

D. Nothing contained in this Section shall be construed to prevent the state, through the attorney general, from asserting a cause of action to recover damages or penalties, or assess or collect a penalty, resulting from a violation of this Section.

E. The remedies and rights provided under this Section are in addition to and do not preclude any remedy otherwise available under law, including but not limited to the provisions of R.S. 51:1401 et seq.

F. Any person who is found liable under a civil action brought by the attorney general resulting from a violation of this Section shall be liable to the attorney general for all costs, expenses and fees related to investigations and proceedings associated with the violation, including attorney fees. An action to recover costs, expenses, fees, and attorney fees shall be ancillary to, and shall be brought and heard in the same court as, the civil action resulting from a violation of this Section.

G.(1) The attorney general may examine, or cause to be examined, by agents thereof, without notice, the conditions and affairs of any person who has received money from a contract for the sale, installation, maintenance, or repair of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C), and who has claimed a tax credit.

(2) In connection with an examination authorized by this Subsection, the attorney general, or his agents, may examine under oath any person concerning the affairs and business of the person who has received money from a contract for the sale, installation, maintenance, or repair of a solar electric system or solar thermal system, as defined in R.S. 47:6030(C), and who has claimed a tax credit.

H. The provisions of this Section shall be applicable to entities engaging in the business of selling, leasing, installing, servicing, or monitoring solar energy equipment. Nothing in this Section shall be construed to impose civil or criminal liability on homeowners or on any third party whose involvement is limited to providing financing to the homeowner or financing for installation. Entities engaged in the business of arranging agreements for the lease or sale of solar energy systems or acquiring customers for financing entities shall not be exempt from the provisions of this Section.

Acts 2014, No. 682, §1, eff. June 18, 2014.

### **§203. Electrical appliances, sale without original factory serial number prohibited; penalty**

A. No person shall offer to sell or cause to be sold or distributed, either retail or wholesale, new household appliances, such as radios, television sets, refrigerators, washing machines, ironers, dryers, gas or electric ranges, or air conditioners, without the appliance having

the original factory serial number indicated thereon provided it is the custom of the manufacturer to place serial numbers on the appliances.

B. Whoever violates this Section shall be fined not more than one hundred dollars or imprisoned for not more than ninety days, or both.

Acts 2014, No. 791, §7.

#### **§204. Fire-raising on lands of another by criminal negligence; penalty**

A. Fire-raising on lands of another by criminal negligence is the performance of any of the following acts:

(1) The setting fire to any grass, leaves, brush, or debris on lands by the owner, or by the owner's agent or lessee, and allowing the fire to spread or pass to lands of another.

(2) The starting of fire with wood or other fuel on lands of another, without malice, for camping or other purposes, with failure to exercise sufficient precautions so as to prevent the fire from spreading to grass, leaves, brush, or other debris on the lands.

(3) The setting fire to grass, leaves, brush, or other debris on lands of another by means of casting aside a lighted match or lighted cigar or cigarette stub.

(4) The burning over or causing burning over to be done on any land which adjoins woodlands of another within the boundaries of any parish of this state wherein an organized fire protection unit is maintained by the state or federal government, or both, without first giving the protecting agency written notice of intention to burn over the lands, giving a description of the property which will reasonably describe the location where the burning shall begin, and the date on which the lands are to be burned over. For the purpose of this Section, an "organized fire protection unit" is defined to be any area in which an organized system of fire prevention and control is in effect.

B. Whoever commits the crime of fire-raising on lands of another by criminal negligence shall be fined not more than three hundred dollars or imprisoned for not more than thirty days, or both.

Acts 2014, No. 791, §7.

#### **§204.1. Fire-raising in a correctional facility; penalty**

A. Fire-raising in a correctional facility is any of the following:

(1) The starting, causing, or assisting in the creation of any fire, heat, or spark of any nature in a correctional facility by any means or method and without authorization of the warden or his designee.

(2) The failure to report to a correctional facility employee, or concealing from a correctional facility employee, the unauthorized starting, causing, or assisting in the creation of any fire, heat, or spark of any nature by another in a correctional facility.

B. For purposes of this Section, the following definitions shall apply:

(1) "Correctional facility" means any jail, prison, penitentiary, juvenile institution, temporary holding center, or detention facility.

(2) "Correctional facility employee" means any employee of any jail, prison, penitentiary, juvenile institution, temporary holding center, or detention facility.

C.(1) Whoever commits the crime of fire-raising in a correctional facility by violating the provisions of Paragraph (A)(1) of this Section shall be imprisoned with or without hard labor for not more than three years.

(2) Whoever commits the crime of fire-raising in a correctional facility by violating the provisions of Paragraph (A)(2) of this Section shall be imprisoned with or without hard labor for not more than one year.

(3) If at the time of the commission of the offense, the offender is under the jurisdiction and legal custody of the Department of Public Safety and Corrections, or is being detained in any correctional facility, the sentence imposed under this Section shall run consecutively to any other sentence being served by the offender at the time of the offense.

Acts 2010, No. 379, §1.

**§205. Fire-raising on lands of another with malice; penalty**

A. Fire-raising on lands of another with malice is the malicious setting fire to any grass, leaves, brush, or debris on lands of another, or the procuring same to be done.

B. Whoever commits the crime of fire-raising on lands of another with malice shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

Acts 2014, No. 791, §7.

**§206. Fire prevention interference; penalty**

A. Fire prevention interference is the intentional performance of any of the following acts:

(1) Defacing or destroying fire warning notices or posters.

(2) Injuring, destroying, removing or in any manner interfering with the use of any tools, equipment, towers, buildings, telephone lines, or life safety systems and equipment as defined in R.S. 40:1646(C), used in the detection, reporting or suppression of fire.

(3) Obstructing exits, impeding egress, or exceeding the capacity or posted occupant load of a building or structure.

(4) Unauthorized use or proximate display as defined in R.S. 51:650(9), of fireworks in a building or structure.

B. Whoever commits the crime of fire prevention interference shall be fined not more than five hundred dollars or imprisoned for a period of not more than six months, or both.

Acts 2014, No. 74, §1; Acts 2014, No. 791, §7.

**§206.1. Engaging in life safety and property protection contracting without authority prohibited; penalty**

A. It shall be unlawful for any person to engage in the business of life safety and property protection contracting, as defined in R.S. 40:1664.3, unless he holds an active license as required by R.S. 40:1664.4.

B. It shall be sufficient for the indictment, affidavit, or complaint to allege that the accused unlawfully engaged in life safety and property protection contracting without authority from the office of state fire marshal.

B. Whoever commits the crime of possession of loanshark records shall be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not more than one year, or both.

Added by Acts 1979, No. 165, §1.

### **CHAPTER 3. LOUISIANA FELONY CLASS SYSTEM TASK FORCE**

#### **§601. Louisiana Felony Class System Task Force**

A. The legislature hereby finds that it is in the best interest of the public to have, to the greatest extent possible, a clear, regular, and simple sentencing system, whereby nearly every felony offense falls into a class, with sentencing to be imposed by designated class, to ensure consistency across crimes of similar severity and greater transparency for victims, defendants, and criminal justice practitioners. Such a system will henceforth be referred to as a felony class system.

B. Accordingly, the Legislature of Louisiana hereby authorizes and directs the creation of the Louisiana Felony Class System Task Force to study, evaluate, and develop a recommendation for a felony class system to the legislature before the 2018 Regular Session of the Louisiana Legislature.

C.(1) The membership of the task force shall be as follows:

(a) Three attorneys designated by the president of Louisiana District Attorneys Association.

(b) Two attorneys designated by the state public defender.

(c) One attorney designated by the chief justice of the Louisiana Supreme Court.

(d) One attorney designated by the Louisiana Association of Criminal Defense Lawyers.

(e) Two attorneys designated by the Louisiana District Judges Association.

(f) One attorney designated by the office of the governor.

(g) The chair of the House Committee on Administration of Criminal Justice or his designee.

(h) The chair of the Senate Committee on Judiciary C or his designee.

(i) Each attorney member of the task force shall be an attorney licensed to practice and who practices in this state.

(2)(a) The names of the persons who are to serve on the task force shall be submitted to the chief justice of the Louisiana Supreme Court on or before September 1, 2017.

(b) The chief justice shall call the first meeting of the task force, which meeting shall be held on or before September 15, 2017.

(c) At the first meeting of the task force, its members shall elect from their membership a chairman and vice chairman and such other officers as the task force may deem advisable. The chief justice, or the chief justice's designee, shall preside over the task force until a chairman is elected.

(d) The task force shall meet a minimum of six times between September 15, 2017, and February 1, 2018, and may hold public hearings as part of its evaluation process. Meetings of the task force shall be held in the state capital.

D. The task force shall prepare and submit a final report of its findings and recommendations, including but not limited to any specific and complete draft legislation, to the governor, the speaker of the House of Representatives, the president of the Senate, the chairman of the House Committee on Administration of Criminal Justice, the chairman of the Senate