LOUISIANA CRIMINAL CODE

NICHOLAS M. GRAPHIA, ESQ.

GULF COAST LEGAL PUBLISHING, LLC

2019

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Louisiana Criminal Code 2019
Title 14 of the Louisiana Revised Statutes

The goal of this 2019 edition of the Criminal Code[1] 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 2018 legislative sessions. Other titles such as Louisiana Code of Criminal Procedure, Louisiana Code of Evidence, Louisiana Civil Code, and Federal Rules of Evidence and Civil Procedure are available at **www.gulfcoastlegalpublishing.com**. For bulk and academic discount inquiries, email **info@gulfcoastlegalpublishing.com**.

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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.

(48) Domestic abuse battery punishable under R.S. 14:35.3(M)(2) or (N).

(49) Battery of a dating partner punishable under R.S. 14:34.9(L)(2) or (M).

(50) Violation of a protective order if the violation involves a battery or any crime of violence as defined by this Subsection against the person for whose benefit the protective order is in effect.

(51) Criminal abortion.

(52) First degree feticide.

(53) Second degree feticide.

(54) Third degree feticide.

(55) Aggravated criminal abortion by dismemberment.

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; Acts 2018, No. 293, §1; Acts 2018, No. 674, §1, eff. June 1, 2018.

§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.

PART II. OFFENSES AGAINST THE PERSON

SUBPART A. HOMICIDE

§29. Homicide

Homicide is the killing of a human being by the act, procurement, or culpable omission of another. Criminal homicide is of five grades:

(1) First degree murder.
(2) Second degree murder.
(3) Manslaughter.
(4) Negligent homicide.
(5) Vehicular homicide.

Amended by Acts 1973, No. 110, §1; Acts 1978, No. 393, §1; Acts 1983, No. 635, §1.

§30. First degree murder

A. First degree murder is the killing of a human being:

(1) When the offender has specific intent to kill or to inflict great bodily harm and is engaged in the perpetration or attempted perpetration of aggravated kidnapping, second degree kidnapping, aggravated escape, aggravated arson, aggravated or first degree rape, forcible or second degree rape, aggravated burglary, armed robbery, assault by drive-by shooting, first degree robbery, second degree robbery, simple robbery, terrorism, cruelty to juveniles, or second degree cruelty to juveniles.

(2) When the offender has a specific intent to kill or to inflict great bodily harm upon a fireman, peace officer, or civilian employee of the Louisiana State Police Crime Laboratory or any other forensic laboratory engaged in the performance of his lawful duties, or when the specific intent to kill or to inflict great bodily harm is directly related to the victim's status as a fireman, peace officer, or civilian employee.

(3) When the offender has a specific intent to kill or to inflict great bodily harm upon more than one person.

(4) When the offender has specific intent to kill or inflict great bodily harm and has offered, has been offered, has given, or has received anything of value for the killing.

(5) When the offender has the specific intent to kill or to inflict great bodily harm upon a victim who is under the age of twelve or sixty-five years of age or older.

(6) When the offender has the specific intent to kill or to inflict great bodily harm while engaged in the distribution, exchange, sale, or purchase, or any attempt thereof, of a controlled dangerous substance listed in Schedules I, II, III, IV, or V of the Uniform Controlled Dangerous Substances Law.

(7) When the offender has specific intent to kill or to inflict great bodily harm and is engaged in the activities prohibited by R.S. 14:107.1(C)(1).

(8) When the offender has specific intent to kill or to inflict great bodily harm and there has been issued by a judge or magistrate any lawful order prohibiting contact between the

offender and the victim in response to threats of physical violence or harm which was served on the offender and is in effect at the time of the homicide.

(9) When the offender has specific intent to kill or to inflict great bodily harm upon a victim who was a witness to a crime or was a member of the immediate family of a witness to a crime committed on a prior occasion and:

(a) The killing was committed for the purpose of preventing or influencing the victim's testimony in any criminal action or proceeding whether or not such action or proceeding had been commenced; or

(b) The killing was committed for the purpose of exacting retribution for the victim's prior testimony.

(10) When the offender has a specific intent to kill or to inflict great bodily harm upon a taxicab driver who is in the course and scope of his employment. For purposes of this Paragraph, "taxicab" means a motor vehicle for hire, carrying six passengers or less, including the driver thereof, that is subject to call from a garage, office, taxi stand, or otherwise.

(11) When the offender has a specific intent to kill or inflict great bodily harm and the offender has previously acted with a specific intent to kill or inflict great bodily harm that resulted in the killing of one or more persons.

(12) When the offender has a specific intent to kill or to inflict great bodily harm upon a correctional facility employee who is in the course and scope of his employment.

B.(1) For the purposes of Paragraph (A)(2) of this Section, the term "peace officer" means any peace officer, as defined in R.S. 40:2402, and includes any constable, marshal, deputy marshal, sheriff, deputy sheriff, local or state policeman, commissioned wildlife enforcement agent, federal law enforcement officer, jail or prison guard, parole officer, probation officer, judge, attorney general, assistant attorney general, attorney general's investigator, district attorney, assistant district attorney, or district attorney's investigator, coroner, deputy coroner, or coroner investigator.

(2) For the purposes of Paragraph (A)(9) of this Section, the term "member of the immediate family" means a husband, wife, father, mother, daughter, son, brother, sister, stepparent, grandparent, stepchild, or grandchild.

(3) For the purposes of Paragraph (A)(9) of this Section, the term "witness" means any person who has testified or is expected to testify for the prosecution, or who, by reason of having relevant information, is subject to call or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet commenced.

(4) For purposes of Paragraph (A)(12) of this Section, the term "correctional facility employee" means any employee of any jail, prison, or correctional facility who is not a peace officer as defined by the provisions of Paragraph (1) of this Subsection.

C. (1) If the district attorney seeks a capital verdict, the offender shall be punished by death or life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence, in accordance with the determination of the jury. The provisions of Code of Criminal Procedure Article 782 relative to cases in which punishment may be capital shall apply.

(2) If the district attorney does not seek a capital verdict, the offender shall be punished by life imprisonment at hard labor without benefit of parole, probation or suspension of sentence.

The provisions of Code of Criminal Procedure Article 782 relative to cases in which punishment is necessarily confinement at hard labor shall apply.

Amended by Acts 1973, No. 109, §1; Acts 1975, No. 327, §1; Acts 1976, No. 657, §1; Acts 1979, No. 74, §1, eff. June 29, 1979; Acts 1985, No. 515, §1; Acts 1987, No. 654, §1; Acts 1987, No. 862, §1; Acts 1988, No. 779, §2, eff. July 18, 1988; Acts 1989, No. 373, §1; Acts 1989, No. 637, §2; Acts 1990, No. 526, §1; Acts 1992, No. 296, §1; Acts 1993, No. 244, §1; Acts 1993, No. 496, §1; Acts 1999, No. 579, §1; Acts 1999, No. 1359, §1; Acts 2001, No. 1056, §1; Acts 2002, 1st Ex. Sess., No. 128, §2; Acts 2003, No. 1223, §1; Acts 2004, No. 145, §1; Acts 2004, No. 649, §1; Acts 2006, No. 53, §1; Acts 2007, No. 125, §1; Acts 2009, No. 79, §1, eff. June 18, 2009; Acts 2012, No. 679, §1; Acts 2014, No. 157, §1; Acts 2014, No. 390, §2; Acts 2015, No. 184, §1.

§30.1. Second degree murder

A. Second degree murder is the killing of a human being:

(1) When the offender has a specific intent to kill or to inflict great bodily harm; or

(2) When the offender is engaged in the perpetration or attempted perpetration of aggravated or first degree rape, forcible or second degree rape, aggravated arson, aggravated burglary, aggravated kidnapping, second degree kidnapping, aggravated escape, assault by drive-by shooting, armed robbery, first degree robbery, second degree robbery, simple robbery, cruelty to juveniles, second degree cruelty to juveniles, or terrorism, even though he has no intent to kill or to inflict great bodily harm.

(3) When the offender unlawfully distributes or dispenses a controlled dangerous substance listed in Schedules I through V of the Uniform Controlled Dangerous Substances Law, or any combination thereof, which is the direct cause of the death of the recipient who ingested or consumed the controlled dangerous substance.

(4) When the offender unlawfully distributes or dispenses a controlled dangerous substance listed in Schedules I through V of the Uniform Controlled Dangerous Substances Law, or any combination thereof, to another who subsequently distributes or dispenses such controlled dangerous substance which is the direct cause of the death of the person who ingested or consumed the controlled dangerous substance.

B. Whoever commits the crime of second degree murder shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

Added by Acts 1973, No. 111, §1. Amended by Acts 1975, No. 380, §1; Acts 1976, No. 657, §2; Acts 1977, No. 121, §1; Acts 1978, No. 796, §1; Acts 1979, No. 74, §1, eff. June 29, 1979; Acts 1987, No. 465, §1; Acts 1987, No. 653, §1; Acts 1993, No. 496, §1; Acts 1997, No. 563, §1; Acts 1997, No. 899, §1; Acts 2006, No. 53, §1; Acts 2008, No. 451, §2, eff. June 25, 2008; Acts 2009, No. 155, §1; Acts 2015, No. 184, §1.

§31. Manslaughter

A. Manslaughter is:

(1) A homicide which would be murder under either Article 30 (first degree murder) or Article 30.1 (second degree murder), but the offense is committed in sudden passion or heat of blood immediately caused by provocation sufficient to deprive an average person of his self-control and cool reflection. Provocation shall not reduce a homicide to manslaughter if the jury finds that the offender's blood had actually cooled, or that an average person's blood would have cooled, at the time the offense was committed; or

(2) A homicide committed, without any intent to cause death or great bodily harm.

(a) When the offender is engaged in the perpetration or attempted perpetration of any felony not enumerated in Article 30 or 30.1, or of any intentional misdemeanor directly affecting the person; or

(b) When the offender is resisting lawful arrest by means, or in a manner, not inherently dangerous, and the circumstances are such that the killing would not be murder under Article 30 or 30.1.

B. Whoever commits manslaughter shall be imprisoned at hard labor for not more than forty years. However, if the victim killed was under the age of ten years, the offender shall be imprisoned at hard labor, without benefit of probation or suspension of sentence, for not less than ten years nor more than forty years.

Amended by Acts 1973, No. 127, §1; Acts 1991, No. 864, §1; Acts 1992, No. 306, §1; Acts 1994, 3rd Ex. Sess., No. 115, §1; Acts 2008, No. 10, §1.

§32. Negligent homicide

A. Negligent homicide is either of the following:

(1) The killing of a human being by criminal negligence.

(2) The killing of a human being by a dog or other animal when the owner is reckless and criminally negligent in confining or restraining the dog or other animal.

B. The violation of a statute or ordinance shall be considered only as presumptive evidence of such negligence.

C.(1) Except as provided for in Paragraph (2) of this Subsection, whoever commits the crime of negligent homicide shall be imprisoned with or without hard labor for not more than five years, fined not more than five thousand dollars, or both.

(2)(a) If the victim killed was under the age of ten years, the offender shall be imprisoned at hard labor, without benefit of probation, parole, or suspension of sentence, for not less than two nor more than five years.

(b) If the court does not order the offender to a term of imprisonment when the following two factors are established, the court shall state, both orally and in writing at the time of sentencing, the reasons for not sentencing the offender to a term of imprisonment:

(i) The fatality was caused by a person engaged in the operation of, or in actual physical control of, any motor vehicle, aircraft, watercraft, or other means of conveyance; and

(ii) The offender's blood alcohol concentration contributed to the fatality.

(3) If the victim was killed by a dog or other animal, the owner of the dog or other animal shall be imprisoned with or without hard labor for not more than five years or fined not more than five thousand dollars, or both.

D. The provisions of this Section shall not apply to:

(1) Any dog which is owned, or the service of which is employed, by any state or local law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

(2) Any dog trained in accordance with the standards of a national or regional search and rescue association to respond to instructions from its handler in the search and rescue of lost or missing individuals and which dog, together with its handler, is prepared to render search and rescue services at the request of law enforcement.

(3) Any guide or service dog trained at a qualified dog guide or service school who is accompanying any blind person, visually impaired person, person who is deaf or hard of hearing, or person with any other physical disability who is using the dog as a guide or for service.

(4) Any attack made by a dog lawfully inside a dwelling, a place of business, or a motor vehicle as defined in R.S. 32:1(40), 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 dog is protecting that property.

(5) Any attack made by livestock as defined in this Section.

E. For the purposes of this Section:

(1) "Harboring or keeping" means feeding, sheltering, or having custody over the animal for three or more consecutive days.

(2) "Livestock" means any animal except dogs and cats, bred, kept, maintained, raised, or used for profit, that is used in agriculture, aquaculture, agritourism, competition, recreation, or silvaculture, or for other related purposes or used in the production of crops, animals, or plant or animal products for market. This definition includes but is not limited to cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; goats; sheep; swine; chickens, turkeys, and other poultry; domestic rabbits; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; fish, pet turtles, and other animals identified with aquaculture which are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; any commercial crawfish from any crawfish pond; and any hybrid, mixture, or mutation of any such animal.

(3) "Owner" means any person, partnership, corporation, or other legal entity owning, harboring, or keeping any animal.

Amended by Acts 1980, No. 708, §1; Acts 1991, No. 864, §1; Acts 2008, No. 10, §1; Acts 2008, No. 451, §2, eff. June 25, 2008; Acts 2009, No. 199, §1; Acts 2014, No. 811, §6, eff. June 23, 2014; Acts 2017, No. 146, §2.

§32.1. Vehicular homicide

A. Vehicular homicide is the killing of a human being caused proximately or caused directly by an offender engaged in the operation of, or in actual physical control of, any motor vehicle, aircraft, watercraft, or other means of conveyance, whether or not the offender had the intent to cause death or great bodily harm, whenever any of the following conditions exists and such condition was a contributing factor to the killing:

(1) The operator is under the influence of alcoholic beverages as determined by chemical tests administered under the provisions of R.S. 32:662.

(2) The operator's blood alcohol concentration is 0.08 percent or more by weight based upon grams of alcohol per one hundred cubic centimeters of blood.

(3) The operator is under the influence of any controlled dangerous substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964.

(4) The operator is under the influence of alcoholic beverages.

(5)(a) The operator is under the influence of a combination of alcohol and one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without a prescription.

(b) It shall be an affirmative defense to any charge under this Paragraph pursuant to this Section that the label on the container of the prescription drug or the manufacturer's package of the drug does not contain a warning against combining the medication with alcohol.

(6) The operator is under the influence of one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without a prescription and the influence is caused by the operator knowingly consuming quantities of the drug or drugs which substantially exceed the dosage prescribed by the physician or the dosage recommended by the manufacturer of the drug.

(7) The operator's blood has any detectable amount of any controlled dangerous substance listed in Schedule I, II, III, or IV as set forth in R.S. 40:964, or a metabolite of such controlled dangerous substance, that has not been medically ordered or prescribed for the individual.

B. Whoever commits the crime of vehicular homicide shall be fined not less than two thousand dollars nor more than fifteen thousand dollars and shall be imprisoned with or without hard labor for not less than five years nor more than thirty years. At least three years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence. If the operator's blood alcohol concentration is 0.15 percent or more by weight based upon grams of alcohol per one hundred cubic centimeters of blood, then at least five years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence. If the offender was previously convicted of a violation of R.S. 14:98, then at least five years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence. The court shall require the offender to participate in a court-approved substance abuse program and may require the offender to participate in a court-approved driver improvement program. All driver improvement courses required under this Section shall include instruction on railroad grade crossing safety.

C. Whoever commits the crime of vehicular homicide shall be sentenced as an offender convicted of a crime of violence if the offender's blood alcohol concentration, at the time of the offense, exceeds 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood.

D. Notwithstanding the provisions of Code of Criminal Procedure Article 883, if the offense for which the offender was convicted pursuant to the provisions of this Section proximately or directly causes the death of two or more human beings, the offender shall be sentenced separately for each victim, and such sentences shall run consecutively. In calculating the number of deaths for purposes of this Subsection, a human being includes an unborn child.

Added by Acts 1983, No. 635, §1. Acts 1984, No. 855, §1; Acts 1989, No. 584, §1; Acts 1993, No. 410, §1, eff. June 9, 1993; Acts 1993, No. 415, §1; Acts 1995, No. 1120, §1; Acts 1997, No. 1019, §1, eff. July 11, 1997; Acts 1998, 1st Ex. Sess., No. 82, §1; Acts 1999, No. 1103, §1; Acts 2001, No. 781, §1, eff. Sept. 30, 2003; Acts 2001, No. 1163, §5; Acts 2003, No. 758, §1, eff. Sept. 30, 2003; Acts 2004, No. 381, §1; Acts 2004, No. 750, §1; Acts 2005, No. 32, §1; Acts 2006, No. 294, §1, eff. June 8, 2006; Acts 2008, No. 451, §2, eff. June 25, 2008; Acts 2012, No. 662, §1, eff. June 7, 2012; Acts 2014, No. 280, §1, eff. May 28, 2014; Acts 2014, No. 372, §1, eff. May 30, 2014.

NOTE: See Acts 2001, Nos. 781 and 1163, for effective dates. Acts 2001, No.1163, which is the later expression of legislative will, makes Paragraphs (A)(5) & (6) effective Aug. 15, 2001.

SUBPART A-1. FETICIDE

§32.5. Feticide defined; exceptions

A. Feticide is the killing of an unborn child by the act, procurement, or culpable omission of a person other than the mother of the unborn child. The offense of feticide shall not include acts which cause the death of an unborn child if those acts were committed during any abortion to which the pregnant woman or her legal guardian has consented or which was performed in an emergency as defined in R.S. 40:1061.23. Nor shall the offense of feticide include acts which are committed pursuant to usual and customary standards of medical practice during diagnostic testing or therapeutic treatment.

B. Criminal feticide is of three grades:

(1) First degree feticide.

(2) Second degree feticide.

(3) Third degree feticide.

Acts 1989, No. 777, §1.

§32.6. First degree feticide

A. First degree feticide is:

(1) The killing of an unborn child when the offender has a specific intent to kill or to inflict great bodily harm.

(2) The killing of an unborn child when the offender is engaged in the perpetration or attempted perpetration of aggravated or first degree rape, forcible or second degree rape, aggravated arson, aggravated burglary, aggravated kidnapping, second degree kidnapping, assault by drive-by shooting, aggravated escape, armed robbery, first degree robbery, second degree robbery, cruelty to juveniles, second degree cruelty to juveniles, terrorism, or simple robbery, even though he has no intent to kill or inflict great bodily harm.

B. Whoever commits the crime of first degree feticide shall be imprisoned at hard labor for not more than fifteen years.

Acts 1989, No. 777, §1; Acts 2004, No. 650, §1; Acts 2006, No. 144, §1; Acts 2015, No. 184, §1.

§32.7. Second degree feticide

A. Second degree feticide is:

(1) The killing of an unborn child which would be first degree feticide, but the offense is committed in sudden passion or heat of blood immediately caused by provocation of the mother of the unborn child sufficient to deprive an average person of his self control and cool reflection. Provocation shall not reduce a first degree feticide to second degree feticide if the jury finds that the offender's blood had actually cooled, or that an average person's blood would have cooled, at the time the offense was committed.

(2) A feticide committed without any intent to cause death or great bodily harm:

(a) When the offender is engaged in the perpetration or attempted perpetration of any felony not enumerated in Article 32.6 (first degree feticide), or of any intentional misdemeanor directly affecting the person; or

(b) When the offender is resisting lawful arrest by means, or in a manner, not inherently dangerous, and the circumstances are such that the killing would not be first degree feticide under Article 32.6.

B. Whoever commits the crime of second degree feticide shall be imprisoned at hard labor for not more than ten years.

Acts 1989, No. 777, §1.

§32.8. Third degree feticide

A. Third degree feticide is:

(1) The killing of an unborn child by criminal negligence. The violation of a statute or ordinance shall be considered only as presumptive evidence of such negligence.

(2) The killing of an unborn child caused proximately or caused directly by an offender engaged in the operation of, or in actual physical control of, any motor vehicle, aircraft, vessel, or other means of conveyance whether or not the offender had the intent to cause death or great bodily harm whenever any of the following conditions exist and such condition was a contributing factor to the killing:

(a) The offender is under the influence of alcoholic beverages as determined by chemical tests administered under the provisions of R.S. 32:662.

(b) The offender's blood alcohol concentration is 0.08 percent or more by weight based upon grams of alcohol per one hundred cubic centimeters of blood.

(c) The offender is under the influence of any controlled dangerous substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964.

(d) The offender is under the influence of alcoholic beverages.

(e)(i) The offender is under the influence of a combination of alcohol and one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without a prescription.

(ii) It shall be an affirmative defense to any charge under this Subparagraph that the label on the container of the prescription drug or the manufacturer's package of the drug does not contain a warning against combining the medication with alcohol.

(f) The offender is under the influence of one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without a prescription and the influence is caused by the offender's knowingly consuming quantities of the drug or drugs which substantially exceed the dosage prescribed by the physician or the dosage recommended by the manufacturer of the drug.

(g) The operator's blood has any detectable amount of any controlled dangerous substance listed in Schedule I, II, III, or IV as set forth in R.S. 40:964, or a metabolite of such controlled dangerous substance, that has not been medically ordered or prescribed for the individual.

B. Whoever commits the crime of third degree feticide shall be fined not less than two thousand dollars and shall be imprisoned with or without hard labor for not more than five years.

Acts 1989, No. 777, §1; Acts 2001, No. 781, §1, eff. Sept. 30, 2003; Acts 2001, No. 1163, §5; Acts 2006, No. 131, §1; Acts 2008, No. 451, §2, eff. June 25, 2008; Acts 2012, No. 662, §1, eff. June 7, 2012.

NOTE: Section 6 of Acts 2001, No. 781 provides that the provisions of the Act shall become null and of no effect if and when Section 351 of P.L. 106-346 regarding the withholding of federal highway funds for failure to enact a 0.08 percent blood alcohol level is repealed or invalidated for any reason.

§32.9. Criminal abortion

A. Criminal abortion is an abortion performed, with or without the consent of the pregnant woman or her legal guardian, that results in the death of an unborn child when the abortion is performed by any individual who is not a physician licensed by the state of Louisiana.

B. As used in this Section:

(1) "Abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

(a) Save the life or preserve the health of an unborn child.

(b) Remove a dead unborn child or induce delivery of the uterine contents in case of a positive diagnosis, certified in writing in the woman's medical record along with the results of an obstetric ultrasound test, that the pregnancy has ended or is in the unavoidable and untreatable process of ending due to spontaneous miscarriage, also known in medical terminology as spontaneous abortion, missed abortion, inevitable abortion, incomplete abortion, or septic abortion.

(c) Remove an ectopic pregnancy.

(2) "Physician" means a natural person who is the holder of an allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college in good standing with the Louisiana State Board of Medical Examiners who holds a license, permit, certification, or registration issued by the Louisiana State Board of Medical Examiners to engage in the practice of medicine in this state.

(3) "Unborn child" means the unborn offspring of human beings from the moment of conception through pregnancy and until live birth.

C. Any person who knowingly performs an abortion in violation of this Section shall be imprisoned at hard labor for not less than one nor more than five years, fined not less than five thousand nor more than fifty thousand dollars, or both.

D. Statutory Construction. None of the following shall be construed to create the crime of criminal abortion:

(1) Any action taken when a physician or other licensed medical professional is acting in the course of administering lawful medical care and an unborn child dies.

(2) Any act taken or omission by a pregnant woman with regard to her own unborn child.

Acts 2012, No. 646, §1.

§32.9.1. Aggravated criminal abortion by dismemberment

A. Aggravated criminal abortion by dismemberment is the commission of a criminal abortion, as defined in R.S. 14:32.9(A), when the unborn child is intentionally dismembered, whether the act of dismemberment was in the course of or following the death of the unborn child.

B. As used in this Section:

(1) "Abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

(a) Save the life or preserve the health of an unborn child.

(b) Remove a dead unborn child or induce delivery of the uterine contents in case of a positive diagnosis, certified in writing in the woman's medical record along with the results of an obstetric ultrasound test, that the pregnancy has ended or is in the unavoidable and untreatable process of ending due to spontaneous miscarriage, also known in medical terminology as spontaneous abortion, missed abortion, inevitable abortion, incomplete abortion, or septic abortion.

(c) Remove an ectopic pregnancy.

(2) "Dismembered" or "dismemberment" means the use of a clamp, forceps, curette, suction cannula, or any other surgical tool or instrument with the intent to disarticulate the head or limbs from the body of the unborn child during an abortion, including but not limited to the common abortion methods known as suction curettage and dilation and evacuation.

(3) "Physician" means a natural person who is the holder of an allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college in good standing with the Louisiana State Board of Medical Examiners who holds a license, permit, certification, or registration issued by the Louisiana State Board of Medical Examiners to engage in the practice of medicine in this state.

(4) "Unborn child" means the unborn offspring of human beings from the moment of conception through pregnancy and until live birth.

C. Any person who knowingly performs an abortion in violation of this Section shall be imprisoned at hard labor for not less than one nor more than ten years, fined not less than ten thousand nor more than one hundred thousand dollars, or both.

D. Exceptions. None of the following shall be construed to create the crime of criminal abortion:

(1) Any action taken when a physician or other licensed medical professional is acting in the course of administering lawful medical care and an unborn child dies.

(2) Any act taken or omission by a pregnant woman with regard to her own unborn child.

Acts 2012, No. 646, §1.

§32.10. Partial birth abortion

A. As used in this Section, the following definitions shall apply unless otherwise indicated:

(1) "Partial birth abortion" means an abortion in which:

(a) The person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother, for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus.

(b) The person performing the abortion performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

(2) "Physician" means a natural person who is the holder of an allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college in good standing with the Louisiana State Board of Medical Examiners who holds a license, permit, certification, or registration issued by the Louisiana State Board of Medical Examiners to engage in the practice of medicine in this state. For the purposes of this Paragraph, "the practice of medicine" means the holding out of one's self to the public as being engaged in the business of, or the actual engagement in, the diagnosing, treating, curing, or relieving of any bodily or mental disease, condition, infirmity, deformity, defect, ailment, or injury in any human being, other than himself, whether by the use of any drug, instrument or force, whether physical or psychic, or of what other nature, or any other agency or means; or the examining, either gratuitously or for compensation, of any person or material from any person for such purpose whether such drug, instrument, force, or other agency or means is applied to or used by the patient or by another person; or the attending of a woman in childbirth without the aid of a licensed physician or midwife.

B. This Section does not apply to a partial birth abortion that is necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

C. Notwithstanding any provision of law to the contrary, a woman upon whom the partial birth abortion is performed shall not be subject to prosecution for a violation of this Section as a principal, accessory, or coconspirator thereto.

D. Any person who is not a physician or not otherwise legally authorized by the state to perform abortions, but who nevertheless directly performs a partial birth abortion, shall be subject to the provisions of this Section.

E. Any physician or person who knowingly performs a partial birth abortion and thereby kills a human fetus shall be imprisoned at hard labor for not less than one nor more than ten years, fined not less than ten thousand nor more than one hundred thousand dollars, or both.

F.(1) A physician charged with an offense under this Section may seek a hearing before the Louisiana State Board of Medical Examiners on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) The findings on that issue are admissible on that issue at the trial of the physician. Upon motion of the physician, the court shall delay the beginning of the trial for not more than thirty days to permit such hearing to take place.

Acts 2007, No. 473, §1, eff. July 12, 2007.

§32.11. Partial birth abortion

A. Any physician who knowingly performs a partial birth abortion and thereby kills a human fetus shall be imprisoned at hard labor for not less than one nor more than ten years, fined not less than ten thousand nor more than one hundred thousand dollars, or both. This Section shall not apply to a partial birth abortion that is necessary to save the life of a mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

B. For purposes of this Section, the following words have the following meanings:

(1) "Partial birth abortion" means an abortion in which:

(a) The person performing the abortion deliberately and intentionally vaginally delivers a living fetus until, in the case of a head-first presentation, the entire fetal head is outside the body of the mother, or, in the case of breech presentation, any part of the fetal trunk past the navel is outside the body of the mother for the purpose of performing an overt act that the person knows will kill the partially delivered living fetus; and

(b) Performs the overt act, other than completion of delivery, that kills the partially delivered living fetus.

(2) "Physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the state in which the doctor performs such activity, or any other individual legally authorized by this state to perform abortions, provided, however, that any individual who is not a physician or not otherwise legally authorized by this state to perform abortions, but who nevertheless directly performs a partial birth abortion, shall be subject to the provisions of this Section.

C.(1) A defendant charged with an offense under this Section may seek a hearing before the Louisiana State Board of Medical Examiners on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. The report of the board shall be discoverable.

(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than thirty days to permit such a hearing to take place.

D. A woman upon whom a partial birth abortion is performed shall not be subject to prosecution for a violation of this Section as a principal, accessory, or coconspirator thereto.

Acts 2007, No. 477, §1, eff. July 12, 2007.

SUBPART A-2. SUICIDE

§32.12. Criminal assistance to suicide

A. Criminal assistance to suicide is:

(1) The intentional advising or encouraging of another person to commit suicide or the providing of the physical means or the knowledge of such means to another person for the purpose of enabling the other person to commit or attempt to commit suicide.

(2) The intentional advising, encouraging, or assisting of another person to commit suicide, or the participation in any physical act which causes, aids, abets, or assists another person in committing or attempting to commit suicide.

B. For the purposes of this Section, "suicide" means the intentional and deliberate act of taking one's own life through the performance of an act intended to result in death.

C. The provisions of this Section shall not apply to any licensed physician or other authorized licensed health care professional who either:

(1) Withholds or withdraws medical treatment in accordance with the provisions of R.S. 40:1151.7.

(2) Prescribes, dispenses, or administers any medication, treatment, or procedure if the intent is to relieve the patient's pain or suffering and not to cause death.

D. Whoever commits the crime of criminal assistance to suicide shall be imprisoned, with or without hard labor, for not more than ten years or fined not more than ten thousand dollars, or both.

Acts 1995, No. 384, §1, eff. June 16, 1995.

SUBPART B. ASSAULT AND BATTERY (WITH RELATED OFFENSES)

§33. Battery defined

Battery is the intentional use of force or violence upon the person of another; or the intentional administration of a poison or other noxious liquid or substance to another.

Acts 1978, No. 394, §1.

§34. Aggravated battery

A. Aggravated battery is a battery committed with a dangerous weapon.

B. Whoever commits an aggravated battery shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than ten years, or both. At least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence if the offender knew or should have known that the victim is an active member of the United States Armed Forces or is a disabled veteran and the aggravated battery was committed because of that status.

C. For purposes of this Section, the following words shall have the following meanings:

(1) "Active member of the United States Armed Forces" shall mean an active member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Coast Guard, or the National Guard.

(2) "Disabled veteran" shall mean a veteran member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Coast Guard, or the National Guard who is disabled as determined by the United States Department of Veteran Affairs.

Acts 1978, No. 394, §1. Amended by Acts 1980, No. 708, §1; Acts 2012, No. 40, §1.

§34.1. Second degree battery

A. Second degree battery is a battery when the offender intentionally inflicts serious bodily injury; however, this provision shall not apply to a medical provider who has obtained the consent of a patient.

B. For purposes of this Section, the following words shall have the following meanings:

(1) "Active member of the United States Armed Forces" shall mean an active member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Coast Guard, or the National Guard.

(2) "Disabled veteran" shall mean a veteran member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Coast Guard, or the National Guard who is disabled as determined by the United States Department of Veteran Affairs.

(3) "Serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

C. Whoever commits the crime of second degree battery shall be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not more than eight years, or both. At least eighteen months of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence if the offender knew or should have known that the victim is an active member of the United States Armed Forces or is a disabled veteran and the second degree battery was committed because of that status.

Acts 1978, No. 394, §1; Acts 2009, No. 264, §1; Acts 2012, No. 40, §1; Acts 2014, No. 722, §1.

§34.2. Battery of a police officer

A.(1) Battery of a police officer is a battery committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a police officer acting in the performance of his duty.

(2) For purposes of this Section, "police officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, federal law enforcement officers, constables, wildlife enforcement agents, state park wardens, and probation and parole officers.

(3) For purposes of this Section, "battery of a police officer" includes the use of force or violence upon the person of the police officer by throwing feces, urine, blood, saliva, or any form of human waste by an offender while the offender is incarcerated by a court of law and is being detained in any jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility.

B.(1) Whoever commits the crime of battery of a police officer shall be fined not more than five hundred dollars and imprisoned not less than fifteen days nor more than six months without benefit of suspension of sentence.

(2) 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 jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility, the offender shall be fined not more than one thousand dollars and imprisoned with or without hard labor without benefit of parole, probation, or suspension of sentence for not less than one year nor more than five years. Such sentence shall be consecutive to any other sentence imposed for violation of the provisions of any state criminal law.

(3) If the battery produces an injury that requires medical attention, the offender shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both. At least thirty days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

C. The definition of a "police officer" as provided in Paragraph (A)(2) of this Section shall be strictly construed solely for the purposes of this Section and shall not be construed as granting the authority to any agency not defined as a "peace officer" pursuant to the provisions of R.S. 40:2402 to make arrests, perform search and seizures, execute criminal warrants, prevent and detect crime, and enforce the laws of this state.

Added by Acts 1981, No. 258, §1. Amended by Acts 1982, No. 594, §1; Acts 1984, No. 871, §1; Acts 1989, No. 206, §1; Acts 1990, No. 84, §1; Acts 1991, No. 132, §1; Acts 1993, No. 438, §1; Acts 1994, 3rd Ex. Sess., No. 16, §1; Acts 1997, No. 486, §1; Acts 1999, No. 338, §1; Acts 1999, No. 872, §1; Acts 2001, No. 944, §4; Acts 2007, No. 52, §1, eff. June 18, 2007; Acts 2012, No. 174, §1.

§34.3. Battery of a school teacher

A. Battery of a school teacher is a battery committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a school teacher acting in the performance of employment duties.

B. For purposes of this Section:

(1) "School teacher" shall include any teacher or instructor, administrator, staff person, or employee of any public or private elementary, secondary, vocational-technical training, special, or postsecondary school or institution. For purposes of this Section, "school teacher" shall also include any teacher aide and paraprofessional, school bus driver, food service worker, and other clerical, custodial, or maintenance personnel employed by a city, parish, or other local public school board.

(2) "School" means any public or nonpublic elementary, secondary, high school, vocational-technical school, college, special, or postsecondary school or institution, or university in this state.

(3) "Student" means any person registered or enrolled at the school where the school teacher is employed.

C. Whoever commits the crime of battery of a school teacher shall be punished as follows:

(1) If the battery was committed by a student, upon conviction, the offender shall be fined not more than five thousand dollars or imprisoned not less than thirty days nor more than one year. At least seventy-two hours of the sentence imposed shall be imposed without benefit of suspension of sentence.

(2) If the battery was committed by someone who is not a student, the offender shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both.

(3) If the battery produces an injury that requires medical attention, the offender shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both.

Acts 1985, No. 871, §1; Acts 1994, 3rd Ex. Sess., No. 44, §1; Acts 1999, No. 936, §1; Acts 2008, No. 295, §1, eff. June 17, 2008; Acts 2009, No. 283, §1.

§34.4. Battery of a school or recreation athletic contest official

A.(1) Battery of a school or recreation athletic contest official is a battery committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a school athletic or recreation contest official actively engaged in the conducting, supervising, refereeing, or officiating of a school-sanctioned interscholastic athletic contest or a sanctioned recreation athletic contest.

(2) For purposes of this Section, "school athletic contest official" means any referee, umpire, coach, instructor, administrator, staff person, or school or school board employee of any public or private elementary and secondary school.

(3) For purposes of this Section, "recreation athletic contest official" means any referee, umpire, coach, instructor, administrator, staff person, or recreation employee of any public or quasi public recreation program.

B.(1) Whoever commits the crime of battery of a school or recreation athletic contest official shall be fined not less than one thousand dollars and not more than five thousand dollars and imprisoned not less than five days nor more than six months without benefit of suspension of sentence.

(2) Whoever commits the crime of battery of a school or recreation athletic contest official which results in serious bodily injury to the victim as defined in R.S. 14:34.1(B)(3) shall be fined not less than one thousand dollars and not more than five thousand dollars and imprisoned for not less than ten days nor more than six months.

(3)(a) In addition to any other penalty imposed, the court shall order the offender to perform forty hours of court-approved community service work.

(b) In addition to any other penalty imposed, the court shall order the offender to participate in a court-approved counseling program which may include anger management, abusive behavior intervention groups, or any other type of counseling deemed appropriate by the court. Any costs associated with the counseling program shall be borne by the offender.

(c) Participation in the community service and counseling program required by the provisions of Subparagraphs (a) and (b) of this Paragraph shall not be suspended.

(d) Failure to successfully complete the community service work and counseling program, as determined by the supervisor of the program to which he is assigned, may result in revocation of probation.

Acts 1990, No. 675, §1; Acts 1999, No. 1046, §1; Acts 2014, No. 815, §1.

§34.5. Battery of a correctional facility employee

A.(1) Battery of a correctional facility employee is a battery committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a correctional facility employee acting in the performance of his duty.

(2) For purposes of this Section, "correctional facility employee" means any employee of any jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility.

(3) For purposes of this Section, "battery of a correctional facility employee" includes the use of force or violence upon the person of the employee by throwing water or any other liquid, feces, urine, blood, saliva, or any form of human waste by an offender while the offender is incarcerated and is being detained in any jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility.

B.(1) Whoever commits the crime of battery of a correctional facility employee shall be fined not more than five hundred dollars and imprisoned not less than fifteen days nor more than six months without benefit of suspension of sentence.

(2) 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 jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility, the offender shall be fined not more than one thousand dollars and imprisoned

with or without hard labor without benefit of parole, probation, or suspension of sentence for not less than one year nor more than five years. Such sentence shall be consecutive to any other sentence imposed for violation of the provisions of any state criminal law.

Acts 1997, No. 486, §1; Acts 1999, No. 86, §1; Acts 2013, No. 290, §1, eff. June 14, 2013.

§34.5.1. Battery of a bus operator

A. Battery of a bus operator is a battery committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a bus operator.

B. For the purposes of this Section, a "bus operator" means any person employed by a public transit system who operates a bus, as defined in R.S. 32:1(5), or who operates an electronically operated cable car while that person is on duty in the course and scope of his or her employment, regardless of whether the bus is in motion at the time of the offense. "Bus operator" shall not include any person who operates a school bus.

C. Whoever commits the crime of battery on a bus operator shall be fined not more than five hundred dollars and imprisoned for not less than forty-eight hours nor more than six months without benefit of probation, parole, or suspension of sentence.

Acts 2003, No. 1244, §1.

§34.6. Disarming of a peace officer

A. Disarming of a peace officer is committed when an offender, through use of force or threat of force, and without the consent of the peace officer, takes possession of any law enforcement equipment from the person of a peace officer or from an area within the peace officer's immediate control, when the offender has reasonable grounds to believe that the victim is a peace officer acting in the performance of his duty.

B. For purposes of this Section:

(1) "Law enforcement equipment" shall include any firearms, weapons, restraints, ballistics shields, forced entry tools, defense technology equipment, self-defense batons, self-defense sprays, chemical weapons, or electro shock weapons issued to a peace officer and used in the course and scope of his law enforcement duties.

(2) "Peace officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, park wardens, livestock brand inspectors, forestry officers, and probation and parole officers.

C. Whoever commits the crime of disarming of a peace officer shall be imprisoned at hard labor for not more than five years.

Acts 1997, No. 558, §1; Acts 2003, No. 697, §1; Acts 2010, No. 820, §1.

§34.7. Aggravated second degree battery

A. Aggravated second degree battery is a battery committed with a dangerous weapon when the offender intentionally inflicts serious bodily injury.

B. For purposes of this Section, the following words shall have the following meanings:

(1) "Active member of the United States Armed Forces" shall mean an active member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Coast Guard, or the National Guard.

(2) "Disabled veteran" shall mean a veteran member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Coast Guard, or the National Guard who is disabled as determined by the United States Department of Veteran Affairs.

(3) "Serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

C. Whoever commits the crime of aggravated second degree battery shall be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not more than fifteen years, or both. At least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence if the offender knew or should have known that the victim is an active member of the United States Armed Forces or is a disabled veteran and the aggravated second degree battery was committed because of that status.

Acts 1997, No. 1318, §1, eff. July 15, 1997; Acts 2012, No. 40, §1.

§34.8. Battery of emergency room personnel, emergency services personnel, or a healthcare professional

A.(1) Battery of emergency room personnel, emergency services personnel, or a healthcare professional is battery committed without the consent of the victim when the offender has reasonable grounds to believe that the victim is emergency room personnel, emergency services personnel, or a healthcare professional acting in the performance of his employment duties.

(2) The use of force of violence upon the person of emergency room personnel, emergency services personnel, or a healthcare professional by throwing feces, urine, blood, saliva, or any form of human waste by an offender while the offender is transported to or from a medical facility or while being evaluated or treated in a medical facility shall also constitute battery of emergency room personnel, emergency services personnel, or a healthcare professional.

B. For purposes of this Section:

(1) "Emergency room personnel" includes a person in a hospital emergency department who, in the course and scope of his employment or as a volunteer, provides services or medical care, or who assists in the providing of services or medical care, for the benefit of the general public during emergency situations. "Emergency room personnel" shall include but not be limited to any healthcare professional, emergency department clerk, emergency department technician, student, and emergency department volunteer working in the hospital emergency department.

(2) "Emergency services personnel" means any "emergency medical services personnel" as defined by R.S. 40:1075.3 or any "EMS practitioners" as defined by R.S. 40:1131.

(3) "Healthcare professional" means a person licensed or certified by this state to provide healthcare or professional services as a physician, physician assistant, dentist, registered or

licensed practical nurse or certified nurse assistant, advanced practice registered nurse, certified emergency medical technician, paramedic, certified registered nurse anesthetist, nurse practitioner, respiratory therapist, clinical nurse specialist, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, licensed radiologic technologist, licensed clinical laboratory scientist, licensed professional counselor, certified social worker, or psychologist.

C.(1) Whoever commits the crime of battery of emergency room personnel, emergency services personnel, or a healthcare professional shall be fined not more than one thousand dollars and imprisoned for not less than fifteen days nor more than six months. At least forty-eight hours of the sentence imposed shall be without benefit of suspension of sentence.

(2) If the battery produces an injury that requires medical attention, the offender shall be fined not more than five thousand dollars and imprisoned with or without hard labor for not less than one year nor more than five years. At least five days of the sentence imposed shall be without benefit of suspension of sentence.

Acts 2014, No. 664, §1.

§34.9. Battery of a dating partner

A. Battery of a dating partner is the intentional use of force or violence committed by one dating partner upon the person of another dating partner.

B. For purposes of this Section:

(1) "Burning" means an injury to flesh or skin caused by heat, electricity, friction, radiation, or any other chemical or thermal reaction.

(2) "Court-monitored domestic abuse intervention program" means a program, comprised of a minimum of twenty-six in-person sessions occurring over a minimum of twenty-six weeks, that follows a model designed specifically for perpetrators of domestic abuse. The offender's progress in the program shall be monitored by the court. The provider of the program shall have all of the following:

(a) Experience in working directly with perpetrators and victims of domestic abuse.

(b) Experience in facilitating batterer intervention groups.

(c) Training in the causes and dynamics of domestic violence, characteristics of batterers, victim safety, and sensitivity to victims.

(3) "Dating partner" means any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. "Dating partner" shall not include a casual relationship or ordinary association between persons in a business or social context.

(4) "Serious bodily injury" means bodily injury that involves unconsciousness, extreme physical pain, or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

(5) "Strangulation" means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of the victim.

C. On a first conviction, notwithstanding any other provision of law to the contrary, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than thirty days nor more than six months. At least forty-

eight hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occurs:

(1) The offender is placed on probation with a minimum condition that he serve four days in jail and complete a court-monitored domestic abuse intervention program, and the offender shall not possess a firearm throughout the entirety of the sentence.

(2) The offender is placed on probation with a minimum condition that he perform eight eight-hour days of court-approved community service activities and complete a court-monitored domestic abuse intervention program, and the offender shall not possess a firearm throughout the entirety of the sentence.

D. On a conviction of a second offense, notwithstanding any other provision of law to the contrary and regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars and shall be imprisoned with or without hard labor for not less than sixty days nor more than one year. At least fourteen days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence, and the offender shall be required to complete a court-monitored domestic abuse intervention program. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occurs:

(1) The offender is placed on probation with a minimum condition that he serve thirty days in jail and complete a court-monitored domestic abuse intervention program, and the offender shall not possess a firearm throughout the entirety of the sentence.

(2) The offender is placed on probation with a minimum condition that he perform thirty eight-hour days of court-approved community service activities and complete a court-monitored domestic abuse intervention program, and the offender shall not possess a firearm throughout the entirety of the sentence.

E. On a conviction of a third offense, notwithstanding any other provision of law to the contrary and regardless of whether the offense occurred before or after an earlier conviction, the offender shall be imprisoned with or without hard labor for not less than one year nor more than five years and shall be fined two thousand dollars. The first year of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence.

F.(1) Except as otherwise provided in Paragraph (2) of this Subsection, on a conviction of a fourth or subsequent offense, notwithstanding any other provision of law to the contrary and regardless of whether the fourth offense occurred before or after an earlier conviction, the offender shall be imprisoned with hard labor for not less than ten years nor more than thirty years and shall be fined five thousand dollars. The first three years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence.

(2) If the offender has previously received the benefit of suspension of sentence, probation, or parole as a fourth or subsequent offender, no part of the sentence may be imposed with benefit of suspension of sentence, probation, or parole, and no portion of the sentence shall be imposed concurrently with the remaining balance of any sentence to be served for a prior conviction for any offense.

G.(1) For purposes of determining whether an offender has a prior conviction for violation of this Section, a conviction under this Section, or a conviction under the laws of any state or an ordinance of a municipality, town, or similar political subdivision of another state which prohibits the intentional use of force or violence committed by one household member,

family member, or dating partner upon another household member, family member, or dating partner shall constitute a prior conviction.

(2) For purposes of this Section, a prior conviction shall not include a conviction for an offense under this Section if the date of completion of sentence, probation, parole, or suspension of sentence is more than ten years prior to the commission of the crime with which the offender is charged, and such conviction shall not be considered in the assessment of penalties hereunder. However, periods of time during which the offender was incarcerated in a penal institution in this or any other state shall be excluded in computing the ten-year period.

H. An offender ordered to complete a court-monitored domestic abuse intervention program required by the provisions of this Section shall pay the cost incurred by participation in the program. Failure to make such payment shall subject the offender to revocation of probation, unless the court determines that the offender is unable to pay.

I. This Subsection shall be cited as the "Dating Partner Abuse Child Endangerment Law". Notwithstanding any provision of law to the contrary, when the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child thirteen years of age or younger was present at the residence or any other scene at the time of the commission of the offense, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

J. Notwithstanding any provision of law to the contrary, if the victim of the offense is pregnant and the offender knows that the victim is pregnant at the time of the commission of the offense, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

K. Notwithstanding any provision of law to the contrary, if the offense involves strangulation, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

L.(1) Notwithstanding any provision of law to the contrary, if the offense is committed by burning, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

(2) If the burning results in serious bodily injury, the offense shall be classified as a crime of violence, and the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not less than five nor more than fifty years without benefit of probation, parole, or suspension of sentence.

M. Except as provided in Paragraph (L)(2) of this Section, if the offender intentionally inflicts serious bodily injury, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than eight years.

Acts 2017, No. 84, §1; Acts 2018, No. 293, §1.

§34.9.1. Aggravated assault upon a dating partner

A. Aggravated assault upon a dating partner is an assault with a dangerous weapon committed by one dating partner upon another dating partner.

B. For purposes of this Section, "dating partner" means any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. "Dating partner" shall not include a casual relationship or ordinary association between persons in a business or social context.

C. Whoever commits the crime of aggravated assault upon a dating partner shall be imprisoned at hard labor for not less than one year nor more than five years and fined not more than five thousand dollars.

D. This Subsection shall be cited as the "Aggravated Assault Upon a Dating Partner Child Endangerment Law". When the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child thirteen years of age or younger was present at the residence or any other scene at the time of the commission of the offense, the mandatory minimum sentence imposed by the court shall be two years imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

Acts 2017, No. 84, §1.

§35. Simple battery

A. Simple battery is a battery committed without the consent of the victim.

B. Whoever commits a simple battery shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

Acts 1978, No. 394, §1; Acts 2006, No. 81, §1; Acts 2014, No. 791, §7.

§35.1. Battery of a child welfare or adult protective service worker

A.(1) Battery of a child welfare or adult protective service worker is a battery committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a child welfare or adult protective service worker working in the performance of employment duties who has presented proper identification.

(2) For purposes of this Section, "child welfare worker" shall include any child protection investigator, family services worker, foster care worker, adoption worker, any supervisor of the above, or any person authorized to transport clients for the agency, or court appointed special advocate (CASA) program representative.

(3) For purposes of this Section, "adult protective service worker" shall include any adult protection specialist or adult protection specialist supervisor employed by the Department of Health and Hospitals or the Governor's Office of Elderly Affairs.

B. Whoever commits the crime of battery of a child welfare or adult protective service worker shall be fined not more than five hundred dollars and shall be imprisoned not less than fifteen days nor more than six months, or both. At least seventy-two hours of the sentence imposed shall be served without benefit of suspension of sentence. If the battery produces an injury which requires medical attention, the offender shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both.

Acts 1987, No. 902, §1; Acts 2005, No. 59, §1, eff. June 16, 2005; Acts 2008, No. 43, §1.

§35.2. Simple battery of persons with infirmities

A. Simple battery of persons with infirmities is a battery committed against a person who is infirm, has a disability, or is aged and who is incapable of consenting to the battery due to either of the following:

(1) Advanced age.

(2) Unsoundness of mind, stupor, abnormal condition of the mind, or other mental or developmental disability, regardless of the age of the victim.

B. For purposes of this Section, "person who is infirm, has a disability, or is aged" shall include but not be limited to any individual who is a resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential facility, or any individual who is sixty years of age or older. Lack of knowledge of the person's age shall not be a defense.

C. Whoever commits the crime of battery of persons with infirmities shall be fined not more than five hundred dollars and imprisoned not less than thirty days nor more than six months, or both.

Acts 1999, No. 1056, §1; Acts 2014, No. 811, §6, eff. June 23, 2014.

§35.3. Domestic abuse battery

A. Domestic abuse battery is the intentional use of force or violence committed by one household member or family member upon the person of another household member or family member.

B. For purposes of this Section:

(1) "Burning" means an injury to flesh or skin caused by heat, electricity, friction, radiation, or any other chemical or thermal reaction.

(2) "Community service activities" as used in this Section may include duty in any morgue, coroner's office, or emergency treatment room of a state-operated hospital or other state-operated emergency treatment facility, with the consent of the administrator of the morgue, coroner's office, hospital, or facility.

(3) "Court-monitored domestic abuse intervention program" means a program, comprised of a minimum of twenty-six in-person sessions occurring over a minimum of twenty-six weeks, that follows a model designed specifically for perpetrators of domestic abuse. The offender's progress in the program shall be monitored by the court. The provider of the program shall have all of the following:

(a) Experience in working directly with perpetrators and victims of domestic abuse.

(b) Experience in facilitating batterer intervention groups.

(c) Training in the causes and dynamics of domestic violence, characteristics of batterers, victim safety, and sensitivity to victims.

(4) "Family member" means spouses, former spouses, parents, children, stepparents, stepchildren, foster parents, and foster children.

(5) "Household member" means any person presently or formerly living in the same residence with the offender and who is involved or has been involved in a sexual or intimate relationship with the offender, or any child presently or formerly living in the same residence with the offender, or any child of the offender regardless of where the child resides.

(6) "Serious bodily injury" means bodily injury that involves unconsciousness, extreme physical pain, or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

(7) "Strangulation" means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of the victim.

C. On a first conviction, notwithstanding any other provision of law to the contrary, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than thirty days nor more than six months. At least forty-eight hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occurs:

(1) The offender is placed on probation with a minimum condition that he serve four days in jail and complete a court-monitored domestic abuse intervention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

(2) The offender is placed on probation with a minimum condition that he perform eight, eight-hour days of court-approved community service activities and complete a court-monitored domestic abuse intervention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

D. On a conviction of a second offense, notwithstanding any other provision of law to the contrary, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars and shall be imprisoned with or without hard labor for not less than sixty days nor more than one year. At least fourteen days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence, and the offender shall be required to complete a court-monitored domestic abuse intervention program. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occurs:

(1) The offender is placed on probation with a minimum condition that he serve thirty days in jail and complete a court-monitored domestic abuse intervention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

(2) The offender is placed on probation with a minimum condition that he perform thirty eight-hour days of court-approved community service activities and complete a court-monitored domestic abuse intervention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

E. On a conviction of a third offense, notwithstanding any other provision of law to the contrary and regardless of whether the offense occurred before or after an earlier conviction, the offender shall be imprisoned with or without hard labor for not less than one year nor more than five years and shall be fined two thousand dollars. The first year of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence.

F.(1) Except as otherwise provided in Paragraph (2) of this Subsection, on a conviction of a fourth or subsequent offense, notwithstanding any other provision of law to the contrary and regardless of whether the fourth offense occurred before or after an earlier conviction, the offender shall be imprisoned with hard labor for not less than ten years nor more than thirty years and shall be fined five thousand dollars. The first three years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence.

(2) If the offender has previously received the benefit of suspension of sentence, probation, or parole as a fourth or subsequent offender, no part of the sentence may be imposed with benefit of suspension of sentence, probation, or parole, and no portion of the sentence shall be imposed concurrently with the remaining balance of any sentence to be served for a prior conviction for any offense.

G.(1) For purposes of determining whether an offender has a prior conviction for violation of this Section, a conviction under this Section, or a conviction under the laws of any state or an ordinance of a municipality, town, or similar political subdivision of another state which prohibits the intentional use of force or violence committed by one household member, family member, or dating partner upon another household member, family member, or dating partner shall constitute a prior conviction.

(2) For purposes of this Section, a prior conviction shall not include a conviction for an offense under this Section if the date of completion of sentence, probation, parole, or suspension of sentence is more than ten years prior to the commission of the crime with which the offender is charged, and such conviction shall not be considered in the assessment of penalties hereunder. However, periods of time during which the offender was incarcerated in a penal institution in this or any other state shall be excluded in computing the ten-year period.

H. An offender ordered to complete a court-monitored domestic abuse intervention program required by the provisions of this Section shall pay the cost incurred in participation in the program. Failure to make such payment shall subject the offender to revocation of probation, unless the court determines that the offender is unable to pay.

I. This Subsection shall be cited as the "Domestic Abuse Child Endangerment Law". Notwithstanding any provision of law to the contrary, when the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child thirteen years of age or younger was present at the residence or any other scene at the time of the commission of the offense, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

J. Any crime of violence, as defined in R.S. 14:2(B), against a person committed by one household member against another household member, shall be designated as an act of domestic abuse for consideration in any civil or criminal proceeding.

K. Notwithstanding any provision of law to the contrary, if the victim of domestic abuse battery is pregnant and the offender knows that the victim is pregnant at the time of the commission of the offense, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

L. Notwithstanding any provision of law to the contrary, if the domestic abuse battery involves strangulation, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

M.(1) Notwithstanding any provision of law to the contrary, if the domestic abuse battery is committed by burning, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

(2) If the burning results in serious bodily injury, the offense shall be classified as a crime of violence, and the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not less than five nor more than fifty years without benefit of probation, parole, or suspension of sentence.

N. Except as provided in Paragraph (M)(2) of this Section, if the offender intentionally inflicts serious bodily injury, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than eight years.

Acts 2003, No. 1038, §1; Acts 2004, No. 144, §1; Acts 2006, No. 559, §1; Acts 2007, No. 101, §1; Acts 2009, No. 90, §1; Acts 2009, No. 245, §1, eff. July 1, 2009; Acts 2010, No. 380, §1; Acts 2011, No. 284, §1; Acts 2012, No. 437, §1; Acts 2012, No. 535, §1, eff. June 5, 2012; Acts 2013, No. 289, §1, eff. June 14, 2013; Acts 2014, No. 194, §1; Acts 2015, No. 440, §1; Acts 2016, No. 452, §1; Acts 2017, No. 79, §1; Acts 2018, No. 293, §1.

§36. Assault defined

Assault is an attempt to commit a battery, or the intentional placing of another in reasonable apprehension of receiving a battery.

Acts 1978, No. 394, §1.

§37. Aggravated assault

A. Aggravated assault is an assault committed with a dangerous weapon.

B. Whoever commits an aggravated assault shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

C. If the offense is committed upon a store's or merchant's employee while the offender is engaged in the perpetration or attempted perpetration of theft of goods, the offender shall be imprisoned for not less than one hundred twenty days without benefit of suspension of sentence nor more than six months and may be fined not more than one thousand dollars.

Acts 1978, No. 394, §1; Acts 1992, No. 985, §1.

§37.1. Assault by drive-by shooting

A. Assault by drive-by shooting is an assault committed with a firearm when an offender uses a motor vehicle to facilitate the assault.

B. Whoever commits an assault by drive-by shooting shall be imprisoned for not less than one year nor more than five years, with or without hard labor, and without benefit of suspension of sentence.

C. As used in this Section and in R.S. 14:30(A)(1) and 30.1(A)(2), the term "drive-by shooting" means the discharge of a firearm from a motor vehicle on a public street or highway with the intent either to kill, cause harm to, or frighten another person.

Acts 1993, No. 496, §1.

§37.2. Aggravated assault upon a peace officer

A. Aggravated assault upon a peace officer is an assault committed upon a peace officer who is acting in the course and scope of his duties.

B. Whoever commits an aggravated assault upon a peace officer shall be fined not more than five thousand dollars, or imprisoned for not less than one year nor more than ten years, with or without hard labor, or both.

Acts 1995, No. 881, §1; Acts 1997, No. 936, §1; Acts 2001, No. 309, §1; Acts 2003, No. 239, §1; Acts 2016, No. 225, §1.

§37.3. Unlawful use of a laser on a police officer

A. Unlawful use of a laser on a police officer is the intentional projection of a laser on or at a police officer without consent of the officer when the offender has reasonable grounds to believe the officer is a police officer acting in the performance of his duty and that the officer will be injured, intimidated, or placed in fear of bodily harm.

B. For purposes of this Section the following terms have the following meanings:

(1) "Laser" means any device that projects a beam or point of light by means of light amplification by stimulated emission of radiation or any device that emits light which simulates the appearance of a laser.

(2) "Police officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, and probation and parole officers.

C. Whoever commits the crime of unlawful use of a laser on a police officer shall be fined not more than five hundred dollars or imprisoned not more than six months, or both.

Acts 1999, No. 1076, §1.

§37.4. Aggravated assault with a firearm

A. Aggravated assault with a firearm is an assault committed with a firearm.

B. For the purposes of this Section, "firearm" is defined as an instrument used in the propulsion of shot, shell, or bullets by the action of gunpowder exploded within it.

C. Whoever commits an aggravated assault with a firearm shall be fined not more than ten thousand dollars or imprisoned for not more than ten years, with or without hard labor, or both.

Acts 2001, No. 309, §1; Acts 2003, No. 239, §1; Acts 2012, No. 320, §1, eff. May 25, 2012.

§37.5. Aggravated assault upon a utility service employee with a firearm

A. Aggravated assault upon a utility service employee with a firearm is an assault committed upon a utility service employee who is acting in the course and scope of his duties when the offender knows the victim is a utility service employee and the assault is committed with the intention of preventing the person from performing his official duties and is committed with a firearm.

B. For purposes of this Section:

(1) "Firearm" is defined as an instrument used in the propulsion of shot, shell, or bullets by the action of gunpowder exploded within it.

(2) "Utility service" means any electricity, gas, water, broadband, cable television, or telecommunications service.

(3) "Utility service employee" means any uniformed, readily identified employee of any utility service.

C. Whoever commits an aggravated assault upon a utility service employee with a firearm shall be fined not more than two thousand dollars or imprisoned for not less than one year nor more than three years, with or without hard labor, or both.

Acts 2006, No. 79, §1.

§37.6. Aggravated assault with a motor vehicle upon a peace officer

A. Aggravated assault with a motor vehicle upon a peace officer is an assault committed with a motor vehicle upon a peace officer acting in the course and scope of his duties.

B. For the purposes of this Section:

(1) "Motor vehicle" shall include any motor vehicle, aircraft, watercraft, or other means of conveyance.

(2) "Peace officer" shall have the same meaning as defined in R.S. 40:2402.

C. Whoever commits the crime of aggravated assault with a motor vehicle upon a peace officer shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not less than one year nor more than ten years, or both.

Acts 2010, No. 507, §1.

§37.7. Domestic abuse aggravated assault

A. Domestic abuse aggravated assault is an assault with a dangerous weapon committed by one household member or family member upon another household member or family member.

B. For purposes of this Section:

(1) "Family member" means spouses, former spouses, parents, children, stepparents, stepchildren, foster parents, and foster children.

(2) "Household member" means any person presently or formerly living in the same residence with the offender and who is involved or has been involved in a sexual or intimate relationship with the offender, or any child presently or formerly living in the same residence with the offender, or any child of the offender regardless of where the child resides.

C. Whoever commits the crime of domestic abuse aggravated assault shall be imprisoned at hard labor for not less than one year nor more than five years and fined not more than five thousand dollars.

D. This Subsection shall be cited as the "Domestic Abuse Aggravated Assault Child Endangerment Law". When the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child thirteen years of age or younger was present at the residence or any other scene at the time of the commission of the offense, the mandatory minimum sentence imposed by the court shall be two years imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

Acts 2012, No. 535, §1, eff. June 5, 2012; Acts 2015, No. 440, §1; Acts 2017, No. 79, §1.

§38. Simple assault

A. Simple assault is an assault committed without a dangerous weapon.

B. Whoever commits a simple assault shall be fined not more than two hundred dollars, or imprisoned for not more than ninety days, or both.

Acts 1978, No. 394, §1; Acts 2014, No. 791, §7.

§38.1. Mingling harmful substances

A. Mingling harmful substances is the intentional mingling of any harmful substance or matter with any food, drink, or medicine with intent that the same shall be taken by any human being to his injury.

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

Acts 1978, No. 394, §1; Acts 2014, No. 791, §7.

§38.2. Assault on a school teacher

A.(1) Assault on a school teacher is an assault committed when the offender has reasonable grounds to believe the victim is a school teacher acting in the performance of his duties.

(2)(a) For purposes of this Section, "school teacher" means any teacher, instructor, administrator, staff person, or employee of any public or private elementary, secondary, vocational-technical training, special, or postsecondary school or institution. For purposes of this Section, "school teacher" shall also include any teacher aide and paraprofessional, school bus driver, food service worker, and other clerical, custodial, or maintenance personnel employed by a city, parish, or other local public school board.

(b) For the purposes of this Section, "assault" means an attempt to commit on a school teacher a battery or the intentional placing of a school teacher in reasonable apprehension of receiving a battery or making statements threatening physical harm to a school teacher.

(c) For the purposes of this Section, "school" means any public or nonpublic elementary, secondary, high school, vocational-technical school, college, special, or postsecondary school or institution, or university in this state.

(d) For the purposes of this Section, "student" means any person registered or enrolled at the school where the school teacher is employed.

B. Whoever commits the crime of assault on a school teacher shall be punished as follows:

(1) If the assault was committed by a student, upon conviction, the offender shall be fined not more than two thousand dollars or imprisoned not less than thirty days nor more than one hundred eighty days, or both.

(2) If the assault was committed by someone who is not a student, upon conviction, the offender shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not less than one year nor more than three years, or both.

Acts 1994, 3rd Ex. Sess., No. 44, §1; Acts 2006, No. 733, §1, eff. July 1, 2006; Acts 2008, No. 295, §1, eff. June 17, 2008; Acts 2009, No. 283, §1.

§38.3. Assault on a child welfare worker

A.(1) Assault on a child welfare worker is an assault committed when the offender has reasonable grounds to believe the victim is a child welfare worker acting in the performance of his duties.

(2) For purposes of this Section, "child welfare worker" shall include any child protection investigator, family services worker, foster care worker, adoption worker, any supervisor of the above, any person authorized to transport clients for the agency, or court appointed special advocate (CASA) program representative.

B. Whoever commits the crime of assault on a child welfare worker shall be fined not more than five hundred dollars or imprisoned not less than fifteen days nor more than ninety days, or both.

Acts 2005, No. 59, §1, eff. June 16, 2005.

§39. Negligent injuring

A. Domestic abuse aggravated assault is an assault with a dangerous weapon committed by one household member or family member upon another household member or family member.

B. For purposes of this Section:

(1) "Family member" means spouses, former spouses, parents, children, stepparents, stepchildren, foster parents, and foster children.

(2) "Household member" means any person presently or formerly living in the same residence with the offender and who is involved or has been involved in a sexual or intimate relationship with the offender, or any child presently or formerly living in the same residence with the offender, or any child of the offender regardless of where the child resides.

C. Whoever commits the crime of domestic abuse aggravated assault shall be imprisoned at hard labor for not less than one year nor more than five years and fined not more than five thousand dollars.

D. This Subsection shall be cited as the "Domestic Abuse Aggravated Assault Child Endangerment Law". When the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child thirteen years of age or younger was present at the residence or any other scene at the time of the commission of the offense, the mandatory minimum sentence imposed by the court shall be two years imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

Acts 2012, No. 535, §1, eff. June 5, 2012; Acts 2015, No. 440, §1; Acts 2017, No. 79, §1.

§39.1. Vehicular negligent injuring

A. Vehicular negligent injuring is the inflicting of any injury upon the person of a human being when caused proximately or caused directly by an offender engaged in the operation of, or in actual physical control of, any motor vehicle, aircraft, watercraft, or other means of conveyance whenever any of the following conditions exists:

(1) The offender is under the influence of alcoholic beverages.

(2) The offender's blood alcohol concentration is 0.08 percent or more by weight based upon grams of alcohol per one hundred cubic centimeters of blood.

(3) The offender is under the influence of any controlled dangerous substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964.

(4)(a) The operator is under the influence of a combination of alcohol and one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without a prescription.

(b) It shall be an affirmative defense to any charge under this Paragraph pursuant to this Section that the label on the container of the prescription drug or the manufacturer's package of the drug does not contain a warning against combining the medication with alcohol.

(5) The operator is under the influence of one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without a prescription and the influence is caused by the operator knowingly consuming quantities of the drug or drugs which substantially exceed the dosage prescribed by the physician or the dosage recommended by the manufacturer of the drug.

B. The violation of a statute or ordinance shall be considered only as presumptive evidence of negligence as set forth in Subsection A.

C. Whoever commits the crime of vehicular negligent injuring shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

Added by Acts 1983, No. 633, §1; Acts 1985, No. 747, §1; Acts 1988, No. 279, §1; Acts 1997, No. 1020, §1, eff. July 11, 1997; Acts 2001, No. 781, §1, eff. Sept. 30, 2003; Acts 2001, No. 1163, §5; Acts 2003, No. 758, §1, eff. Sept. 30, 2003.

NOTE: Section 6 of Acts 2001, No. 781, provides that the provisions of the Act shall become null and of no effect if and when Section 351 of P.L. 106-346 regarding the withholding of federal highway funds for failure to enact a 0.08 percent blood alcohol level is repealed or invalidated for any reason.

§39.2. First degree vehicular negligent injuring

A. First degree vehicular negligent injuring is the inflicting of serious bodily injury upon the person of a human being when caused proximately or caused directly by an offender engaged in the operation of, or in actual physical control of, any motor vehicle, aircraft, watercraft, or other means of conveyance whenever any of the following conditions exists:

(1) The offender is under the influence of alcoholic beverages.

(2) The offender's blood alcohol concentration is 0.08 percent or more by weight based upon grams of alcohol per one hundred cubic centimeters of blood.

(3) The offender is under the influence of any controlled dangerous substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964, or any abused substance.

(4)(a) The operator is under the influence of a combination of alcohol and one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without a prescription.

(b) It shall be an affirmative defense to any charge under this Paragraph pursuant to this Section that the label on the container of the prescription drug or the manufacturer's package of the drug does not contain a warning against combining the medication with alcohol.

(5) The operator is under the influence of one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without a prescription and the influence is caused by the operator knowingly consuming quantities of the drug or drugs which substantially exceed the dosage prescribed by the physician or the dosage recommended by the manufacturer of the drug.

B. The violation of a statute or ordinance shall be considered only as presumptive evidence of negligence as set forth in Subsection A.

C. For purposes of this Section, "serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ or a mental faculty, or a substantial risk of death.

D. Whoever commits the crime of first degree vehicular negligent injuring shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not more than five years, or both.

Acts 1995, No. 403, §1, eff. June 17, 1995; Acts 1997, No. 1021, §1, eff. July 11, 1997; Acts 2001, No. 781, §1, eff. Sept. 30, 2003; Acts 2001, No. 1163, §5; Acts 2003, No. 758, §1, eff. Sept. 30, 2003.

§40. Intimidation by officers

A. Intimidation by officers is the intentional use, by any police officer or other person charged with the custody of parties accused of a crime or violation of a municipal ordinance, of threats, violence, or any means of inhuman treatment designed to secure a confession or incriminating statement from the person in custody.

B. Whoever commits the crime of intimidation by officers shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

Acts 1978, No. 394, §1; Acts 2014, No. 791, §7.

§40.1. Terrorizing

A. Terrorizing is the intentional communication of information that the commission of a crime of violence is imminent or in progress or that a circumstance dangerous to human life exists or is about to exist, with the intent of causing members of the general public to be in sustained fear for their safety; or causing evacuation of a building, a public structure, or a facility of transportation; or causing other serious disruption to the general public.

B. It shall be an affirmative defense that the person communicating the information provided for in Subsection A of this Section was not involved in the commission of a crime of violence or creation of a circumstance dangerous to human life and reasonably believed his actions were necessary to protect the welfare of the public.

C. Whoever commits the offense of terrorizing shall be fined not more than fifteen thousand dollars or imprisoned with or without hard labor for not more than fifteen years, or both.

Acts 1985, No. 191, §1; Acts 1997, No. 1318, §2, eff. July 15, 1997; Acts 2001, No. 1112, §1; Acts 2008, No. 451, §2, eff. June 25, 2008.

§40.2. Stalking

A. Stalking is the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress. Stalking shall include but not be limited to the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal, written, or behaviorally

implied threats of death, bodily injury, sexual assault, kidnapping, or any other statutory criminal act to himself or any member of his family or any person with whom he is acquainted.

B.(1)(a) Notwithstanding any law to the contrary, on first conviction, whoever commits the crime of stalking shall be fined not less than five hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than thirty days nor more than one year. Notwithstanding any other sentencing provisions, any person convicted of stalking shall undergo a psychiatric evaluation. Imposition of the sentence shall not be suspended unless the offender is placed on probation and participates in a court-approved counseling which could include but shall not be limited to anger management, abusive behavior intervention groups, or any other type of counseling deemed appropriate by the courts.

(b) Whoever commits the crime of stalking against a victim under the age of eighteen when the provisions of Paragraph (6) of this Subsection are not applicable shall be imprisoned for not more than three years, with or without hard labor, and fined not more than two thousand dollars, or both.

(2)(a) Any person who commits the offense of stalking and who is found by the trier of fact, whether the jury at a jury trial, the judge in a bench trial, or the judge at a sentencing hearing following a jury trial, beyond a reasonable doubt to have placed the victim of the stalking in fear of death or bodily injury by the actual use of or the defendant's having in his possession during the instances which make up the crime of stalking a dangerous weapon or is found beyond a reasonable doubt to have placed the victim in reasonable fear of death or bodily injury, shall be imprisoned for not less than one year nor more than five years, with or without hard labor, without benefit of probation, parole, or suspension of sentence and may be fined one thousand dollars, or both. Whether or not the defendant's use of or his possession of the dangerous weapon is a crime or, if a crime, whether or not he is charged for that offense separately or in addition to the crime of stalking shall have no bearing or relevance as to the enhanced sentence under the provisions of this Paragraph.

(b) If the victim is under the age of eighteen, and when the provisions of Paragraph (6) of this Subsection are not applicable, the offender shall be imprisoned for not less than two years nor more than five years, with or without hard labor, without benefit of probation, parole, or suspension of sentence and may be fined not less than one thousand nor more than two thousand dollars, or both.

(3) Any person who commits the offense of stalking against a person for whose benefit a protective order, a temporary restraining order, or any lawful order prohibiting contact with the victim issued by a judge or magistrate is in effect in either a civil or criminal proceeding, protecting the victim of the stalking from acts by the offender which otherwise constitute the crime of stalking, shall be punished by imprisonment with or without hard labor for not less than ninety days and not more than two years or fined not more than five thousand dollars, or both.

(4) Upon a second conviction occurring within seven years of a prior conviction for stalking, the offender shall be imprisoned with or without hard labor for not less than five years nor more than twenty years, without benefit of probation, parole, or suspension of sentence, and may be fined not more than five thousand dollars, or both.

(5) Upon a third or subsequent conviction, the offender shall be imprisoned with or without hard labor for not less that ten years and not more than forty years and may be fined not more than five thousand dollars, or both.

(6)(a) Any person thirteen years of age or older who commits the crime of stalking against a child twelve years of age or younger and who is found by the trier of fact, whether the

jury at a jury trial, the judge in a bench trial, or the judge at a sentencing hearing following a jury trial, beyond a reasonable doubt to have placed the child in reasonable fear of death or bodily injury, or in reasonable fear of the death or bodily injury of a family member of the child shall be punished by imprisonment with or without hard labor for not less than one year and not more than three years and fined not less than fifteen hundred dollars and not more than five thousand dollars, or both.

(b) Lack of knowledge of the child's age shall not be a defense.

C. For the purposes of this Section, the following words shall have the following meanings:

(1) "Harassing" means the repeated pattern of verbal communications or nonverbal behavior without invitation which includes but is not limited to making telephone calls, transmitting electronic mail, sending messages via a third party, or sending letters or pictures.

(2) "Pattern of conduct" means a series of acts over a period of time, however short, evidencing an intent to inflict a continuity of emotional distress upon the person. Constitutionally protected activity is not included within the meaning of pattern of conduct.

D. As used in this Section, when the victim of the stalking is a child twelve years old or younger:

(1) "Pattern of conduct" includes repeated acts of nonconsensual contact involving the victim or a family member.

(2) "Family member" includes:

(a) A child, parent, grandparent, sibling, uncle, aunt, nephew, or niece of the victim, whether related by blood, marriage, or adoption.

(b) A person who lives in the same household as the victim.

(3)(a) "Nonconsensual contact" means any contact with a child twelve years old or younger that is initiated or continued without that child's consent, that is beyond the scope of the consent provided by that child, or that is in disregard of that child's expressed desire that the contact be avoided or discontinued.

(b) "Nonconsensual contact" includes:

(i) Following or appearing within the sight of that child.

(ii) Approaching or confronting that child in a public place or on private property.

(iii) Appearing at the residence of that child.

(iv) Entering onto or remaining on property occupied by that child.

(v) Contacting that child by telephone.

(vi) Sending mail or electronic communications to that child.

(vii) Placing an object on, or delivering an object to, property occupied by that child.

(c) "Nonconsensual contact" does not include any otherwise lawful act by a parent, tutor, caretaker, mandatory reporter, or other person having legal custody of the child as those terms are defined in the Louisiana Children's Code.

(4) "Victim" means the child who is the target of the stalking.

E. Whenever it is deemed appropriate for the protection of the victim, the court may send written notice to any employer of a person convicted for a violation of the provisions of this Section describing the conduct on which the conviction was based.

F.(1)(a) Upon motion of the district attorney or on the court's own motion, whenever it is deemed appropriate for the protection of the victim, the court may, in addition to any penalties imposed pursuant to the provisions of this Section, grant a protective order which directs the

defendant to refrain from abusing, harassing, interfering with the victim or the employment of the victim, or being physically present within a certain distance of the victim.

(b) For any defendant placed on probation for a violation of the provisions of this Section, the court shall, in addition to any penalties imposed pursuant to the provisions of this Section, grant a protective order which directs the defendant to refrain from abusing, harassing, interfering with the victim or the employment of the victim, or being physically present within a certain distance of the victim.

(2) Any protective order granted pursuant to the provisions of this Subsection shall be served on the defendant at the time of sentencing.

(3)(a) The court shall order that the protective order be effective either for an indefinite period of time or for a fixed term which shall not exceed eighteen months.

(b) If the court grants the protective order for an indefinite period of time pursuant to Subparagraph (a) of this Paragraph, after a hearing, on the motion of any party and for good cause shown, the court may modify the indefinite effective period of the protective order to be effective for a fixed term, not to exceed eighteen months, or to terminate the effectiveness of the protective order. A motion to modify or terminate the effectiveness of the protective order may be granted only after a good faith effort has been made to provide reasonable notice of the hearing to the victim, the victim's designated agent, or the victim's counsel, and either of the following occur:

(i) The victim, the victim's designated agent, or the victim's counsel is present at the hearing or provides written waiver of such appearance.

(ii) After a good faith effort has been made to provide reasonable notice of the hearing, the victim could not be located.

(4)(a) Immediately upon granting a protective order, the court shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2, shall sign such order, and shall forward it to the clerk of court for filing, without delay.

(b) The clerk of the issuing court shall send a copy of the Uniform Abuse Prevention Order or any modification thereof to the chief law enforcement official of the parish where the victim resides. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer as provided in this Subparagraph until otherwise directed by the court.

(c) The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order, or any modification thereof, to the Louisiana Protective Order Registry pursuant to R.S. 46:2136.2, by facsimile transmission, mail, or direct electronic input, where available, as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court.

(5) If a protective order is issued pursuant to the provisions of this Subsection, the court shall also order that the defendant be prohibited from possessing a firearm for the duration of the Uniform Abuse Prevention Order.

G.(1) Except as provided in Paragraph (2) of this Subsection, the provisions of this Section shall not apply to a private investigator licensed pursuant to the provisions of Chapter 56 of Title 37 of the Louisiana Revised Statutes of 1950, acting during the course and scope of his employment and performing his duties relative to the conducting of an investigation.

(2) The exception provided in Paragraph (1) of this Subsection does not apply if both of the following conditions apply:

(a) The private investigator was retained by a person who is charged with an offense involving sexual assault as defined by R.S. 46:2184 or who is subject to a temporary restraining order or protective order obtained by a victim of sexual assault pursuant to R.S. 46:2182 et seq.

(b) The private investigator was retained for the purpose of harassing the victim.

H. The provisions of this Section shall not apply to an investigator employed by an authorized insurer regulated pursuant to the provisions of Title 22 of the Louisiana Revised Statutes of 1950, acting during the course and scope of his employment and performing his duties relative to the conducting of an insurance investigation.

I. The provisions of this Section shall not apply to an investigator employed by an authorized self-insurance group or entity regulated pursuant to the provisions of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950, acting during the course and scope of his employment and performing his duties relative to the conducting of an insurance investigation.

J. A conviction for stalking shall not be subject to expungement as provided for by Title XXXIV of the Code of Criminal Procedure.

Acts 1992, No. 80, §1; Acts 1993, No. 125, §§1, 2; Acts 1994, 3rd Ex. Sess., No. 30, §1; Acts 1995, No. 416, §1; Acts 1995, No. 645, §1; Acts 1997, No. 1231, §1, eff. July 15, 1997; Acts 1999, No. 957, §1; Acts 1999, No. 963, §1; Acts 2001, No. 1141, §1; Acts 2003, No. 1089, §1; Acts 2005, No. 161, §1; Acts 2007, No. 62, §1; Acts 2007, No. 226, §1; Acts 2012, No. 197, §1; Acts 2015, No. 440, §1; Acts 2017, No. 89, §1; Acts 2018, No. 282, §1.

§40.3. Cyberstalking

A. For the purposes of this Section, the following words shall have the following meanings:

(1) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature, transmitted in whole or in part by wire, radio, computer, electromagnetic, photoelectric, or photo-optical system.

(2) "Electronic mail" means the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

B. Cyberstalking is action of any person to accomplish any of the following:

(1) Use in electronic mail or electronic communication of any words or language threatening to inflict bodily harm to any person or to such person's child, sibling, spouse, or dependent, or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person.

(2) Electronically mail or electronically communicate to another repeatedly, whether or not conversation ensues, for the purpose of threatening, terrifying, or harassing any person.

(3) Electronically mail or electronically communicate to another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct, or criminal conduct of the person electronically mailed or of any member of the person's family or household with the intent to threaten, terrify, or harass.

(4) Knowingly permit an electronic communication device under the person's control to be used for the taking of an action in Paragraph (1), (2), or (3) of this Subsection.

C.(1) Whoever commits the crime of cyberstalking shall be fined not more than two thousand dollars, or imprisoned for not more than one year, or both.

(2) Upon a second conviction occurring within seven years of the prior conviction for cyberstalking, the offender shall be imprisoned for not less than one hundred and eighty days and not more than three years, and may be fined not more than five thousand dollars, or both.

(3) Upon a third or subsequent conviction occurring within seven years of a prior conviction for stalking, the offender shall be imprisoned for not less than two years and not more than five years and may be fined not more than five thousand dollars, or both.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

D. Any offense under this Section committed by the use of electronic mail or electronic communication may be deemed to have been committed where the electronic mail or electronic communication was originally sent, originally received, or originally viewed by any person.

E. This Section does not apply to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others.

Acts 2001, No. 737, §1; Acts 2010, No. 763, §1.

§40.4. Burning cross on property of another or public place; intent to intimidate

A. It shall be unlawful for any person, with the intent of intimidating any person or group of persons to burn, or cause to be burned, a cross on the property of another, a highway, or other public place.

B. Whoever commits the crime of burning a cross with the intent of intimidating shall be fined not more than fifteen thousand dollars or imprisoned with or without hard labor for not more than fifteen years, or both.

Acts 2003, No. 843, §1.

§40.5. Public display of a noose on property of another or public place; intent to intimidate

A. It shall be unlawful for any person, with the intent to intimidate any person or group of persons, to etch, paint, draw, or otherwise place or display a hangman's noose on the property of another, a highway, or other public place.

B. As used in this Section, "noose" means a rope tied in a slip knot, which binds closer the more it is drawn, which historically has been used in execution by hanging, and which symbolizes racism and intimidation.

C. Whoever commits the crime of public display of a noose with the intent to intimidate shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than one year, or both.

Acts 2008, No. 643, §1.

§40.6. Unlawful disruption of the operation of a school; penalties

A. Unlawful disruption of the operation of a school is the commission of any of the following acts by a person, who is not authorized to be on school premises, which would foreseeably cause any of the following:

(1) Intimidation or harassment of any student or teacher by threat of force or force.

(2) Placing teachers or students in sustained fear for their health, safety, or welfare.

(3) Disrupting, obstructing, or interfering with the operation of the school.

B. For the purposes of this Section:

(1) "Authorized to be present on school premises" means all of the following:

(a) Any student enrolled at the school.

(b) Any teacher employed at the school.

(c) Any person attending a school sponsored function.

(d) Any other person who has authorization to be present on the school premises from the principal of the school in the case of a public school, or the principal or headmaster in the case of a nonpublic school.

(2) "School" means any public or nonpublic elementary, secondary, high school, vocational-technical school, college, special, or postsecondary school or institution, or university in this state.

(3) "School premises" means any property used for school purposes, including but not limited to school buildings, playgrounds, and parking lots.

(4) "School-sponsored function" means the specific designated area of the function, including but not limited to athletic competitions, dances, parties, or any extracurricular activity.

(5) "Student" means any person registered or enrolled at a school as defined in this Section.

(6) "Teacher" shall include any teacher or instructor, administrator, staff person, teacher aide, paraprofessional, school bus driver, food service worker, and other clerical, custodial, or maintenance personnel employed by any public or nonpublic elementary, secondary, high school, vocational-technical school, college, special, or postsecondary school or institution, or university in this state.

C. Whoever commits the offense of unlawful disruption of the operation of a school shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both.

D. Nothing herein shall be construed to prevent lawful assembly and orderly petition for the redress of grievances, including any labor dispute between any school or institution of higher learning and its employees, or contractor or subcontractor or any employees thereof. Nothing herein shall apply to a bona fide labor organization or its legal activities such as picketing, assembly, or concerted activities in the interest of its members for the purpose of securing better wages, hours, or working conditions.

Acts 2009, No. 302, §1.

§40.7. Cyberbullying

A. Cyberbullying is the transmission of any electronic textual, visual, written, or oral communication with the malicious and willful intent to coerce, abuse, torment, or intimidate a person under the age of eighteen.

B. For purposes of this Section:

(1) "Cable operator" means any person or group of persons who provides cable service over a cable system and directly, or through one or more affiliates, owns a significant interest in such cable system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

(2) "Electronic textual, visual, written, or oral communication" means any communication of any kind made through the use of a computer online service, Internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or online messaging service.

(3) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(4) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, regardless of the facilities used.

C. An offense committed pursuant to the provisions of this Section may be deemed to have been committed where the communication was originally sent, originally received, or originally viewed by any person.

D.(1) Except as provided in Paragraph (2) of this Subsection, whoever commits the crime of cyberbullying shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) When the offender is under the age of seventeen, the disposition of the matter shall be governed exclusively by the provisions of Title VII of the Children's Code.

E. The provisions of this Section shall not apply to a provider of an interactive computer service, provider of a telecommunications service, or a cable operator as defined by the provisions of this Section.

F. The provisions of this Section shall not be construed to prohibit or restrict religious free speech pursuant to Article I, Section 8 of the Constitution of Louisiana.

Acts 2010, No. 989, §1.

§40.8. Criminal hazing

A.(1) Except as provided by Subsection D of this Section, it shall be unlawful for any person to commit an act of hazing.

(2)(a) Except as provided by Subparagraph (b) of this Paragraph, any person who commits an act of hazing shall be either fined up to one thousand dollars, imprisoned for up to six months, or both.

(b) If the hazing results in the serious bodily injury or death of the victim, or the hazing involves forced or coerced alcohol consumption that results in the victim having a blood alcohol concentration of at least 0.30 percent by weight based on grams of alcohol per one hundred cubic

centimeters of blood, any person who commits an act of hazing shall be fined up to ten thousand dollars and imprisoned, with or without hard labor, for up to five years.

B.(1) If any person serving as a representative or officer of an organization, including any representative, director, trustee, or officer of any national or parent organization of which any of the underlying entities provided for in Paragraph (C)(3) of this Section is a sanctioned or recognized member at the time of the hazing, knew and failed to report to law enforcement that one or more of the organization's members were hazing another person, the organization may be subject to the following:

(a) Payment of a fine of up to ten thousand dollars.

(b) Forfeiture of any public funds received by the organization.

(c) Forfeiture of all rights and privileges of being an organization that is organized and operating at the education institution for a specific period of time as determined by the court. If the hazing results in the serious bodily injury or death of the victim, or results in the victim having a blood alcohol concentration of at least 0.30 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, the period of time shall be for not less than four years.

(2) A national or parent organization that receives a report alleging the commission of an act or acts of hazing may conduct a timely and efficient investigation to substantiate or determine the veracity of the allegations prior to making a report to law enforcement. The investigation shall be completed no later than fourteen days after the date on which the report was received alleging the commission of an act or acts of hazing.

C. For purposes of this Section:

(1) "Education institution" means any elementary or secondary school or any postsecondary education institution in this state.

(2)(a) "Hazing" is any intentional, knowing, or reckless act by a person acting alone or acting with others that is directed against another when both of the following apply:

(i) The person knew or should have known that the act endangers the physical health or safety of the other person or causes severe emotional distress.

(ii) The act was associated with pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization.

(b) "Hazing" includes but is not limited to any of the following acts associated with pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization:

(i) Physical brutality, such as whipping, beating, paddling, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.

(ii) Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjects the other person to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual or causes severe emotional distress.

(iii) Activity involving consumption of food, liquid, or any other substance, including but not limited to an alcoholic beverage or drug, that subjects the individual to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual or causes severe emotional distress.

(iv) Activity that induces, causes, or requires an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

(c) A physical activity that is normal, customary, and necessary for a person's training and participation in an athletic, physical education, military training, or similar program sanctioned by the education institution is not considered "hazing" for purposes of this Section.

(3) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, band, spirit group, athletic team, or similar group whose members are primarily students at, or former students of, an education institution."Organization" includes the national or parent organization of which any of the underlying entities provided for in this Paragraph is a sanctioned or recognized member at the time of the hazing.

(4) "Pledging", also known as "recruitment" or "rushing", means any action or activity related to becoming a member of an organization.

D.(1) This Section does not apply to an individual who is the subject of the hazing, regardless of whether the individual voluntarily allowed himself to be hazed.

(2) It is not a defense to prosecution for a violation of this Section that the individual against whom the hazing was directed consented to or acquiesced in the hazing.

E.(1) The penalties provided in Subsection B of this Section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same incident or activity, and in addition to any penalty imposed by the organization or education institution pursuant to its by-laws, rules, or policies regarding hazing.

(2) Nothing in this Section precludes any civil remedy provided by law.

Acts 2018, No. 635, §1.

SUBPART C. RAPE AND SEXUAL BATTERY

§41. Rape; defined

A. Rape is the act of anal, oral, or vaginal sexual intercourse with a male or female person committed without the person's lawful consent.

B. Emission is not necessary, and any sexual penetration, when the rape involves vaginal or anal intercourse, however slight, is sufficient to complete the crime.

C. For purposes of this Subpart, "oral sexual intercourse" means the intentional engaging in any of the following acts with another person:

(1) The touching of the anus or genitals of the victim by the offender using the mouth or tongue of the offender.

(2) The touching of the anus or genitals of the offender by the victim using the mouth or tongue of the victim.

Acts 1978, No. 239, §1. Acts 1985, No. 587, §1; Acts 1990, No. 722, §§1, 2; Acts 2001, No. 301, §1.

§41.1. Consent; victim in police custody

For purposes of this Subpart, a person is deemed incapable of consent when the person is under arrest or otherwise in the actual custody of a police officer or other law enforcement official and the offender is a police officer or other law enforcement official who either:

(1) Arrested the person or was responsible for maintaining the person in actual custody.

(2) Knows or reasonably should know that the person is under arrest or otherwise in actual custody.

Acts 2018, No. 407, §1, eff. May 23, 2018.

§42. First degree rape

A. First degree rape is a rape committed upon a person sixty-five years of age or older or where the anal, oral, or vaginal sexual intercourse is deemed to be without lawful consent of the victim because it is committed under any one or more of the following circumstances:

(1) When the victim resists the act to the utmost, but whose resistance is overcome by force.

(2) When the victim is prevented from resisting the act by threats of great and immediate bodily harm, accompanied by apparent power of execution.

(3) When the victim is prevented from resisting the act because the offender is armed with a dangerous weapon.

(4) When the victim is under the age of thirteen years. Lack of knowledge of the victim's age shall not be a defense.

(5) When two or more offenders participated in the act.

(6) When the victim is prevented from resisting the act because the victim suffers from a physical or mental infirmity preventing such resistance.

B. For purposes of Paragraph (5), "participate" shall mean:

(1) Commit the act of rape.

(2) Physically assist in the commission of such act.

C. For purposes of this Section, the following words have the following meanings:

(1) "Physical infirmity" means a person who is a quadriplegic or paraplegic.

(2) "Mental infirmity" means a person with an intelligence quotient of seventy or lower.

D.(1) Whoever commits the crime of first degree rape shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

(2) However, if the victim was under the age of thirteen years, as provided by Paragraph (A)(4) of this Section:

(a) And if the district attorney seeks a capital verdict, the offender shall be punished by death or life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence, in accordance with the determination of the jury. The provisions of Code of Criminal Procedure Art. 782 relative to cases in which punishment may be capital shall apply.

(b) And if the district attorney does not seek a capital verdict, the offender shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence. The provisions of Code of Criminal Procedure Art. 782 relative to cases in which punishment is necessarily confinement at hard labor shall apply.

E. For all purposes, "aggravated rape" and "first degree rape" mean the offense defined by the provisions of this Section and any reference to the crime of aggravated rape is the same as a reference to the crime of first degree rape. Any act in violation of the provisions of this Section committed on or after August 1, 2015, shall be referred to as "first degree rape".

Acts 1978, No. 239, §1. Amended by Acts 1981, No. 707, §1; Acts 1984, No. 579, §1; Acts 1993, No. 630, §1; Acts 1995, No. 397, §1; Acts 1997, No. 757, §1; Acts 1997, No. 898,

§1; Acts 2001, No. 301, §1; Acts 2003, No. 795, §1; Acts 2006, No. 178, §1; Acts 2015, No. 184, §1; Acts 2015, No. 256, §1.

§42.1. Second degree rape

A. Second degree rape is rape committed when the anal, oral, or vaginal sexual intercourse is deemed to be without the lawful consent of the victim because it is committed under any one or more of the following circumstances:

(1) When the victim is prevented from resisting the act by force or threats of physical violence under circumstances where the victim reasonably believes that such resistance would not prevent the rape.

(2) When the victim is incapable of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind produced by a narcotic or anesthetic agent or other controlled dangerous substance administered by the offender and without the knowledge of the victim.

B. Whoever commits the crime of second degree rape shall be imprisoned at hard labor for not less than five nor more than forty years. At least two years of the sentence imposed shall be without benefit of probation, parole, or suspension of sentence.

C. For all purposes, "forcible rape" and "second degree rape" mean the offense defined by the provisions of this Section and any reference to the crime of forcible rape is the same as a reference to the crime of second degree rape. Any act in violation of the provisions of this Section committed on or after August 1, 2015, shall be referred to as "second degree rape".

Acts 1978, No. 239, §1. Acts 1984, No. 569, §1; Acts 1997, No. 862, §1; Acts 2001, No. 301, §1; Acts 2015, No. 184, §1; Acts 2015, No. 256, §1.

§43. Third degree rape

A. Third degree rape is a rape committed when the anal, oral, or vaginal sexual intercourse is deemed to be without the lawful consent of a victim because it is committed under any one or more of the following circumstances:

(1) When the victim is incapable of resisting or of understanding the nature of the act by reason of a stupor or abnormal condition of mind produced by an intoxicating agent or any cause and the offender knew or should have known of the victim's incapacity.

(2) When the victim, through unsoundness of mind, is temporarily or permanently incapable of understanding the nature of the act and the offender knew or should have known of the victim's incapacity.

(3) When the victim submits under the belief that the person committing the act is someone known to the victim, other than the offender, and such belief is intentionally induced by any artifice, pretense, or concealment practiced by the offender.

(4) When the offender acts without the consent of the victim.

B. Whoever commits the crime of third degree rape shall be imprisoned at hard labor, without benefit of parole, probation, or suspension of sentence, for not more than twenty-five years.

C. For all purposes, "simple rape" and "third degree rape" mean the offense defined by the provisions of this Section and any reference to the crime of simple rape is the same as a

reference to the crime of third degree rape. Any act in violation of the provisions of this Section committed on or after August 1, 2015, shall be referred to as "third degree rape".

Acts 1978, No. 239, §1; Acts 1990, No. 722, §1; Acts 1995, No. 946, §2; Acts 1997, No. 862, §1; Acts 2001, No. 131, §1; Acts 2001, No. 301, §1; Acts 2003, No. 232, §1; Acts 2003, No. 759, §1; Acts 2010, No. 359, §1; Acts 2015, No. 184, §1; Acts 2015, No. 256, §1.

§43.1. Sexual battery

A. Sexual battery is the intentional touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender, directly or through clothing, or the touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim, directly or through clothing, when any of the following occur:

(1) The offender acts without the consent of the victim.

(2) The victim has not yet attained fifteen years of age and is at least three years younger than the offender.

(3) The offender is seventeen years of age or older and any of the following exist:

(a) The act is without consent of the victim, and the victim is prevented from resisting the act because either of the following conditions exist:

(i) The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability.

(ii) The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.

(b) The act is without consent of the victim, and the victim is sixty-five years of age or older.

B. Lack of knowledge of the victim's age shall not be a defense. However, normal medical treatment or normal sanitary care shall not be construed as an offense under the provisions of this Section.

C.(1) Whoever commits the crime of sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than ten years.

(2) Whoever commits the crime of sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Whoever commits the crime of sexual battery by violating the provisions of Paragraph (A)(3) of this Section shall be imprisoned at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(4) Upon completion of the term of imprisonment imposed in accordance with Paragraphs (2) and (3) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(5) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(6) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that, sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(7) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

Acts 1978, No. 239, §1. Amended by Acts 1981, No. 624, §1, eff. July 20, 1981; Acts 1984, No. 924, §1; Acts 1991, No. 654, §1; Acts 1995, No. 946, §2; Acts 2003, No. 232, §1; Acts 2006, No. 103, §1; Acts 2008, No. 33, §1; Acts 2011, No. 67, §1; Acts 2015, No. 256, §1.

§43.1.1. Misdemeanor sexual battery

A. Misdemeanor sexual battery is the intentional touching of the breasts or buttocks of the victim by the offender using any instrumentality or any part of the body of the offender, directly or through clothing, or the intentional touching of the breasts or buttocks of the offender by the victim using any instrumentality or any part of the body of the victim, directly or through clothing, when the offender acts without the consent of the victim.

B. Whoever commits the crime of misdemeanor sexual battery shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

C. The offender shall not be eligible to have his conviction set aside and his prosecution dismissed in accordance with Code of Criminal Procedure Article 894.

D. The offender shall not be subject to any provisions of law that are applicable to sex offenders, including but not limited to any provision that requires the registration of the offender and notice to the public.

Acts 2015, No. 256, §1.

§43.2. Second degree sexual battery

A. Second degree sexual battery is the intentional engaging in any of the following acts with another person when the offender intentionally inflicts serious bodily injury on the victim:

(1) The touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender; or

(2) The touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim.

B. For the purposes of this Section, serious bodily injury means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or

protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

C.(1) Whoever commits the crime of second degree sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than fifteen years.

(2) Whoever commits the crime of second degree sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Any person who is seventeen years of age or older who commits the crime of second degree sexual battery shall be punished by imprisonment at hard labor for not less than twenty-five nor more than ninety-nine years, at least twenty-five years of the sentence imposed being served without benefit of parole, probation, or suspension of sentence, when any of the following conditions exist:

(a) The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability.

(b) The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.

(c) The victim is sixty-five years of age or older.

(4) - (6) Repealed by Acts 2011, No. 67, §2.

D.(1) Upon completion of the term of imprisonment imposed in accordance with Paragraphs (C)(2) and (3) of this Section, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(2) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(3) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that, sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(4) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

Added by Acts 1983, No. 78, §1. Acts 1984, No. 568, §1; Acts 1995, No. 946, §2; Acts 2004, No. 676, §1; Acts 2006, No. 103, §1; Acts 2008, No. 33, §1; Acts 2011, No. 67, §§1, 2.

§43.3. Oral sexual battery

A. Oral sexual battery is the intentional touching of the anus or genitals of the victim by the offender using the mouth or tongue of the offender, or the touching of the anus or genitals of the offender by the victim using the mouth or tongue of the victim, when any of the following occur:

(1) The victim, who is not the spouse of the offender, is under the age of fifteen years and is at least three years younger than the offender.

(2) The offender is seventeen years of age or older and any of the following exist:

(a) The act is without the consent of the victim, and the victim is prevented from resisting the act because either of the following conditions exist:

(i) The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability.

(ii) The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.

(b) The act is without the consent of the victim, and the victim is sixty-five years of age or older.

B. Lack of knowledge of the victim's age shall not be a defense.

C.(1) Whoever commits the crime of oral sexual battery shall be punished by imprisonment, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than ten years.

(2) Whoever commits the crime of oral sexual battery on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Whoever commits the crime of oral sexual battery by violating the provisions of Paragraph (A)(2) of this Section shall be imprisoned at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without parole, probation, or suspension of sentence.

(4) - (6) Repealed by Acts 2011, No. 67, §2.

D.(1) Upon completion of the term of imprisonment imposed in accordance with Paragraphs (C)(2) and (3) of this Section, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(2) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(3) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that, sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(4) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act, that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

Acts 1985, No. 287, §1; Acts 1995, No. 946, §2; Acts 2001, No. 301, §1; Acts 2006, No. 103, §1; Acts 2008, No. 33, §1; Acts 2011, No. 67, §§1, 2.

§43.4. Female genital mutilation

A. A person is guilty of female genital mutilation when any of the following occur:

(1) The person knowingly circumcises, excises, or infibulates the whole or any part of the labia majora, labia minora, or clitoris of a female minor.

(2) The parent, guardian, or other person legally responsible or charged with the care or custody of a female minor allows the circumcision, excision, or infibulation, in whole or in part, of such minor's labia majora, labia minora, or clitoris.

(3) The person knowingly removes or causes or permits the removal of a female minor from this state for the purpose of circumcising, excising, or infibulating, in whole or in part, the labia majora, labia minora, or clitoris of such female.

B. It shall not be a defense to prosecution for a violation of this Section that the conduct described in Subsection A of this Section is required as a matter of custom, ritual, or religious practice, or that the minor on whom it is performed, or the minor's parent or legal guardian, consented to the procedure.

C. If the action described in Subsection A of this Section is performed by a licensed physician during a surgical procedure, it shall not be a violation of this Section if either of the following is true:

(1) The procedure is necessary to the physical health of the minor on whom it is performed.

(2) The procedure is performed on a minor who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth.

D. Whoever commits the crime of female genital mutilation shall be punished by imprisonment, with or without hard labor, for not more than fifteen years.

Acts 2012, No. 207, §1.

§43.5. Intentional exposure to HIV

A. No person shall intentionally expose another to the human immunodeficiency virus (HIV) through sexual contact without the knowing and lawful consent of the victim, if at the time of the exposure the infected person knew he was HIV positive.

B. No person shall intentionally expose another to HIV through any means or contact without the knowing and lawful consent of the victim, if at the time of the exposure the infected person knew he was HIV positive.

C. No person shall intentionally expose a first responder to HIV through any means or contact without the knowing and lawful consent of the first responder when the offender knows

at the time of the offense that he is HIV positive, and has reasonable grounds to believe the victim is a first responder acting in the performance of his duty.

D. For purposes of this Section, "first responder" includes a commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife enforcement agent, and probation and parole officer, any licensed emergency medical services practitioner as defined by R.S. 40:1131, and any firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state or any volunteer firefighter of the state.

E.(1) Whoever commits the crime of intentional exposure to HIV shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than ten years, or both.

(2) Whoever commits the crime of intentional exposure to HIV against a first responder shall be fined not more than six thousand dollars, imprisoned with or without hard labor for not more than eleven years, or both.

F.(1) It is an affirmative defense, if proven by a preponderance of the evidence, that the person exposed to HIV knew the infected person was infected with HIV, knew the action could result in infection with HIV, and gave consent to the action with that knowledge.

(2) It is also an affirmative defense that the transfer of bodily fluid, tissue, or organs occurred after advice from a licensed physician that the accused was noninfectious, and the accused disclosed his HIV-positive status to the victim.

(3) It is also an affirmative defense that the HIV-positive person disclosed his HIV-positive status to the victim, and took practical means to prevent transmission as advised by a physician or other healthcare provider or is a healthcare provider who was following professionally accepted infection control procedures.

Acts 1987, No. 663, §1; Acts 1993, No. 411, §1; Acts 2018, No. 427, §1.

§43.6. Administration of medroxyprogesterone acetate (MPA) to certain sex offenders

A. Notwithstanding any other provision of law to the contrary, upon a first conviction of R.S. 14:42 (aggravated or first degree rape), R.S. 14:42.1 (forcible or second degree rape), R.S. 14:43.2 (second degree sexual battery), R.S. 14:81.2(D)(1) (molestation of a juvenile when the victim is under the age of thirteen), and R.S. 14:89.1 (aggravated crime against nature), the court may sentence the offender to be treated with medroxyprogesterone acetate (MPA), according to a schedule of administration monitored by the Department of Public Safety and Corrections.

B.(1) Notwithstanding any other provision of law to the contrary, upon a second or subsequent conviction of R.S. 14:42 (aggravated or first degree rape) , R.S. 14:42.1 (forcible or second degree rape), R.S. 14:43.2 (second degree sexual battery), R.S. 14:81.2(D)(1) (molestation of a juvenile when the victim is under the age of thirteen), and R.S. 14:89.1 (aggravated crime against nature), the court shall sentence the offender to be treated with medroxyprogesterone acetate (MPA) according to a schedule of administration monitored by the Department of Public Safety and Corrections.

(2) If the court sentences a defendant to be treated with medroxyprogesterone acetate (MPA), this treatment may not be imposed in lieu of, or reduce, any other penalty prescribed by law. However, in lieu of treatment with medroxyprogesterone acetate (MPA), the court may order the defendant to undergo physical castration provided the defendant file a written motion

with the court stating that he intelligently and knowingly, gives his voluntary consent to physical castration as an alternative to the treatment.

C.(1) An order of the court sentencing a defendant to medroxyprogesterone acetate (MPA) treatment under this Section, shall be contingent upon a determination by a court appointed medical expert, that the defendant is an appropriate candidate for treatment. This determination shall be made not later than sixty days from the imposition of sentence. An order of the court sentencing a defendant to medroxyprogesterone acetate (MPA) treatment shall specify the duration of treatment for a specific term of years, or in the discretion of the court, up to the life of the defendant.

(2) In all cases involving defendants sentenced to a period of incarceration or confinement in an institution, the administration of treatment with medroxyprogesterone acetate (MPA) shall commence not later than one week prior to the defendant's release from prison or such institution.

(3) The Department of Public Safety and Corrections shall provide the services necessary to administer medroxyprogesterone acetate (MPA) treatment. Nothing in this Section shall be construed to require the continued administration of medroxyprogesterone acetate (MPA) treatment when it is not medically appropriate.

(4) If a defendant whom the court has sentenced to be treated with medroxyprogesterone acetate (MPA) fails to appear as required by the Department of Public Safety and Corrections for purposes of administering the medroxyprogesterone acetate (MPA) or who refuses to allow the administration of medroxyprogesterone acetate (MPA), then the defendant shall be charged with a violation of the provisions of this Section. Upon conviction, the offender shall be imprisoned, with or without hard labor, for not less than three years nor more than five years without benefit of probation, parole, or suspension of sentence.

(5) If a defendant whom the court has sentenced to be treated with medroxyprogesterone acetate (MPA) or ordered to undergo physical castration takes any drug or other substance to reverse the effects of the treatment, he shall be held in contempt of court.

Acts 2008, No. 441, §1, eff. June 25, 2008; Acts 2011, No. 67, §1; Acts 2014, No. 602, §4, eff. June 12, 2014; Acts 2015, No. 184, §1.

SUBPART D. KIDNAPPING AND FALSE IMPRISONMENT

§44. Aggravated kidnapping

Aggravated kidnapping is the doing of any of the following acts with the intent thereby to force the victim, or some other person, to give up anything of apparent present or prospective value, or to grant any advantage or immunity, in order to secure a release of the person under the offender's actual or apparent control:

(1) The forcible seizing and carrying of any person from one place to another; or

(2) The enticing or persuading of any person to go from one place to another; or

(3) The imprisoning or forcible secreting of any person.

Whoever commits the crime of aggravated kidnapping shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

Amended by Acts 1980, No. 679, §1.

§44.1. Second degree kidnapping

A. Second degree kidnapping is the doing of any of the acts listed in Subsection B wherein the victim is:

(1) Used as a shield or hostage;

(2) Used to facilitate the commission of a felony or the flight after an attempt to commit or the commission of a felony;

(3) Physically injured or sexually abused;

(4) Imprisoned or kidnapped for seventy-two or more hours, except as provided in R.S. 14:45(A)(4) or (5); or

(5) Imprisoned or kidnapped when the offender is armed with a dangerous weapon or leads the victim to reasonably believe he is armed with a dangerous weapon.

B. For purposes of this Section, kidnapping is:

(1) The forcible seizing and carrying of any person from one place to another; or

(2) The enticing or persuading of any person to go from one place to another; or

(3) The imprisoning or forcible secreting of any person.

C. Whoever commits the crime of second degree kidnapping shall be imprisoned at hard labor for not less than five nor more than forty years. At least two years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence.

Acts 1989, No. 276, §1.

§44.2. Aggravated kidnapping of a child

A. Aggravated kidnapping of a child is the unauthorized taking, enticing, or decoying away and removing from a location for an unlawful purpose by any person other than a parent, grandparent, or legal guardian of a child under the age of thirteen years with the intent to secret the child from his parent or legal guardian.

B.(1) Whoever commits the crime of aggravated kidnapping of a child shall be punished by life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, if the child is returned not physically injured or sexually abused, then the offender shall be punished in accordance with the provisions of R.S. 14:44.1.

Acts 2001, No. 654, §1; Acts 2006, No. 118, §1.

§45. Simple kidnapping

A. Simple kidnapping is:

(1) The intentional and forcible seizing and carrying of any person from one place to another without his consent.

(2) The intentional taking, enticing or decoying away, for an unlawful purpose, of any child not his own and under the age of fourteen years, without the consent of its parent or the person charged with its custody.

(3) The intentional taking, enticing or decoying away, without the consent of the proper authority, of any person who has been lawfully committed to any institution for orphans, persons with mental illness, persons with intellectual disabilities, or other similar institution.

(4) The intentional taking, enticing or decoying away and removing from the state, by any parent of his or her child, from the custody of any person to whom custody has been awarded by any court of competent jurisdiction of any state, without the consent of the legal custodian, with intent to defeat the jurisdiction of the said court over the custody of the child.

(5) The taking, enticing or decoying away and removing from the state, by any person, other than the parent, of a child temporarily placed in his custody by any court of competent jurisdiction in the state, with intent to defeat the jurisdiction of said court over the custody of the child.

B. Whoever commits the crime of simple kidnapping shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

Amended by Acts 1962, No. 344, §1; Acts 1966, No. 253, §1; Acts 1980, No. 708, §1; Acts 2014, No. 811, §6, eff. June 23, 2014.

§45.1. Interference with the custody of a child

A. Interference with the custody of a child is the intentional taking, enticing, or decoying away of a minor child by a parent not having a right of custody, with intent to detain or conceal such child from a parent having a right of custody pursuant to a court order or from a person entrusted with the care of the child by a parent having custody pursuant to a court order.

It shall be an affirmative defense that the offender reasonably believed his actions were necessary to protect the welfare of the child.

B. Whoever commits the crime of interference with the custody of a child shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both. Costs of returning a child to the jurisdiction of the court shall be assessed against any defendant convicted of a violation of this Section, as court costs as provided by the Louisiana Code of Criminal Procedure.

Added by Acts 1981, No. 725, §1.

§46. False imprisonment

A. False imprisonment is the intentional confinement or detention of another, without his consent and without proper legal authority.

B. Whoever commits the crime of false imprisonment shall be fined not more than two hundred dollars, or imprisoned for not more than six months, or both.

Acts 2014, No. 791, §7.

§46.1. False imprisonment; offender armed with dangerous weapon

A. False imprisonment while armed with a dangerous weapon is the unlawful intentional confinement or detention of another while the offender is armed with a dangerous weapon.

B. Whoever commits the crime of false imprisonment while armed with a dangerous weapon shall be imprisoned, with or without hard labor, for not more than ten years.

Added by Acts 1982, No. 752, §1.

§46.2. Human trafficking

A. It shall be unlawful:

(1)(a) For any person to knowingly recruit, harbor, transport, provide, solicit, receive, isolate, entice, obtain, or maintain the use of another person through fraud, force, or coercion to provide services or labor.

(b) For any person to knowingly recruit, harbor, transport, provide, solicit, sell, purchase, receive, isolate, entice, obtain, or maintain the use of a person under the age of twenty-one years for the purpose of engaging in commercial sexual activity regardless of whether the person was recruited, harbored, transported, provided, solicited, sold, purchased, received, isolated, enticed, obtained, or maintained through fraud, force, or coercion. It shall not be a defense to prosecution for a violation of the provisions of this Subparagraph that the person did not know the age of the victim or that the victim consented to the prohibited activity.

(2) For any person to knowingly benefit from activity prohibited by the provisions of this Section.

(3) For any person to knowingly facilitate any of the activities prohibited by the provisions of this Section by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the person.

B.(1) Except as provided in Paragraphs (2) and (3) of this Subsection, whoever commits the crime of human trafficking shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not more than ten years.

(2)(a) Whoever commits the crime of human trafficking when the services include commercial sexual activity or any sexual conduct constituting a crime under the laws of this state shall be fined not more than fifteen thousand dollars and shall be imprisoned at hard labor for not more than twenty years.

(b) Whoever commits the crime of human trafficking in violation of the provisions of Subparagraph (A)(1)(b) of this Section shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years, nor more than fifty years, or both.

(3) Whoever commits the crime of human trafficking when the trafficking involves a person under the age of eighteen shall be fined not more than twenty-five thousand dollars and shall be imprisoned at hard labor for not less than five nor more than twenty-five years, five years of which shall be without the benefit of parole, probation, or suspension of sentence.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense, or the proceeds of any such conduct, shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney, or otherwise distributed or disposed of, in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media, and currency, instruments, or securities.

C. For purposes of this Section:

(1) "Commercial sexual activity" means any sexual act performed or conducted when anything of value has been given, promised, or received by any person.

(2) "Debt bondage" means inducing an individual to provide any of the following:

(a) Commercial sexual activity in payment toward or satisfaction of a real or purported debt.

(b) Labor or services in payment toward or satisfaction of a real or purported debt if either of the following occur:

(i) The reasonable value of the labor or services provided is not applied toward the liquidation of the debt.

(ii) The length of the labor or services is not limited and the nature of the labor or services is not defined.

(3) "Fraud, force, or coercion" shall include but not be limited to any of the following:

(a) Causing or threatening to cause serious bodily injury.

(b) Physically restraining or threatening to physically restrain another person.

(c) Abduction or threatened abduction of an individual.

(d) The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of an individual.

(e) The abuse or threatened abuse of law or legal process.

(f) The actual or threatened destruction, concealment, removal, confiscation, or possession of any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.

(g) Controlling or threatening to control an individual's access to a controlled dangerous substance as set forth in R.S. 40:961 et seq.

(h) The use of an individual's physical or mental impairment, where such impairment has substantial adverse effects on the individual's cognitive or volitional functions.

(i) The use of debt bondage or civil or criminal fraud.

(j) Extortion as defined in R.S. 14:66.

(4) "Labor or services" means activity having an economic value.

D. It shall not be a defense to prosecution for a violation of this Section that the person being recruited, harbored, transported, provided, solicited, received, isolated, enticed, obtained, or maintained is actually a law enforcement officer or peace officer acting within the official scope of his duties.

E. If any Subsection, Paragraph, Subparagraph, Item, sentence, clause, phrase, or word of this Section is for any reason held to be invalid, unlawful, or unconstitutional, such decision shall not affect the validity of the remaining portions of this Section.

F.(1) A victim of trafficking involving services that include commercial sexual activity or any sexual contact which constitutes a crime pursuant to the laws of this state shall have an affirmative defense to prosecution for any of the following offenses which were committed as a direct result of being trafficked:

(a) R.S. 14:82 (Prostitution).

(b) R.S. 14:83.3 (Prostitution by massage).

(c) R.S. 14:83.4 (Massage; sexual conduct prohibited).

(d) R.S. 14:89 (Crime against nature).

(e) R.S. 14:89.2 (Crime against nature by solicitation).

(2) Any person seeking to raise this affirmative defense shall provide written notice to the state at least forty-five days prior to trial or at an earlier time as otherwise required by the court.

(3) Any person determined to be a victim pursuant to the provisions of this Subsection shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

Acts 2005, No. 187, §1; Acts 2010, No. 382, §1; Acts 2010, No. 763, §1; Acts 2011, No. 64, §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1; Acts 2016, No. 269, §1; Acts 2017, No. 180, §1, eff. June 12, 2017.

§46.3. Trafficking of children for sexual purposes

A. It shall be unlawful:

(1) For any person to knowingly recruit, harbor, transport, provide, sell, purchase, receive, isolate, entice, obtain, or maintain the use of a person under the age of eighteen years for the purpose of engaging in commercial sexual activity.

(2) For any person to knowingly benefit from activity prohibited by the provisions of this Section.

(3) For any parent, legal guardian, or person having custody of a person under the age of eighteen years to knowingly permit or consent to such minor entering into any activity prohibited by the provisions of this Section.

(4) For any person to knowingly facilitate any of the activities prohibited by the provisions of this Section by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the person.

(5) For any person to knowingly advertise any of the activities prohibited by this Section.

(6) For any person to knowingly sell or offer to sell travel services that include or facilitate any of the activities prohibited by this Section.

B. For purposes of this Section, "commercial sexual activity" means any sexual act performed or conducted when any thing of value has been given, promised, or received by any person.

C.(1) Consent of the minor shall not be a defense to a prosecution pursuant to the provisions of this Section.

(2) Lack of knowledge of the victim's age shall not be a defense to a prosecution pursuant to the provisions of this Section.

(3) It shall not be a defense to prosecution for a violation of this Section that the person being recruited, harbored, transported, provided, sold, purchased, received, isolated, enticed, obtained, or maintained is actually a law enforcement officer or peace officer acting within the official scope of his duties.

D.(1)(a) Whoever violates the provisions of Paragraph (A)(1), (2), (4), (5), or (6) of this Section shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen, nor more than fifty years, or both.

(b) Whoever violates the provisions of Paragraph (A)(1), (2), (4), (5), or (6) of this Section when the victim is under the age of fourteen years shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than twenty-five years nor more than fifty years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

(c) Any person who violates the provisions of Paragraph (A)(1), (2), (4), (5), or (6) of this Section, who was previously convicted of a sex offense as defined in R.S. 15:541 when the

victim of the sex offense was under the age of eighteen years, shall be fined not more than one hundred thousand dollars and shall be imprisoned at hard labor for not less than fifty years or for life. At least fifty years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(2) Whoever violates the provisions of Paragraph (A)(3) of this Section shall be required to serve at least five years of the sentence provided for in Subparagraph (D)(1)(a) of this Section without benefit of probation, parole, or suspension of sentence. Whoever violates the provisions of Paragraph (A)(3) when the victim is under the age of fourteen years shall be required to serve at least ten years of the sentence provided for in Subparagraph (D)(1)(b) of this Section without benefit of probation, parole, or suspension of sentence.

(3)(a) In addition, the court shall order that the personal property used in the commission of the offense, or the proceeds of any such conduct, shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney, or otherwise distributed or disposed of, in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media, and currency, instruments, or securities.

E. No victim of trafficking as provided by the provisions of this Section shall be prosecuted for unlawful acts committed as a direct result of being trafficked. Any child determined to be a victim pursuant to the provisions of this Subsection shall be eligible for specialized services for sexually exploited children.

F. The provisions of Chapter 1 of Title V of the Children's Code regarding the multidisciplinary team approach applicable to children who have been abused or neglected, to the extent practical, shall apply to the children who are victims of the provisions of this Section.

G. If any Subsection, Paragraph, Subparagraph, Item, sentence, clause, phrase, or word of this Section is for any reason held to be invalid, unlawful, or unconstitutional, such decision shall not affect the validity of the remaining portions of this Section.

Acts 2009, No. 375, §1; Acts 2010, No. 763, §1; Acts 2011, No. 64, §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017.

§46.4. Re-homing of a child

A. Re-homing of a child is any one of the following:

(1) A transaction, or any action taken to facilitate such transaction, through electronic means or otherwise by a parent or any individual or entity with custody of a child who intends to avoid or divest himself of permanent parental responsibility by placing the child in the physical custody of a nonrelative, without court approval, unless Subsection B of this Section applies. Actions include but are not limited to transferring, recruiting, harboring, transporting, providing, soliciting, or obtaining a child for such transaction.

(2) The selling, transferring, or arranging for the sale or transfer of a minor child to another person or entity for money or any thing of value or to receive such minor child for such payments or thing of value.

(3) Assisting, aiding, abetting, or conspiring in the commission of any act described in Paragraphs (1) and (2) of this Subsection by any person or entity, regardless of whether money or any thing of value has been promised to or received by the person.

B. Re-homing does not include:

(1) Placement of a child with a relative, stepparent, licensed adoption agency, licensed attorney, or the Department of Children and Family Services.

(2) Placement of a child by a licensed attorney, licensed adoption agency, or the Department of Children and Family Services.

(3) Temporary placement of a child by parents or custodians for designated short-term periods with a specified intent and time period for return of the child, due to a vacation or a school-sponsored function or activity, or the incarceration, military service, medical treatment, or incapacity of a parent.

(4) Placement of a child in another state in accordance with the requirements of the Interstate Compact on the Placement of Children.

(5) Relinquishment of a child pursuant to the provisions of the Safe Haven Law, Children's Code Article 1149 et seq.

C. Whoever commits the crime of re-homing of a child shall be fined not more than five thousand dollars and shall be imprisoned at hard labor for not more than five years.

D. It shall not be a defense to prosecution for a violation of this Section that the person being re-homed is actually a law enforcement officer or peace officer acting within the official scope of his duties.

E. The provisions of Chapter 1 of Title V of the Louisiana Children's Code regarding the multidisciplinary team approach applicable to children who have been abused or neglected, to the extent practical, shall apply to the children who are victims of the provisions of this Section.

Acts 2014, No. 721, §2; Acts 2016, No. 80, §1.

SUBPART E. DEFAMATION

§47. Defamation

Defamation is the malicious publication or expression in any manner, to anyone other than the party defamed, of anything which tends:

(1) To expose any person to hatred, contempt, or ridicule, or to deprive him of the benefit of public confidence or social intercourse; or

(2) To expose the memory of one deceased to hatred, contempt, or ridicule; or

(3) To injure any person, corporation, or association of persons in his or their business or occupation.

Whoever commits the crime of defamation shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

Amended by Acts 1968, No. 647, §1.

§48. Presumption of malice

Where a non-privileged defamatory publication or expression is false it is presumed to be malicious unless a justifiable motive for making it is shown.

Where such a publication or expression is true, actual malice must be proved in order to convict the offender.

§49. Qualified privilege

A qualified privilege exists and actual malice must be proved, regardless of whether the publication is true or false, in the following situations:

(1) Where the publication or expression is a fair and true report of any judicial, legislative, or other public or official proceeding, or of any statement, speech, argument, or debate in the course of the same.

(2) Where the publication or expression is a comment made in the reasonable belief of its truth, upon,

(a) The conduct of a person in respect to public affairs; or

(b) A thing which the proprietor thereof offers or explains to the public.

(3) Where the publication or expression is made to a person interested in the communication, by one who is also interested or who stands in such a relation to the former as to afford a reasonable ground for supposing his motive innocent.

(4) Where the publication or expression is made by an attorney or party in a judicial proceeding.

§50. Absolute privilege

There shall be no prosecution for defamation in the following situations:

(1) When a statement is made by a legislator or judge in the course of his official duties.

(2) When a statement is made by a witness in a judicial proceeding, or in any other legal proceeding where testimony may be required by law, and such statement is reasonably believed by the witness to be relevant to the matter in controversy.

(3) Against the owner, licensee or operator of a visual or sound broadcasting station or network of stations or the agents or employees thereof, when a statement is made or uttered over such station or network of stations by one other than such owner, licensee, operator, agents or employees.

Amended by Acts 1950, No. 469, §1.

§50.1. Repealed by Acts 2008, No. 220, §13, eff. June 14, 2008.

§50.2. Perpetration or attempted perpetration of certain crimes of violence against a victim sixty-five years of age or older

The court in its discretion may sentence, in addition to any other penalty provided by law, any person who is convicted of a crime of violence or of an attempt to commit any of the crimes as defined in R.S. 14:2(B) with the exception of first degree murder (R.S. 14:30), second degree murder (R.S. 14:30.1), aggravated assault (R.S. 14:37), aggravated or first degree rape (R.S. 14:42), and aggravated kidnapping (R.S. 14:44) to an additional three years' imprisonment when the victim of such crime is sixty-five years of age or older at the time the crime is committed.

Acts 2001, No. 648, §1; Acts 2015, No. 184, §1.

(2) "Computer" includes an electronic, magnetic, optical, or other high-speed data processing device or system performing logical, arithmetic, and storage functions, and includes any property, data storage facility, or communications facility directly related to or operating in conjunction with such device or system. "Computer" shall not include an automated typewriter or typesetter, a machine designed solely for word processing, or a portable hand-held calculator, nor shall "computer" include any other device which might contain components similar to those in computers but in which the components have the sole function of controlling the device for the single purpose for which the device is intended.

(3) "Computer network" means a set of related, remotely connected devices and communication facilities including at least one computer system with capability to transmit data through communication facilities.

(4) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.

(5) "Computer services" means providing access to or service or data from a computer, a computer system, or a computer network, and also includes but is not limited to data processing services, Internet services, electronic mail services, electronic message services, or information or data stored in connection therewith.

(6) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with operation of a computer system.

(7) "Computer system" means a set of functionally related, connected or unconnected, computer equipment, devices, or computer software.

(8) "Electronic mail service provider" means any person who both:

(a) Is an intermediary in sending or receiving electronic mail.

(b) Provides to end-users of electronic mail services the ability to send or receive electronic mail.

(9) "Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, access card as defined in R.S. 14:67.3, or marketable security.

(10) "Intellectual property" includes data, computer programs, computer software, trade secrets as defined in R.S. 51:1431(4), copyrighted materials, and confidential or proprietary information, in any form or medium, when such is stored in, produced by, or intended for use or storage with or in a computer, a computer system, or a computer network.

(11) "Internet, virtual, street-level map" means any map or image that contains the picture or pictures of homes, buildings, or people that are taken and dispensed, electronically, over the Internet or by a computer network, where the picture can be accessed by entering the address of the home, building, or person.

(12) "Proper means" includes:

(a) Discovery by independent invention.

(b) Discovery by "reverse engineering", that is by starting with the known product and working backward to find the method by which it was developed. The acquisition of the known product must be by lawful means.

(c) Discovery under license or authority of the owner.

(d) Observation of the property in public use or on public display.

(e) Discovery in published literature.

(13) "Property" means property as defined in R.S. 14:2(8) and shall specifically include but not be limited to financial instruments, electronically stored or produced data, and computer programs, whether in machine readable or human readable form.

(14) "Unsolicited bulk electronic mail" means any electronic message which is developed and distributed in an effort to sell or lease consumer goods or services and is sent in the same or substantially similar form to more than one thousand recipients.

Acts 1984, No. 711, §1; Acts 1999, No. 1180, §1; Acts 2010, No. 62, §1.

§73.2. Offenses against intellectual property

A. An offense against intellectual property is the intentional:

(1) Destruction, insertion, or modification, without consent, of intellectual property; or

(2) Disclosure, use, copying, taking, or accessing, without consent, of intellectual property.

B. (1) Whoever commits an offense against intellectual property shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both, for commission of the offense.

(2) However, when the damage or loss amounts to a value of five hundred dollars or more, the offender may be fined not more than ten thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

C. The provisions of this Section shall not apply to disclosure, use, copying, taking, or accessing by proper means as defined in this Subpart.

Acts 1984, No. 711, §1.

§73.3. Offenses against computer equipment or supplies

A. An offense against computer equipment or supplies is the intentional modification or destruction, without consent, of computer equipment or supplies used or intended to be used in a computer, computer system, or computer network.

B. (1) Whoever commits an offense against computer equipment or supplies shall be fined not more than five hundred dollars, or be imprisoned for not more than six months, or both.

(2) However, when the damage or loss amounts to a value of five hundred dollars or more, the offender may be fined not more than ten thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

Acts 1984, No. 711, §1.

§73.4. Offenses against computer users

A. An offense against computer users is the intentional denial to an authorized user, without consent, of the full and effective use of or access to a computer, a computer system, a computer network, or computer services.

B. (1) Whoever commits an offense against computer users shall be fined not more than five hundred dollars, or be imprisoned for not more than six months, or both, for commission of the offense.

(2) However, when the damage or loss amounts to a value of five hundred dollars or more, the offender may be fined not more than ten thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

Acts 1984, No. 711, §1.

§73.5. Computer fraud

A. Computer fraud is the accessing or causing to be accessed of any computer, computer system, computer network, or any part thereof with the intent to:

(1) Defraud; or

(2) Obtain money, property, or services by means of false or fraudulent conduct, practices, or representations, or through the fraudulent alteration, deletion, or insertion of programs or data.

B. Whoever commits computer fraud shall be fined not more than ten thousand dollars, or imprisoned with or without hard labor for not more than five years, or both.

Acts 1984, No. 711, §1; Acts 1988, No. 184, §1, eff. July 1, 1988.

§73.6. Offenses against electronic mail service provider

A. It shall be unlawful for any person to use a computer, a computer network, or the computer services of an electronic mail service provider to transmit unsolicited bulk electronic mail in contravention of the authority granted by or in violation of the policies set by the electronic mail service provider. Transmission of electronic mail from an organization to its members or noncommercial electronic mail transmissions shall not be deemed to be unsolicited bulk electronic mail.

B. It is unlawful for any person to use a computer or computer network without authority with the intent to falsify or forge electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers. It is also unlawful for any person knowingly to sell, give, or otherwise distribute or possess with the intent to sell, give, or distribute software which is any of the following:

(1) Primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail transmission information or other routing information.

(2) Has only limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information.

(3) Marketed by that person or another acting in concert with that person with that person's knowledge for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.

C. Whoever violates the provisions of this Section shall be fined not more than five thousand dollars.

D. Nothing in this Section shall be construed to interfere with or prohibit terms or conditions in a contract or license related to computers, computer data, computer networks, computer operations, computer programs, computer services, or computer software, or to create any liability by reason of terms or conditions adopted by, or technical measures implemented by, an electronic mail service provider to prevent the transmission of unsolicited electronic mail in violation of this Section.

Acts 1999, No. 1180, §1.

§73.7. Computer tampering

A. Computer tampering is the intentional commission of any of the actions enumerated in this Subsection when that action is taken knowingly and without the authorization of the owner of a computer:

(1) Accessing or causing to be accessed a computer or any part of a computer or any program or data contained within a computer.

(2) Copying or otherwise obtaining any program or data contained within a computer.

(3) Damaging or destroying a computer, or altering, deleting, or removing any program or data contained within a computer, or eliminating or reducing the ability of the owner of the computer to access or utilize the computer or any program or data contained within the computer.

(4) Introducing or attempting to introduce any electronic information of any kind and in any form into one or more computers, either directly or indirectly, and either simultaneously or sequentially, with the intention of damaging or destroying a computer, or altering, deleting, or removing any program or data contained within a computer, or eliminating or reducing the ability of the owner of the computer to access or utilize the computer or any program or data contained within the computer.

B. For purposes of this Section:

(1) Actions which are taken without authorization include actions which intentionally exceed the limits of authorization.

(2) If an owner of a computer has established a confidential or proprietary code which is required in order to access a computer, and that code has not been issued to a person, and that person uses that code to access that computer or to cause that computer to be accessed, that action creates a rebuttable presumption that the action was taken without authorization or intentionally exceeded the limits of authorization.

(3) The vital services or operations of the state, or of any parish, municipality, or other local governing authority, or of any utility company are the services or operations which are necessary to protect the public health, safety, and welfare, and include but are not limited to: law enforcement; fire protection; emergency services; health care; transportation; communications; drainage; sewerage; and utilities, including water, electricity, and natural gas and other forms of energy.

C. Whoever commits the crime of computer tampering as defined in Paragraphs (A)(1) and (2) of this Section shall be fined not more than five hundred dollars or imprisoned for not more that six months, or both.

D. Whoever commits the crime of computer tampering as defined in Paragraphs (A)(3) and (4) of this Section shall be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not more that five years, or both.

E. Whoever violates the crime of computer tampering as defined in Paragraphs (A)(3) and (4) of this Section with the intention of disrupting the vital services or operations of the state, or of any parish, municipality, or other local governing authority, or of any utility company, or with the intention of causing death or great bodily harm to one or more persons, shall be fined not more than ten thousand dollars or imprisoned at hard labor for not more that fifteen years, or both.

Acts 2001, No. 829, §1.

§73.8. Unauthorized use of a wireless router system; pornography involving juveniles; penalty

A. Unauthorized use of a wireless router system is the accessing or causing to be accessed of any computer, computer system, computer network, or any part thereof via any wireless router system for the purposes of uploading, downloading, or selling of pornography involving juveniles as defined in R.S. 14:81.1.

B. For purposes of this Section, "wireless router system" means a device in a wireless local area network that determines the next network point to which a unit of data is routed between an origin and a destination on the Internet.

C. Whoever commits the crime of unauthorized use of a wireless router system for the purpose of accessing pornography involving a juvenile shall be imprisoned at hard labor for not less than two years or more than ten years, and fined not more than ten thousand dollars. Imprisonment shall be without benefit of parole, probation, or suspension of sentence.

D. Whoever commits the crime of unauthorized use of a wireless routing system for the purpose of accessing pornography involving a juvenile when the victim is under the age of thirteen years and the offender is seventeen years of age or older, shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

Acts 2009, No. 193, §1.

§73.9. Criminal use of Internet, virtual, street-map; enhanced penalties

A. When an Internet, virtual, street-level map is used in the commission of a criminal offense against a person or against property, an additional sentence for a period of not less than one year shall be imposed. The additional penalty imposed pursuant to this Subsection shall be served consecutively with the sentence imposed for the underlying offense.

B. When an Internet, virtual, street-level map is used in the commission or attempted commission of an act of terrorism, as is defined in R.S. 14:100.12(1), an additional sentence for a period of not less than ten years shall be imposed without the benefit of parole, probation, or suspension of the sentence. The additional penalty imposed pursuant to this Subsection shall be served consecutively with the sentence imposed for the underlying offense.

Acts 2010, No. 62, §1.

§73.10. Online impersonation

A.(1) It shall be unlawful for any person, with the intent to harm, intimidate, threaten, or defraud, to intentionally impersonate another actual person, without the consent of that person, in order to engage in any of the following:

(a) Open an electronic mail account, any other type of account, or a profile on a social networking website or other Internet website.

(b) Post or send one or more messages on or through a social networking website or other Internet website.

(2) It shall be unlawful for any person, with the intent to harm, intimidate, threaten, or defraud, to send an electronic mail, instant message, text message, or other form of electronic communication that references a name, domain address, phone number, or other item of identifying information belonging to another actual person without the consent of that person and with the intent to cause the recipient of the communication to believe that the other person authorized or transmitted the communication.

B. For purposes of this Section, the following words shall have the following meanings:

(1) "Access software provider" means a provider of software, including client or server software, or enabling tools that do one or more of the following:

(a) Filter, screen, allow, or disallow content.

(b) Select, choose, analyze, or digest content.

(c) Transmit, receive, display, forward, cache, search, organize, reorganize, or translate content.

(2) "Cable operator" means any person or group of persons who provides cable service over a cable system and directly, or through one or more affiliates, owns a significant interest in such cable system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such cable system.

(3) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(4) "Social networking website" means an Internet website that has any of the following capabilities:

(a) Allows users to register and create web pages or profiles about themselves that are available to the general public or to any other users.

(b) Offers a mechanism for direct or real-time communication among users, such as a forum, chat room, electronic mail, or instant messaging.

(5) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, regardless of the facilities used.

C.(1) Except as provided in Paragraph (2) of this Subsection, whoever violates any provision of this Section shall be fined not less than two hundred fifty dollars nor more than one thousand dollars, imprisoned for not less than ten days nor more than six months, or both.

(2) When the offender is under the age of seventeen years, the disposition of the matter shall be governed exclusively by the provisions of Title VII of the Children's Code.

D. The provisions of this Section shall not apply to any of the following or to any person who is employed by any of the following when the actions of the employee are within the course and scope of his employment:

(1) A social networking website.

(2) An interactive computer service provider.

(3) A telecommunications service provider.

(4) A cable operator.

(5) An Internet service provider.
(6) Any law enforcement officer or agency.
Acts 2012, No. 375, §1.

PART IV. OFFENSES AFFECTING THE FAMILY

SUBPART A. CRIMINAL NEGLECT OF FAMILY

§74. Criminal neglect of family

A.(1) Criminal neglect of family is the desertion or intentional nonsupport:

(a) By a spouse of his or her spouse who is in destitute or necessitous circumstances; or

(b) By either parent of his minor child who is in necessitous circumstances, there being a duty established by this Section for either parent to support his child.

(2) Each parent shall have this duty without regard to the reasons and irrespective of the causes of his living separate from the other parent. The duty established by this Section shall apply retrospectively to all children born prior to the effective date of this Section.

(3) For purposes of this Subsection, the factors considered in determining whether "necessitous circumstances" exist are food, shelter, clothing, health, and with regard to minor children only, adequate education, including but not limited to public, private, or home schooling, and comfort.

B.(1) Whenever a husband has left his wife or a wife has left her husband in destitute or necessitous circumstances and has not provided means of support within thirty days thereafter, his or her failure to so provide shall be only presumptive evidence for the purpose of determining the substantive elements of this offense that at the time of leaving he or she intended desertion and nonsupport. The receipt of assistance from the Family Independence Temporary Assistance Program (FITAP) shall constitute only presumptive evidence of necessitous circumstances for purposes of proving the substantive elements of this offense. Physical incapacity which prevents a person from seeking any type of employment constitutes a defense to the charge of criminal neglect of family.

(2) Whenever a parent has left his minor child in necessitous circumstances and has not provided means of support within thirty days thereafter, his failure to so provide shall be only presumptive evidence for the purpose of determining the substantive elements of this offense that at the time of leaving the parent intended desertion and nonsupport. The receipt of assistance from the Family Independence Temporary Assistance Program (FITAP) shall constitute only presumptive evidence of necessitous circumstances for the purpose of proving the substantive elements of this offense. Physical incapacity which prevents a person from seeking any type of employment constitutes a defense to the charge of criminal neglect of family.

C. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this Section. Husband and wife are competent witnesses to testify to any relevant matter.

D.(1) Whoever commits the offense of criminal neglect of family shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both, and may be placed on probation pursuant to R.S. 15:305.

(2) If a fine is imposed, the court shall direct it to be paid in whole or in part to the spouse or to the tutor or custodian of the child, to the court approved fiduciary of the spouse or child, or to the Louisiana Department of Children and Family Services in a FITAP or Family Independence Temporary Assistance Program case or in a non-FITAP or Family Independence Temporary Assistance Program case in which the said department is rendering services, whichever is applicable; hereinafter, said payee shall be referred to as the "applicable payee." In addition, the court may issue a support order, after considering the circumstances and financial ability of the defendant, directing the defendant to pay a certain sum at such periods as the court may direct. This support shall be ordered payable to the applicable payee. The amount of support as set by the court may be increased or decreased by the court as the circumstances may require.

(3) The court may also require the defendant to enter into a recognizance, with or without surety, in order that the defendant shall make his or her personal appearance in court whenever required to do so and shall further comply with the terms of the order or of any subsequent modification thereof.

E. For the purposes of this Section, "spouse" shall mean a husband or wife.

Amended by Acts 1950, No. 164, §1; Acts 1952, No. 368, §1; Acts 1968, No. 233, §1; Acts 1968, No. 647, §1; Acts 1968, Ex.Sess., No. 14, §1; Acts 1975, No. 116, §1, eff. July 1, 1975; Acts 1976, No. 559, §1; Acts 1978, No. 443, §1; Acts 1979, No. 614, §1; Acts 1980, No. 764, §§4, 5; Acts 1981, No. 812, §3, eff. Aug. 2, 1981; Acts 1981, Ex.Sess., No. 36, §3, eff. Nov. 19, 1981; Acts 1984, No. 453, §§1 and 2; Acts 1997, No. 1402, §1.

§74.1. Right of action

The provisions of Art. 242 of the Louisiana Revised Civil Code of 1870 shall not apply to any proceeding brought under the provisions of R.S. 14:74.

Added by Acts 1954, No. 298, §1.

§75. Failure to pay child support obligation

A. This law may be cited as the "Deadbeat Parents Punishment Act of Louisiana".

B. It shall be unlawful for any obligor to intentionally fail to pay a support obligation for any child who resides in the state of Louisiana, if such obligation has remained unpaid for a period longer than six months or is greater than two thousand five hundred dollars.

C.(1) For a first offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than five hundred dollars or imprisonment for not more than six months, or both.

(2) For a second or subsequent offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than twenty-five hundred dollars or imprisonment with or without hard labor for not more than two years, or both.

(3) Upon a conviction under this statute, the court shall order restitution in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

(4) In any case in which restitution is made prior to the time of sentencing, except for a second or subsequent offense, the court may suspend all or any portion of the imposition or execution of the sentence otherwise required in this Subsection.

(5) The penalty for failure to pay a legal child support obligation when the amount of the arrearage is more than fifteen thousand dollars and the obligation has been outstanding for at least one year shall be a fine of not more than twenty-five hundred dollars, or imprisonment with or without hard labor for not more than two years, or both.

D. With respect to an offense under this Section, an action may be prosecuted in a judicial district court in this state in which any child who is the subject of the support obligation involved resided during a period during which an obligor failed to meet that support obligation; or the judicial district in which the obligor resided during a period described in Subsection B of this Section; or any other judicial district with jurisdiction otherwise provided for by law.

E. As used in this Section, the following terms mean:

(1) "Obligor" means any person who has been ordered to pay a support obligation in accordance with law.

(2) "Support obligation" means any amount determined by a court order or an order of an administrative process pursuant to the law of the state of Louisiana to be due from a person for the support and maintenance of a child or children.

F. It shall be an affirmative defense to any charge under this Section that the obligor was financially unable to pay the support obligation during and after the period that he failed to pay as ordered by the court.

Acts 2004, No. 801, §1; Acts 2008, No. 336, §1; Acts 2010, No. 689, §2, eff. June 29, 2010.

§75.1. REPEALED BY ACTS 1993, NO. 442, §4, EFF. JUNE 9, 1993.

§75.2. REPEALED BY ACTS 1993, NO. 442, §4, EFF. JUNE 9, 1993.

SUBPART B. SEX OFFENSES AFFECTING THE FAMILY

§76. Bigamy

A. Bigamy is the marriage to another person by a person already married and having a husband or wife living, or the habitual cohabitation, in this state, with such second husband or wife, regardless of the place where the marriage was celebrated.

B. The provisions of this Section shall not extend to any of the following:

(1) Any person whose former husband or wife has been absent, at the time of the second marriage, for five successive years without being known to such person, within that time, to be living.

(2) Any person whose former marriage has been annulled or dissolved at the time of the second marriage, by the judgment of a competent court.

(3) Any person who has, at the time of the second marriage, a reasonable and honest belief that his or her former husband or wife is dead, or that a valid divorce or annulment has been secured, or that his or her former marriage was invalid.

C. Whoever commits the crime of bigamy shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

Acts 2014, No. 791, §7.

§77. Abetting in bigamy

A. Abetting in bigamy is the marriage of an unmarried person to the husband or wife of another, with knowledge of the fact that the party is married and without a reasonable and honest belief that such party is divorced or his marriage annulled, or that the party's husband or wife is dead.

B. Whoever commits the crime of abetting in bigamy shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

Acts 2014, No. 791, §7.

§78. Repealed by Acts 2014, No. 177, §2 and Acts 2014, No. 602, §7, eff. June 12, 2014.

§78.1. Repealed by Acts 2014, No. 177, §2 and Acts 2014, No. 602, §7, eff. June 12, 2014.

SUBPART C. DOMESTIC VIOLENCE OFFENSES

§79. Violation of protective orders

A.(1)(a) Violation of protective orders is the willful disobedience of a preliminary or permanent injunction or protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 320 and 871.1 after a contradictory court hearing, or the willful disobedience of a temporary restraining order or any ex parte protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., criminal stay-away orders as provided for in Code of Criminal Procedure Article 320, Children's Code Article 1564 et seq., or Code of Civil Procedure Articles 3604 and 3607.1, if the defendant has been given notice of the temporary restraining order or ex parte protective order by service of process as required by law.

(b) A defendant may also be deemed to have been properly served if tendered a certified copy of a temporary restraining order or ex parte protective order, or if tendered a faxed or electronic copy of a temporary restraining order or ex parte protective order received directly from the issuing magistrate, commissioner, hearing officer, judge or court, by any law enforcement officer who has been called to any scene where the named defendant is present. Such service of a previously issued temporary restraining order or ex parte protective order if noted in the police report shall be deemed sufficient evidence of service of process and admissible in any civil or criminal proceedings. A law enforcement officer making service under

this Subsection shall transmit proof of service to the judicial administrator's office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after making service, exclusive of weekends and holidays. This proof shall include, at a minimum, the case caption, docket number, type of order, serving agency and officer, and the date and time service was made.

(2) Violation of protective orders shall also include the willful disobedience of an order of protection issued by a foreign state.

(3) Violation of protective orders shall also include the willful disobedience of the following:

(a) An order issued by any state, federal, parish, city, or municipal court judge, magistrate judge, commissioner or justice of the peace that a criminal defendant stay away from a specific person or persons as a condition of that defendant's release on bond.

(b) An order issued by any state, federal, parish, city, or municipal court judge, magistrate judge, commissioner or justice of the peace that a defendant convicted of a violation of any state, federal, parish, municipal, or city criminal offense stay away from any specific person as a condition of that defendant's release on probation.

(c) A condition of a parole release which requires that the parolee stay away from any specific person.

(d) An order issued pursuant to R.S. 46:1846.

(4) Violation of protective orders shall also include the possession of a firearm or carrying a concealed weapon in violation of R.S. 46:2136.3, the purchase or attempted purchase of a firearm, and the carrying of a concealed weapon in violation of R.S. 14:95.1, 95.1.3, or 95.10.

B.(1) On a first conviction for violation of protective orders which does not involve a battery or any crime of violence as defined by R.S. 14:2(B) against the person protected by the protective order, the offender shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) On a second or subsequent conviction for violation of protective orders which does not involve a battery or any crime of violence as defined by R.S. 14:2(B) against the person protected by the protective order, regardless of whether the current offense occurred before or after the earlier convictions, the offender shall be fined not more than one thousand dollars and imprisoned with or without hard labor for not less than fourteen days nor more than two years. At least fourteen days of the sentence of imprisonment imposed under this Paragraph shall be without benefit of probation, parole, or suspension of sentence. If a portion of the sentence is imposed with benefit of probation, parole, or suspension of sentence, the court shall require the offender to participate in a court-monitored domestic abuse intervention program as defined by R.S. 14:35.3.

C.(1) Whoever is convicted of the offense of violation of protective orders where the violation involves a battery or any crime of violence as defined by R.S. 14:2(B) against the person for whose benefit the protective order is in effect, shall be fined not more than one thousand dollars and imprisoned with or without hard labor for not less than three months nor more than two years. At least thirty days of the sentence of imprisonment imposed under this Paragraph shall be without benefit of probation, parole, or suspension of sentence. If a portion of the sentence is imposed with benefit of probation, parole, or suspension of sentence, the court

shall require the offender to participate in a court-monitored domestic abuse intervention program as defined by R.S. 14:35.3.

(2) Whoever is convicted of the offense of violation of protective orders where the violation involves a battery or any crime of violence as defined by R.S. 14:2(B) against the person for whose benefit the protective order is in effect, and who has a conviction of violating a protective order or of an assault or battery upon the person for whose benefit the protective order is in effect during the five-year period prior to commission of the instant offense, regardless of whether the instant offense occurred before or after the earlier convictions, the offender shall be fined not more than two thousand dollars and imprisoned with or without hard labor for not less than one year nor more than five years. At least one year of the sentence of imprisonment imposed under this Paragraph shall be without benefit of probation, parole, or suspension of sentence.

D. If, as part of any sentence imposed under this Section, a fine is imposed, the court may direct that the fine be paid for the support of the spouse or children of the offender.

E.(1) Law enforcement officers shall use every reasonable means, including but not limited to immediate arrest of the violator, to enforce a preliminary or permanent injunction or protective order obtained pursuant to R.S. 9:361, R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 327.1, 335.1, 335.2, and 871.1 after a contradictory court hearing, or to enforce a temporary restraining order or ex parte protective order issued pursuant to R.S. 9:361, R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 327.1, 335.1, and 335.2 if the defendant has been given notice of the temporary restraining order or ex parte protective order by service of process as required by law.

(2) Law enforcement officers shall at a minimum issue a summons to the person in violation of a temporary restraining order, a preliminary or permanent injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 30, 327.1, 335.2, and 871.1.

F. This Section shall not be construed to bar or limit the effect of any other criminal statute or civil remedy.

G. "Instant offense" as used in this Section means the offense which is before the court.

H. An offender ordered to participate in a court-monitored domestic abuse intervention program under the provision of this Section shall pay the cost incurred in participating in the program, unless the court determines that the offender is unable to pay. Failure to make payment under this Subsection shall subject the offender to revocation of probation.

Added by Acts 1983, No. 497, §1; Acts 1987, No. 268, §1; Acts 1994, 3rd Ex. Sess., No. 70, §1; Acts 1995, No. 905, §1; Acts 1997, No. 1156, §6; Acts 1999, No. 659, §1; Acts 1999, No. 1200, §1; Acts 2003, No. 750, §5; Acts 2003, No. 1198, §1; Acts 2014, No. 317, §2; Acts 2014, No. 318, §2; Acts 2014, No. 355, §3; Acts 2015, No. 242, §2; Acts 2015, No. 440, §1; Acts 2016, No. 409, §2; Acts 2017, No. 90, §1; Acts 2018, No. 293, §1; Acts 2018, No. 367, §1, eff. Oct. 1, 2018; Acts 2018, No. 679, §2.

§79.1. Criminal abandonment

A. Criminal abandonment is any of the following:

(1) The intentional physical abandonment of a minor child under the age of ten years by the child's parent or legal guardian by leaving the minor child unattended and to his own care when the evidence demonstrates that the child's parent or legal guardian did not intend to return to the minor child or provide for adult supervision of the minor child.

(2) The intentional physical abandonment of a person who is aged or person with a disability by a caregiver as defined in R.S. 14:93.3 who is compensated for providing care to such person. For the purpose of this Paragraph a person who is aged shall mean any individual who is sixty years of age or older.

B. Whoever commits the crime of criminal abandonment shall be fined not more than one thousand dollars, or be imprisoned for not more than one year, or both.

Acts 1986, No. 368, §1; Acts 2008, No. 177, §1, eff. June 12, 2008; Acts 2014, No. 811, §6, eff. June 23, 2014.

§79.2. Repealed by Acts 1975, No. 638, §3

PART V. OFFENSES AFFECTING THE PUBLIC MORALS

SUBPART A. OFFENSES AFFECTING SEXUAL IMMORALITY

1. SEXUAL OFFENSES AFFECTING MINORS

§80. Felony carnal knowledge of a juvenile

A. Felony carnal knowledge of a juvenile is committed when:

(1) A person who is seventeen years of age or older has sexual intercourse, with consent, with a person who is thirteen years of age or older but less than seventeen years of age, when the victim is not the spouse of the offender and when the difference between the age of the victim and the age of the offender is four years or greater; or

(2) A person commits a second or subsequent offense of misdemeanor carnal knowledge of a juvenile, or a person who has been convicted one or more times of violating one or more crimes for which the offender is required to register as a sex offender under R.S. 15:542 commits a first offense of misdemeanor carnal knowledge of a juvenile.

B. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

C. Lack of knowledge of the juvenile's age shall not be a defense. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

D.(1) Whoever commits the crime of felony carnal knowledge of a juvenile shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not more than ten years, or both, provided that the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

(2)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

Amended by Acts 1977, No. 539, §1; Acts 1978, No. 757, §1; Acts 1990, No. 590, §1; Acts 1995, No. 241, §1; Acts 2001, No. 796, §1; Acts 2006, No. 80, §1; Acts 2008, No. 331, §1; Acts 2010, No. 763, §1.

§80.1. Misdemeanor carnal knowledge of a juvenile

A. Misdemeanor carnal knowledge of a juvenile is committed when a person who is seventeen years of age or older has sexual intercourse, with consent, with a person who is thirteen years of age or older but less than seventeen years of age, when the victim is not the

spouse of the offender, and when the difference between the age of the victim and age of the offender is greater than two years, but less than four years.

B. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

C. Lack of knowledge of the juvenile's age shall not be a defense. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

D. Whoever commits the crime of misdemeanor carnal knowledge of a juvenile shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

E. The offender shall be eligible to have his conviction set aside and his prosecution dismissed in accordance with the appropriate provisions of the Code of Criminal Procedure.

F. The offender shall not be subject to any of the provisions of law which are applicable to sex offenders, including but not limited to the provisions which require registration of the offender and notice to the neighbors of the offender.

Acts 2001, No. 796, §1; Acts 2008, No. 331, §1.

§81. Indecent behavior with juveniles

A. Indecent behavior with juveniles is the commission of any of the following acts with the intention of arousing or gratifying the sexual desires of either person:

(1) Any lewd or lascivious act upon the person or in the presence of any child under the age of seventeen, where there is an age difference of greater than two years between the two persons. Lack of knowledge of the child's age shall not be a defense; or

(2) The transmission, delivery or utterance of any textual, visual, written, or oral communication depicting lewd or lascivious conduct, text, words, or images to any person reasonably believed to be under the age of seventeen and reasonably believed to be at least two years younger than the offender. It shall not be a defense that the person who actually receives the transmission is not under the age of seventeen.

B. The trial judge shall have the authority to issue any necessary orders to protect the safety of the child during the pendency of the criminal action and beyond its conclusion.

C. For purposes of this Section,"textual, visual, written, or oral communication" means any communication of any kind, whether electronic or otherwise, made through the use of the United States mail, any private carrier, personal courier, computer online service, Internet service, local bulletin board service, Internet chat room, electronic mail, online messaging service, or personal delivery or contact.

D. The provisions of this Section shall not apply to the transference of such images by a telephone company, cable television company, or any of its affiliates, free over-the-air television broadcast station, an Internet provider, or commercial on-line service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial on-line services.

E. An offense committed under this Section and based upon the transmission and receipt of textual, visual, written, or oral communication may be deemed to have been committed where the communication was originally sent, originally received, or originally viewed by any person.

F. After the institution of prosecution, access to and the disposition of any material seized as evidence of this offense shall be in accordance with R.S. 46:1845.

G. Any evidence resulting from the commission of a crime under this Section shall constitute contraband.

H.(1) Whoever commits the crime of indecent behavior with juveniles shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than seven years, or both, provided that the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

(2) Whoever commits the crime of indecent behavior with juveniles on a victim under the age of thirteen when the offender is seventeen years of age or older, shall be punished by imprisonment at hard labor for not less than two nor more than twenty-five years. At least two years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

Amended by Acts 1956, No. 450, §1; Acts 1968, No. 647, §1; Acts 1977, No. 537, §1; Acts 1984, No. 423, §1; Acts 1986, No. 406, §1; Acts 1990, No. 590, §1; Acts 1997, No. 743, §1; Acts 2006, No. 103, §1; Acts 2006, No. 224, §1; Acts 2009, No. 198, §1; Acts 2010, No. 763, §1.

§81.1. Pornography involving juveniles

A.(1) It shall be unlawful for a person to produce, promote, advertise, distribute, possess, or possess with the intent to distribute pornography involving juveniles.

(2) It shall also be a violation of the provision of this Section for a parent, legal guardian, or custodian of a child to consent to the participation of the child in pornography involving juveniles.

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

(1) "Access software provider" means a provider of software, including client or server software, or enabling tools that do any one or more of the following:

(a) Filter, screen, allow, or disallow content.

(b) Select, choose, analyze, or digest content.

(c) Transmit, receive, display, forward, cache, search, organize, reorganize, or translate content.

(2) "Cable operator" means any person or group of persons who provides cable service over a cable system and directly, or through one or more affiliates, owns a significant interest in such cable system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

(3) "Coerce" shall include but not be limited to any of the following:

(a) Causing or threatening to cause serious bodily injury.

(b) Physically restraining or threatening to physically restrain another person.

(c) Abduction or threatened abduction of an individual.

(d) The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of an individual.

(e) The abuse or threatened abuse of law or legal process.

(f) The actual or threatened destruction, concealment, removal, confiscation, or possession of any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.

(g) Controlling or threatening to control an individual's access to a controlled dangerous substance as set forth in R.S. 40:961 et seq.

(h) The use of an individual's physical or mental impairment, where such impairment has substantial adverse effects on the individual's cognitive or volitional functions.

(i) The use of debt bondage or civil or criminal fraud.

(j) Extortion as defined in R.S. 14:66.

(4) "Debt bondage" means inducing an individual to provide any of the following:

(a) Commercial sexual activity in payment toward or satisfaction of a real or purported debt.

(b) Labor or services in payment toward or satisfaction of a real or purported debt if either of the following occur:

(i) The reasonable value of the labor or services provided is not applied toward the liquidation of the debt.

(ii) The length of the labor or services is not limited and the nature of the labor or services is not defined.

(5) "Distribute" means to issue, sell, give, provide, lend, mail, deliver, transfer, transmute, distribute, circulate, or disseminate by any means.

(6) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(7) "Labor or services" mean activity having economic value.

(8) "Pornography involving juveniles" is any photograph, videotape, film, or other reproduction, whether electronic or otherwise, of any sexual performance involving a child under the age of seventeen.

(9) "Produce" means to photograph, videotape, film, or otherwise reproduce pornography involving juveniles, or to solicit, promote, or coerce any child for the purpose of pornography involving juveniles.

(10) "Sexual performance" means any performance or part thereof that includes actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals or anus.

(11) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, regardless of the facilities used.

C.(1) Possession of three or more of the same photographs, images, films, videotapes, or other visual reproductions shall be prima facie evidence of intent to sell or distribute.

(2) Possession of three or more photographs, images, films, videotapes, or other visual reproductions and possession of any type of file sharing technology or software shall be prima facie evidence of intent to sell or distribute.

D.(1) Lack of knowledge of the juvenile's age shall not be a defense.

(2) It shall not be a defense to prosecution for a violation of this Section that the juvenile consented to participation in the activity prohibited by this Section.

E.(1)(a) Whoever intentionally possesses pornography involving juveniles shall be fined not more than fifty thousand dollars and shall be imprisoned at hard labor for not less than five years or more than twenty years, without benefit of parole, probation, or suspension of sentence.

(b) On a second or subsequent conviction for the intentional possession of pornography involving juveniles, the offender shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than ten years nor more than forty years, without benefit of parole, probation, or suspension of sentence.

(2)(a) Whoever distributes or possesses with the intent to distribute pornography involving juveniles shall be fined not more than fifty thousand dollars and shall be imprisoned at hard labor for not less than five years or more than twenty years, without benefit of parole, probation, or suspension of sentence.

(b) On a second or subsequent conviction for distributing or possessing with the intent to distribute pornography involving juveniles, the offender shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than ten years nor more than forty years, without benefit of parole, probation, or suspension of sentence.

(3) Any parent, legal guardian, or custodian of a child who consents to the participation of the child in pornography involving juveniles shall be fined not more than fifty thousand dollars and imprisoned at hard labor for not less than five years nor more than twenty years, without benefit of probation, parole, or suspension of sentence.

(4)(a) Whoever engages in the promotion, advertisement, or production of pornography involving juveniles shall be fined not more than fifty thousand dollars and imprisoned at hard labor for not less than ten years nor more than twenty years, without benefit of probation, parole, or suspension of sentence.

(b) On a second or subsequent conviction for promotion, advertisement, or production of pornography involving juveniles, the offender shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than twenty years nor more than forty years, without benefit of parole, probation, or suspension of sentence.

(5)(a) Whoever commits the crime of pornography involving juveniles punishable by the provisions of Paragraph (1), (2), or (3) of this Subsection when the victim is under the age of thirteen years and the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than one-half the longest term nor more than twice the longest term of imprisonment provided in Paragraphs (1), (2), and (3) of this Subsection. The sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(b) Whoever commits the crime of pornography involving juveniles punishable by the provisions of Paragraph (4) of this Subsection when the victim is under the age of thirteen years, and the offender is seventeen years of age or older, shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(c) In addition, the court shall order that the personal property used in the commission of the offense, or the proceeds of any such conduct, shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney, or otherwise distributed or disposed of, in accordance with R.S. 15:539.1.

(d) The personal property made subject to seizure and sale pursuant to Subparagraph (c) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media, and currency, instruments, or securities.

(e) Upon completion of the term of imprisonment imposed in accordance with Subparagraphs (5)(a) and (b) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(f) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(g) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(h) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act, that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

F.(1) Any evidence of pornography involving a child under the age of seventeen shall be contraband. Such contraband shall be seized in accordance with law and shall be disposed of in accordance with R.S. 46:1845.

(2) Upon the filing of any information or indictment by the prosecuting authority for a violation of this Section, the investigating law enforcement agency which seized the photographs, films, videotapes, or other visual reproductions of pornography involving juveniles shall provide copies of those reproductions to the Internet crimes against children division within the attorney general's office.

(3) Upon receipt of the reproductions as provided in Paragraph (2) of this Subsection, the Internet crimes against children division shall:

(a) Provide those visual reproductions to the law enforcement agency representative assigned to the Child Victim Identification Program at the National Center for Missing and Exploited Children.

(b) Request the Child Victim Identification Program provide the law enforcement agency contact information for any visual reproductions recovered which contain an identified victim of pornography involving juveniles as defined in this Section.

(c) Provide case information to the Child Victim Identification Program, as requested by the National Center for Missing and Exploited Children guidelines, in any case where the

Internet crimes against children division within the attorney general's office identifies a previously unidentified victim of pornography involving juveniles.

(4) The Internet crimes against children division shall submit to the designated prosecutor the law enforcement agency contact information provided by the Child Victim Identification Program at the National Center for Missing and Exploited Children, for any visual reproductions involved in the case which contain the depiction of an identified victim of pornography involving juveniles as defined in this Section.

(5) In all cases in which the prosecuting authority has filed an indictment or information for a violation of this Section and the victim of pornography involving juveniles has been identified and is a resident of this state, the prosecuting agency shall submit all of the following information to the attorney general for entry into the Louisiana Attorney General's Exploited Children's Identification database maintained by that office:

(a) The parish, district, and docket number of the case.

(b) The name, race, sex, and date of birth of the defendant.

(c) The identity of the victim.

(d) The contact information for the law enforcement agency which identified a victim of pornography involving juveniles, including contact information maintained by the Child Victim Identification Program and provided to the Internet crimes against children division in accordance with this Section.

(6) No sentence, plea, conviction, or other final disposition shall be invalidated due to failure to comply with the provisions of this Subsection, and no person shall have a cause of action against the investigating law enforcement agency or any prosecuting authority, or officer or agent thereof for failure to comply with the provisions of this Subsection.

G. In prosecutions for violations of this Section, the trier of fact may determine, utilizing the following factors, whether or not the person displayed or depicted in any photograph, videotape, film, or other video reproduction introduced in evidence was under the age of seventeen years at the time of filming or recording:

(1) The general body growth, bone structure, and bone development of the person.

(2) The development of pubic or body hair on the person.

(3) The development of the person's sexual organs.

(4) The context in which the person is placed or the age attributed to the person in any accompanying video, printed, or text material.

(5) Available expert testimony and opinion as to the chronological age or degree of physical or mental maturity or development of the person.

(6) Such other information, factors, and evidence available to the trier of fact which the court determines is probative and reasonably reliable.

H. The provisions of this Section shall not apply to a provider of an interactive computer service, provider of a telecommunications service, or a cable operator as defined by the provisions of this Section.

Added by Acts 1977, No. 97, §1. Amended by Acts 1981, No. 502, §1, eff. July 19, 1981, Acts 1983, No. 655, §1; Acts 1986, No. 777, §1; Acts 1992, No. 305, §1; Acts 2003, No. 1245, §1; Acts 2006, No. 103, §1; Acts 2008, No. 33, §1; Acts 2009, No. 382, §2; Acts 2010, No. 516, §1; Acts 2010, No. 763, §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017; Acts 2018, No. 682, §1.

§81.1.1. "Sexting"; prohibited acts; penalties

A.(1) No person under the age of seventeen years shall knowingly and voluntarily use a computer or telecommunication device to transmit an indecent visual depiction of himself to another person.

(2) No person under the age of seventeen years shall knowingly possess or transmit an indecent visual depiction that was transmitted by another under the age of seventeen years in violation of the provisions of Paragraph (1) of this Subsection.

B. For purposes of this Section:

(1) "Indecent visual depiction" means any photograph, videotape, film, or other reproduction of a person under the age of seventeen years engaging in sexually explicit conduct, and includes data stored on any computer, telecommunication device, or other electronic storage media which is capable of conversion into a visual image.

(2) "Sexually explicit conduct" means masturbation or lewd exhibition of the genitals, pubic hair, anus, vulva, or female breast nipples of a person under the age of seventeen years.

(3) "Telecommunication device" means an analog or digital electronic device which processes data, telephonic, video, or sound transmission as part of any system involved in the sending or receiving of voice, sound, data, or video transmissions.

(4) "Transmit" means to give, distribute, transfer, transmute, circulate, or disseminate by use of a computer or telecommunication device.

C. Any offense committed by use of a computer or telecommunication device as set forth in this Section shall be deemed to have been committed at either the place from which the indecent visual depiction was transmitted or at the place where the indecent visual depiction was received.

D.(1) For a violation of the provisions of Paragraph (A)(1) of this Section, the offender's disposition shall be governed exclusively by the provisions of Title VII of the Louisiana Children's Code.

(2)(a) For a first offense in violation of Paragraph (A)(2) of this Section, the offender shall be fined not less than one hundred dollars nor more than two hundred fifty dollars, imprisoned for not more than ten days, or both. Imposition or execution of the sentence shall not be suspended unless the offender is placed on probation with a minimum condition that he perform two eight-hour days of court-approved community service.

(b) For a second offense in violation of Paragraph (A)(2) of this Section, the offender shall be fined not less than two hundred fifty dollars nor more than five hundred dollars, imprisoned for not less than ten days nor more than thirty days, or both. Imposition or execution of the sentence shall not be suspended unless the offender is placed on probation with a minimum condition that he perform five eight-hour days of court-approved community service.

(c) For a third or any subsequent offense in violation of Paragraph (A)(2) of this Section, the offender shall be fined not less than five hundred dollars nor more than seven hundred fifty dollars, imprisoned for not less than thirty days nor more than six months, or both. Imposition or execution of the sentence shall not be suspended unless the offender is placed on probation with a minimum condition that he perform ten eight-hour days of court-approved community service.

Acts 2010, No. 993, §1; Acts 2014, No. 313, §1, eff. May 28, 2014.

§81.2. Molestation of a juvenile or a person with a physical or mental disability

A.(1) Molestation of a juvenile is the commission by anyone over the age of seventeen of any lewd or lascivious act upon the person or in the presence of any child under the age of seventeen, where there is an age difference of greater than two years between the two persons, with the intention of arousing or gratifying the sexual desires of either person, by the use of force, violence, duress, menace, psychological intimidation, threat of great bodily harm, or by the use of influence by virtue of a position of control or supervision over the juvenile. Lack of knowledge of the juvenile's age shall not be a defense.

(2) Molestation of a person with a physical or mental disability is the commission by anyone over the age of seventeen of any lewd or lascivious act upon the victim or in the presence of any victim with the intention of arousing or gratifying the sexual desires of either person, by the use of force, violence, duress, menace, psychological intimidation, threat of great bodily harm, or by the use of influence by virtue of a position of control or supervision over the victim, when any of the following conditions exist:

(a) The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability.

(b) The victim is incapable, through unsoundness of mind, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.

(c) The victim is sixty-five years of age or older.

B.(1) Whoever commits the crime of molestation of a juvenile, when the victim is thirteen years of age or older but has not yet attained the age of seventeen, shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not less than five nor more than ten years, or both. The defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

(2) Whoever commits the crime of molestation of a juvenile, when the victim is thirteen years of age or older but has not yet attained the age of seventeen, and when the offender has control or supervision over the juvenile, shall be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than five nor more than twenty years, or both. The defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with Code of Criminal Procedure Article 893.

(3)(a) Whoever commits the crime of molestation of a juvenile, when the victim is thirteen years of age or older but has not yet attained the age of seventeen, and when the offender is an educator of the juvenile, shall be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than five nor more than forty years, or both. At least five years of the sentence imposed shall be without the benefit of parole, probation, or suspension of sentence, and the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with Code of Criminal Procedure Article 893.

(b) For purposes of this Subsection, "educator" means any teacher or instructor, administrator, staff person, or employee of any public or private elementary, secondary, vocational-technical training, special, or postsecondary school or institution, including any teacher aide, paraprofessional, school bus driver, food service worker, and other clerical,

custodial, or maintenance personnel employed by a private, city, parish, or other local public school board.

C.(1) Whoever commits the crime of molestation of a juvenile by violating the provisions of Paragraph (A)(1) of this Section, when the incidents of molestation recur during a period of more than one year, shall, on first conviction, be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not less than five nor more than forty years, or both. At least five years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence. After five years of the sentence have been served, the offender, who is otherwise eligible, may be eligible for parole if a licensed psychologist, medical psychologist, or a licensed clinical social worker or a board-certified psychiatrist, after psychological examination, including testing, approves.

(2) Conditions of parole shall include treatment in a qualified sex offender program for a minimum of five years, or until expiration of sentence, whichever comes first. The state shall be responsible for the cost of testing, but the offender shall be responsible for the cost of the treatment program. It shall also be a condition of parole that the offender be prohibited from being alone with a child without the supervision of another adult.

(3) For purposes of this Subsection, a "qualified sex offender program" means one which includes both group and individual therapy and arousal reconditioning. Group therapy shall be conducted by two therapists, one male and one female, at least one of whom is licensed as a psychologist or medical psychologist or is board certified as a psychiatrist or clinical social worker.

D.(1) Whoever commits the crime of molestation of a juvenile when the victim is under the age of thirteen years shall be imprisoned at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

(2) Whoever commits the crime of molestation of a person with a physical or mental disability shall be imprisoned at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

(3) Upon completion of the term of imprisonment imposed in accordance with Paragraphs (1) and (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(4) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(5) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to the degree that, sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act that provide for the

payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

E.(1) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(2) The personal property made subject to seizure and sale pursuant to Paragraph (1) of this Subsection may include but shall not be limited to, electronic communication devices, computers, computer-related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

Acts 1984, No. 220, §1; Acts 1990, No. 590, §1; Acts 1991, No. 925, §1; Acts 1999, No. 1309, §2, eff. Jan. 1, 2000; Acts 2006, No. 36, §§1, 2; Acts 2006, No. 103, §1; Acts 2006, No. 325, §2; Acts 2008, No. 33, §1; Acts 2008, No. 426, §1; Acts 2009, No. 192, §1, eff. June 30, 2009; Acts 2009, No. 251, §13, eff. Jan. 1, 2010; Acts 2010, No. 763, §1; Acts 2011, No. 67, §1.

§81.3. Computer-aided solicitation of a minor

A.(1) Computer-aided solicitation of a minor is committed when a person seventeen years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen where there is an age difference of greater than two years, or a person reasonably believed to have not yet attained the age of seventeen and reasonably believed to be at least two years younger, for the purpose of or with the intent to persuade, induce, entice, or coerce the person to engage or participate in sexual conduct or a crime of violence as defined in R.S. 14:2(B), or with the intent to engage or participate in sexual conduct in the presence of the person who has not yet attained the age of seventeen, or person reasonably believed to have not yet attained the age of seventeen.

(2) It shall also be a violation of the provisions of this Section when a person seventeen years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen where there is an age difference of greater than two years, or a person reasonably believed to have not yet attained the age of seventeen and reasonably believed to be at least two years younger, for the purpose of or with the intent to arrange for any third party to engage in any of the conduct proscribed by the provisions of Paragraph (1) of this Subsection.

(3) It shall also be a violation of the provisions of this Section when a person seventeen years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen, or a person reasonably believed to have not yet attained the age of seventeen, for the purpose of recruiting, enticing, or coercing the person to engage in commercial sexual activity.

(4) It shall also be a violation of the provisions of this Section when the contact or communication is initially made through the use of electronic textual communication and subsequent communication is made through the use of any other form of communication.

B.(1)(a) Whoever violates the provisions of this Section when the victim is thirteen years of age or more but has not attained the age of seventeen shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than five years nor more than ten years, without benefit of parole, probation, or suspension of sentence.

(b) Whoever violates the provisions of this Section when the victim is under thirteen years of age shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than ten years nor more than twenty years, without benefit of parole, probation, or suspension of sentence.

(c) Whoever violates the provisions of this Section, when the victim is a person reasonably believed to have not yet attained the age of seventeen, shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than two years nor more than ten years, without benefit of parole, probation, or suspension of sentence.

(d) If the computer-aided solicitation results in actual sexual conduct between the offender and victim and the difference between the age of the victim and the age of the offender is five years or greater, the offender shall be fined not more than ten thousand dollars and shall be imprisoned, with or without hard labor, for not less than seven years nor more than ten years.

(2) On a subsequent conviction, the offender shall be imprisoned for not less than ten years nor more than twenty years at hard labor without benefit of parole, probation, or suspension of sentence.

(3) In addition to the penalties imposed in either Paragraph (1) or (2) of this Subsection, the court may impose, as an additional penalty on the violator, the limitation or restriction of access to the Internet when the Internet was used in the commission of the crime.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

C.(1) It shall not constitute a defense to a prosecution brought pursuant to this Section that the person reasonably believed to be under the age of seventeen is actually a law enforcement officer or peace officer acting in his official capacity.

(2) It shall not be a defense to prosecution for a violation of this Section that the juvenile consented to participation in the activity prohibited by this Section.

D. For purposes of this Section, the following words have the following meanings:

(1) "Coerce"shall include but not be limited to any of the following:

(a) Causing or threatening to cause serious bodily injury.

(b) Physically restraining or threatening to physically restrain another person.

(c) Abduction or threatened abduction of an individual.

(d) The use of a plan, pattern, or statement with intent to cause an individual to believe that failure to perform an act will result in the use of force against, abduction of, serious harm to, or physical restraint of an individual.

(e) The abuse or threatened abuse of law or legal process.

(f) The actual or threatened destruction, concealment, removal, confiscation, or possession of any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.

(g) Controlling or threatening to control an individual's access to a controlled dangerous substance as set forth in R.S. 40:961 et seq.

(h) The use of an individual's physical or mental impairment, where such impairment has substantial adverse effects on the individual's cognitive or volitional functions.

(i) The use of debt bondage or civil or criminal fraud.

(j) Extortion as defined in R.S. 14:66.

(2) "Debt bondage" means inducing an individual to provide any of the following:

(a) Commercial sexual activity in payment toward or satisfaction of a real or purported debt.

(b) Labor or services in payment toward or satisfaction of a real or purported debt if either of the following occur:

(i) The reasonable value of the labor or services provided is not applied toward the liquidation of the debt.

(ii) The length of the labor or services is not limited and the nature of the labor or services is not defined.

(3) "Electronic textual communication" means a textual communication made through the use of a computer on-line service, Internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or on-line messaging service.

(4) "Labor or services" means activity having economic value.

(5) "Sexual conduct" means actual or simulated sexual intercourse, deviant sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, lewd exhibition of the genitals, or any lewd or lascivious act.

E. The provisions of this Section shall not apply to the transference of such images by a telephone company, cable television company, or any of its affiliates, an Internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial online services.

F. An offense committed under this Section may be deemed to have been committed where the electronic textual communication was originally sent, originally received, or originally viewed by any person, or where any other element of the offense was committed.

G. After the institution of prosecution, access to and the disposition of any material seized as evidence of this offense shall be in accordance with R.S. 46:1845.

H. Any evidence resulting from the commission of computer-aided solicitation of a minor shall constitute contraband.

I. A violation of the provisions of this Section shall be considered a sex offense as defined in R.S. 15:541. Whoever commits the crime of computer-aided solicitation of a minor shall be required to register as a sex offender as provided for in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

Acts 2005, No. 246, §1; Acts 2008, No. 25, §1, eff. May 30, 2008; Acts 2008, No. 461, §1, eff. June 25, 2008; Acts 2008, No. 646, §1, eff. July 1, 2008; Acts 2008, No. 672, §1; Acts 2009, No. 58, §1; Acts 2010, No. 517, §1; Acts 2010, No. 763, §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1.

NOTE: Acts 2008, No. 646, §3, superseded the provisions of Acts 2008, No. 25.

§81.4. Prohibited sexual conduct between educator and student

A. Prohibited sexual conduct between an educator and a student is committed when any of the following occur:

(1) An educator has sexual intercourse with a person who is seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, when the victim is not the spouse of the offender and is a student at the school where the educator is assigned, employed, or working at the time of the offense.

(2) An educator commits any lewd or lascivious act upon a student or in the presence of a student who is seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, with the intention of gratifying the sexual desires of either person, when the victim is a student at the school in which the educator is assigned, employed, or working at the time of the offense.

(3) An educator intentionally engages in the touching of the anus or genitals of a student seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, using any instrumentality or any part of the body of the educator, or the touching of the anus or genitals of the educator by a person seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, when the victim is a student at the school in which the educator is assigned, employed, or working at the time of the offense using any instrumentality or any part of the body of the student.

B. As used in this Section:

(1) "Educator" means any administrator, coach, instructor, paraprofessional, student aide, teacher, or teacher aide at any public or private school, assigned, employed, or working at the school or school system where the victim is enrolled as a student on a full-time, part-time, or temporary basis.

(2) "School" means a public or nonpublic elementary or secondary school or learning institution which shall not include universities and colleges.

(3) "Sexual intercourse" means anal, oral, or vaginal sexual intercourse. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

(4) "Student" includes students enrolled in a school who are seventeen years of age or older, but less than twenty-one years of age.

C. The consent of a student, whether or not that student is seventeen years of age or older, shall not be a defense to any violation of this Section.

D. Lack of knowledge of the student's age shall not be a defense.

E.(1) Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(2) For a second or subsequent offense, an offender may be fined not more than five thousand dollars and shall be imprisoned, with or without hard labor, for not less than one year nor more than five years.

F. Notwithstanding any claim of privileged communication, any educator having cause to believe that prohibited sexual conduct between an educator and student shall immediately report such conduct to a local or state law enforcement agency.

G. No cause of action shall exist against any person who in good faith makes a report, cooperates in any investigation arising as a result of such report, or participates in judicial proceedings arising out of such report, and such persons shall have immunity from civil or criminal liability that otherwise might be incurred or imposed. This immunity shall not be extended to any person who makes a report known to be false or with reckless disregard for the truth of the report.

H. In any action to establish damages against a defendant who has made a false report of prohibited sexual conduct between an educator and student, the plaintiff shall bear the burden of proving that the defendant who filed the false report knew the report was false or that the report was filed with reckless disregard for the truth of the report. A plaintiff who fails to meet the burden of proof set forth in this Subsection shall pay all court costs and attorney fees of the defendant.

Acts 2007, No. 363, §1; Acts 2009, No. 210, §1, eff. Sept. 1, 2009.

§81.5. Unlawful possession of videotape of protected persons under R.S. 15:440.1 et seq.

A. It is unlawful for any person to knowingly and intentionally possess, sell, duplicate, distribute, transfer, or copy any films, recordings, videotapes, audio tapes, or other visual, audio, or written reproductions, of any recording of videotapes of protected persons provided in R.S. 15:440.1 through 440.6.

B. For purposes of this Section, "videotape" means the visual recording on a magnetic tape, film, videotape, compact disc, digital versatile disc, digital video disc, audio tape, written visual or audio reproduction or by other electronic means together with the associated oral record.

C. The provisions of this statute shall not apply to persons acting pursuant to a court order or exempted by R.S. 15:440.5 or by persons who in the course and scope of their employment are in possession of the videotape, including the office of community services, any law enforcement agency or its authorized agents and personnel, the office of the district attorney and its assistant district attorneys and authorized personnel, and the agency or organization producing the videotape, including Children Advocacy Centers.

D. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Acts 2008, No. 86, §1.

2. OFFENSES CONCERNING PROSTITUTION

§82. Prostitution; definition; penalties; enhancement

A. Prostitution is:

(1) The practice by a person of indiscriminate sexual intercourse with others for compensation.

(2) The solicitation by one person of another with the intent to engage in indiscriminate sexual intercourse with the latter for compensation.

B. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

C.(1) Whoever commits the crime of prostitution shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

(2) On a second conviction, the offender shall be fined not less than two hundred fifty dollars nor more than two thousand dollars or be imprisoned, with or without hard labor, for not more than two years, or both.

(3) On a third and subsequent conviction, the offender shall be imprisoned, with or without hard labor, for not more than four years and shall be fined not less than five hundred dollars nor more than four thousand dollars.

(4) Whoever commits the crime of prostitution with a person under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(5) Whoever commits the crime of prostitution with a person under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

D. Any offense under this Section committed more than five years prior to the commission of the offense with which the defendant is charged shall not be considered in the assessment of penalties under this Section.

E. If the offense occurred as a result of a solicitation by the offender while the offender was located on a public road or highway, or the sidewalk, walkway, or public servitude thereof, the court shall sentence the offender to imprisonment for a minimum of ninety days. If a portion of the sentence is suspended, the court may place the offender upon supervised probation if the offender agrees, as a condition of probation, to perform two hundred forty hours of community service work collecting or picking up litter and trash on the public roads, streets, and highways, under conditions specified by the court.

F. All persons who are convicted of the offense of prostitution shall be referred to the parish health unit for counseling concerning Acquired Immune Deficiency Syndrome. The counseling shall be provided by existing staff of the parish health unit whose duties include such counseling.

G.(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

Amended by Acts 1977, No. 49, §1; Acts 1987, No. 569, §1; Acts 1988, No. 666, §1; Acts 1999, No. 338, §1; Acts 2001, No. 403, §1, eff. June 15, 2001; Acts 2001, No. 944, §4; Acts 2008, No. 138, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 281, §1.

§82.1. Prostitution; persons under eighteen; additional offenses

A. It shall be unlawful:

(1) For any person over the age of seventeen to engage in sexual intercourse with any person under the age of eighteen who is practicing prostitution, and there is an age difference of greater than two years between the two persons.

(2) For any parent or tutor of any person under the age of eighteen knowingly to consent to the person's entrance or detention in the practice of prostitution.

B.(1) Lack of knowledge of the age of the person practicing prostitution shall not be a defense.

(2) It shall not be a defense to prosecution for a violation of this Section that the person practicing prostitution consented to the activity prohibited by this Section.

C. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

D.(1) Whoever violates the provisions of Paragraph (A)(1) of this Section shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(2) Whoever violates the provisions of Paragraph (A)(1) of this Section when the person practicing prostitution is under the age of fourteen shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty- five years nor more than fifty years, or both. Twenty-five years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence.

(3)(a) Whoever violates the provisions of Paragraph (A)(2) of this Section shall be required to serve at least five years of the sentence imposed in Paragraph (1) of this Subsection without benefit of parole, probation, or suspension of sentence.

(b) Whoever violates the provisions of Paragraph (A)(2) of this Section when the person practicing prostitution is under the age of fourteen shall be required to serve at least ten years of the sentence imposed in Paragraph (2) of this Subsection without benefit of parole, probation, or suspension of sentence.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense, or the proceeds of any such conduct, shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney, or otherwise distributed or disposed of, in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media, and currency, instruments, or securities.

E. It shall not be a defense to prosecution for a violation of this Section that the person practicing prostitution who is believed to be under the age of eighteen is actually a law enforcement officer or peace officer acting within the official scope of his duties.

F. Any person determined to be a victim of this offense shall be eligible for specialized services for sexually exploited children.

Acts 1985, No. 777, §1; Acts 2008, No. 138, §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017.

§82.2. Purchase of commercial sexual activity; penalties

A. It shall be unlawful for any person to knowingly give, agree to give, or offer to give anything of value to another in order to engage in sexual intercourse with a person who receives or agrees to receive anything of value as compensation for such activity.

B. For purposes of this Section, "sexual intercourse" means anal, oral, or vaginal intercourse or any other sexual activity constituting a crime pursuant to the laws of this state.

C.(1) Whoever violates the provisions of this Section shall be fined not more than seven hundred fifty dollars or be imprisoned for not more than six months, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(2) On a second conviction, the offender shall be fined not less than one thousand five hundred dollars nor more than two thousand dollars or be imprisoned, with or without hard labor, for not more than two years, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(3) On a third and subsequent conviction, the offender shall be imprisoned, with or without hard labor, for not less than two nor more than four years and shall be fined not less than two thousand five hundred dollars nor more than four thousand dollars and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(4) Whoever violates the provisions of this Section with a person the offender knows to be under the age of eighteen years, or with a person the offender knows to be a victim of human trafficking as defined by R.S. 14:46.2 or trafficking of children for sexual purposes as defined by R.S. 14:46.3, shall be fined not less than three thousand nor more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(5) Whoever violates the provisions of this Section with a person the offender knows to be under the age of fourteen years shall be fined not less than five thousand and not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

D. In addition to the penalties provided for in Subsection C of this Section, the court shall order the offender to complete the Buyer Beware Program, as provided for in R.S. 15:243, to educate the offender about the harms, exploitation, and negative effects of prostitution. The court shall impose additional court costs in the amount of two hundred dollars to defer the costs of the program.

E.(1) Any child under the age of eighteen determined to be a victim of this offense shall be eligible for specialized services for sexually exploited children.

(2) Any person, eighteen years of age or older, determined to be a victim of this offense shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

F. It shall not be a defense to prosecution for a violation of this Section that the person who receives or agrees to receive anything of value is actually a law enforcement officer or peace officer acting within the official scope of his duties.

Acts 2014, No. 564, §1; Acts 2018, No. 663, §1.

§83. Soliciting for prostitutes

A. Soliciting for prostitutes is the soliciting, inviting, inducing, directing, or transporting a person to any place with the intention of promoting prostitution.

B.(1)(a) Whoever commits the crime of soliciting for prostitutes shall be fined not more than seven hundred fifty dollars, imprisoned for not more than six months, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(b) Whoever commits a second or subsequent offense for the crime of soliciting for prostitutes shall be fined not less than one thousand five hundred dollars nor more than two thousand dollars, imprisoned for not more than one year, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(2) Whoever commits the crime of soliciting for prostitutes when the person being solicited is under the age of eighteen years shall be fined not less than three thousand dollars nor more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(3) Whoever commits the crime of soliciting for prostitutes when the person being solicited is under the age of fourteen years shall be fined not less than five thousand dollars nor more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(4) In addition to the penalties provided for in this Subsection, the court shall order the offender to complete the Buyer Beware Program, as provided for in R.S. 15:243, to educate the offender about the harms, exploitation, and negative effects of prostitution. In furtherance of the administration of justice in the judicial district and to prevent future recidivism, the court shall impose additional court costs in the amount of two hundred dollars to defer the costs of the program, with the proceeds of the fine being paid to the operator of the Buyer Beware Program as provided for in R.S. 15:243.

(5)(a) In addition, the court shall order that the personal property used in the commission of the offense, or the proceeds of any such conduct, shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney, or otherwise distributed or disposed of, in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media, and currency, instruments, or securities.

Amended by Acts 1980, No. 708, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017; Acts 2018, No. 663, §1.

§83.1. Inciting prostitution

A. Inciting prostitution is the aiding, abetting, or assisting in an enterprise for profit in which:

(1) Customers are charged a fee for services which include prostitution, regardless of what portion of the fee is actually for the prostitution services,

(2) When the person knows or when a reasonable person in such a position should know that such aiding, abetting, or assisting is for prostitution, and

(3) When the proceeds or profits are to be in any way divided by the prostitute and the person aiding, abetting, or assisting the prostitute.

B.(1) Whoever commits the crime of inciting prostitution shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

(2) Whoever commits the crime of inciting prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the crime of inciting prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense, or the proceeds of any such conduct, shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney, or otherwise distributed or disposed of, in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media, and currency, instruments, or securities.

Acts 1984, No. 580, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017.

§83.2. Promoting prostitution

A. Promoting prostitution is the knowing and willful control of, supervision of, or management of an enterprise for profit in which customers are charged a fee for services which include prostitution, regardless of what portion of the fee is actually for the prostitution services.

B.(1) Whoever commits the crime of promoting prostitution shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

(2) Whoever commits the crime of promoting prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the crime of promoting prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense, or the proceeds of any such conduct, shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney, or otherwise distributed or disposed of, in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record

or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media, and currency, instruments, or securities.

Acts 1984, No. 580, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017.

§83.3. Prostitution by massage

A. Prostitution by massage is the erotic stimulation of the genital organs of another by any masseur, masseuse, or any other person, whether resulting in orgasm or not, by instrumental manipulation, touching with the hands, or other bodily contact exclusive of sexual intercourse or unnatural carnal copulation, when done for money.

B. As used in this Section, the terms:

(1) "Masseur" means a male who practices massage or physiotherapy, or both.

(2) "Masseuse" means a female who practices massage or physiotherapy, or both.

C. Whoever commits the crime of prostitution by massage shall be fined not more than five hundred dollars or imprisoned not more than six months, or both.

D.(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

Acts 1984, No. 580, §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1.

§83.4. Massage; sexual conduct prohibited

A. It shall be unlawful for any masseur, masseuse, or any other person, while in a massage parlor or any other enterprise used as a massage parlor, by stimulation in an erotic manner, to:

(1) Expose, touch, caress, or fondle the genitals, anus, or pubic hairs of any person or the nipples of the female breast; or

(2) To perform any acts of sadomasochistic abuse, flagellation, or torture in the context of sexual conduct.

B. Whoever violates this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

C.(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

Acts 1984, No. 580, §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1.

§84. Pandering

A. Pandering is any of the following intentional acts:

(1) Enticing, placing, persuading, encouraging, or causing the entrance of any person into the practice of prostitution, either by force, threats, promises, or by any other device or scheme.

(2) Maintaining a place where prostitution is habitually practiced.

(3) Detaining any person in any place of prostitution by force, threats, promises, or by any other device or scheme.

(4) Receiving or accepting by a person as a substantial part of support or maintenance anything of value which is known to be from the earnings of any person engaged in prostitution.

(5) Consenting, on the part of any parent or tutor of any person, to the person's entrance or detention in the practice of prostitution.

(6) Transporting any person from one place to another for the purpose of promoting the practice of prostitution.

B.(1) Whoever commits the crime of pandering shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

(2) Whoever commits the crime of pandering involving the prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the crime of pandering involving the prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense, or the proceeds of any such conduct, shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney, or otherwise distributed or disposed of, in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media, and currency, instruments, or securities.

Amended by Acts 1978, No. 219, §1; Acts 1980, No. 708, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017.

§85. Letting premises for prostitution

A. Pandering is any of the following intentional acts:

(1) Enticing, placing, persuading, encouraging, or causing the entrance of any person into the practice of prostitution, either by force, threats, promises, or by any other device or scheme.

(2) Maintaining a place where prostitution is habitually practiced.

(3) Detaining any person in any place of prostitution by force, threats, promises, or by any other device or scheme.

(4) Receiving or accepting by a person as a substantial part of support or maintenance anything of value which is known to be from the earnings of any person engaged in prostitution.

(5) Consenting, on the part of any parent or tutor of any person, to the person's entrance or detention in the practice of prostitution.

(6) Transporting any person from one place to another for the purpose of promoting the practice of prostitution.

B.(1) Whoever commits the crime of pandering shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

(2) Whoever commits the crime of pandering involving the prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the crime of pandering involving the prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense, or the proceeds of any such conduct, shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney, or otherwise distributed or disposed of, in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media, and currency, instruments, or securities.

Amended by Acts 1978, No. 219, §1; Acts 1980, No. 708, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017.

§85.1. Repealed by Acts 2008, No. 220, §13, eff. June 14, 2008.

§86. Enticing persons into prostitution

A. Enticing persons into prostitution is committed when any person over the age of seventeen entices, places, persuades, encourages, or causes the entrance of any other person under the age of twenty-one into the practice of prostitution, either by force, threats, promises, or by any other device or scheme. Lack of knowledge of the other person's age shall not be a defense.

B.(1)(a) Whoever commits the crime of enticing persons into prostitution shall be imprisoned, with or without hard labor, for not less than two years nor more than ten years.

(b) Whoever commits the crime of enticing persons into prostitution when the person being enticed into prostitution is under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(c) Whoever commits the crime of enticing persons into prostitution when the person being enticed into prostitution is under the age of fourteen years shall be fined not more than

seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(2) In addition, the court shall order that the personal property used in the commission of the offense, or the proceeds of any such conduct, shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney, or otherwise distributed or disposed of, in accordance with R.S. 15:539.1.

(3) The personal property made subject to seizure and sale pursuant to Paragraph (2) of this Subsection may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media, and currency, instruments, or securities.

C.(1) It shall not be a defense to prosecution for a violation of this Section that the person being enticed is actually a law enforcement officer or peace officer acting in his official capacity.

(2) It shall not be a defense to prosecution for a violation of this Section that the person being enticed consented to the activity.

Amended by Acts 1978, No. 434, §1; Acts 2010, No. 763, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017.

NOTE: This provision of law was included in the Unconstitutional Statutes Biennial Report to the Legislature, dated March 14, 2016.

3. ABORTION

§87. Abortion

A.(1) Abortion is the performance of any of the following acts, with the specific intent of terminating a pregnancy:

(a) Administering or prescribing any drug, potion, medicine or any other substance to a female; or

(b) Using any instrument or external force whatsoever on a female.

(2) This Section shall not apply to the female who has an abortion.

B. It shall not be unlawful for a physician to perform any of the acts described in Subsection A of this Section if performed under the following circumstances:

(1) The physician terminates the pregnancy in order to preserve the life or health of the unborn child or to remove a stillborn child.

(2) The physician terminates a pregnancy for the express purpose of saving the life, preventing the permanent impairment of a life sustaining organ or organs, or to prevent a substantial risk of death of the mother.

(3) The physician terminates a pregnancy by performing a medical procedure necessary in reasonable medical judgment to prevent the death or substantial risk of death due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman.

C. As used in this Section, the following words and phrases are defined as follows:

(1) "Physician" means any person licensed to practice medicine in this state.

(2) "Unborn child" means the unborn offspring of human beings from the moment of fertilization until birth.

D.(1) As used in this Subsection:

(a) "Abortion" means the specific intent to kill an unborn child consistent with the provisions and exceptions of R.S. 40:1061.

(b) "Gestational age" means the age of an unborn child as calculated from the first day of the last menstrual period of the pregnant woman, as determined by the use of standard medical practices and techniques.

(2) It shall be unlawful for a physician to perform any of the acts described in Subsection A of this Section after fifteen weeks gestational age.

E.(1) Whoever commits the crime of abortion shall be imprisoned at hard labor for not less than one nor more than ten years and shall be fined not less than ten thousand dollars nor more than one hundred thousand dollars.

(2) This penalty shall not apply to the female who has an abortion.

F. The provisions of Subsection D of this Section shall become effective upon final decision of the United States Court of Appeals for the Fifth Circuit upholding the Act that originated as House Bill 1510 of the 2018 Regular Session of the Mississippi Legislature, which decision would thereby provide the authority for a state within the jurisdiction of that court of appeals to restrict abortion past fifteen weeks gestational age.

G. The provisions of Subsection D of this Section are hereby repealed, in favor of the provisions of R.S. 40:1061, immediately upon and to the extent that the United States Supreme Court upholds the authority of the states to prohibit elective abortions on demand or by the adoption of an amendment to the Constitution of the United States of America that would restore to the state of Louisiana the authority to prohibit elective abortions.

Amended by Acts 1964, No. 167; Acts 1991, No. 26, §2; Acts 2006, No. 467, §2; Acts 2018, No. 468, §1, eff. May 23, 2018.

§87.1. Killing a child during delivery

A. Killing a child during delivery is the intentional destruction, during parturition of the mother, of the vitality or life of a child in a state of being born and before actual birth, which child would otherwise have been born alive; provided, however, that the crime of killing a child during delivery shall not be construed to include any case in which the death of a child results from the use by a physician of a procedure during delivery which is necessary to save the life of the child or of the mother and is used for the express purpose of and with the specific intent of saving the life of the child or of the mother.

B. Whoever commits the crime of killing a child during delivery shall be imprisoned at hard labor in the penitentiary for life.

Added by Acts 1973, No. 74, §1; Acts 2014, No. 791, §7.

§87.2. Human experimentation

A. Human experimentation is the use of any live born human being, without consent of that live born human being, as hereinafter defined, for any scientific or laboratory research or any other kind of experimentation or study except to protect or preserve the life and health of the live born human being, or the conduct, on a human embryo or fetus in utero, of any experimentation or study except to preserve the life or to improve the health of the human embryo or fetus.

B. A human being is live born, or there is a live birth, whenever there is the complete expulsion or extraction from its mother of a human embryo or fetus, irrespective of the duration of pregnancy, which after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

C. Whoever commits the crime of human experimentation shall be imprisoned at hard labor for not less than five nor more than twenty years, or fined not more than ten thousand dollars, or both.

Added by Acts 1973, No. 77, §1; Acts 2014, No. 791, §7.

§87.3. Prohibited cutting, resection, excision, harvesting, removal, sale, receipt, research, commerce, or transport of fetal organs, tissues, and body parts; whistleblower account

A. No person may knowingly and for money, including but not limited to fees for storage or handling, any payments for reimbursement, repayments, or compensation, or any other consideration:

(1) Buy, sell, receive, or otherwise transfer or acquire a fetal organ or body part resulting from an induced abortion.

(2) Transport with the intent to sell or otherwise transfer a fetal organ or body part resulting from an induced abortion.

(3) Transport a fetal organ or body part resulting from an induced abortion that has been acquired by any person via any transaction prohibited by this Section.

B. For purposes of this Section:

(1) "Fetal body part" means a cell, tissue, organ, or other part of an unborn child who is aborted by an induced abortion.

(2) "Induced abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if undertaken with the intent to do any of the following:

(a) Save the life or preserve the health of the unborn child.

(b) Remove an unborn child who died of natural causes.

(c) Remove an ectopic pregnancy.

(3) "Miscarriage or stillbirth" means the spontaneous or accidental death of an unborn child, whether the death occurred in the womb or in the process of birth. Death of the unborn child is indicated by the lack of signs of breathing or any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(4) "Receive" includes acquiring any fetal organ or fetal body part, or the rights to any fetal organ or fetal body part, through an act of donation or sale via any transaction prohibited by this Section.

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

C. After an induced abortion has been completed, no person shall intentionally cut, resection, excise, harvest, or remove any body part, organ, or tissue of the aborted unborn child for any purpose prohibited by this Section, or for sale, commerce, transport, research, or profit.

D.(1) Nothing in this Section shall be construed to prohibit any transaction related to the final disposition of the bodily remains of the aborted human being in accordance with state law, or to prohibit any conduct permitted under state law that is undertaken with any of the following purposes:

(a) The purpose of providing knowledge solely to the mother, such as for pathological or diagnostic purposes.

(b) The purpose of providing knowledge solely to law enforcement officers, such as the case of an autopsy following a feticide.

(2) Nothing in this Section shall be construed to prohibit the donation of bodily remains from a human embryo or fetus whose death was caused by a natural miscarriage or stillbirth, in accordance with the guidelines and prohibitions provided in applicable state and federal law.

(3) Nothing in this Section shall be construed to affect existing federal or state law regarding the practice of abortion, or to create or recognize a right to abortion.

E. Any person who violates this Section shall be sentenced to a term of imprisonment at hard labor for not less than ten nor more than fifty years, at least ten years of which shall be served without benefit of probation or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand dollars.

F.(1) The Fetal Organ Whistleblower Account, hereinafter referred to as "the account", is hereby created in the state treasury.

(2) The account shall be composed of any monies derived from appropriations by the legislature and any gift, grant, devise, donation, or bequest of monies or properties of any nature or description.

(3) An award of one thousand dollars shall be paid out of the account to any person who provides evidence that results in the arrest and indictment of any other person for a violation of this Section. Eligibility for an award pursuant to this Subsection shall be determined by the district attorney or the attorney general, as appropriate.

(4) All monies deposited in the account shall be used solely to pay awards to persons as provided by Paragraph (3) of this Subsection and shall be paid by the state treasurer upon written order signed by the district attorney or the attorney general, as appropriate, except that monies deposited in the account may be used to pay reasonable costs of administering the account.

(5) The name and other identifying information of any person who is paid an award pursuant to this Subsection shall remain confidential.

Acts 2016, No. 196, §1; Acts 2017, No. 243, §1, eff. June 14, 2017; Acts 2018, No. 645, §1, eff. June 1, 2018.

§87.4. Abortion advertising

A. Abortion advertising is the placing or carrying of any advertisement of abortion services by the publicizing of the availability of abortion services.

B. Whoever commits the crime of abortion advertising shall be imprisoned, with or without hard labor, for not more than one year or fined not more than five thousand dollars, or both.

Added by Acts 1973, No. 76, §1; Acts 2014, No. 791, §7.

§87.5. Intentional failure to sustain life and health of aborted viable infant

The intentional failure to sustain the life and health of an aborted viable infant shall be a crime. The intentional failure to sustain the life and health of an aborted viable infant is the

intentional failure, by any physician or person performing or inducing an abortion, to exercise that degree of professional care and diligence, and to perform such measures as constitute good medical practice, necessary to sustain the life and health of an aborted viable infant, when the death of the infant results. For purposes of this Section, "viable" means that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supporting systems. Any person who commits the crime of intentional failure to sustain the life and health of an aborted viable infant shall be imprisoned at hard labor for not more than twenty-one years.

Added by Acts 1977, No. 406, §1.

§87.6. Coerced abortion

A. Coerced abortion is committed when any person intentionally engages in the use or threatened use of physical force against the person of a pregnant woman, with the intent to compel the pregnant woman to undergo an abortion against her will, whether or not the abortion procedure has been attempted or completed.

B. Whoever commits the crime of coerced abortion shall be fined not more than five thousand dollars, or imprisoned for not more than five years, or both.

Acts 2018, No. 674, §1, eff. June 1, 2018.

§88. Distribution of abortifacients

A. Distribution of abortifacients is the intentional:

(1) Distribution or advertisement for distribution of any drug, potion, instrument, or article for the purpose of procuring an abortion; or

(2) Publication of any advertisement or account of any secret drug or nostrum purporting to be exclusively for the use of females, for preventing conception or producing abortion or miscarriage.

B. Whoever commits the crime of distribution of abortifacients shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

Acts 2014, No. 791, §7.

4. CRIME AGAINST NATURE

NOTE: This provision of law was included in the Unconstitutional Statutes Biennial Report to the Legislature, dated March 14, 2016.

4. CRIME AGAINST NATURE

§89. Crime against nature

A. Crime against nature is either of the following:

(1) The unnatural carnal copulation by a human being with another of the same sex or opposite sex, except that anal sexual intercourse between two human beings shall not be deemed as a crime against nature when done under any of the circumstances described in R.S. 14:41, 42, 42.1, or 43. Emission is not necessary; and, when committed by a human being with another, the use of the genital organ of one of the offenders of whatever sex is sufficient to constitute the crime.

(2) The marriage to, or sexual intercourse with, any ascendant or descendant, brother or sister, uncle or niece, aunt or nephew, with knowledge of their relationship. The relationship must be by consanguinity, but it is immaterial whether the parties to the act are related to one another by the whole or half blood. The provisions of this Paragraph shall not apply where one person, not a resident of this state at the time of the celebration of his marriage, contracted a marriage lawful at the place of celebration and thereafter removed to this state.

B.(1) Whoever commits the offense of crime against nature as defined by Paragraph (A)(1) of this Section shall be fined not more than two thousand dollars, imprisoned, with or without hard labor, for not more than five years, or both.

(2) Whoever commits the offense of crime against nature as defined by Paragraph (A)(1) of this Section with a person under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the offense of crime against nature as defined by Paragraph (A)(1) of this Section with a person under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4) Whoever commits the offense of crime against nature as defined by Paragraph (A)(2) of this Section, where the crime is between an ascendant and descendant, or between brother and sister, shall be imprisoned at hard labor for not more than fifteen years.

(5) Whoever commits the offense of crime against nature as defined by Paragraph (A)(2) of this Section, where the crime is between uncle and niece, or aunt and nephew, shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

C.(1) It shall be an affirmative defense to prosecution for a violation of Paragraph (A)(1) of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of Paragraph (A)(1) of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

D. The provisions of Act No. 177 of the 2014 Regular Session and the provisions of Act No. 602 of the 2014 Regular Session incorporate the elements of the crimes of incest (R.S. 14:78) and aggravated incest (R.S. 14:78.1), as they existed prior to their repeal by these Acts, into the provisions of the crimes of crime against nature (R.S. 14:89) and aggravated crime against nature (R.S. 14:89.1), respectively. For purposes of the provisions amended by Act No. 177 of the 2014 Regular Session and Act No. 602 of the 2014 Regular Session, a conviction for a violation of R.S. 14:89(A)(2) shall be the same as a conviction for the crime of incest (R.S. 14:78) and a conviction for a violation of R.S. 14:89.1(A)(2) shall be the same as a conviction for the crime of aggravated incest (R.S. 14:78.1). Neither Act shall be construed to alleviate any person convicted or adjudicated delinquent of incest (R.S. 14:78) or aggravated incest (R.S. 14:78.1) from any requirement, obligation, or consequence imposed by law resulting from that

conviction or adjudication including but not limited to any requirements regarding sex offender registration and notification, parental rights, probation, parole, sentencing, or any other requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication.

E. Nothing in Act No. 485 of the 2018 Regular Session of the Legislature shall be construed to alleviate any person convicted or adjudicated delinquent of crime against nature (R.S. 14:89) from any requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication including but not limited to any requirements regarding sex offender registration and notification, parental rights, probation, parole, sentencing, or any other requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication.

Amended by Acts 1975, No. 612, §1; Acts 1982, No. 703, §1; Acts 2010, No. 882, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 177, §1; Acts 2014, No. 564, §1; Acts 2014, No. 599, §1, eff. June 12, 2014, Acts 2014, No. 602, §4, eff. June 12, 2014; Acts 2018, No. 485, §1, eff. May 25, 2018.

§89.1. Aggravated crime against nature

A. Aggravated crime against nature is either of the following:

(1) An act as defined by R.S. 14:89(A)(1) committed under any one or more of the following circumstances:

(a) When the victim resists the act to the utmost, but such resistance is overcome by force.

(b) When the victim is prevented from resisting the act by threats of great and immediate bodily harm accompanied by apparent power of execution.

(c) When the victim is prevented from resisting the act because the offender is armed with a dangerous weapon.

(d) When as a result of an intellectual or mental disability, or any unsoundness of mind, either temporary or permanent, the victim is incapable of giving consent and the offender knew or should have known of such incapacity.

(e) When the victim is incapable of resisting or of understanding the nature of the act, by reason of stupor or abnormal condition of mind produced by a narcotic or anesthetic agent, administered by or with the privity of the offender; or when he has such incapacity, by reason of a stupor or abnormal condition of mind from any cause, and the offender knew or should have known of such incapacity.

(f) When the victim is under the age of seventeen years and the offender is at least three years older than the victim.

(2)(a) The engaging in any prohibited act enumerated in Subparagraph (b) of this Paragraph with a person who is under eighteen years of age and who is known to the offender to be related to the offender as any of the following biological, step, or adoptive relatives: child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew, or niece.

(b) The following are prohibited acts under this Paragraph:

(i) Sexual intercourse, sexual battery, second degree sexual battery, carnal knowledge of a juvenile, indecent behavior with juveniles, pornography involving juveniles, molestation of a juvenile or a person with a physical or mental disability, crime against nature, cruelty to

juveniles, parent enticing a child into prostitution, or any other involvement of a child in sexual activity constituting a crime under the laws of this state.

(ii) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child, the offender, or both.

(c) Consent shall not be a defense to prosecution for a violation of the provisions of this Paragraph.

B. Whoever commits the crime of aggravated crime against nature as defined by Paragraph (A)(1) of this Section shall be imprisoned at hard labor for not less than three nor more than fifteen years, such prison sentence to be without benefit of suspension of sentence, probation or parole.

C.(1) Whoever commits the crime of aggravated crime against nature as defined by Paragraph (A)(2) of this Section shall be fined an amount not to exceed fifty thousand dollars, or imprisoned, with or without hard labor, for a term not less than five years nor more than twenty years, or both.

(2) Whoever commits the crime of aggravated crime against nature as defined by Paragraph (A)(2) of this Section with a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) Upon completion of the term of imprisonment imposed in accordance with Paragraph (2) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

(4) Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Subsection, that a sexual offender is unable to pay all or any portion of such costs, each sexual offender to be electronically monitored shall pay the cost of such monitoring.

(5) The costs attributable to the electronic monitoring of an offender who has been determined unable to pay shall be borne by the department if, and only to, the degree that sufficient funds are made available for such purpose whether by appropriation of state funds or from any other source.

(6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act that provide for the payment of such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

D.(1) In addition to any sentence imposed under Subsection C of this Section, the court shall, after determining the financial resources and future ability of the offender to pay, require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense.

(2) The amount, method, and time of payment shall be determined by the court either by ordering that documentation of the offender's financial resources and future ability to pay restitution and of the victim's pecuniary loss submitted by the victim be included in the presentence investigation and report, or the court may receive evidence of the offender's ability to pay and the victim's loss at the time of sentencing.

(3) The court may provide for payment to a victim up to but not in excess of the pecuniary loss caused by the offense. The offender may assert any defense that he could raise in a civil action for the loss sought to be compensated by the restitution order.

E. The provisions of Act No. 177 of the 2014 Regular Session and the provisions of the Act that originated as Senate Bill No. 333 of the 2014 Regular Session incorporate the elements of the crimes of incest (R.S. 14:78) and aggravated incest (R.S. 14:78.1), as they existed prior to their repeal by these Acts, into the provisions of the crimes of crime against nature (R.S. 14:89) and aggravated crime against nature (R.S. 14:89.1), respectively. For purposes of the provisions amended by Act No. 177 of the 2014 Regular Session and the Act that originated as Senate Bill No. 333 of the 2014 Regular Session, a conviction for a violation of R.S. 14:89(A)(2) shall be the same as a conviction for the crime of incest (R.S. 14:78) and a conviction for a violation of R.S. 14:89.1(A)(2) shall be the same as a conviction for the crime of aggravated incest (R.S. 14:78.1). Neither Act shall be construed to alleviate any person convicted or adjudicated delinquent of incest (R.S. 14:78) or aggravated incest (R.S. 14:78.1) from any requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication including but not limited to any requirements regarding sex offender registration and notification, parental rights, probation, parole, sentencing, or any other requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication.

Added by Acts 1962, No. 60, §1. Amended by Acts 1979, No. 125, §1; Acts 1984, No. 683, §1; Acts 2014, No. 177, §1; Acts 2014, No. 599, §1, eff. June 12, 2014; Acts 2014, No. 602, §4, eff. June 12, 2014; Acts 2014, No. 811, §6, eff. June 23, 2014.

§89.2. Crime against nature by solicitation

A. Crime against nature by solicitation is the solicitation by a human being of another with the intent to engage in any unnatural carnal copulation for compensation.

B.(1) Whoever violates the provisions of this Section, on a first conviction thereof, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Whoever violates the provisions of this Section, on a second or subsequent conviction thereof, shall be fined not less than two hundred fifty dollars and not more than two thousand dollars, imprisoned, with or without hard labor, for not more than two years, or both.

(3)(a) Whoever violates the provisions of this Section, when the person being solicited is under the age of eighteen years, shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(b) Whoever violates the provisions of this Section, when the person being solicited is under the age of fourteen years, shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both. Twenty-five years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence.

C. A violation of the provisions of Paragraph (B)(3) of this Section shall be considered a sex offense as defined in R.S. 15:541 and the offender shall be required to register as a sex offender as provided for in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

D.(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) Lack of knowledge of the age of the person being solicited shall not be a defense.

(3) It shall not be a defense to prosecution for a violation of Paragraph (B)(3) of this Section that the person being solicited consented to the activity prohibited by this Section.

(4) It shall not be a defense to prosecution for a violation of Paragraph (B)(3) of this Section that the person being solicited is actually a law enforcement officer or peace officer acting within the official scope of his duties.

(5) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

Acts 2010, No. 882, §1; Acts 2011, No. 223, §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1.

§89.3. Sexual abuse of an animal

A. Sexual abuse of an animal is the knowing and intentional performance of any of the following:

(1) Engaging in sexual contact with an animal.

(2) Possessing, selling, transferring, purchasing, or otherwise obtaining an animal with the intent that it be subject to sexual contact.

(3) Organizing, promoting, conducting, aiding or abetting, or participating in as an observer, any act involving sexual contact with an animal.

(4) Causing, coercing, aiding, or abetting another person to engage in sexual contact with an animal.

(5) Permitting sexual contact with an animal to be conducted on any premises under his charge or control.

(6) Advertising, soliciting, offering, or accepting the offer of an animal with the intent that it be used for sexual contact.

(7) Filming, distributing, or possessing pornographic images of a person and an animal engaged in any of the activities described in Paragraphs (1) through (6) of this Subsection.

B. For purposes of this Section:

(1) "Animal" means any nonhuman creature, whether alive or dead.

(2) "Sexual contact" means:

(a) Any act committed for the purpose of sexual arousal or sexual gratification, abuse, or financial gain, between a person and an animal involving contact between the sex organs or anus of one and the mouth, sex organs, or anus of the other.

(b) The insertion, however slight, of any part of the body of a person or any object into the vaginal or anal opening of an animal, touching by a person of the sex organs or anus of an animal, or the insertion of any part of the animal's body into the vaginal or anal opening of the person.

C. This Section shall not apply to any of the following:

(1) Accepted veterinary practices.

(2) Artificial insemination of an animal for reproductive purposes.

(3) Accepted animal husbandry practices, including grooming, raising, breeding, or assisting with the birthing process of animals or any other procedure that provides care for an animal.

(4) Generally accepted practices related to the judging of breed conformation.

D.(1)(a) Except as provided in Subparagraph (b) of this Paragraph, whoever commits the offense of sexual abuse of an animal shall be fined not more than two thousand dollars, imprisoned, with or without hard labor, for not more than five years, or both.

(b) Whoever commits a second or subsequent offense of sexual abuse of an animal, shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars, or imprisoned, with or without hard labor, for not more than ten years, or both.

(2) In addition to any other penalty imposed, a person convicted of violating this Section shall be ordered to:

(a) Relinquish custody of all animals.

(b) Not harbor, own, possess, or exercise control over any animal for any length of time deemed appropriate by the court, but not less than five years.

(c) Not reside in any household where an animal is present; engage in an occupation, whether paid or unpaid, involving animals; or participate in a volunteer position at any establishment where animals are present, for any length of time deemed appropriate by the court, but not less than five years.

(d) Undergo a psychological evaluation for sex offenders and participate in any recommended psychological treatment. Any costs associated with any evaluation or treatment ordered by the court shall be paid by the defendant.

(e) If the convicted person is not the owner, reimburse the owner for any expenses incurred for medical treatment or rehabilitation of the victimized animal.

(3) If a person convicted of the offense of sexual abuse of an animal is released on parole, the committee on parole shall require the person, as a condition of parole, to participate in a sex offender program as defined by R.S. 15:828(A)(2)(b).

E.(1) Any law enforcement officer investigating a violation of this Section may lawfully take possession of an animal that he has reason to believe has been victimized under this Section in order to protect the health or safety of the animal or the health or safety of others, and to obtain evidence of the offense.

(2) Any animal seized pursuant to this Section shall be promptly taken to a shelter facility or veterinary clinic to be examined by a veterinarian for evidence of sexual contact.

(3) With respect to an animal so seized and impounded, all provisions of R.S. 14:102.2 and 102.3 shall apply to the seizure, impoundment, and disposition of the animal.

F. Prosecution under this Section shall not preclude prosecution under any other applicable provision of law.

Acts 2018, No. 485, §1, eff. May 25, 2018.

5. HUMAN-ANIMAL HYBRIDS

§89.6. Human-animal hybrids

A. It shall be unlawful for any person to knowingly:

(1) Create or attempt to create a human-animal hybrid.

(2) Transfer or attempt to transfer a human embryo into a nonhuman womb.

(3) Transfer or attempt to transfer a nonhuman embryo into a human womb.

B. Whoever violates this Section shall be imprisoned at hard labor for not more than ten years, or fined not more than ten thousand dollars, or both.

C. Whoever violates this Section and derives pecuniary gain from the violation shall be subject to a civil fine of one million dollars or an amount equal to the amount of the gross gain multiplied by two.

D. As used in this Section, the following words and phrases shall have the following meaning:

(1) Human-animal hybrid means:

(a) A human embryo into which a nonhuman cell or cells or the component parts thereof have been introduced or a nonhuman embryo into which a human cell or cells or the component parts thereof have been introduced.

(b) A hybrid human-animal embryo produced by fertilizing a human egg with a nonhuman sperm.

(c) A hybrid human-animal embryo produced by fertilizing a nonhuman egg with human sperm.

(d) An embryo produced by introducing a nonhuman nucleus into a human egg.

(e) An embryo produced by introducing a human nucleus into a nonhuman egg.

(f) An embryo containing at least haploid sets of chromosomes from both a human and a nonhuman life form.

(g) A nonhuman life form engineered such that human gametes develop within the body of a nonhuman life form.

(h) A nonhuman life form engineered such that it contains a human brain or a brain derived wholly or predominately from human neural tissues.

(2) Human embryo means an organism of the species Homo sapiens during the earliest stages of development, from one cell up to eight weeks.

E. Nothing in this Subpart shall be interpreted as prohibiting either of the following if these do not violate the prohibitions of Subsection A or meet the definitions of Subsection D of this Section:

(1) Research involving the use of transgenic animal models containing human genes.

(2) Xenotransplantation of human organs, tissues or cells into recipient animals other than animal embryos.

Acts 2009, No. 108, §1.

1. GAMBLING

§90. Gambling

A.(1)(a) Gambling is the intentional conducting, or directly assisting in the conducting, as a business, of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit.

(b) Whoever commits the crime of gambling shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

(2) Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be fined not more than twenty thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both when:

(a) R.S. 14:90 is violated.

(b) Five or more persons are involved who conduct, finance, manage, supervise, direct, or own all or part of an illegal gambling business.

(c) Such business has been in or remains in substantially continuous operation for a period of thirty days or more or, if the continuous operation is for less than thirty days, has a gross revenue of two thousand dollars in any single day.

B. The conducting, or directly assisting in the conducting, as a business, of any game, contest, lottery, or contrivance on board a commercial cruiseship used for the international carriage of passengers whereby a person risks the loss of anything of value in order to realize a profit is not gambling and shall not be suppressed by any law enforcement officer of the state of Louisiana or any of its political subdivisions. This Subsection shall apply only to commercial cruiseships for the carriage of passengers which are sailing from a port outside the continental limits of the United States to a port in any municipality of this state having a population of more than three hundred thousand or any such ship which is sailing from a port in such a municipality to a port outside the continental limits of the United States, provided that the ship is not docked or anchored but is navigating en route between such ports.

C. The conducting or assisting in the conducting of gaming activities or operations upon a riverboat at the official gaming establishment, by operating an electronic video draw poker device, by a charitable gaming licensee, or at a pari-mutuel wagering facility, conducting slot machine gaming at an eligible horse racing facility, or the operation of a state lottery which is licensed for operation and regulated under the provisions of Chapters 4 and 11 of Title 4, Chapters 4, 5, 7, and 8 of Title 27, or Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950, is not gambling for the purposes of this Section, so long as the wagering is conducted on the premises of the licensed establishment.

NOTE: Subsection D eff. upon enactment of laws relative to the licensing, regulation, and taxation of revenue relative to fantasy sports contests and adoption of rules by the La. Gaming Control Board. See Acts 2018, No. 322, §7.

D. Except as provided in R.S. 27:305, participation in any fantasy sports contest as defined by R.S. 27:302 shall not be considered gambling for the purposes of this Section.

Amended by Acts 1968, No. 647, §1; Acts 1979, No. 633, §1; Acts 1990, No. 1045, §2, eff. Nov. 7, 1990; Acts 1991, No. 158, §1; Acts 1991, No. 289, §6; Acts 1991, No. 753, §2, eff.

July 18, 1991; Acts 1992, No. 384, §2, eff. June 18, 1992; Acts 2010, No. 518, §§1, 2; Acts 2011, 1st Ex. Sess., No. 17, §1; Acts 2012, No. 161, §1, eff. August 1, 2012; Acts 2018, No. 322, §3, see Act.

§90.1. Seizure and disposition of evidence, property and proceeds; gambling

A.(1) Upon conviction of a person for the crime of gambling, gambling by computer, or related offenses, the evidence, property, and paraphernalia seized as instruments of such crime shall, upon order of the court, be destroyed when it is no longer needed as evidence and all such evidence, property, and paraphernalia found to be in use in the conduct of such unlawful activity and having a value for lawful purposes, shall be sold under the orders of the court at public auction and the proceeds handled in accordance with Subsection B of this Section.

(2) Nothing shall prohibit the seizing or prosecutorial agency from petitioning the court to keep and maintain articles of evidence, property and paraphernalia for the purposes of training of investigators, historical display, or both.

B.(1) All property, immovable or movable, including money, used in the course of, intended for use in the course of, derived from, or realized through, conduct in violation of a provision of R.S. 14:90, 90.2, 90.3, or 90.6, notwithstanding whether a conviction has been procured, is subject to civil forfeiture to the state. The state shall dispose of all forfeited property as soon as commercially feasible.

(2)(a) All forfeitures or dispositions under this Subsection shall be made with due regard for the rights of factually innocent persons. No mortgage, lien, privilege, or other security interest recognized under the laws of Louisiana shall be affected by a forfeiture hereunder if the holder of such mortgage, lien, privilege, or other security interest establishes that he is a factually innocent person. No forfeiture or disposition under this Section shall affect the rights of factually innocent persons provided that following notice of pending forfeiture a written claim is filed with the seizing agency and the district attorney within thirty days of seizure.

(b) Notwithstanding the provisions of this Section, a mortgage, lien, or security interest held by a federally-insured financial institution shall not be affected by the seizure and forfeiture provisions of this Section.

(3) Notice of pending forfeiture or service shall be given in accordance with one of the following:

(a) If the owner's or interest holder's name and current address are known, either by personal service or by mailing a copy of the notice by certified mail to that address.

(b) If the owner's or interest holder's name and address are required by law to be recorded with the parish clerk of court, the office of motor vehicles of the Department of Public Safety and Corrections, or another state or federal agency to perfect an interest in the property, and the owner's or interest holder's current address is not known, by mailing a copy of the notice by certified mail, return receipt requested, to any address of record with any of such agencies.

(c) If the owner's or interest holder's address is not known and is not on record as provided in Subparagraph (b) of this Paragraph, or the owner's or interest holder's interest is not known, by publication in one issue of the official journal in the parish in which the seizure occurs.

(d) Notice is effective upon personal service, publication, or the mailing of a written notice, whichever is earlier, and shall include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture or the violation of law alleged, and a summary of procedures and procedural rights applicable to the forfeiture action.

(e) The district attorney may file, without a filing fee, a lien for the forfeiture of property upon the initiation of any civil or criminal proceeding under this Chapter or upon seizure for forfeiture. The filing constitutes notice to any person claiming an interest in the seized property or in property owned by the named person.

(4)(a) Only an owner of or interest holder in property seized for forfeiture may file a claim, and shall do so in the manner provided in this Section. The claim shall be mailed to the seizing agency and to the district attorney by certified mail, return receipt requested, within thirty days after notice of pending forfeiture. No extension of time for the filing of a claim shall be granted.

(b) The claim shall be in affidavit form, signed by the claimant under oath, and sworn to by the affiant before one who has authority to administer the oath, under penalty of perjury or false swearing and shall set forth all of the following:

(i) The caption of the proceedings as set forth on the notice of pending forfeiture or petition and the name of the claimant.

(ii) The address where the claimant will accept mail.

(iii) The nature and extent of the claimant's interest in the property.

(iv) The date, identity of the transferor, and the circumstances of the claimant's acquisition of the interest in the property.

(v) The specific provision of this Chapter relied on in asserting that the property is not subject to forfeiture.

(vi) All essential facts supporting each assertion.

(vii) The specific relief sought.

(5) The allocation of proceeds from such forfeiture and disposition shall be determined by the court in accordance with each law enforcement entity's participation in the investigation, seizure, and forfeiture process.

(a) Proceeds are to be placed into a gambling forfeiture trust fund maintained by the appropriate local, state, or federal agency. Such proceeds are to be used exclusively in law enforcement. Permissible uses include, but are not limited to, reward programs established by such agencies, prosecution, continuing legal education, law enforcement training and equipment.

(b) Prior to such allocation, the costs of investigation shall be paid to the law enforcement agency conducting the investigation and twenty-five percent of the proceeds, including the costs of prosecution, shall be paid to the district attorney's gambling forfeiture trust fund, or in parishes where no such fund exists, to the district attorney's office.

(c) The court shall make an allocation of twenty-five percent of the proceeds based on participation of law enforcement agencies involved.

(d) The remainder of the proceeds shall be deposited into the State General Fund.

C.(1) In the event of a seizure under this Section, a forfeiture proceeding shall be instituted within a reasonable period of time. Property taken or detained under this Section shall not be subject to sequestration or attachment but is deemed to be in the custody of the law

enforcement officer making the seizure, subject only to the order of the court. When property is seized under this Section, pending forfeiture and final disposition, the law enforcement officer making the seizure may either:

(a) Place the property under seal.

(b) Remove the property to a place designated by the court.

(c) Request another agency authorized by law to take custody of the property and remove it to an appropriate location.

(2) In the case of currency, the currency shall be photographed and transferred in the form of a cashiers check to the district attorney for deposit into the gambling forfeiture trust fund pending adjudication.

D. The district attorney may institute civil proceedings under this Section. In any action brought under this Section, the district court shall proceed as soon as practicable to the hearing and determination. Pending final determination, the court may at any time enter such injunctions or restraining orders or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper.

E. A final judgment or decree rendered in favor of the state in any criminal proceeding shall preclude the defendant from denying the essential facts established in that proceeding in any subsequent civil action.

F. Notwithstanding any other provision of law, a criminal or civil action or proceeding under this Chapter may be commenced at any time within five years after the conduct in violation of a provision of this Chapter terminates or the cause of action accrues. If a criminal prosecution or civil action is brought under the provisions of this Chapter, the running of the period prescribed by this Section with respect to any cause of action arising under Subsection D of this Section which is based in whole or in part upon any matter complained of in any such prosecution or action shall be suspended during the pendency of such prosecution or action and for two years following its termination.

G. A defendant who violates any provision of R.S. 14:90 or 90.3 shall be liable individually, and when two or more defendants have violated any provision of R.S. 14:90 or 90.3 they be liable in solido for all damages, costs of court, and other costs associated with the investigation and prosecution of such violations.

Added by Acts 1979, No. 317, §1, eff. July 10, 1979; Acts 2008, No. 673, §1, eff. July 1, 2008.

§90.2. Gambling in public

A. Gambling in public is the aiding or abetting or participation in any game, contest, lottery, or contrivance, in any location or place open to the view of the public or the people at large, such as streets, highways, vacant lots, neutral grounds, alleyway, sidewalk, park, beach, parking lot, or condemned structures whereby a person risks the loss of anything of value in order to realize a profit.

B. This Section shall not prohibit activities authorized under the Charitable Raffles, Bingo and Keno Licensing Law,1 nor shall it apply to bona fide fairs and festivals conducted for charitable purposes.

C. Whoever commits the crime of gambling in public shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

Added by Acts 1979, No. 754, §1, eff. July 20, 1979.

1R.S. 33:4861.1 et seq.

§90.3. Gambling by computer

A. The Legislature of Louisiana, desiring to protect individual rights, while at the same time affording opportunity for the fullest development of the individual and promoting the health, safety, education, and welfare of the people, including the children of this state who are our most precious and valuable resource, finds that the state has a compelling interest in protecting its citizens and children from certain activities and influences which can result in irreparable harm. The legislature has expressed its intent to develop a controlled well-regulated gaming industry. The legislature is also charged with the responsibility of protecting and assisting its citizens who suffer from compulsive or problem gaming behavior which can result from the increased availability of legalized gaming activities. The legislature recognizes the development of the Internet and the information super highway allowing communication and exchange of information from all parts of the world and freely encourages this exchange of information and ideas. The legislature recognizes and encourages the beneficial effects computers, computer programming, and use of the Internet resources have had on the children of the state of Louisiana by expanding their educational horizons. The legislature further recognizes that it has an obligation and responsibility to protect its citizens, and in particular its youngest citizens, from the pervasive nature of gambling which can occur via the Internet and the use of computers connected to the Internet. Gambling has long been recognized as a crime in the state of Louisiana and despite the enactment of many legalized gaming activities remains a crime. Gambling which occurs via the Internet embodies the very activity that the legislature seeks to prevent. The legislature further recognizes that the state's constitution and that of the United States are declarations of rights which the drafters intended to withstand time and address the wrongs and injustices which arise in future years. The legislature hereby finds and declares that it has balanced its interest in protecting the citizens of this state with the protection afforded by the First Amendment, and the mandates of Article XII, Section 6 of the Constitution of Louisiana and that this Section is a product thereof.

B. Gambling by computer is the intentional conducting, or directly assisting in the conducting as a business of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit when accessing the Internet, World Wide Web, or any part thereof by way of any computer, computer system, computer network, computer software, or any server.

C. For purposes of this Section the following definitions apply:

(1) "Client" means anyone using a computer to access a computer server.

(2) "Computer" includes an electronic, magnetic, optical, or other high-speed data processing device or system performing logical, arithmetic, and storage functions, and includes any property, data storage facility, or communications facility directly related to or operating in conjunction with such device or system. "Computer" shall not include an automated typewriter or typesetter, a machine designed solely for word processing, or a portable hand-held calculator, nor shall "computer" include any other device which might contain components similar to those in computers but in which the components have the sole function of controlling the device for the single purpose for which the device is intended.

(3) "Computer network" means a set of related, remotely connected devices and communication facilities including at least one computer system with capability to transmit data through communication facilities.

(4) "Computer services" means providing access to or service or data from a computer, a computer system, or a computer network.

(5) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with operation of a computer system.

(6) "Computer system" means a set of functionally related, connected or unconnected, computer equipment, devices, or computer software.

(7) "Home Page" means the index or location for each computer site on the World Wide Web.

(8) "Internet" means the global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions, is able to support communications using the Transmission Control Protocol/Internet Protocol suite or its subsequent extensions, and other Internet Protocol compatible protocols, and provides, uses or makes accessible, either publicly or privately, high level services layered on the communications and related infrastructure described herein.

(9) "Server" means a computer that listens for and services a client.

(10) "World Wide Web" means a server providing connections to mega lists of information on the Internet; it is made up of millions of individual web sites linked together.

D. Whoever commits the crime of gambling by computer shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

E. Whoever designs, develops, manages, supervises, maintains, provides, or produces any computer services, computer system, computer network, computer software, or any server providing a Home Page, Web Site, or any other product accessing the Internet, World Wide Web, or any part thereof offering to any client for the primary purpose of the conducting as a business of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit shall be fined not more than twenty thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

F. The conducting or assisting in the conducting of gaming activities or operations upon a riverboat, at the official gaming establishment, by operating an electronic video draw poker device, by a charitable gaming licensee, or at a pari-mutuel wagering facility, conducting slot machine gaming at an eligible horse racing facility, or the operation of a state lottery which is licensed for operation and regulated under the provisions of Chapters 4 and 11 of Title 4, Chapters 4, 5, 6, and 7 of Title 27, or Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by computer for the purposes of this Section, so long as the wagering is done on the premises of the licensed establishment.

G. The conducting or assisting in the conducting of pari-mutuel wagering at licensed racing facilities under the provisions of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by computer for the purposes of this Section so long as the wagering is done on the premises of the licensed establishment.

H. Nothing in this Section shall prohibit, limit, or otherwise restrict the purchase, sale, exchange, or other transaction related to stocks, bonds, futures, options, commodities, or other similar instruments or transactions occurring on a stock or commodities exchange, brokerage house, or similar entity.

I. The providing of Internet or other on-line access, transmission, routing, storage, or other communication related services, or Web Site design, development, storage, maintenance, billing, advertising, hypertext linking, transaction processing, or other site related services, by telephone companies, Internet Service Providers, software developers, licensors, or other such parties providing such services to customers in the normal course of their business, shall not be considered gambling by computer even though the activities of such customers using such services to conduct a prohibited game, contest, lottery, or contrivance may constitute gambling by computer for the purposes of this Section. The provisions of this Subsection shall not exempt from criminal prosecution any telephone company, Internet Service Provider, software developer, licensor, or other such party if its primary purpose in providing such service is to conduct gambling as a business.

NOTE: Subsection J eff. upon enactment of laws relative to the licensing, regulation, and taxation of revenue relative to fantasy sports contests and adoption of rules by the La. Gaming Control Board. See Acts 2018, No. 322.

J. Except as provided in R.S. 27:305, participation in any fantasy sports contest as defined by R.S. 27:302 shall not be considered gambling by computer for the purposes of this Section.

Acts 1997, No. 1467, §1; Acts 2010, No. 518, §1; Acts 2018, No. 322, §3, see Act.

§90.4. Unlawful playing of video draw poker devices by persons under the age of twenty-one; penalty

A. It is unlawful for any person under twenty-one years of age to play video draw poker devices.

B. For purposes of this Section, "video draw poker device" means a device, as defined in R.S. 27:301(B)(15), placed in an establishment licensed for operation and regulated under the applicable provisions of Chapter 6 of Title 27 of the Louisiana Revised Statutes of 1950.

C. Whoever violates the provisions of this Section shall be fined not more than one hundred dollars for the first offense, two hundred fifty dollars for the second offense, and five hundred dollars for the third offense.

D. A gaming licensee, or a specifically authorized employee or agent of a gaming licensee, may use reasonable force to detain a person for questioning on the premises of the gaming establishment, for a length of time, not to exceed sixty minutes, unless it is reasonable under the circumstances that the person be detained longer, when he has reasonable cause to believe that the person has violated the provisions of this Section. The licensee or his employee or agent may also detain such a person for arrest by a peace officer. The detention shall not constitute an arrest.

Acts 1998, 1st Ex. Sess., No. 162, §1.

§90.5. Unlawful playing of gaming devices by persons under the age of twenty-one; underage persons, penalty

A. It is unlawful for any person under twenty-one years of age to play casino games, gaming devices, or slot machines.

B. No person under the age of twenty-one, except an emergency responder acting in his official capacity, shall enter, or be permitted to enter, the designated gaming area of a riverboat,

the designated gaming area of the official gaming establishment, or the designated slot machine gaming area of a pari-mutuel wagering facility which offers live horse racing licensed for operation and regulated under the applicable provisions of Chapters 4, 5, and 7 of Title 27 of the Louisiana Revised Statutes of 1950.

C. For purposes of this Section, "casino games, gaming devices, or slot machines" means a game or device, as defined in R.S. 27:44(10) or (12), 205(12) or (13), or 353(14) operated on a riverboat, at the official gaming establishment, or at a pari-mutuel wagering facility which offers live horse racing which is licensed for operation and regulated under the provisions of Chapters 4, 5, and 7 of Title 27 of the Louisiana Revised Statutes of 1950.

D. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars and may be imprisoned for not more than six months, or both.

Acts 2004, No. 828, §1; Acts 2014, No. 738, §1; Acts 2016, No. 488, §1.

§90.6. Gambling or wagering at cockfights

A. Gambling or wagering at a cockfight is the aiding or abetting or participation in any game, contest, lottery, or contrivance, in any location or place where a cockfight is being conducted and whereby a person risks the loss of anything of value in order to realize a profit.

B. Whoever commits the crime of gambling or wagering at a cockfight shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. Upon a second and subsequent violation of this Section, the penalty shall be a fine of one thousand dollars, or imprisonment for not more than one year, or both.

C. Whoever conducts, finances, manages, supervises, directs, leases, or owns all or part of a business or the premises when such person has knowledge that gambling or wagering at a cockfight occurs shall be fined not more than twenty thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

Acts 2007, No. 223, §1.

§90.7. Gambling by electronic sweepstakes device

A. The Louisiana Legislature finds that in recent years various companies have developed electronic machines and devices to enable gambling through pretextual sweepstakes relationships with Internet services, telephone cards, and other products, and that such electronic sweepstakes systems using electronic gambling machines, computer terminals, and other means of presented simulated gambling, are contrary to the public policy of this state.

B. Gambling by electronic sweepstakes device is the intentional conducting of, or directly assisting in the conducting of, as a business any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit, through the operation of an electronic gaming machine or device that does or purports to do either of the following:

(1) Conduct a sweepstakes through the use of a simulated gambling device, including the entry process or the revealing of a prize.

(2) Promote a sweepstakes that is conducted through the use of a simulated gambling device, including the entry process or the revealing of a prize.

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

(1) "Electronic gaming machine or device" means a mechanically, electrically, or electronically-operated machine or device that is intended to be used by a sweepstakes entrant and that displays the results of a game entry or game outcome to a participant on a screen or other mechanism at a business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by any person conducting the sweepstakes or by that person's partners, affiliates, subsidiaries, agents, or contractors. The term includes an electronic gaming machine or device which includes any of the following characteristics:

(a) Uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.

(b) Uses software that simulates a game that influences or determines the winning or value of the prize.

(c) Selects prizes from a predetermined finite pool of entries.

(d) Uses a mechanism that reveals the content of a predetermined sweepstakes entry.

(e) Predetermines the prize results and restores those results for delivery at the time the sweepstakes entry is revealed.

(f) Uses software to create a game result.

(g) Requires a deposit of any money, coin or token, or the use of any credit card, debit card, prepaid card, or other method of payment to activate the electronic gaming machine or device.

(h) Requires direct payment into the electronic gaming machine or device or remote activation of the electronic gaming machine or device.

(i) Requires purchase of a related product and the related product has legitimate value.

(j) Reveals the prize incrementally even though it may not influence whether a prize is awarded or the value of any prize awarded.

(k) Determines and associates the prize with an entry or entries at the time the sweepstakes is entered.

(2) "Enter" or "entry" means the act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.

(3) "Prize" means any gift, award, gratuity, good, service, credit, or anything else of value which may be transferred to a person whether or not possession of the prize is actually transferred or placed on an account or other record as evidence of the intent to transfer the prize. "Prize" shall not include free or additional play or intangible or virtual prizes that cannot be converted into money or merchandise.

(4) "Simulated gambling device" means a mechanically or electronically operated machine, network, system, or device that is intended to be used by an entrant to a game promotion or sweepstakes and that displays a simulated gambling display on a screen or other mechanism at a business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by any person conducting the game or by that person's partners, affiliates, subsidiaries, agents, or contractors. The term shall include, but is not limited to:

(a) A video poker game or any other kind of video card game.

(b) A video bingo game.

(c) A video craps game.

(d) A video keno game.

(e) A video lotto game.

(f) Eight liner.

(g) Pot-of-gold.

(h) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols.

(i) A personal computer of any size or configuration that performs any of the functions of an electronic gaming machine or device as defined in this Section.

(j) A slot machine.

(5) "Sweepstakes" means any game, advertising scheme, plan, or other promotion that, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize.

D. Whoever commits the crime of gambling by electronic sweepstakes device shall be fined not more than twenty thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

E. The conducting or assisting in the conducting of gaming activities or operations upon a riverboat, at the official gaming establishment, by operating an electronic video draw poker device, by a charitable gaming licensee, or at a pari-mutuel wagering facility, conducting slot machine gaming at an eligible horse racing facility, or the operation of a state lottery which is licensed for operation and regulated under the provisions of Chapters 4 and 11 of Title 4, Chapters 4, 5, 7, and 8 of Title 27, or Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by electronic sweepstakes device for the purposes of this Section, provided that the wagering is done on the premises of the licensed establishment.

F. The conducting or assisting in the conducting of pari-mutuel wagering at licensed racing facilities under the provisions of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950 shall not be considered gambling by electronic sweepstakes device for the purposes of this Section provided that the wagering is done on the premises of the licensed establishment.

G. Nothing in this Section shall prohibit, limit, or otherwise restrict the purchase, sale, exchange, or other transaction related to stocks, bonds, futures, options, commodities, or other similar instruments or transactions occurring on a stock or commodities exchange, brokerage house, or similar entity.

H. Nothing in this Section shall limit or alter in any way the application of the requirements for sweepstakes, contests, prizes, and similar activities under the provisions of Chapter 19-A of Title 51 of the Louisiana Revised Statutes of 1950.

I. The providing of Internet or other online access, transmission, routing, storage, or other communication-related services, or website design, development, storage, maintenance, billing, advertising, hypertext linking, transaction processing, or other site-related services, by telephone companies, Internet service providers, software developers, licensors, or other such parties providing such services to customers in the normal course of business, shall not be considered gambling by electronic sweepstakes device even though the activities of such customers using such services to conduct a prohibited game, contest, lottery, or contrivance may constitute gambling by computer for the purposes of this Section. The provisions of this Subsection shall not exempt from criminal prosecution any software developer, licensor, or other

such party if its primary purpose in providing such service is to support the conduct of gambling as a business.

Acts 2014, No. 233, §1.

2. OFFENSES AFFECTING THE HEALTH AND MORALS OF MINORS

§91. Unlawful sales of weapons to minors

A. Unlawful sales of weapons to minors is the selling or otherwise delivering for value of any firearm or other instrumentality customarily used as a dangerous weapon to any person under the age of eighteen. Lack of knowledge of the minor's age shall not be a defense.

B. Whoever commits the crime of unlawful sales of weapons to minors shall be fined not more than three hundred dollars or imprisoned for not more than six months, or both.

Amended by Acts 1972, No. 704, §1; Acts 1972, No. 768, §5; Acts 1994, 3rd Ex. Sess., No. 84, §1; Acts 1995, No. 639, §1; Acts 1996, 1st Ex. Sess., No. 78, §1.

§91.1. Unlawful presence of a sexually violent predator

A. Unlawful presence of a sexually violent predator is any of the following:

(1) The physical presence of a sexually violent predator on the school property of any public or private, elementary or secondary school, or in any motor vehicle or other means of conveyance owned, leased, or contracted by such school to transport students to or from school or a school-related activity when persons under the age of eighteen years are present on the school property or in a school vehicle.

(2) The physical residing of a sexually violent predator within one thousand feet of any of the following:

(a) Public or private elementary or secondary school.

(b) Early learning center as defined by R.S. 17:407.33.

(c) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

(d) Residential home as defined by R.S. 46:1403.

(e) Playground.

(f) Public or private youth center.

(g) Public swimming pool.

(h) Free standing video arcade facility.

B. It shall not be a violation of Paragraph (A)(1) of this Section if the offender has permission to be present from the superintendent of the school board in the case of a public school or the principal or headmaster in the case of a private school.

C. If permission is granted to an offender to be present on public school property by the superintendent for that public school pursuant to Subsection B of this Section, then the superintendent shall notify the principal at least twenty-four hours in advance of the visit by the offender. This notification shall include the nature of the visit and the date and time in which the sex offender will be present in the school. The offender shall notify the office of the principal upon arrival on the school property and upon departing from the school. If the offender is to be present in the vicinity of children, the offender shall remain under the direct supervision of a school official.

D. For purposes of this Section:

(1) "School property" means any property used for school purposes, including but not limited to school buildings, playgrounds, and parking lots.

(2) "Sexually violent predator" means a person defined as such in accordance with the provisions of Chapter 3-D of Title 15 of the Louisiana Revised Statutes of 1950.

E. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned for not more than six months, or both.

Acts 2001, No. 1044, §1; Acts 2004, No. 178, §1; Acts 2006, No. 186, §1, eff. June 2, 2006; Acts 2009, No. 210, §1, eff. Sept. 1, 2009; Acts 2018, No. 5, §1.

§91.2. Unlawful presence of a sex offender

A. The following acts when committed by a person convicted of a sex offense as defined in R.S. 15:541 when the victim is under the age of thirteen years shall constitute the crime of unlawful residence or presence of a sex offender:

(1) The physical presence of the offender in, on, or within one thousand feet of the school property of any public or private elementary or secondary school or the physical presence in any motor vehicle or other means of conveyance owned, leased, or contracted by such school to transport students to or from school or a school-related activity when persons under the age of eighteen years are present on the school property or in a school vehicle.

(2) The offender establishing a residence within one thousand feet of any of the following:

(a) Public or private elementary or secondary school.

(b) Early learning center as defined by R.S. 17:407.33.

(c) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

(d) Residential home as defined by R.S. 46:1403.

(3) The physical presence of the offender in, on, or within one thousand feet of any of the following:

(a) Public park or recreational facility.

(b) Early learning center as defined by R.S. 17:407.33.

(c) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

(d) Residential home as defined by R.S. 46:1403.

(4) The offender establishing a residence within one thousand feet of any public park or recreational facility.

(5) The physical presence of the offender in or on public library property.

(6) Loitering within one thousand feet of public library property.

B. The following acts, when committed by a person convicted of an aggravated offense as defined in R.S. 15:541 when the victim is under the age of thirteen years, shall constitute the crime of unlawful residence or presence of a sex offender:

(1) The physical presence of the offender in, on, or within one thousand feet of any of the following:

(a) Early learning center as defined by R.S. 17:407.33.

(b) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

(c) Residential home as defined by R.S. 46:1403.

(2) The establishment of a residence within one thousand feet of any of the following:

(a) Early learning center as defined by R.S. 17:407.33.

(b) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

(c) Residential home as defined by R.S. 46:1403.

(d) Playground.

(e) Public or private youth center.

(f) Public swimming pool.

(g) Free standing video arcade facility.

C.(1) It shall not be a violation of the provisions of this Section if the offender has permission to be present on school premises from the superintendent of the school board in the case of a public school or the principal or headmaster in the case of a private school.

(2) If permission is granted to an offender to be present on public school property by the superintendent for that public school pursuant to this Subsection, then the superintendent shall notify the principal at least twenty-four hours in advance of the visit by the offender. This notification shall include the nature of the visit and the date and time in which the sex offender will be present in the school. The offender shall notify the office of the principal upon arrival on the school property and upon departing from the school. If the offender is to be present in the vicinity of children, the offender shall remain under the direct supervision of a school official.

(3) Any superintendent, principal, or school master who acts in good faith in compliance with this Subsection shall be immune from civil or criminal liability for his actions in connection with any injury or claim arising from an offender being present on school property pursuant to permission granted by that superintendent, principal, or school master.

D.(1) It shall not be a violation of this Section if the offender has complied with all regulations of the governing board of the public library that restrict access of sex offenders to public library property.

(2) By January 1, 2013, each governing board of a public library shall develop and implement a plan to regulate access of sex offenders to the public library property under its jurisdiction.

(3) Each governing board of a public library shall tailor its regulations to reasonably restrict the time, place, and manner of access to public library property and shall narrowly tailor the regulations to serve the significant governmental interest of protecting children from contact with sex offenders.

(4) The State Library of Louisiana shall provide technical assistance in the development of the regulations by the governing boards. Such assistance shall guide the governing boards to develop, to the extent practicable, regulations that are uniform and ensure fair and consistent application across jurisdictions.

(5) Any public servant, including any head librarian, member of a governing board of a public library, staff and volunteers of a public library, and the state of Louisiana, who acts in good faith in compliance with this Subsection shall be immune from civil and criminal liability for his actions in connection with any injury or claim arising from a sex offender being present on public library property.

(6) Nothing in this Subsection shall prevent a public library from adopting a total ban on a sex offender's access to public library property, provided that the governing board complies with the criteria set forth in Paragraph (3) of this Subsection.

(7) No provision of this Subsection shall apply when the sex offender is reporting to a police station or a court house which is within the distance specified herein from a library.

E. For purposes of this Section:

(1) "Governing board of the public library" means a library board of control or other public body responsible for the operations of a public library.

(2) "Loitering" means to linger, remain, or prowl in a public place or on the premises of another for a protracted period of time without lawful business or reason to be present.

(3) "Public library" means a parish or municipal library provided for by Chapter 3 of Title 25 of the Louisiana Revised Statutes of 1950.

(4) "Public library property" means immovable property that is open to the public and is used as a branch of a parish or municipal public library, including any courtyard or parking lot that is under the direct and exclusive control of the public library.

(5) "Public park or recreational facility" means any building or area owned by the state or by a political subdivision that is open to the public and used or operated as a park or recreational facility and shall include all parks and recreational areas administered by the office of state parks in the Department of Culture, Recreation and Tourism.

(6) "School property" means any property used for school purposes, including but not limited to school buildings, playgrounds, and parking lots.

F. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

Acts 2006, No. 40, §1; Acts 2009, No. 210, §1, eff. Sept. 1, 2009; Acts 2012, No. 191, §1; Acts 2012, No. 693, §1, eff. Jan. 1, 2013; Acts 2018, No. 5, §1.

§91.3. Unlawful participation in a child-related business

A. No person who has been convicted of, or who has pled guilty or nolo contendere to, an offense listed in R.S. 15:587.1(C) shall own, operate, or in any way participate in the governance of any early learning center as defined by R.S. 17:407.33, residential home as defined by R.S. 46:1403, or residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

B. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

Acts 2009, No. 210, §1, eff. Sept. 1, 2009; Acts 2012, No. 223, §1; Acts 2018, No. 5, §1.

§91.4. Contributing to the endangerment of a minor

A. No person shall knowingly employ a person convicted of a sex offense as defined in R.S. 15:541, whose offense involved a minor child, to work in any early learning center as defined by R.S. 17:407.33, residential home as defined by R.S. 46:1403, or residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

B. No person shall knowingly permit a person convicted of a sex offense as defined in R.S. 15:541 physical access to any early learning center as defined by R.S. 17:407.33, residential home as defined by R.S. 46:1403, or residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

C. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned for not more than six months, or both.

Acts 2009, No. 210, §1, eff. Sept. 1, 2009; Acts 2018, No. 5, §1.

§91.5. Unlawful use of a social networking website

A. The following shall constitute unlawful use of a social networking website:

(1) The intentional use of a social networking website by a person who is required to register as a sex offender and who was convicted of R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), or R.S. 14:283 (video voyeurism) or was convicted of a sex offense as defined in R.S. 15:541 in which the victim of the sex offense was a minor.

(2) The provisions of this Section shall also apply to any person convicted for an offense under the laws of another state, or military, territorial, foreign, tribal, or federal law which is equivalent to the offenses provided for in Paragraph (1) of this Subsection, unless the tribal court or foreign conviction was not obtained with sufficient safeguards for fundamental fairness and due process for the accused as provided by the federal guidelines adopted pursuant to the Adam Walsh Child Protection and Safety Act of 2006.

B. For purposes of this Section:

(1) "Minor" means a person under the age of eighteen years.

(2)(a) "Social networking website" means an Internet website, the primary purpose of which is facilitating social interaction with other users of the website and has all of the following capabilities:

(i) Allows users to create web pages or profiles about themselves that are available to the general public or to any other users.

(ii) Offers a mechanism for communication among users.

(b) "Social networking website" shall not include any of the following:

(i) An Internet website that provides only one of the following services: photo-sharing, electronic mail, or instant messenging.

(ii) An Internet website the primary purpose of which is the facilitation of commercial transactions involving goods or services between its members or visitors.

(iii) An Internet website the primary purpose of which is the dissemination of news.

(iv) An Internet website of a governmental entity.

(3) "Use" shall mean to create a profile on a social networking website or to contact or attempt to contact other users of the social networking website.

C.(1) Whoever commits the crime of unlawful use of a social networking website shall, upon a first conviction, be fined not more than ten thousand dollars and shall be imprisoned with hard labor for not more than ten years without benefit of parole, probation, or suspension of sentence.

(2) Whoever commits the crime of unlawful use of a social networking website, upon a second or subsequent conviction, shall be fined not more than twenty thousand dollars and shall be imprisoned with hard labor for not less than five years nor more than twenty years without benefit of parole, probation, or suspension of sentence.

Acts 2011, No. 26, §1; Acts 2012, No. 205, §1.

§91.6. Unlawful distribution of sample tobacco products, alternative nicotine products, or vapor products to persons under age eighteen; penalty

A. No person shall distribute or cause to be distributed to persons under eighteen years of age a promotional sample of any tobacco product, alternative nicotine product, or vapor product.

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

(1) "Alternative nicotine product" means any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any of the following:

(a) Tobacco product.

(b) Vapor product.

(c) Product that is a drug pursuant to 21 U.S.C. §321(g)(1).

(d) Device pursuant to 21 U.S.C. §321(h).

(e) Combination product described in 21 U.S.C. §353(g).

(2) "Cigar" means any roll of tobacco for smoking, irrespective of size or shape, and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredients, where such roll has a wrapper made chiefly of tobacco.

(3) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper, or any other material, except where such wrapper is wholly or in greater part made of tobacco.

(4) "Smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity.

(5) "Smoking tobacco" means granulated, plug cut, crimp cut, ready rubbed, and any other kind and form of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette.

(6) "Tobacco product" means any cigar, cigarette, smokeless tobacco, or smoking tobacco.

(7) "Vapor product" means any non-combustible product containing nicotine or other substances that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include any of the following:

(a) Product that is a drug pursuant to 21 U.S.C. §321(g)(1).

(b) Device pursuant to 21 U.S.C. §321(h).

(c) Combination product described in 21 U.S.C. §353(g).

C. Whoever violates a provision of this Section shall be fined not less than one hundred dollars nor more than five hundred dollars upon conviction.

Acts 1988, No. 709, §1; Acts 2014, No. 278, §1, eff. May 28, 2014.

§91.7. Unauthorized possession or consumption of alcoholic beverages on public school property

A. No person shall intentionally possess or consume alcoholic beverages upon public school property unless authorized by the principal or person in charge of the public school property at the time.

B. For purposes of this Section:

(1) "School" means any public elementary or secondary school.

(2) "School property" means all property used for school purposes, including but not limited to school playgrounds, buildings, and parking lots.

C. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars and imprisoned not less than fifteen days nor more than six months.

Acts 1991, No. 866, §1; Acts 1994, 3rd Ex. Sess., No. 93, §1; Acts 2001, No. 403, §1, eff. June 15, 2001.

§91.8. Unlawful sale, purchase, or possession of tobacco, alternative nicotine product, or vapor product; signs required; penalties

A. This Section shall be known and may be cited as the "Prevention of Youth Access to Tobacco Law".

B. It is the intent of the legislature that enforcement of this Section shall be implemented in an equitable manner throughout the state. For the purpose of equitable and uniform implementation and application of state and local laws and regulations, the provisions of this Section shall supersede existing or subsequently adopted local ordinances or regulations which relate to the sale, promotion, and distribution of tobacco products, alternative nicotine product, or vapor product. It is the intent of the legislature that this Section shall be equitably enforced so as to ensure the eligibility for and receipt of any federal funds or grants the state now receives or may receive relating to the provisions of this Section.

C. It is unlawful for any manufacturer, distributor, retailer, or other person knowingly to sell or distribute any tobacco product, alternative nicotine product, or vapor product to a person under the age of eighteen. However, it shall not be unlawful for a person under the age of eighteen to accept receipt of a tobacco product, alternative nicotine product, or vapor product from an employer when required in the performance of such person's duties. At the point of purchase, a sign, in not less than 30-point type, shall be displayed that reads "LOUISIANA LAW PROHIBITS THE SALE OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS TO PERSONS UNDER AGE 18". The sign shall also include a notice that displays the telephone number for the Louisiana Tobacco Quitline (1-800-QUIT-NOW) and the website for the Louisiana Tobacco Quitline (www.quitwithusla.org), as determined by the state department of health.

D. It is unlawful for a vending machine operator to place in use a vending machine to vend any tobacco product, alternative nicotine product, or vapor product automatically, unless the machine displays a sign or sticker in not less than 22-point type on the front of the machine stating, "LOUISIANA LAW PROHIBITS THE SALE OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS TO PERSONS UNDER AGE 18". The sign shall also include a notice that displays the telephone number for the

Louisiana Tobacco Quitline (1-800-QUIT-NOW) and the website for the Louisiana Tobacco Quitline (www.quitwithusla.org), as determined by the state department of health.

E. It is unlawful for any person under the age of eighteen to buy any tobacco product, alternative nicotine product, or vapor product.

F.(1) It is unlawful for any person under the age of eighteen to possess any tobacco product, alternative nicotine product, or vapor product.

(2) However, it shall not be unlawful for a person under the age of eighteen to possess a tobacco product, alternative nicotine product, or vapor product under any of the following circumstances:

(a) When a person under eighteen years of age is accompanied by a parent, spouse, or legal guardian twenty-one years of age or older.

(b) In private residences.

(c) When the tobacco product, alternative nicotine product, or vapor product is handled during the course and scope of his employment and required in the performance of such person's duties.

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

(1) "Alternative nicotine product" means any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any:

(a) Tobacco product.

(b) Vapor product.

(c) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).

(d) Device pursuant to 21 U.S.C. 321(h).

(e) Combination product described in 21 U.S.C. 353(g).

(2) "Cigar" means any roll of tobacco for smoking, irrespective of size or shape, and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredients, where such roll has a wrapper made chiefly of tobacco.

(3) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper, or any other material, except where such wrapper is wholly or in greater part made of tobacco.

(4) "Smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity.

(5) "Smoking tobacco" means granulated, plug cut, crimp cut, ready rubbed, and any other kind and form of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette.

(6) "Tobacco product" means any cigar, cigarette, smokeless tobacco, or smoking tobacco.

(7) "Vapor product" means any non-combustible product containing nicotine or other substances that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with

or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include any of the following:

(a) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).

(b) Device pursuant to 21 U.S.C. 321(h).

(c) Combination product described in 21 U.S.C. 353(g).

H.(1) A person who violates the provisions of this Section by selling or buying tobacco products, alternative nicotine products, or vapor products shall be fined not more than fifty dollars for the first violation. The penalties for subsequent violations shall be a fine of not more than one hundred dollars for the second violation, a fine of not more than two hundred fifty dollars for the third violation, and a fine of not more than four hundred dollars for any violation thereafter.

(2) A person who violates the provisions of this Section by possessing tobacco products, alternative nicotine products, or vapor products shall be fined not more than fifty dollars for each violation.

I. A violation of the signage requirement of Subsection C of this Section shall be deemed to be a violation by the owner of the establishment where the violation occurred. A violation of the signage requirement of Subsection D of this Section shall be deemed to be a violation by the owner of the vending machine. For the first such violation, the owner shall be fined not more than fifty dollars. The penalties for subsequent violations shall be a fine of not more than one hundred dollars for the second violation, a fine of not more than two hundred fifty dollars for the third violation, and a fine of not more than five hundred dollars for any violation thereafter.

J. The law enforcement agency issuing the citation or making the arrest or the clerk of the court in which a prosecution is initiated, as the case may be, shall notify the commissioner of the office of alcohol and tobacco control of the action and the final disposition of the matter.

Acts 1991, No. 919, §1; Acts 1994, 3rd Ex. Sess., No. 64, §1; Acts 1997, No. 1010, §1; Acts 2014, No. 278, §1, eff. May 28, 2014; Acts 2018, No. 188, §1, eff. Nov. 1, 2018.

§91.9. Unlawful presence or contact of a sex offender relative to a former victim

A. It shall be unlawful for any person convicted of a sex offense as defined in R.S. 15:541 to do any of the following:

(1) Establish a residence or physically reside within three miles of the victim of the offense for which he was convicted.

(2) Knowingly be physically present within three hundred feet of the victim of the offense for which he was convicted.

(3) Communicate, either by electronic communication, in writing, or orally, with the victim of the offense for which he was convicted or an immediate family member of the victim, unless the victim consents to such communication in writing and the communication is made pursuant to the provisions of R.S. 46:1846.

B. For purposes of this Section, "immediate family member" means the spouse, mother, father, aunt, uncle, sibling, or child of the victim, whether related by blood, marriage, or adoption.

C.(1) Whoever violates the provisions of Paragraphs (A)(1) or (2) of this Section shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

(2) Whoever violates the provisions of Paragraph (A)(3) of this Section shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

D.(1)(a) It shall be an affirmative defense to prosecution for a violation of Paragraph (A)(1) of this Section if the property where the offender resides was occupied by the offender prior to the date on which the victim began residing within three miles of the residence of the offender.

(b) The affirmative defense provided in Subparagraph (a) of this Paragraph shall not be available to an offender who pleads guilty to or is convicted of a subsequent sex offense as defined in R.S. 15:541 against the same victim after the victim began residing within three miles of the residence of the offender.

(2)(a) It shall be an affirmative defense to prosecution for a violation of Paragraph (A)(1) of this Section if the property where the offender resides was occupied by the offender prior to August 1, 2012.

(b) The affirmative defense provided in Subparagraph (a) of this Paragraph shall not be available to an offender who pleads guilty to or is convicted of a subsequent sex offense as defined in R.S. 15:541 against the same victim after August 1, 2012.

Acts 2012, No. 42, §1.

§91.11. Sale, exhibition, or distribution of material harmful to minors

A.(1) The unlawful sale, exhibition, rental, leasing, or distribution of material harmful to minors is the intentional sale, allocation, distribution, advertisement, dissemination, exhibition, or display of material harmful to minors, by a person who is not the spouse, parent, or legal guardian of the minor to any unmarried person under the age of eighteen years, or the possession of material harmful to minors with the intent to sell, allocate, advertise, disseminate, exhibit, or display such material to any unmarried person under the age of eighteen years, by a person who is not the spouse, parent, or legal guardian of the minor at a newsstand or any other commercial establishment which is open to persons under the age of eighteen years.

(2) "Material harmful to minors" is defined as any paper, magazine, book, newspaper, periodical, pamphlet, composition, publication, photograph, drawing, picture, poster, motion picture film, video tape, video game, figure, phonograph record, album, cassette, compact disc, wire or tape recording, or other similar tangible work or thing which exploits, is devoted to or principally consists of, descriptions or depictions of illicit sex or sexual immorality for commercial gain, and when the trier of fact determines that each of the following applies:

(a) The material incites or appeals to or is designed to incite or appeal to the prurient, shameful, or morbid interest of minors.

(b) The material is offensive to the average adult applying contemporary community standards with respect to what is suitable for minors.

(c) The material taken as a whole lacks serious literary, artistic, political, or scientific value for minors.

(3) For the purpose of this Section "descriptions or depictions of illicit sex or sexual immorality" includes the depiction, display, description, exhibition or representation of:

(a) Ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being;

(b) Masturbation, excretory functions, or exhibition, actual, simulated, or animated, of the genitals, pubic hair, anus, vulva, or female breast nipples;

(c) Sadomasochistic abuse, meaning actual, simulated, or animated, flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained, on the part of one so clothed;

(d) Actual, simulated, or animated, touching, caressing, or fondling of, or other similar physical contact with, a pubic area, anus, female breast nipple, covered or exposed, whether alone or between human*, animals or a human and an animal, of the same or opposite sex, in an act of apparent sexual stimulation or gratification; or

(e) Actual, simulated, or animated, stimulation of the human genital organs by any device whether or not the device is designed, manufactured, and marketed for such purpose.

(4) "Minor" means any person under the age of eighteen years.

(5) "Video game" means an object or device that stores recorded data or instructions, receives data or instructions generated by a person who uses it, and, by processing the data or instructions, creates an interactive game capable of being played or viewed on or through a computer, gaming system, console, or other technology.

B.(1) It shall be unlawful for a person who is not the spouse, parent, or legal guardian of the minor to invite or permit any unmarried person under the age of eighteen years of age to be in any commercial establishment that exhibits or displays any item, material, work or thing of any kind that is described in Subsection A of this Section.

(2) Lack of knowledge of age shall not constitute a defense, unless the defendant shows that he had reasonable cause to believe that the minor involved was eighteen years of age or more and that the minor exhibited to the defendant a selective service card, driver's license, military identification card, birth certificate or other official or apparently official document purporting to establish that such a minor was eighteen years of age or more.

(3) For the purpose of Subsections A and B of this Section, "exhibition or display" means the exhibition or display of material harmful to minors as defined in Subsection A of this Section so that, as displayed, depictions and representations of illicit sex or sexual immorality are visible to minors.

(4) A commercial establishment shall not be in violation of this Section if the commercial establishment provides for a separate area for the exhibition or display of material harmful to minors and designates said area "NOT FOR MINORS" or similar words and the commercial establishment prohibits persons under the age of eighteen years from seeing or examining the contents of material harmful to minors.

C. This section does not preempt, nor shall anything in this section be construed to preempt, the regulation of obscenity by municipalities, parishes and consolidated city-parish governments; however, in order to promote uniform obscenity legislation throughout the state, the regulation of obscenity by municipalities, parishes and consolidated city-parish governments shall not exceed the scope of the regulatory prohibitions contained in the provisions of this section.

D. Prior to selling material harmful to minors as provided for by this Section, a commercial establishment shall require the individual purchasing the material harmful to minors

to provide a driver's license, selective service card, military identification card, birth certificate, or other official form of identification which on its face establishes the age of the person as eighteen years or older.

E. Whoever is found guilty of violating the provisions of this Section shall be fined not less than one hundred dollars nor more than two thousand dollars or imprisoned for not more than one year, or both.

Added by Acts 1966, No. 127, §§1, 2. Amended by Acts 1968, No. 647, §1; Acts 1974, No. 275, §1; Acts 1988, No. 782, §1; Acts 1989, No. 384, §1; Acts 2006, No. 529, §1.

*AS APPEARS IN ENROLLED BILL.

§91.12. Sale, distribution or making available to minors publications encouraging, advocating, or facilitating the illegal use of controlled dangerous substances

A. No person shall sell, distribute or make available to a person under eighteen years of age any publication which has as its dominant theme articles or a substantial number of advertisements encouraging, advocating, or facilitating the illegal use of any substance classified as a controlled dangerous substance pursuant to Title 40 of the Louisiana Revised Statutes of 1950.

B. No employee acting within the course and scope of his employment and who has no proprietary interest in the business shall be guilty of a violation of this Section unless he has actual knowledge of the contents of the publication.

C. Whoever violates this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Added by Acts 1977, No. 594, §1; Acts 2014, No. 791, §7.

§91.13. Illegal use of controlled dangerous substances in the presence of persons under seventeen years of age

A. It shall be unlawful for any person over the age of seventeen, while in the presence of any person under the age of seventeen and when there is an age difference of greater than two years between the two persons, to use, consume, possess, or distribute any controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act.

B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for more than six months, or both.

Acts 1988, No. 691, §1.

§91.14. Unlawful distribution of material harmful to minors through the Internet

A.(1) Any person or entity in Louisiana that publishes material harmful to minors on the Internet shall, prior to permitting access to the material, require any person attempting to access the material to electronically acknowledge and attest that the person seeking to access the material is eighteen years of age or older.

(2) The failure to comply with the provisions of Paragraph (1) of this Subsection shall constitute the unlawful distribution of material harmful to minors through the Internet.

(3) If a person or entity in Louisiana publishes material harmful to minors on the Internet and complies with the provisions of Paragraph (1) of this Subsection, the person or entity shall

not be held liable under the provisions of this Section if the person seeking to access the material is under the age of eighteen and falsely acknowledges and attests that he is eighteen years of age or older.

(4) No Internet service provider, interactive computer service provider as defined by 47 U.S.C. 230(f), or radio or television broadcast licensee of the Federal Communications Commission shall be deemed to be a publisher or distributor of material harmful to minors that is provided by another person.

(5) This Section shall not apply to any bona fide news or public interest broadcast, website, video, report, or event and shall not be construed to affect the rights of any news-gathering organization.

B. For purposes of this Section:

(1) "Descriptions or depictions of illicit sex or sexual immorality" includes the depiction, display, description, exhibition, or representation of any of the following:

(a) Ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being.

(b) Masturbation, excretory functions, or exhibition, actual, simulated, or animated, of the genitals, pubic hair, anus, vulva, or female breast nipples.

(c) Sadomasochistic abuse, meaning actual, simulated, or animated, flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained, on the part of one so clothed.

(d) Actual, simulated, or animated, touching, caressing, or fondling of, or other similar physical contact with, a pubic area, anus, female breast nipple, covered or exposed, whether alone or between human, animals, or a human and an animal, of the same or opposite sex, in an act of apparent sexual stimulation or gratification.

(e) Actual, simulated, or animated, stimulation of the human genital organs by any device whether or not the device is designed, manufactured, and marketed for that purpose.

(2) "Material harmful to minors" is defined as any digital image, photograph, or video which exploits, is devoted to or principally consists of, descriptions or depictions of illicit sex or sexual immorality for commercial gain, and when the trier of fact determines that each of the following applies:

(a) The material incites or appeals to or is designed to incite or appeal to the prurient, shameful, or morbid interest of minors.

(b) The material is offensive to the average adult applying contemporary community standards with respect to what is suitable for minors.

(c) The material taken as a whole lacks serious literary, artistic, political, or scientific value for minors.

(3) "News-gathering organization" means all of the following:

(a) A newspaper, or news publication, printed or electronic, of current news and intelligence of varied, broad, and general public interest, having been published for a minimum of one year and that can provide documentation of membership in a statewide or national press association, as represented by an employee thereof who can provide documentation of his employment with the newspaper, wire service, or news publication.

(b) A radio broadcast station, television broadcast station, cable television operator, or wire service as represented by an employee thereof who can provide documentation of his employment.

C. Whoever violates the provisions of this Section shall be fined up to ten thousand dollars.

Acts 2015, No. 187, §1.

§91.15. Unlawful operation of an unlicensed child day care center

A. It shall be unlawful for any person or other entity to do either of the following:

(1) Continue to operate a child day care center after notification by the Department of Education that the person or other entity operating the facility should seek a license as provided for in Part X-B of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:407.31 through 407.53.

(2) Continue to operate a child day care center after the Department of Education has revoked a license to operate a child day care center that was previously issued to the person or other entity as provided for in Part X-B of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:407.31 through 407.53.

B. For the purposes of this Section, "child day care center" means any place or facility operated by any institution, political subdivision, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or legal custodian, on a regular basis for at least twelve and one-half hours in a continuous seven-day week. If a child day care center provides transportation or arranges for transportation to and from the center, either directly or by contract with third parties, all hours during which a child is being transported shall be included in calculating the hours of operation.

C. Whoever commits the crime of unlawful operation of an unlicensed child day care center shall be subject to the following penalties:

(1) For a first offense violation of this Section, the violator shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(2) For a second offense violation of this Section, the violator shall be fined not more than two thousand five hundred dollars or imprisoned for not more than six months, or both. Furthermore, the violator shall be ineligible to apply for a license to operate a child day care facility or operate a child day care facility for up to twenty-four months.

(3) For a third or subsequent offense violation of this Section, the violator shall be fined not more than five thousand dollars or imprisoned for not more than twelve months, or both. Furthermore, the violator shall be ineligible to apply for a license to operate a child day care facility or operate a child day care facility for up to forty-eight months.

D. In accordance with R.S. 17:407.31 et seq., the Department of Education shall be responsible for the investigation of any unlicensed day care center to determine if the center is required by law to have a license issued by the department and to determine if the center is operating without a valid license issued by the department. After conducting any necessary investigation, the department shall make a determination with respect to licensing status, and collect any evidence necessary with respect to violations of the licensing laws. All evidence and

findings by the department shall be submitted to a law enforcement agency for any arrest for a violation of the provisions of this Section.

Acts 2016, No. 411, §1.

§91.21. Sale of poisonous reptiles to minors; penalty

A. It shall be unlawful for any person to sell any type of poisonous reptile to a minor.

B. Any person violating the provision of this Section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars or imprisoned for not more than six months, or both, for each such offense.

Added by Acts 1970, No. 491, §1; Acts 2014, No. 791, §7.

§91.22. Repealed by Acts 1974, No. 276, §1

§92. Contributing to the delinquency of juveniles

A. Contributing to the delinquency of juveniles is the intentional enticing, aiding, soliciting, or permitting, by anyone over the age of seventeen, of any child under the age of seventeen, and no exception shall be made for a child who may be emancipated by marriage or otherwise, to:

(1) Beg, sing, sell any article or play any musical instrument in any public place for the purpose of receiving alms.

(2) Associate with any vicious or disreputable persons, or frequent places where the same may be found.

(3) Visit any place where beverages of either high or low alcoholic content are the principal commodity sold or given away.

(4) Visit any place where any gambling device is found, or where gambling habitually occurs.

(5) Habitually trespass where it is recognized he has no right to be.

(6) Use any vile, obscene or indecent language.

(7) Perform any sexually immoral act.

(8) Absent himself or remain away, without authority of his parents or tutor, from his home or place of abode.

(9) Violate any law of the state or ordinance of any parish or village, or town or city of the state.

(10) Visit any place where sexually indecent and obscene material, of any nature, is offered for sale, displayed or exhibited.

(11)(a) Become involved in the commission of a crime of violence as defined in R.S. 14:2(B) which is a felony or a violation of the Uniform Controlled Dangerous Substances Law which is a felony.

(b) Become involved in the commission of any other felony not enumerated in Subparagraph (a) of this Paragraph.

B. Lack of knowledge of the juvenile's age shall not be a defense.

C. Whoever commits the crime of contributing to the delinquency of a juvenile shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

D. Whoever is charged and convicted of contributing to the delinquency of a juvenile under Paragraph (7) of Subsection A of this Section shall be fined not more than one thousand dollars, or imprisoned with or without hard labor for not more than two years, or both.

E.(1) Whoever is charged and convicted of contributing to the delinquency of a juvenile under Subparagraph (a) of Paragraph (11) of Subsection A of this Section shall be imprisoned at hard labor for not less than two years and for not more than ten years or imprisoned according to the sentence of imprisonment for the underlying felony, whichever is less.

(2) Whoever is charged and convicted of contributing to the delinquency of a juvenile under Subparagraph (b) of Paragraph (11) of Subsection A of this Section shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

(3) If a parent or legal guardian of a juvenile is charged and convicted of contributing to the delinquency of the juvenile under Paragraph (11) of Subsection A of this Section and sentenced pursuant to the provisions of Paragraph (1) of this Subsection, at least one year of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

(4) If a parent or legal guardian is sentenced to imprisonment pursuant to the provisions of Paragraph (2) of this Subsection, the following shall apply:

(a) If a parent or legal guardian is sentenced to imprisonment for six months or less, the sentence shall be without benefit of probation, parole, or suspension of sentence.

(b) If a parent or legal guardian is sentence to imprisonment for more than six months, at least six months shall be without probation, parole, or suspension of sentence.

Amended by Acts 1962, No. 394, §1; Acts 1966, No. 481, §1; Acts 1966, No. 532, §1; Acts 1968, No. 486, §1; Acts 1968, No. 647, §1; Acts 1976, No. 121, §§1, 2; Acts 1993, No. 526, §1; Acts 1994, 3rd Ex. Sess., No. 74, §1; Acts 1995, No. 1290, §1; Acts 2009, No. 261, §1.

§92.1. Encouraging or contributing to child delinquency, dependency, or neglect; penalty; suspension of sentence; definitions

A.(1) In all cases where any child shall be a delinquent, dependent, or neglected child, as defined in the statutes of this state or by this Section, irrespective of whether any former proceedings have been had to determine the status of such child, the parent or parents, legal guardian, or any person having the custody of such child, or any other person or persons who shall by any act encourage, cause, or contribute to the dependency or delinquency of such child, or who acts in conjunction with such child in the acts which cause such child to be dependent or delinquent, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for not more than six months, or by both fine and imprisonment.

(2) The court in which the case is heard may suspend the sentence for violation of the provisions of this Section, and impose conditions upon the defendant as to his future conduct, and may make such suspension dependent upon the fulfillment by the defendant of such conditions. In the case of the breach of such conditions or any part of them, the court may impose sentence as though there had been no such suspension.

(3) The court may also, as a condition of such suspension, require a bond in such sum as the court may designate, to be approved by the judge requiring it, to secure the performance by such person of the conditions placed by the courts on such suspension. The bond by its terms

shall be made payable to the district judge of the parish in which the prosecution is pending, and any money received from a breach of any of the provisions of the bond shall be paid into the parish treasury. The provisions of law regulating forfeiture of appearance bonds shall govern so far as they are applicable.

(4) Exclusive jurisdiction of the offense defined in this Section is hereby conferred on juvenile courts, in accordance with the provisions of law establishing such courts.

B. By the term "delinquency", as used in this section, is meant any act which tends to debase or injure the morals, health or welfare of a child; drinking beverages of low alcoholic content or beverages of high alcoholic content; the use of narcotics, going into or remaining in any bawdy house, assignation house, disorderly house or road house, hotel, public dance hall, or other gathering place where prostitutes, gamblers or thieves are permitted to enter and ply their trade; or associating with thieves and immoral persons, or enticing a minor to leave home or to leave the custody of its parents, guardians or persons standing in lieu thereof, without first receiving the consent of the parent, guardian, or other person; or begging, singing, selling any article; or playing any musical instrument in any public place for the purpose of receiving alms; or habitually trespassing where it is recognized he has no right to be; or using any vile, obscene, or indecent language; or performing any sexually immoral act; or violating any law of the state ordinance of any village, town, city, or parish of the state.

The term "juvenile", as used in this section, refers to any child under the age of seventeen. Lack of knowledge of the juvenile's age shall not be a defense.

Added by Acts 1954, No. 624, §1. Amended by Acts 1960, No. 505, §1; Acts 1966, No. 480, §1; Acts 1968, No. 647, §1; Acts 1991, No. 667, §1.

§92.2. Improper supervision of a minor by parent or legal custodian; penalty

A. Improper supervision of a minor by a parent or legal custodian, who has care and control of the minor, includes any of the following activities:

(1) Through criminal negligence, the permitting of the minor to associate with a person known by the parent or custodian:

(a) To be a member of a known criminal street gang as defined in R.S. 15:1404(A).

(b) To have been convicted of a felony offense.

(c) To be a known user or distributor of drugs in violation of the Uniform Controlled Dangerous Substances Law.

(d) To be a person who possesses or has access to an illegal firearm, weapon, or explosive.

(2) Through criminal negligence, the permitting of the minor:

(a) To enter premises known by the parent or custodian to be a place where sexually indecent activities or prostitution is practiced.

(b) To violate a local or municipal curfew ordinance.

(c) To habitually be absent or tardy from school pursuant to the provisions of R.S. 17:233 without valid excuse.

(d) To enter the premises known by the parent or legal custodian as a place of illegal drug use or distribution activity.

(e) To enter the premises known by the parent or legal custodian as a place of underage drinking or gambling.

(f) To enter the premises known by the parent or legal custodian as a place which stores or has a person present who possesses an illegal firearm, weapon, or explosive.

(3) Any violation by commission or omission of a court-ordered safety plan.

(4) Causing or permitting an unlicensed minor to drive a motor vehicle or power cycle upon any public road or highway in this state, in violation of R.S. 32:416 and 417, when the unlicensed minor is involved in a collision which results in the serious bodily injury or death of another person. For purposes of this Paragraph, "serious bodily injury" means a bodily injury which involves unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

B.(1) Whoever violates the provisions of this Section shall be fined not less than twenty-five dollars and not more than two hundred fifty dollars for each offense, or imprisoned for not more than thirty days, or both. A minimum condition of probation shall be that the offender participate in forty hours of court-approved community service activities, or a combination of forty hours of court-approved community service and attendance at a court-approved family counseling program by both a parent or legal custodian and the minor.

(2) Whoever violates the provision of Paragraph (A)(3) of this Section shall be sentenced to imprisonment for not more than six months or a fine of five hundred dollars, or both. Whoever violates the provisions of Paragraph (A)(3), which results in injury to the child that requires medical attention or death of the child, shall be punished by imprisonment for two years with or without hard labor.

(3) Whoever violates the provisions of Paragraph (A)(4) of this Section shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or imprisonment for up to six months, or both.

(4) Whoever violates the provisions of Subparagraph (A)(2)(c) of this Section, shall be fined not less than twenty-five dollars and not more than two hundred fifty dollars for each offense, or imprisoned for not more than thirty days, or both. The court shall impose a minimum condition of probation which may include that the parent or legal custodian participate in forty hours of school or community service activities, or a combination of forty hours of school or community service and attendance in parenting classes or family counseling sessions or programs approved by the court having jurisdiction, as applicable, or the suspension of any state-issued recreational license.

C. The provisions of Subparagraph (A)(1)(b) shall not apply to an immediate family member who lives in the household with the minor or other relative who is supervised by the parent or legal custodian when visiting with the minor.

D. No parent or legal guardian shall be guilty of a violation of this Section if, upon acquiring knowledge that the minor has undertaken acts as described in Paragraphs (1) and (2) of Subsection A, the parent or legal guardian seeks the assistance of local, parish, or state law enforcement officials, school officials, social services officials, or other appropriate authorities in either leading the child to modify his or her behavior, or in referring the child to appropriate treatment or corrective facilities.

Acts 1995, No. 702, §2; Acts 2001, No. 403, §1, eff. June 15, 2001; Acts 2005, No. 148, §2; Acts 2006, No. 650, §1; Acts 2009, No. 305, §1.

§92.3. Retaliation by a minor against a parent, legal custodian, witness, or complainant

A. Retaliation by a minor against a parent, legal custodian, witness, or complainant is the willful, malicious, and repeated threats of force against or harassment of a person or his property by a minor under the age of seventeen accompanied by an overt act on the part of the minor or by the apparent capability of the minor to carry out the threat or harassment, against a parent, legal custodian, person who filed a complaint against the minor, or a witness in a criminal case in which the minor is the defendant or charged with a delinquency and the minor intends to place that person in a reasonable fear of death, serious bodily injury, or damage to property.

B. The provisions of Subsection A do not apply if the conduct of the parent, legal custodian, person who filed a complaint against the minor, or a witness in a criminal case in which the minor is the defendant or charged with a delinquency is acting in violation of any criminal law.

C. A minor who violates the provisions of this Section shall be placed in the custody of the Department of Public Safety and Corrections for a period not to exceed six months. A minimum condition of probation shall be that the offender participate in forty hours of court-approved community service activities or a combination of forty hours of court-approved community service and attendance at a court-approved family counseling program by both a parent or legal custodian and the minor.

Acts 1995, No. 702, §2; Acts 2001, No. 403, §1, eff. June 15, 2001.

§93. Cruelty to juveniles

A. Cruelty to juveniles is:

(1) The intentional or criminally negligent mistreatment or neglect by anyone seventeen years of age or older of any child under the age of seventeen whereby unjustifiable pain or suffering is caused to said child. Lack of knowledge of the child's age shall not be a defense; or

(2) The intentional or criminally negligent exposure by anyone seventeen years of age or older of any child under the age of seventeen to a clandestine laboratory operation as defined by R.S. 40:983 in a situation where it is foreseeable that the child may be physically harmed. Lack of knowledge of the child's age shall not be a defense.

(3) The intentional or criminally negligent allowing of any child under the age of seventeen years by any person over the age of seventeen years to be present during the manufacturing, distribution, or purchasing or attempted manufacturing, distribution, or purchasing of a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Law. Lack of knowledge of the child's age shall not be a defense.

B. The providing of treatment by a parent or tutor in accordance with the tenets of a well-recognized religious method of healing, in lieu of medical treatment, shall not for that reason alone be considered to be criminally negligent mistreatment or neglect of a child. The provisions of this Subsection shall be an affirmative defense to a prosecution under this Section. Nothing herein shall be construed to limit the provisions of R.S. 40:1299.36.1.

C. The trial judge shall have the authority to issue any necessary orders to protect the safety of the child during the pendency of the criminal action and beyond its conclusion.

D.(1) Whoever commits the crime of cruelty to juveniles shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than ten years, or both.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, whoever commits the crime of cruelty to juveniles as defined in Paragraph (A)(1) of this Section when the victim is eight years old or younger shall be imprisoned at hard labor for not more than twenty years.

Acts 1985, No. 827, §1; Acts 2004, No. 143, §1; Acts 2008, No. 7, §1; Acts 2018, No. 479, §1.

NOTE: R.S. 40:1299.36.1, referenced in Subsection E, was terminated by Acts 1999, No. 788, §3.

§93.1. Model glue; use of; abuse of toxic vapors; unlawful sales to minors; penalties

A. Definitions:

(1) The term "model glue" shall mean any glue or cement of the type commonly used in the building of model airplanes, boats and automobiles and which contains one or more of the following volatile solvents: (a) toluol, (b) hexane, (c) trichlorethylene, (d) acetone, (e) toluene, (f) ethyl acetate, (g) methyl ethyl ketone, (h) trichlorochthane, (i) isopropanol, (j) methyl isobutyl ketone, (k) methyl cellosolve acetate, (l) cyclohexanone, or (m) any other solvent, material, substance, chemical or combination thereof having the property of releasing toxic vapors.

(2) "Abuse of toxic vapors" shall mean to smell or inhale the fumes of any solvent, material, substance, chemical or combinations thereof having the property of releasing toxic vapors for the purpose of causing a condition of or inducing a symptom included in Subsection B of this Section.

B. It shall be unlawful for any person to intentionally smell or inhale the fumes of any type of model glue or toxic vapors for the purpose of causing a condition of or inducing symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction or dulling of the senses or nervous system; or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual or mental processes. This Section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

C. It shall be unlawful for any person to sell any type of model glue to a minor for any reason whatsoever.

D. It shall be unlawful for any person to sell or otherwise transfer possession of any type of model glue to any minor for any purpose whatsoever, unless the minor receiving possession of the model glue is the child or ward of and under the lawful custody of the vendor, donor or transferor of the glue.

E. Any person violating any provisions of this Section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned for not more than ninety days for each such offense or both.

Added by Acts 1966, No. 110, §1. Amended by Acts 1975, No. 215, §1; Acts 1997, No. 659, §1.

§93.2. Tattooing and body piercing of minors; prohibition

A. It is unlawful for any person to tattoo or body pierce any other person under the age of eighteen without the consent of an accompanying parent or tutor of such person.

B. It is unlawful for any business entity to pierce the body of any person under the age of eighteen without the consent of a parent or legal custodian of such person.

C. Whoever is found guilty of violating the provisions of this Section shall be fined not less than one hundred dollars nor more than five hundred dollars or be imprisoned for not less than thirty days nor more than one year, or both.

Added by Acts 1968, No. 94, §1; Acts 1997, No. 684, §1; Acts 1997, No. 743, §1.

§93.2.1. Child desertion

A. Child desertion is the intentional or criminally negligent exposure of a child under the age of ten years, by a person who has the care, custody, or control of the child, to a hazard or danger against which the child cannot reasonably be expected to protect himself, or the desertion or abandonment of such child, knowing or having reason to believe that the child could be exposed to such hazard or danger.

B.(1) Whoever commits the crime of child desertion shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

(2) On a second and subsequent conviction, the offender shall be fined not more than five hundred dollars and imprisoned for not less than thirty days nor more than six months, at least thirty days of which shall be without benefit of probation or suspension of sentence.

Acts 1986, No. 370, §1; Acts 2003, No. 168, §1.

§93.2.2. Unlawful placement of gold fillings, caps, and crowns; minors

It is unlawful for any person to replace a tooth or part of a tooth or associated tissue by means of a filling, cap, or crown made of any gold substance on any person under the age of eighteen without the consent of the parents or guardian of such person. Whoever violates the provisions of this Section shall be fined not less than five hundred dollars nor more than five thousand dollars.

Acts 1995, No. 1101, §1.

§93.2.3. Second degree cruelty to juveniles

A.(1) Second degree cruelty to juveniles is the intentional or criminally negligent mistreatment or neglect by anyone over the age of seventeen to any child under the age of seventeen which causes serious bodily injury or neurological impairment to that child.

(2) For purposes of this Section, "serious bodily injury" means bodily injury involving protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or substantial risk of death.

B. The providing of treatment by a parent or tutor in accordance with the tenets of a well-recognized religious method of healing, in lieu of medical treatment, shall not for that reason alone be considered to be intentional or criminally negligent mistreatment or neglect and shall be an affirmative defense to a prosecution under this Section.

C. Whoever commits the crime of second degree cruelty to juveniles shall be imprisoned at hard labor for not more than forty years.

Acts 1999, No. 191, §1.

3. OFFENSES AFFECTING THE HEALTH AND SAFETY OF PERSONS WITH INFIRMITIES

§93.3. Cruelty to persons with infirmities

A. Cruelty to persons with infirmities is the intentional or criminally negligent mistreatment or neglect by any person, including a caregiver, whereby unjustifiable pain, malnourishment, or suffering is caused to a person with an infirmity, an adult with a disability, or a person who is aged, including but not limited to a person who is a resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential facility.

B. "Caregiver" is defined as any person or persons who temporarily or permanently is responsible for the care of a person with an infirmity; an adult with a physical or mental disability; or a person who is aged, whether such care is voluntarily assumed or is assigned. Caregiver includes but is not limited to adult children, parents, relatives, neighbors, daycare institutions and facilities, adult congregate living facilities, and nursing homes which or who have voluntarily assumed or been assigned the care of a person who is aged, a person with an infirmity, or an adult with a disability; or have assumed voluntary residence with a person who is aged, a person with an infirmity, or an adult with a disability.

C. For the purposes of this Section, a person who is aged is any individual sixty years of age or older.

D. The providing of treatment by a caregiver in accordance with a well-recognized spiritual method of healing, in lieu of medical treatment, shall not for that reason alone be considered the intentional or criminally negligent mistreatment or neglect of a person with an infirmity, an adult with a disability, or a person who is aged. The provisions of this Subsection shall be an affirmative defense to a prosecution under this Section.

E.(1) Whoever commits the crime of cruelty to any person with an infirmity, adult with a disability, or person who is aged shall be fined not more than ten thousand dollars or imprisoned with or without hard labor for not more than ten years, or both. At least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence when the act of cruelty to persons with infirmities was intentional and malicious.

(2) Upon a second or subsequent conviction, the offender shall be fined not more than ten thousand dollars and imprisoned at hard labor for not less than five years nor more than ten years. Five years of the sentence of imprisonment imposed shall be served without benefit of parole, probation, or suspension of sentence.

Added by Acts 1981, No. 850, §1; Acts 1987, No. 87, §1, eff. June 18, 1987; Acts 1994, 3rd Ex. Sess., No. 26, §1; Acts 1995, No. 841, §1; Acts 1995, No. 883, §1; Acts 2003, No. 434, §1; Acts 2010, No. 831, §1; Acts 2014, No. 811, §6, eff. June 23, 2014.

§93.4. Exploitation of persons with infirmities

A. Exploitation of persons with infirmities is:

(1) The intentional expenditure, diminution, or use by any person, including a caregiver, of the property or assets of a person with an infirmity, an adult with a disability, or a person who is aged, including but not limited to a resident of a nursing home, facility for persons with

intellectual disabilities, mental health facility, hospital, or other residential facility without the express voluntary consent of the resident or the consent of a legally authorized representative of an incompetent resident, or by means of fraudulent conduct, practices, or representations.

(2) The use of the power of attorney or guardianship of a person with an infirmity, a person who is aged, or an adult with a disability for one's own profit or advantage by means of fraudulent conduct, practices, or representations.

B. Whoever commits the crime of exploitation of persons with infirmities shall be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not more than ten years, or both.

C. Whoever is convicted, or who enters a plea agreement for exploitation of persons with infirmities shall be prohibited from having access to the assets or property of the victim or of any other person with a disability or person who is aged. The offender shall be prohibited from being appointed as a power of attorney or guardian for the victim or any other person with a disability or person who is aged. The provisions of this Subsection shall not be construed to prohibit the offender from inheriting from the victim with an infirmity.

Acts 1992, No. 309, §1; Acts 1994, 3rd Ex. Sess., No. 26, §1; Acts 1995, No. 883, §1; Acts 1999, No. 1044, §1; Acts 2014, No. 811, §6, eff. June 23, 2014.

§93.5. Sexual battery of persons with infirmities

A. Sexual battery of persons with infirmities is the intentional engaging in any of the sexual acts listed in Subsection B of this Section with another person, who is not the spouse of the offender, when:

(1) The offender compels the victim, who is physically incapable of preventing the act because of advanced age or physical infirmity, to submit by placing the victim in fear of receiving bodily harm.

(2) The victim is incapable of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind produced by an intoxicating, narcotic, or anesthetic agent administered by or with the privity of the offender.

(3) The victim has such incapacity, by reason of a stupor or abnormal condition of mind from any cause, and the offender knew or should have known of the victim's incapacity.

(4) The victim is incapable, through unsoundness of mind, whether temporary or permanent, of understanding the nature of the act, and the offender knew or should have known of the victim's incapacity.

B. For purposes of this Section, "sexual acts" mean either of the following:

(1) The touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender.

(2) The touching of the anus or genitals of the offender by the victim using any instrumentality or any part of the body of the victim.

C. Normal medical treatment and normal sanitary care shall not be construed as an offense under the provisions of this Section.

D.(1) Except as provided in Paragraph (2) of this Subsection, whoever commits the crime of sexual battery of persons with infirmities shall be punished by imprisonment, with or without hard labor, for not more than twenty years.

(2) If the victim is a resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential facility and the offender is an employee of such home or facility, the offender shall be punished by imprisonment, with or without hard labor, for not more than twenty-five years.

Acts 1992, No. 617, §1; Acts 2014, No. 811, §6, eff. June 23, 2014; Acts 2018, No. 549, §1.

4. UNLAWFUL SALE, PURCHASE, AND POSSESSION OF ALCOHOLIC BEVERAGES

§93.10. Definitions

For purposes of R.S. 14:93.10 through 93.14, the following definitions shall apply:

(1) "Alcoholic beverage" means beer, distilled spirits, and wine containing one-half of one percent or more of alcohol by volume. Beer includes but is not limited to ale, lager, porter, stout, sake, and other similar fermented beverages brewed or produced from malt wholly or in part or from any substitute therefor. Distilled spirits include alcohol, ethanol, or spirits or wine in any form, including all dilutions and mixtures thereof from whatever process produced.

(2) "Public possession" means the possession of any alcoholic beverage for any reason, including consumption, on any street, highway, or waterway or in any public place or any place open to the public, including a club which is de facto open to the public. "Public possession" does not include the following:

(a) The possession or consumption of any alcoholic beverage:

(i) For an established religious purpose.

(ii) When a person under twenty-one years of age is accompanied by a parent, spouse, or legal guardian twenty-one years of age or older.

(iii) For medical purposes when purchased as an over the counter medication, or when prescribed or administered by a licensed physician, pharmacist, dentist, nurse, hospital, or medical institution.

(iv) In a private residence, which shall include a residential dwelling and up to twenty contiguous acres, on which the dwelling is located, owned by the same person who owns the dwelling.

(b) The sale, handling, transport, or service in dispensing of any alcoholic beverage pursuant to lawful ownership of an establishment or to lawful employment of a person under twenty-one years of age by a duly licensed manufacturer, wholesaler, or retailer of beverage alcohol.

(3) "Purchase" means acquisition by the payment of money or other consideration. Purchase does not include such acquisition for medical purposes either when purchased as over the counter medication or when prescribed or administered by a licensed physician, pharmacist, dentist, nurse, hospital, or medical institution.

Acts 1995, No. 639, §1; Acts 1996, 1st Ex. Sess., No. 78, §1; Acts 2011, No. 264, §1; Acts 2015, No. 212, §1.

§93.11. Unlawful sales to persons under twenty-one

A. Unlawful sales to persons under twenty-one is the selling or otherwise delivering for value of any alcoholic beverage to any person under twenty-one years of age unless such person is the lawful owner or lawful employee of an establishment to which the sale is being made and is accepting such delivery pursuant to such ownership or employment. Lack of knowledge of the person's age shall not be a defense.

B. Whoever violates the provisions of this Section shall be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not less than thirty days nor more than six months, or both.

Acts 1995, No. 639, §1; Acts 1996, 1st Ex. Sess., No. 78, §1; Acts 2006, No. 570, §1.

§93.12. Purchase and public possession of alcoholic beverages; exceptions; penalties

A. It is unlawful for any person under twenty-one years of age to purchase or have public possession of any alcoholic beverage.

B.(1) Whoever violates the provisions of this Section shall be fined not more than one hundred dollars.

(2) Any person apprehended while violating the provisions of this Section shall be issued a citation by the apprehending law enforcement officer, which shall be paid in the same manner as provided for the offenders of local traffic violations. A citation issued by a law enforcement officer for such violation shall not be included on the person's criminal history record.

(3) In addition to the penalties provided in Paragraph (1) of this Subsection, the driver's license of any person violating the provisions of this Section may be suspended upon conviction, plea of guilty, or nolo contendere for a period of one hundred eighty days. Upon conviction, plea of guilty, or nolo contendere, the court shall surrender the driver's license to the Department of Public Safety and Corrections for suspension in accordance with the provisions of this Section. Upon first conviction, the court may issue an order which authorizes the department to issue a restricted driver's license upon a demonstration to the court that a hardship would result from being unable to drive to school or work. Such restrictions shall be determined by the court.

Acts 1995, No. 639, §1; Acts 1996, 1st Ex. Sess., No. 78, §1; Acts 2005, No. 165, §1; Acts 2016, No. 354, §1.

§93.13. Unlawful purchase of alcoholic beverages by persons on behalf of persons under twenty-one

A. It is unlawful for any person, other than a parent, spouse, or legal guardian, as specified in R.S. 14:93.10(2)(a)(ii), to purchase on behalf of a person under twenty-one years of age any alcoholic beverage.

B.(1) Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.

(2) In addition to the penalties provided in Paragraph (1) of this Subsection, the driver's license of any person violating the provisions of this Section may be suspended upon conviction, plea of guilty, or nolo contendere for a period of one hundred eighty days. Upon conviction, plea of guilty, or nolo contendere, the court shall surrender the driver's license to the Department of Public Safety and Corrections for suspension in accordance with the provisions of this Section. Upon first conviction, the court may issue an order which authorizes the department to issue a

restricted driver's license upon a demonstration to the court that suspension of his driving privileges will deprive him or his family of the necessities of life or prevent him from earning a livelihood. Such restrictions shall be determined by the court.

Acts 1995, No. 639, §1; Acts 1996, 1st Ex. Sess., No. 78, §1; Acts 2005, No. 165, §1.

§93.14. Responsibilities of retail dealers not relieved

Nothing in R.S. 14:93.10 through 93.13 shall be construed as relieving any licensed retail dealer in alcoholic beverages any responsibilities imposed under the provisions of Title 26 of the Louisiana Revised Statutes of 1950.

Acts 1995, No. 639, §1; Acts 1996, 1st Ex. Sess., No. 78, §1.

§93.15. Alcoholic beverage vaporizer; prohibitions

A. It is unlawful for any person to sell, deliver, give away, purchase, possess, or use an alcoholic beverage vaporizer.

B. This Section shall not apply to any other vaporizer device used for purposes other than vaporizing alcoholic beverages.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Acts 2006, No. 147, §1.

§93.20. Repealed by Acts 1998, No. 71, §2, eff. June 25, 1998.

PART VI. OFFENSES AFFECTING THE PUBLIC GENERALLY

SUBPART A. OFFENSES AFFECTING THE PUBLIC SAFETY

1. ILLEGAL CARRYING AND DISCHARGE OF WEAPONS

§94. Illegal use of weapons or dangerous instrumentalities

A. Illegal use of weapons or dangerous instrumentalities is the intentional or criminally negligent discharging of any firearm, or the throwing, placing, or other use of any article, liquid, or substance, where it is foreseeable that it may result in death or great bodily harm to a human being.

B. Except as provided in Subsection E, whoever commits the crime of illegal use of weapons or dangerous instrumentalities 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. Except as provided in Subsection E, on a second or subsequent conviction, the offender shall be imprisoned at hard labor for not less than five years nor more than seven years, without benefit of probation or suspension of sentence.

D. The enhanced penalty upon second and subsequent convictions provided for in Subsection C of this Section shall not be applicable in cases where more than five years have

elapsed since the expiration of the maximum sentence, or sentences, of the previous conviction or convictions, and the time of the commission of the last offense for which he has been convicted. The sentence to be imposed in such event shall be the same as may be imposed upon a first conviction.

E. Whoever commits the crime of illegal use of weapons or dangerous instrumentalities by discharging a firearm from a motor vehicle located upon a public street or highway, where the intent is to injure, harm, or frighten another human being, shall be imprisoned at hard labor for not less than five nor more than ten years without benefit of probation or suspension of sentence.

F. Whoever commits the crime of illegal use of weapons or dangerous instrumentalities by discharging a firearm while committing, attempting to commit, conspiring to commit, or soliciting, coercing, or intimidating another person to commit a crime of violence or violation of the Uniform Controlled Dangerous Substances Law, shall be imprisoned at hard labor for not less then ten years nor more than twenty years, without benefit of parole, probation, or suspension of sentence. If the firearm used in violation of this Subsection is a machine gun or is equipped with a firearm silencer or muffler, as defined by R.S. 40:1751 and R.S. 40:1781, respectively, the offender shall be sentenced to imprisonment for not less than twenty years nor more than thirty years, without benefit of parole, probation, or suspension of sentence. Upon a second or subsequent conviction, under this Subsection, such offender shall be sentenced to imprisonment for not less than twenty years. If the violation of this Subsection, upon second or subsequent conviction, involves the use of a machine gun or a firearm equipped with a firearm silencer or muffler, such offender shall be sentenced to imprisonment for life without benefit of parole, probation, or suspension of sentence.

Amended by Acts 1958, No. 379, §§1, 3; Acts 1960, No. 550, §1; Acts 1966, No. 58, §1; Acts 1968, No. 647, §1; Acts 1972, No. 650, §1; Acts 1991, No. 904, §1; Acts 1992, No. 1015, §1; Acts 1995, No. 748, §1.

§95. Illegal carrying of weapons

A. Illegal carrying of weapons is:

(1) The intentional concealment of any firearm, or other instrumentality customarily used or intended for probable use as a dangerous weapon, on one's person; or

(2) The ownership, possession, custody or use of any firearm, or other instrumentality customarily used as a dangerous weapon, at any time by an enemy alien; or

(3) The ownership, possession, custody or use of any tools, or dynamite, or nitroglycerine, or explosives, or other instrumentality customarily used by thieves or burglars at any time by any person with the intent to commit a crime; or

(4)(a) The intentional concealment on one's person of any switchblade knife, spring knife, or other knife or similar instrument having a blade which may be automatically unfolded or extended from a handle by the manipulation of a button, switch, latch, or similar contrivance located on the handle.

(b) The provisions of this Paragraph shall not apply to the following:

(i) Any knife that may be opened with one hand by manual pressure applied to the blade or any projection of the blade.

(ii) Any knife that may be opened by means of inertia produced by the hand, wrist, or other movement, provided the knife has either a detent or other structure that provides resistance

that shall be overcome in opening or initiating the opening movement of the blade or a bias or spring load toward the closed position.

(5)(a) The intentional possession or use by any person of a dangerous weapon on a school campus during regular school hours or on a school bus. "School" means any elementary, secondary, high school, or vo-tech school in this state and "campus" means all facilities and property within the boundary of the school property. "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

(b) The provisions of this Paragraph shall not apply to:

(i) A peace officer as defined by R.S. 14:30(B) in the performance of his official duties.

(ii) A school official or employee acting during the normal course of his employment or a student acting under the direction of such school official or employee.

(iii) Any person having the written permission of the principal or school board and engaged in competition or in marksmanship or safety instruction.

B.(1) Whoever commits the crime of illegal carrying of weapons shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

(2) Whoever commits the crime of illegal carrying of weapons with any firearm used in the commission of a crime of violence as defined in R.S. 14:2(B), shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than two years, or both. Any sentence issued pursuant to the provisions of this Paragraph and any sentence issued pursuant to a violation of a crime of violence as defined in R.S. 14:2(B) shall be served consecutively.

C. On a second conviction, the offender shall be imprisoned with or without hard labor for not more than five years.

D. On third and subsequent convictions, the offender shall be imprisoned with or without hard labor for not more than ten years without benefit of parole, probation, or suspension of sentence.

E. If the offender uses, possesses, or has under his immediate control any firearm, or other instrumentality customarily used or intended for probable use as a dangerous weapon, while committing or attempting to commit a crime of violence or while unlawfully in the possession of a controlled dangerous substance except the possession of fourteen grams or less of marijuana, or during the unlawful sale or distribution of a controlled dangerous substance, the offender shall be fined not more than ten thousand dollars and imprisoned at hard labor for not less than five nor more than ten years without the benefit of probation, parole, or suspension of sentence. Upon a second or subsequent conviction, the offender shall be imprisoned at hard labor for not less than twenty years nor more than thirty years without the benefit of probation, parole, or suspension of sentence.

F.(1) For purposes of determining whether a defendant has a prior conviction for a violation of this Section, a conviction pursuant to this Section or a conviction pursuant to an ordinance of a local governmental subdivision of this state which contains the elements provided for in Subsection A of this Section shall constitute a prior conviction.

(2) The enhanced penalty upon second, third, and subsequent convictions shall not be applicable in cases where more than five years have elapsed since the expiration of the maximum sentence, or sentences, of the previous conviction or convictions, and the time of the commission of the last offense for which he has been convicted; the sentence to be imposed in such event shall be the same as may be imposed upon a first conviction.

(3) Any ordinance that prohibits the unlawful carrying of firearms enacted by a municipality, town, or similar political subdivision or governing authority of this state shall be subject to the provisions of R.S. 40:1796.

G.(1) The provisions of this Section except Paragraph (A)(4) of this Section shall not apply to sheriffs and their deputies, state and city police, constables and town marshals, or persons vested with police power when in the actual discharge of official duties. These provisions shall not apply to sheriffs and their deputies and state and city police who are not actually discharging their official duties, provided that such persons are full time, active, and certified by the Council on Peace Officer Standards and Training and have on their persons valid identification as duly commissioned law enforcement officers.

(2) The provisions of this Section except Paragraph (A)(4) of this Section shall not apply to any law enforcement officer who is retired from full-time active law enforcement service with at least twelve years service upon retirement, nor shall it apply to any enforcement officer of the office of state parks, in the Department of Culture, Recreation and Tourism who is retired from active duty as an enforcement officer, provided that such retired officers have on their persons valid identification as retired law enforcement officers, which identification shall be provided by the entity which employed the officer prior to his or her public retirement. The retired law enforcement officer must be qualified annually in the use of firearms by the Council on Peace Officer Standards and Training and have proof of such qualification. This exception shall not apply to such officers who are medically retired based upon any mental impairment.

(3)(a) The provisions of this Section except Paragraph (A)(4) of this Section shall not apply to active or retired reserve or auxiliary law enforcement officers qualified annually by the Council on Peace Officer Standards and Training and who have on their person valid identification as active or retired reserve law or auxiliary municipal police officers. The active or retired reserve or auxiliary municipal police officer shall be qualified annually in the use of firearms by the Council on Peace Officer Standards and Training and have proof of such certification.

(b) For the purposes of this Paragraph, a reserve or auxiliary municipal police officer shall be defined as a volunteer, non-regular, sworn member of a law enforcement agency who serves with or without compensation and has regular police powers while functioning as such agency's representative, and who participates on a regular basis in agency activities including, but not limited to those pertaining to crime prevention or control, and the preservation of the peace and enforcement of the law.

H.(1) Except as provided in Paragraph (A)(5) of this Section and in Paragraph (2) of this Subsection, the provisions of this Section shall not prohibit active justices or judges of the supreme court, courts of appeal, district courts, parish courts, juvenile courts, family courts, city courts, federal courts domiciled in the state of Louisiana, and traffic courts, members of either house of the legislature, officers of either house of the legislature, the legislative auditor, designated investigative auditors, constables, coroners, designated coroner investigators, district attorneys and designated assistant district attorneys, United States attorneys and assistant United States attorneys and investigators, the attorney general, designated assistant attorneys general, and justices of the peace from possessing and concealing a handgun on their person when such persons are qualified annually in the use of firearms by the Council on Peace Officer Standards and Training.

(2) Nothing in this Subsection shall permit the carrying of a weapon in the state capitol building.

I. The provisions of this Section shall not prohibit the carrying of a concealed handgun by a person who is a college or university police officer under the provisions of R.S. 17:1805 and who is carrying a concealed handgun in accordance with the provisions of that statute.

J. Repealed by Acts 2018, No. 341, §2.

K.(1) The provisions of this Section shall not prohibit a retired justice or judge of the supreme court, courts of appeal, district courts, parish courts, juvenile courts, family courts, city courts, retired attorney general, retired assistant attorneys general, retired district attorneys, retired assistant district attorneys, and former members of either house of the legislature from possessing and concealing a handgun on their person provided that such retired person or former member of the legislature is qualified annually, at their expense, in the use of firearms by the Council on Peace Officer Standards and Training and has on their person valid identification showing proof of their status as a former member of the legislature or as a retired justice, judge, attorney general, assistant attorney general, district attorney, or assistant district attorney. For a former member of the legislature, the valid identification showing proof of status as a former legislator required by the provisions of this Paragraph shall be a legislative badge issued by the Louisiana Legislature that shall include the former member's name, the number of the district that the former member was elected to represent, the years that the former member served in the legislature, and words that indicate the person's status as a former member of the legislature.

(2) The retired justice, judge, attorney general, assistant attorney general, district attorney, or assistant district attorney or former member of the legislature shall be qualified annually in the use of firearms by the Council on Peace Officer Standards and Training and have proof of qualification. However, this Subsection shall not apply to a retired justice, judge, attorney general, assistant attorney general, district attorney, or assistant district attorney or to a former member of the legislature who is medically retired based upon any mental impairment, or who has entered a plea of guilty or nolo contendere to or been found guilty of a felony offense. For the purposes of this Subsection, "retired district attorney" or "retired assistant district attorney" shall mean a district attorney or an assistant district attorney receiving retirement benefits from the District Attorneys' Retirement System.

Amended by Acts 1956, No. 345, §1; Acts 1958, No. 21, §1; Acts 1958, No. 379, §§1, 3; Acts 1968, No. 647, §1; Acts 1975, No. 492, §1; Acts 1986, No. 38, §1; Acts 1992, No. 1017, §1; Acts 1993, No. 636, §1; Acts 1993, No. 844, §1; Acts 1994, 3rd Ex. Sess., No. 143, §1; Acts 1995, No. 636, §1; Acts 1995, No. 930, §1; Acts 1995, No. 1195, §1; Acts 1995, No. 1199, §1; Acts 1997, No. 508, §1; Acts 1997, No. 611, §1; Acts 1997, No. 1064, §1; Acts 1999, No. 738, §1; Acts 1999, No. 924, §1; Acts 1999, No. 953, §1; Acts 2003, No. 608, §1; Acts 2003, No. 766, §1; Acts 2006, No. 515, §1; Acts 2006, No. 589, §1; Acts 2008, No. 172, §1; Acts 2011, No. 159, §1; Acts 2012, No. 302, §1; Acts 2012, No. 383, §1; Acts 2014, No. 390, §2; Acts 2014, No. 776, §1, eff. June 19, 2014; Acts 2015, No. 176, §1; Acts 2015, No. 288, §1; Acts 2016, No. 541, §1; Acts 2016, No. 543, §1; Acts 2018, No. 341, §§1, 2; Acts 2018, No. 709, §1.

§95.1. Possession of firearm or carrying concealed weapon by a person convicted of certain felonies

A. It is unlawful for any person who has been convicted of, or has been found not guilty by reason of insanity for, a crime of violence as defined in R.S. 14:2(B) which is a felony or simple burglary, burglary of a pharmacy, burglary of an inhabited dwelling, unauthorized entry of an inhabited dwelling, felony illegal use of weapons or dangerous instrumentalities, manufacture or possession of a delayed action incendiary device, manufacture or possession of a

bomb, or possession of a firearm while in the possession of or during the sale or distribution of a controlled dangerous substance, or any violation of the Uniform Controlled Dangerous Substances Law which is a felony, or any crime which is defined as a sex offense in R.S. 15:541, or any crime defined as an attempt to commit one of the above-enumerated offenses under the laws of this state, or who has been convicted under the laws of any other state or of the United States or of any foreign government or country of a crime which, if committed in this state, would be one of the above-enumerated crimes, to possess a firearm or carry a concealed weapon.

B. Whoever is found guilty of violating the provisions of this Section shall be imprisoned at hard labor for not less than five nor more than twenty years without the benefit of probation, parole, or suspension of sentence and be fined not less than one thousand dollars nor more than five thousand dollars. Notwithstanding the provisions of R.S. 14:27, whoever is found guilty of attempting to violate the provisions of this Section shall be imprisoned at hard labor for not more than seven and one-half years and fined not less than five hundred dollars nor more than two thousand five hundred dollars.

C. The provisions of this Section prohibiting the possession of firearms and carrying concealed weapons by persons who have been convicted of, or who have been found not guilty by reason of insanity for, certain felonies shall not apply to any person who has not been convicted of, or who has not been found not guilty by reason of insanity for, any felony for a period of ten years from the date of completion of sentence, probation, parole, suspension of sentence, or discharge from a mental institution by a court of competent jurisdiction.

D. For the purposes of this Section, "firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

Added by Acts 1975, No. 492, §2. Amended by Acts 1980, No. 279, §1; Acts 1985, No. 947, §1; Acts 1990, No. 328, §1; Acts 1992, No. 403, §1; Acts 1994, 3rd Ex. Sess., No. 28, §1; Acts 1995, No. 987, §1; Acts 2003, No. 674, §1; Acts 2009, No. 154, §1; Acts 2009, No. 160, §1; Acts 2010, No. 815, §1; Acts 2010, No. 942, §1; Acts 2017, No. 281, §1; Acts 2018, No. 532, §3.

§95.1.1. Illegally supplying a felon with a firearm

A. Illegally supplying a felon with a firearm is the intentional giving, selling, donating, providing, lending, delivering, or otherwise transferring a firearm to any person known by the offender to be a person convicted of a felony and prohibited from possessing a firearm as provided for in R.S. 14:95.1.

B. Whoever commits the crime of illegally supplying a felon with a firearm shall be imprisoned with or without hard labor for not more than five years and may be fined not less than one thousand dollars nor more than five thousand dollars. At least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

Acts 2004, No. 385, §1; Acts 2018, No. 124, §1.

§95.1.2. Illegally supplying a felon with ammunition

A. Illegally supplying a felon with ammunition is the intentional giving, selling, donating, providing, lending, delivering, or otherwise transferring ammunition to any person known by the offender to be a person convicted of a felony and prohibited from possessing a firearm as provided for in R.S. 14:95.1.

B. For the purposes of this Section, the following words shall have the following meanings:

(1) "Ammunition" means any projectiles with their fuses, propelling charges, or primers fired from any firearm.

(2) "Firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, or assault rifle, which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

C. Whoever commits the crime of illegally supplying a felon with ammunition shall be imprisoned for not more than five years and may be fined not less than one thousand dollars nor more than five thousand dollars.

Acts 2008, No. 622, §1.

§95.1.3. Fraudulent firearm and ammunition purchase; mandatory reporting

A. It is unlawful for any person:

(1) To knowingly solicit, persuade, encourage, or entice a licensed dealer or private seller of firearms or ammunition to sell a firearm or ammunition under circumstances which the person knows would violate the laws of this state or of the United States.

(2) To provide to a licensed dealer or private seller of firearms or ammunition what the person knows to be materially false information with intent to deceive the dealer or seller about the legality of a sale of a firearm or ammunition.

(3) To willfully procure another person to engage in conduct prohibited by this Section.

B. For purposes of this Section:

(1) "Ammunition" means any cartridge, shell, or projectile designed for use in a firearm.

(2) "Licensed dealer" means a person who is licensed pursuant to 18 U.S.C. 923 to engage in the business of dealing in firearms or ammunition.

(3) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(4) "Private seller" means a person who sells or offers for sale any firearm or ammunition.

C. The provisions of this Section shall not apply to a law enforcement officer acting in his official capacity or to a person acting at the direction of such law enforcement officer.

D. Whoever violates the provisions of Subsection A of this Section shall be fined not less than one thousand dollars or more than five thousand dollars, or imprisoned, with or without hard labor, for not more than twenty years, or both. The sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

E.(1) If a person is reported ineligible to purchase firearms by the National Instant Criminal Background Check System (NICS), the licensed dealer shall report the NICS denial to the sheriff of the parish in which the attempted purchase occurred and to the Louisiana Automated Victim Notification System.

(2) If at any time a law enforcement agency discovers that a licensed dealer knew or should have known that a purchaser or attempted purchaser of a firearm was prohibited from possessing a firearm and the licensed dealer failed to report as required by this Section, the sheriff or law enforcement agency shall notify all state and federal licensing agencies of the licensed dealer's failure to report.

Acts 2012, No. 335, §1; Acts 2018, No. 367, §1, eff. Oct. 1, 2018.

§95.1.4. Illegal transfer of a firearm to a prohibited possessor

A. Illegal transfer of a firearm to a prohibited possessor is the intentional giving, selling, donating, lending, delivering, or otherwise transferring a firearm to any person known to the offender to be a person prohibited from possessing a firearm under state or federal law.

B. Whoever commits the crime of illegal transfer of a firearm to a prohibited possessor may be fined not more than two thousand five hundred dollars, imprisoned for not more than one year, or both.

Acts 2018, No. 367, §1, eff. Oct. 1, 2018.

§95.2. Carrying a firearm or dangerous weapon by a student or nonstudent on school property, at school-sponsored functions, or in a firearm-free zone

A. Carrying a firearm, or dangerous weapon as defined in R.S. 14:2, by a student or nonstudent on school property, at a school sponsored function, or in a firearm-free zone is unlawful and shall be defined as possession of any firearm or dangerous weapon, on one's person, at any time while on a school campus, on school transportation, or at any school sponsored function in a specific designated area including but not limited to athletic competitions, dances, parties, or any extracurricular activities, or within one thousand feet of any school campus.

B. For purposes of this Section, the following words have the following meanings:

(1) "Campus" means all facilities and property within the boundary of the school property.

(2) "Nonstudent" means any person not registered and enrolled in that school or a suspended student who does not have permission to be on the school campus.

(3) "School" means any elementary, secondary, high school, vocational-technical school, college, or university in this state.

(4) "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

C. The provisions of this Section shall not apply to:

(1) A federal law enforcement officer or a Louisiana-commissioned state or local Post Certified law enforcement officer who is authorized to carry a firearm.

(2) A school official or employee acting during the normal course of his employment or a student acting under the direction of such school official or employee.

(3) Any person having the written permission of the principal or as provided in R.S. 17:3361.1.

(4) The possession of a firearm occurring within one thousand feet of school property and entirely on private property, or entirely within a private residence.

(5) Any constitutionally protected activity which cannot be regulated by the state, such as a firearm contained entirely within a motor vehicle.

(6) Any student carrying a firearm to or from a class, in which he is duly enrolled, that requires the use of the firearm in the class.

(7) A student enrolled or participating in an activity requiring the use of a firearm including but not limited to any ROTC function under the authorization of a university.

(8) A student who possesses a firearm in his dormitory room or while going to or from his vehicle or any other person with permission of the administration.

(9) Any person who has a valid concealed handgun permit issued pursuant to R.S. 40:1379.1 or 1379.3 and who carries a concealed handgun within one thousand feet of any school campus.

D.(1) Whoever commits the crime of carrying a firearm, or a dangerous weapon as defined in R.S. 14:2, by a student or nonstudent on school property, at a school-sponsored function, or in a firearm-free zone shall be imprisoned at hard labor for not more than five years.

(2) Whoever commits the crime of carrying a firearm, or a dangerous weapon as defined in R.S. 14:2, on school property or in a firearm-free zone with the firearm or dangerous weapon being used in the commission of a crime of violence as defined in R.S. 14:2(B) on school property or in a firearm-free zone, shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both. Any sentence issued pursuant to the provisions of this Paragraph and any sentence issued pursuant to a violation of a crime of violence as defined in R.S. 14:2(B) shall be served consecutively. Upon commitment to the Department of Public Safety and Corrections after conviction for a crime committed on school property, at a school-sponsored function or in a firearm-free zone, the department shall have the offender evaluated through appropriate examinations or tests conducted under the supervision of the department. Such evaluation shall be made within thirty days of the order of commitment.

E. Lack of knowledge that the prohibited act occurred on or within one thousand feet of school property shall not be a defense.

F.(1) School officials shall notify all students and parents of the impact of this legislation and shall post notices of the impact of this Section at each major point of entry to the school. These notices shall be maintained as permanent notices.

(2)(a) If a student is detained by the principal or other school official for violation of this Section or the school principal or other school official confiscates or seizes a firearm or concealed weapon from a student while upon school property, at a school function, or on a school bus, the principal or other school official in charge at the time of the detention or seizure shall immediately report the detention or seizure to the police department or sheriff's department where the school is located and shall deliver any firearm or weapon seized to that agency.

(b) The confiscated weapon shall be disposed of or destroyed as provided by law.

(3) If a student is detained pursuant to Paragraph (2) of this Subsection for carrying a concealed weapon on campus, the principal shall immediately notify the student's parents.

(4) If a person is arrested for carrying a concealed weapon on campus by a university or college police officer, the weapon shall be given to the sheriff, chief of police, or other officer to whom custody of the arrested person is transferred as provided by R.S. 17:1805(B).

G. Any principal or school official in charge who fails to report the detention of a student or the seizure of a firearm or concealed weapon to a law enforcement agency as required by Paragraph (F)(2) of this Section within seventy-two hours of notice of the detention or seizure may be issued a misdemeanor summons for a violation hereof and may be fined not more than five hundred dollars or sentenced to not more than forty hours of community service, or both. Upon successful completion of the community service or payment of the fine, or both, the arrest and conviction shall be set aside as provided for in Code of Criminal Procedure Article 894(B).

Acts 1991, No. 833, §1; Acts 1992, No. 197, §1; Acts 1993, No. 844, §1; Acts 1993, No. 1031, §1; Acts 1994, 3rd Ex. Sess., No. 25, §1; Acts 1994, 3rd Ex. Sess., No. 38, §1; Acts 1994,

3rd Ex. Sess., No. 107, §1; Acts 1999, No. 1236, §1; Acts 2010, No. 925, §1; Acts 2013, No. 400, §1; Acts 2014, No. 324, §1; Acts 2018, No. 629, §1.

§95.2.1. Illegal carrying of a firearm at a parade with any firearm used in the commission of a crime of violence

A. Whoever commits the crime of illegal carrying of weapons pursuant to R.S. 14:95 with any firearm used in the commission of a crime of violence as defined in R.S. 14:2(B), within one thousand feet of any parade or demonstration for which a permit is issued by a governmental entity, shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both. Any sentence issued pursuant to the provisions of this Subsection and any sentence issued pursuant to a violation of a crime of violence as defined in R.S. 14:2(B) shall be served consecutively.

B. As used in this Section, the following words mean:

(1) "Firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, or assault rifle, which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

(2) "Parade" for the purposes of this Section shall be defined as any celebration of Mardi Gras or directly related pre-Lenten or carnival related festivities, school parades, parish parades, state parades or municipal parades, or any demonstration for which a permit is issued by a governmental entity.

(3) "Parade route" means any public sidewalk, street, highway, bridge, alley, road, or other public passageway upon which a parade travels.

C. Lack of knowledge that the prohibited act occurred on or within one thousand feet of the parade route shall not be a defense.

Acts 2004, No. 661, §1.

§95.2.2. Reckless discharge of a firearm at a parade or demonstration

A. Reckless discharge of a firearm at a parade or demonstration is the reckless or criminally negligent discharge of a firearm within one thousand feet of any parade, demonstration, or gathering for which a permit is issued by a governmental entity.

B. For the purposes of this Section:

(1) "Firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, excluding black powder weapons, or assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

(2) "Parade" for the purposes of this Section shall be defined as any celebration of Mardi Gras or directly related pre-Lenten or carnival-related festivities, school parades, parish parades, state parades, or municipal parades, or any demonstration or gathering for which a permit is issued by a governmental entity.

(3) "Reckless or criminally negligent" means that 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.

C. The provisions of this Section shall not apply to:

(1) A federal, state, or local law enforcement officer in the performance of his official duties.

(2) The possession of a firearm occurring within one thousand feet of a public gathering entirely within a private residence or in accordance with a concealed handgun permit issued pursuant to R.S. 40:1379.1.

(3) The possession or discharge of a firearm by a person who holds a valid certificate as a living historian in the use, storage, and handling of black powder issued by the Louisiana office of state parks for the purpose of historic reenactments if the firearm is a black powder weapon which is an antique firearm as defined in 18 U.S.C. 921(a)(16), or an antique device exempted from the term "destructive device" in 18 U.S.C. 921(a)(4).

(4) The discharge of a firearm by a person engaged in any lawful hunting or sport shooting activity on public or private property.

D. Whoever commits the crime of reckless or negligent discharge of a firearm at a parade or demonstration shall be sentenced to imprisonment at hard labor for not less than five nor more than fifteen years, at least three years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence and shall be fined not more than five thousand dollars.

E. The provisions of this Section shall not apply to the discharge of any firearm which has been authorized as part of the parade itself.

Acts 2009, No. 150, §1; Acts 2012, No. 382, §1.

§95.3. Unlawful use or possession of body armor

A.(1) It is unlawful for any person to possess body armor who has been convicted of any of the following:

(a) A crime of violence as defined in R.S. 14:2(B) which is a felony.

(b) Simple burglary, burglary of a pharmacy, or burglary of an inhabited dwelling.

(c) Unauthorized entry of an inhabited dwelling.

(d) Felony illegal use of weapons or dangerous instrumentalities.

(e) Manufacture or possession of a delayed action incendiary device.

(f) Manufacture or possession of a bomb.

(g) Any violation of the Uniform Controlled Dangerous Substances Law.

(h) Any crime defined as an attempt to commit one of the offenses enumerated in Subparagraphs (a) through (g) of this Paragraph.

(i) Any law of any other state or of the United States or of any foreign government or country of a crime which, if committed in this state, would be one of the crimes enumerated in Subparagraphs (a) through (h) of this Paragraph.

(2) The prohibition in Paragraph (1) of this Subsection shall not apply to any person who is participating in a witness protection program.

B. No person shall use or wear body armor while committing any of the crimes enumerated in Subparagraphs (A)(1)(a) through (i) of this Section.

C. Whoever violates the provisions of this Section shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

D. For the purposes of this Section, "body armor" shall mean bullet resistant metal or other material intended to provide protection from weapons or bodily injury.

Added by Acts 1983, No. 286, §1; Acts 2003, No. 1140, §1.

§95.4. Repealed by Acts 2016, No. 201, §1.

§95.5. Possession of firearm on premises of alcoholic beverage outlet

A. No person shall intentionally possess a firearm while on the premises of an alcoholic beverage outlet.

B. "Alcoholic beverage outlet" as used herein means any commercial establishment in which alcoholic beverages of either high or low alcoholic content are sold in individual servings for consumption on the premises, whether or not such sales are a primary or incidental purpose of the business of the establishment.

C.(1) The provisions of this Section shall not apply to the owner or lessee of an alcoholic beverage outlet, an employee of such owner or lessee, or to a law enforcement officer or other person vested with law enforcement authority or listed in R.S. 14:95(G) or (H).

(2) The provisions of this Section shall not apply to a person possessing a firearm in accordance with a concealed handgun permit issued pursuant to R.S. 40:1379.1 or 1379.3 on the premises of an alcoholic beverage outlet which has been issued a Class A-Restaurant permit, as defined in Part II of Chapter 1 or Part II of Chapter 2 of Title 26 of the Louisiana Revised Statutes of 1950.

(3) The provisions of this Section shall not be construed to limit the ability of a sheriff or chief law enforcement officer to establish policies within his department or office regarding the carrying of a concealed handgun on the premises of an alcoholic beverage outlet by any law enforcement officer under his authority.

D. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Acts 1985, No. 765, §1; Acts 2014, No. 147, §1.

§95.6. Firearm-free zone; notice; signs; crime; penalties

A. A "firearm-free zone" is an area inclusive of any school campus and within one thousand feet of any such school campus, and within a school bus, wherein the possession of firearms is prohibited, except as specifically set forth in Subsection B of this Section and R.S. 14:95.2(C).

B. The provisions of this Section shall not apply to:

(1) A federal, state, or local law enforcement building.

(2) A military base.

(3) A commercial establishment which is permitted by law to have firearms or armed security.

(4) Private premises where a firearm is kept pursuant to law.

(5) Any constitutionally protected activity within the firearm-free zone, such as a firearm contained entirely within a motor vehicle.

C. For purposes of this Section:

(1) "School" means any public or private elementary, secondary, high school, or vocational-technical school, college, or university in this state.

(2) "School campus" means all facilities and property within the boundary of the school property.

(3) "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

D. The local governing authority which has jurisdiction over zoning matters in which each firearm-free zone is located shall publish a map clearly indicating the boundaries of each firearm-free zone in accordance with the specifications in Subsection A. The firearm-free zone map shall be made an official public document and placed with the clerk of court for the parish or parishes in which the firearm-free zone is located.

E.(1) The state superintendent of education, with the approval of the State Board of Elementary and Secondary Education, and the commissioner of higher education, with the approval of the Board of Regents, shall develop a method by which to mark firearm-free zones, including the use of signs or other markings suitable to the situation. Signs or other markings shall be located in a visible manner on or near each school and on and in each school bus indicating that such area is a firearm-free zone and that such zone extends to one thousand feet from the boundary of school property. The state Department of Education shall assist each approved school with the posting of notice as required in this Subsection.

(2) Signs or other markings, in addition to the method developed pursuant to Paragraph (1) of this Subsection, shall provide notice that armed law enforcement officers are permitted within the firearm-free zone by including in the signs or other markings the language "Law Enforcement Weapons Permitted" or language substantially similar thereto.

F.(1) It is unlawful for any person to cover, remove, deface, alter, or destroy any sign or other marking identifying a firearm-free zone as provided in this Section.

(2) Whoever violates the provisions of this Subsection shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

Acts 1992, No. 197, §1; Acts 1993, No. 844, §1; Acts 1993, No. 1031, §1; Acts 2016, No. 337, §1.

§95.7. Possession of or dealing in firearms with obliterated numbers or marks

A. No person shall intentionally receive, possess, carry, conceal, buy, sell, or transport any firearm from which the serial number or mark of identification has been obliterated.

B. This Section shall not apply to any firearm which is an antique or war relic and is inoperable or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade, or which was originally manufactured without such a number.

C. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars and imprisoned as follows:

(1) For a first offense, the penalty shall be imprisonment, with or without hard labor, for not less than one year nor more than five years.

(2) For a second or subsequent offense, the penalty shall be imprisonment, with or without hard labor, for not less than two years nor more than ten years.

Acts 1993, No. 85, §1; Acts 2012, No. 478, §1.

§95.8. Illegal possession of a handgun by a juvenile

A. It is unlawful for any person who has not attained the age of seventeen years knowingly to possess any handgun on his person. Any person possessing any handgun in violation of this Section commits the offense of illegal possession of a handgun by a juvenile.

B.(1) On a first conviction, the offender shall be fined not more than one hundred dollars and imprisoned for not less than ninety days and not more than six months.

(2) On a second conviction, the offender shall be fined not more than five hundred dollars and imprisoned with or without hard labor for not more than two years.

(3) On a third or subsequent conviction, the offender shall be fined not more than one thousand dollars and imprisoned at hard labor for not more than five years.

(4) A juvenile adjudicated delinquent under this Section, having been previously found guilty or adjudicated delinquent for any crime of violence as defined by R.S. 14:2(B), or attempt or conspiracy to commit any such offense, shall upon a first or subsequent conviction be fined not less than five hundred dollars and not more than one thousand dollars and shall be imprisoned with or without hard labor for not less than six months and not more than five years. At least ninety days shall be served without benefit of probation, parole, or suspension of sentence.

C. The provisions of this Section shall not apply to any person under the age of seventeen years who is:

(1) Attending a hunter's safety course or a firearms safety course.

(2) Engaging in practice in the use of a firearm or target shooting at an established range.

(3) Hunting or trapping pursuant to a valid license issued to him pursuant to the laws of this state.

(4) Traveling to or from any activity described in Paragraph (1), (2), or (3) of this Subsection while in possession of an unloaded gun.

(5) On real property with the permission of his parent or legal guardian and with the permission of the owner or lessee of the property.

(6) At such person's residence and who, with the permission of such person's parent or legal guardian, possesses a handgun.

(7) Possessing a handgun with the written permission of such person's parent or legal guardian; provided that such person carries on his person a copy of such written permission.

D. For the purposes of this Section "handgun" means a firearm as defined in R.S. 14:37.2, provided however, that the barrel length shall not exceed twelve inches.

Acts 1999, No. 1218, §1.

§95.9. Wearing or possessing body armor, by a student or nonstudent on school property, at school-sponsored functions, or in firearm-free zones; exceptions

A. Wearing or possessing body armor, by a student or nonstudent on school property, at a school-sponsored function, or in a firearm-free zone is unlawful and shall be defined as wearing or possessing of body armor, on one's person, at any time while on a school campus, on school transportation, or at any school-sponsored function in a specific designated area including but not

limited to athletic competitions, dances, parties, or any extracurricular activities, or within one thousand feet of any school campus.

B. For purposes of this Section, the following words have the following meanings:

(1) "Body armor" shall mean bullet-resistant metal or other material intended to provide protection from weapons or bodily injury.

(2) "Campus" means all facilities and property within the boundary of the school property.

(3) "Nonstudent" means any person not registered and enrolled in that school or a suspended student who does not have permission to be on the school campus.

(4) "School" means any elementary, secondary, high school, vocational-technical school, college, or university in this state.

(5) "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

C. The provisions of this Section shall not apply to:

(1) A federal, state, or local law enforcement officer in the performance of his official duties.

(2) A school official or employee acting during the normal course of his employment or a student acting under the direction of such school official or employee.

(3) A person who has notified the school principal or chancellor in writing at least twenty-four hours prior to wearing body armor.

(4) The wearing or possessing of body armor occurring within one thousand feet of school property and entirely on private property, or entirely within a private residence, or in accordance with a concealed handgun permit issued pursuant to R.S. 40:1379.1.

(5) Any constitutionally protected activity which cannot be regulated by the state, such as body armor contained entirely within a motor vehicle.

(6) Any student wearing or possessing body armor to or from a class, in which he is duly enrolled, that requires the use of the body armor in the class.

(7) A student enrolled or participating in an activity requiring the use of body armor.

(8) A student wearing, carrying, or possessing a backpack on school property or a school bus that has bullet-resistant metal or other material intended to provide protection from weapons or bodily injury.

D. Whoever commits the crime of wearing or possessing body armor by a student or nonstudent on school property, at a school-sponsored function, or in a firearm-free zone shall be fined not more than one thousand dollars, or imprisoned, without hard labor, for not less than six months nor more than one year, or both.

E. Lack of knowledge that the prohibited act occurred on or within one thousand feet of school property shall not be a defense.

F.(1) School officials shall notify all students and parents of the impact of this legislation and shall post notices of the impact of this Section at each major point of entry to the school. These notices shall be maintained as permanent notices.

(2) If a student is detained by the principal or other school official for violation of this Section or the school principal or other school official confiscates or seizes body armor from a student while upon school property, at a school function, or on a school bus, the principal or other school official in charge at the time of the detention or seizure shall immediately report the

detention or seizure to the police department or sheriff's department where the school is located and shall deliver any body armor seized to that agency.

(3) If a student is detained pursuant to Paragraph (2) of this Subsection for wearing or possessing body armor on campus, the principal shall immediately notify the student's parents.

G. Any principal or school official in charge who fails to report the detention of a student or the seizure of body armor to a law enforcement agency as required by Paragraph (F)(2) of this Section within seventy-two hours of notice of the detention or seizure may be issued a misdemeanor summons for a violation of this Section and may be fined not more than five hundred dollars or sentenced to not more than forty hours of community service, or both. Upon successful completion of the community service or payment of the fine, or both, the arrest and conviction shall be set aside as provided for in Code of Criminal Procedure Article 894(B).

Acts 2008, No. 747, §1; Acts 2018, No. 523, §1, eff. May 23, 2018.

§95.10. Possession of a firearm or carrying of a concealed weapon by a person convicted of domestic abuse battery and certain offenses of battery of a dating partner

A. It is unlawful for any person who has been convicted of any of the following offenses to possess a firearm or carry a concealed weapon:

(1) Domestic abuse battery (R.S. 14:35.3).

(2) A second or subsequent offense of battery of a dating partner (R.S. 14:34.9).

(3) Battery of a dating partner when the offense involves strangulation (R.S. 14:34.9(K)).

(4) Battery of a dating partner when the offense involves burning (R.S. 14:34.9(L)).

B. Whoever is found guilty of violating the provisions of this Section shall be imprisoned with or without hard labor for not less than one year nor more than twenty years without the benefit of probation, parole, or suspension of sentence, and shall be fined not less than one thousand dollars nor more than five thousand dollars.

C. A person shall not be considered to have been convicted of domestic abuse battery or battery of a dating partner for purposes of this Section unless the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and in the case of a prosecution for an offense described in this Section for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either the case was tried by a jury, or the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise. A person shall not be considered convicted of R.S. 14:34.9 or 35.3 for the purposes of this Section if the conviction has been expunged, set aside, or is an offense for which the person has been pardoned or had civil rights restored unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, possess, or receive firearms.

D. For the provisions of this Section, "firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

E. The provisions of this Section prohibiting the possession of firearms and carrying concealed weapons by persons who have been convicted of the offenses set forth in Subsection A of this Section shall not apply to any person who has not been convicted of any of the offenses set forth in Subsection A of this Section for a period of ten years from the date of completion of sentence, probation, parole, or suspension of sentence.

Acts 2014, No. 195, §1; Acts 2017, No. 84, §1; Acts 2018, No. 367, §1, eff. Oct. 1, 2018.

2. OBSTRUCTING HIGHWAYS OF COMMERCE

§96. Aggravated obstruction of a highway of commerce

A. Aggravated obstruction of a highway of commerce is the intentional or criminally negligent placing of anything or performance of any act on any railway, railroad, navigable waterway, road, highway, thoroughfare, or runway of an airport, wherein it is foreseeable that human life might be endangered.

B. Whoever commits the crime of aggravated obstruction of a highway of commerce shall be imprisoned, with or without hard labor, for not more than fifteen years.

Amended by Acts 1977, No. 173, §1; Acts 2014, No. 791, §7.

§97. Simple obstruction of a highway of commerce

A. Simple obstruction of a highway of commerce is the intentional or criminally negligent placing of anything or performance of any act on any railway, railroad, navigable waterway, road, highway, thoroughfare, or runway of an airport, which will render movement thereon more difficult.

B. Whoever commits the crime of simple obstruction of a highway of commerce shall be fined not more than two hundred dollars, or imprisoned for not more than six months, or both.

Acts 2014, No. 791, §7.

§97.1. Solicitation on an interstate highway

A. Solicitation on an interstate highway is the intentional act of soliciting, begging, panhandling or otherwise requesting anything of value on any interstate highway, or on any entrance or exit ramp of an interstate highway.

B. Whoever commits the crime of solicitation on an interstate highway shall be fined not more than two hundred dollars, or imprisoned for not more than six months, or both.

Acts 1997, No. 1099, §1.

§97.2. Unlawful sale, purchase, possession, or use of traffic signal preemption devices

A. It shall be unlawful for any person to sell, purchase, possess, or use a traffic signal preemption device except under the following circumstances:

(1) The owner or operator of an emergency service vehicle for use in providing emergency services, including but not limited to law enforcement vehicles, fire-fighting vehicles, emergency medical service vehicles, or ambulance vehicles;

(2) The owner or operator of a department of transportation, city, or parish maintenance vehicle for use in performing traffic control signal tests or maintenance;

(3) The owner or operator of a public transit vehicle for use in providing transit service; or

(4) An employee or agent of a traffic control signal preemption device manufacturer or retailer in the course of his employment in providing, selling, manufacturing, or transporting a traffic control signal preemption device to an individual, entity, or agency listed in this Subsection.

B. Whoever violates the provisions of this Section shall be fined not more than five thousand dollars, imprisoned for not more than one year, or both.

C. For purposes of this Section, "traffic control preemption device" means a device that interferes with or alters the operation of a traffic control signal.

Acts 2004, No. 366, §1.

3. DRIVING OFFENSES

§98. Operating a vehicle while intoxicated

A.(1) The crime of operating a vehicle while intoxicated is the operating of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance when any of the following conditions exist:

(a) The operator is under the influence of alcoholic beverages.

(b) The operator's blood alcohol concentration is 0.08 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood.

(c) The operator is under the influence of any controlled dangerous substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964.

(d)(i) The operator is under the influence of a combination of alcohol and one or more drugs that are not controlled dangerous substances and that are legally obtainable with or without a prescription.

(ii) It shall be an affirmative defense to any charge under this Subparagraph that the label on the container of the prescription drug or the manufacturer's package of the drug does not contain a warning against combining the medication with alcohol.

(e)(i) The operator is under the influence of one or more drugs that are not controlled dangerous substances and that are legally obtainable with or without a prescription.

(ii) It shall be an affirmative defense to any charge under this Subparagraph that the operator did not knowingly consume quantities of the drug or drugs that substantially exceed the dosage prescribed by the physician or the dosage recommended by the manufacturer of the drug.

(2) A valid driver's license shall not be an element of the offense, and the lack thereof shall not be a defense to a prosecution for operating a vehicle while intoxicated.

B.(1) This Subsection shall be cited as the "Child Endangerment Law".

(2) When the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child twelve years of age or younger was a passenger in the motor vehicle, aircraft, watercraft, vessel, or other means of motorized conveyance at the time of the commission of the offense:

(a) Except as provided in Subparagraphs (b) and (c) of this Paragraph, the execution of the minimum mandatory sentence provided by R.S. 14:98.1 or 98.2, as appropriate, shall not be suspended.

(b) Notwithstanding any provision of law to the contrary, if imprisonment is imposed pursuant to the provisions of R.S. 14:98.3, the execution of the minimum mandatory sentence shall not be suspended.

(c) Notwithstanding any provision of law to the contrary, if imprisonment is imposed pursuant to the provisions of R.S. 14:98.4, the execution of the minimum mandatory sentence shall not be suspended.

C.(1) For purposes of determining whether a defendant has a prior conviction for a violation of this Section, a conviction under any of the following shall constitute a prior conviction:

(a) R.S. 14:32.1, vehicular homicide.

(b) R.S. 14:32.8, third degree feticide.

(c) R.S. 14:39.1, vehicular negligent injuring.

(d) R.S. 14:39.2, first degree vehicular negligent injuring.

(e) A law of any state or an ordinance of a municipality, town, or similar political subdivision of another state that prohibits the operation of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance while intoxicated, while impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance, or as otherwise provided by R.S. 13:1894.1.

(2) The determination under this Subsection shall be made by the court as a matter of law.

(3) For purposes of this Section, a prior conviction shall not include a conviction for an offense under this Section, a conviction for an offense under R.S. 14:39.1, or a conviction under the laws of any state or an ordinance of a municipality, town, or similar political subdivision of another state which prohibits the operation of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance while intoxicated, while impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance, or as otherwise provided by R.S. 13:1894.1, if committed more than ten years prior to the commission of the crime for which the defendant is being tried, and such conviction shall not be considered in the assessment of penalties in this Section. However, periods of time during which the offender was awaiting trial, under an order of attachment for failure to appear, or on probation or parole for an offense described in this Paragraph, or periods of time during which an offender was incarcerated in a penal institution in this or any other state for any offense, including an offense described in Paragraph (1) of this Subsection, shall be excluded in computing the ten-year period.

D.(1) On a conviction of a first offense violation of the provisions of this Section, notwithstanding any other provision of law to the contrary, the offender shall be sentenced under the provisions of R.S. 14:98.1.

(2)(a) Except as provided by Subparagraph (b) of this Paragraph, on a conviction of a second offense violation of the provisions of this Section, notwithstanding any other provision of law to the contrary and regardless of whether the second offense occurred before or after the first conviction, the offender shall be sentenced under the provisions of R.S. 14:98.2.

(b) If the conviction of a second offense violation of the provisions of this Section when the first offense was for the crime of vehicular homicide in violation of R.S. 14:32.1, third degree feticide in violation of R.S. 14:32.8, or first degree vehicular negligent injuring in violation of R.S. 14:39.2, the offender shall be sentenced under the provisions of R.S. 14:98.2(D).

(3) On a conviction of a third offense violation of the provisions of this Section, notwithstanding any other provision of law to the contrary and regardless of whether the offense occurred before or after an earlier conviction, the offender shall be sentenced under the provisions of R.S. 14:98.3.

(4) On a conviction of a fourth or subsequent offense violation of the provisions of this Section, notwithstanding any other provision of law to the contrary and regardless of whether the fourth or subsequent offense occurred before or after an earlier conviction, the offender shall be sentenced under the provisions of R.S. 14:98.4.

E. The legislature hereby finds and declares that conviction of a third or subsequent offense of operating while intoxicated is presumptive evidence of the existence of a substance abuse disorder that poses a serious threat to the health and safety of the public. Further, the legislature finds that there are successful treatment methods available for treatment of addictive disorders.

F.(1) On a third or subsequent conviction of operating while intoxicated pursuant to this Section, in addition to any other sentence, the court shall order, upon motion of the prosecuting district attorney, that the vehicle being operated by the offender at the time of the offense be seized and impounded, and be sold at auction in the same manner and under the same conditions as executions of writs of seizure and sale as provided in Book V, Title II, Chapter 4 of the Code of Civil Procedure.

(2) The vehicle shall be exempt from sale if it was stolen, or if the driver of the vehicle at the time of the violation was not the owner and the owner did not know that the driver was operating the vehicle while intoxicated. If this exemption is applicable, the vehicle shall not be released from impoundment until such time as towing and storage fees have been paid. In addition, the vehicle shall be exempt from sale if all towing and storage fees are paid by a valid lienholder.

(3) If the district attorney elects to forfeit the vehicle, he shall file a written motion at least five days prior to sentencing, stating his intention to forfeit the vehicle. When the district attorney elects to forfeit the vehicle, the court shall order it forfeited.

(4) The proceeds of the sale shall first be used to pay court costs and towing and storage costs, and the remainder shall be allocated as follows:

(a) Sixty percent of the funds shall go to the arresting agency.

(b) Twenty percent of the funds shall go to the prosecuting district attorney.

(c) Twenty percent of the funds shall go to the Louisiana Property and Casualty Insurance Commission for its use in studying ways to reduce drunk driving and insurance rates.

G.(1) If an offender placed on probation for a conviction of a violation of this Section fails to complete the required substance abuse treatment, or fails to participate in a driver improvement program, or violates any other condition of probation, including conditions of home incarceration, his probation may be revoked, and he may be ordered to serve the balance of the sentence of imprisonment, without credit for time served under home incarceration.

(2) If the offender is found to be in violation of both the terms of his release for good behavior by the Department of Public Safety and Corrections, committee on parole, and in violation of his probation by the court, then the remaining balance of his diminution of sentence shall be served first, with the previously suspended sentence imposed by the court to run consecutively thereafter.

Amended by Acts 1991, No. 83, §1; Acts 1991, No. 454, §1; Acts 1992, No. 69, §1; Acts 1992, No. 679, §1; Acts 1992, No. 697, §1; Acts 1993, No. 247, §1, eff. June 2, 1993; Acts 1993, No. 403, §1; Acts 1993, No. 669, §1, eff. June 21, 1993; Acts 1994, 3rd Ex. Sess., No. 20, §1; Acts 1995, No. 316, §1, eff. June 16, 1995; Acts 1995, No. 520, §1; Acts 1997, No. 1296, §2, eff. July 15, 1997; Acts 1998, 1st Ex. Sess., No. 4, §1; Acts 1999, No. 1292, §1; Acts 2000, 1st Ex. Sess., No. 81, §1, eff. April 17, 2000; Acts 2000, 1st Ex. Sess., No. 139, §1; Acts 2001, No. 781, §1, eff. Sept. 30, 2003; Acts 2001, No. 1163, §2; Acts 2003, No. 535, §1; Acts 2003, No. 752, §1, eff. Sept. 30, 2003; Acts 2004, No. 762, §1; Acts 2005, No. 497, §1; Acts 2007, No. 227, §1; Acts 2008, No. 161, §1; Acts 2008, No. 451, §2, eff. June 25, 2008; Acts 2008, No. 640, §1; Acts 2010, No. 801, §1, eff. June 30, 2010; Acts 2012, No. 547, §1, eff. June 5, 2012; Acts

2012, No. 571, §1; Acts 2013, No. 388, §2, eff. June 18, 2013; Acts 2014, No. 175, §1; Acts 2014, No. 385, §1, eff. Jan. 1, 2015; Acts 2014, No. 386, §1, eff. May 30, 2014; Acts 2018, No. 130, §2.

§98.1. Operating while intoxicated; first offense; penalties

A.(1) Except as modified by the provisions of Paragraphs (2) and (3) of this Subsection, on a conviction of a first offense violation of R.S. 14:98, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars, and shall be imprisoned for not less than ten days nor more than six months. Imposition or execution of sentence under this Paragraph shall not be suspended unless the offender is placed on probation with the minimum conditions that he complete all of the following:

(a) Serve forty-eight hours in jail, which shall not be suspended, or in lieu thereof, perform no less than thirty-two hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program.

(b) Participate in a court-approved substance abuse program, which may include an assessment by a licensed clinician to determine if the offender has a diagnosis of substance abuse disorder. Nothing herein shall prohibit the court from modifying the portions of the program as may be applicable and appropriate to an individual offender as shown by the assessment.

(c) Participate in a court-approved driver improvement program.

(d) Except as provided by Subparagraph (3)(c) of this Subsection, the court may order that the offender not operate a motor vehicle during the period of probation, or such shorter time as set by the court, unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C) and R.S. 32:378.2.

(2) If the offender had a blood alcohol concentration of 0.15 percent or more but less than 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, at least forty-eight hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence, and is to be served in addition to any sentence of imprisonment imposed pursuant to Subparagraph (1)(a) of this Subsection, provided that the total period of imprisonment upon conviction of the offense, including imprisonment for default in payment of a fine or costs, shall not exceed six months.

(3)(a) If the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars and at least forty-eight hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence, and is to be served in addition to any sentence of imprisonment imposed pursuant to Subparagraph (1)(a) of this Subsection, provided that the total period of imprisonment upon conviction of the offense, including imprisonment for default in payment of a fine or costs, shall not exceed six months.

(b) In addition to any penalties imposed under this Section, upon conviction of a first offense, if the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for two years.

(c) The court shall require that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C) and R.S. 32:378.2. The ignition interlock device shall remain installed and operative on his vehicle during the first twelve-month period of suspension of his driver's license following the date of conviction.

B. Nothing in this Section shall prohibit a court from sentencing an offender to serve any portion of the sentence under home incarceration pursuant to R.S. 14:98.5, either in lieu of, or in addition to, a term of imprisonment if otherwise allowed under the provisions of Code of Criminal Procedure Article 894.2 and R.S. 14:98.5(B).

C. An offender may apply for a restricted driver's license to be in effect during the entire period of suspension upon proof to the Department of Public Safety and Corrections that his motor vehicle has been equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 32:378.2.

Acts 1997, No. 1296, §2, eff. July 15, 1997; Acts 2014, No. 385, §1, eff. Jan. 1, 2015.

§98.2. Operating while intoxicated; second offense; penalties

A.(1) Except as modified by the provisions of Paragraphs (2), (3), and (4) of this Subsection, or as provided by Subsection D of this Section, on a conviction of a second offense violation of R.S. 14:98, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars, and shall be imprisoned for not less than thirty days nor more than six months. At least forty-eight hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of sentence shall not be suspended unless the offender is placed on probation with the minimum conditions that he complete all of the following:

(a) Serve at least fifteen days in jail, without benefit of parole, probation, or suspension of sentence, or in lieu thereof, perform two hundred forty hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program. If imprisonment is imposed under this Subparagraph, the sentence is to be served in addition to the sentence of imprisonment imposed pursuant to Paragraph (1) of this Subsection, provided that the total period of imprisonment upon conviction of the offense, including imprisonment for default in payment of a fine or costs, shall not exceed six months.

(b) Participate in a court-approved substance abuse program, which may include an assessment by a licensed clinician to determine if the offender has a diagnosis of substance abuse disorder. Nothing in this Section shall prohibit the court from modifying the portions of the program as may be applicable and appropriate to an individual offender as shown by the assessment.

(c) Participate in a court-approved driver improvement program.

(d) Except as the period of time may be increased in accordance with Subparagraph (3)(c) of this Subsection, the court shall order that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C),

R.S. 15:306, and R.S. 32:378.2, which requirement shall remain in effect for a period of not less than six months from the date of conviction. In addition, the device shall remain installed and operative during any period that the offender's driver's license is suspended under law and for any additional period as determined by the court.

(2) If the offender had a blood alcohol concentration of 0.15 percent or more but less than 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, at least ninety-six hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence.

(3)(a) If the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the offender shall be fined one thousand dollars and at least ninety-six hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence.

(b) In addition to any penalties imposed under this Section, upon conviction of a second offense violation of R.S. 14:98, if the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for four years.

(c) The court shall require that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C), R.S. 15:306, and R.S. 32:378.2. The ignition interlock device shall remain installed and operative on his vehicle during the first three years of the four-year period of the suspension of his driver's license.

(4) If the arrest for the second offense occurs within one year of the commission of the first offense, at least thirty days of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without benefit of parole, probation, or suspension of sentence. In addition, if the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, he shall be fined one thousand dollars and also be subject to the provisions of Subparagraphs (3)(b) and (c) of this Subsection.

B. Nothing in this Section shall prohibit a court from sentencing an offender to serve any portion of the sentence under home incarceration pursuant to R.S. 14:98.5, either in lieu of, or in addition to, a term of imprisonment if otherwise allowed under the provisions of Code of Criminal Procedure Article 894.2 and R.S. 14:98.5(B).

C. An offender may apply for a restricted driver's license to be in effect during the entire period of suspension upon proof to the Department of Public Safety and Corrections that his motor vehicle has been equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 32:378.2.

D. Notwithstanding any other provision of law to the contrary, on a conviction of a second offense violation of R.S. 14:98, and regardless of whether the second offense occurred before or after the first conviction, when the first offense was for the crime of vehicular homicide in violation of R.S. 14:32.1, third degree feticide in violation of R.S. 14:32.8, or first degree vehicular negligent injuring in violation of R.S. 14:39.2, the offender shall be fined two thousand

dollars and imprisoned, with or without hard labor, for not less than one year nor more than five years. At least six months of the sentence of imprisonment imposed shall be without benefit of parole, probation, or suspension of sentence except in compliance with R.S. 14:98.5(B)(1), the mandatory minimum sentence cannot be served on home incarceration.

(1) Imposition or execution of the remainder of the sentence shall not be suspended unless the offender is placed on probation with the minimum conditions that he complete all of the following:

(a) Perform two hundred forty hours of court-approved community service activities, at least one-half of which shall consist of participation in a litter abatement or collection program.

(b) Participate in a court-approved substance abuse program, which may include an assessment by a licensed clinician to determine if the offender has a diagnosis of substance abuse disorder. Nothing in this Section shall prohibit the court from modifying the portions of the program as may be applicable and appropriate to an individual offender as shown by the assessment.

(c) Participate in a court-approved driver improvement program.

(2) In accordance with the provisions of R.S. 14:98.5(B), any offender placed on probation pursuant to the provisions of this Subsection shall be placed in a home incarceration program approved by the division of probation and parole for a period of time not less than six months and not more than the remainder of the sentence of imprisonment.

(3) Except as the period of time may be increased in accordance with Subparagraph (A)(3)(b) and (c) of this Section, in addition to any penalties imposed under this Section, the court shall order that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C), R.S. 15:306, and R.S. 32:378.2, which requirement shall remain in effect for a period of not less than six months from the date of conviction. In addition, the device shall remain installed and operative during any period that the offender's driver's license is suspended under law and for any additional period as determined by the court.

Acts 2003, No. 543, §1; Acts 2014, No. 385, §1, eff. Jan. 1, 2015.

§98.3. Operating while intoxicated; third offense; penalties

A.(1) Except as provided in Subsection B of this Section, on a conviction of a third offense violation of R.S. 14:98, regardless of whether the third offense occurred before or after a previous conviction, the offender shall be fined two thousand dollars and shall be imprisoned, with or without hard labor, for not less than one year nor more than five years. Except as provided in Paragraph (2) of this Subsection, at least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Except in compliance with R.S. 14:98.5(B)(1), the mandatory minimum sentence cannot be served on home incarceration.

(2) The one-year period described in Paragraph (1) of this Subsection, which shall otherwise be imposed without the benefit of parole, probation, or suspension of sentence, may be suspended if the offender is accepted into a drug division probation program pursuant to R.S. 13:5301 et seq. The provisions of R.S. 14:98(F) relative to vehicle seizure and sale shall also be

applicable to any offender whose sentence is served with the benefit of parole, probation, or suspension of sentence pursuant to the provisions of this Paragraph.

(3)(a) The court, in its discretion, may suspend all or any part of the remainder of the sentence of imprisonment imposed pursuant to Paragraph (1) of this Subsection. If any of the remainder of the sentence is suspended, the offender shall be placed on supervised probation with the Department of Public Safety and Corrections, division of probation and parole, for not more than a period of five years but not less than a period of time equal to the remainder of the sentence of imprisonment, which probation shall commence on the day after the offender's release from imprisonment after serving the mandatory sentence required by this Section, unless the offender was released by diminution of sentence for good behavior pursuant to R.S. 15:571.3, in which case the probation shall commence simultaneously with the period of supervision provided by R.S. 15:571.5 and shall run concurrently therewith. The offender must comply with both the conditions of his release as set by the committee on parole in accordance with R.S. 15:571.5 and with the conditions of probation set by the sentencing court.

(b) Any offender placed on probation pursuant to this Paragraph shall be required as a condition of probation to participate in two hundred forty hours of court-approved community service activities, obtain employment, participate in a court-approved driver improvement program at his expense, and submit to and complete either of the following requirements:

(i) Immediately undergo an evaluation by the Department of Health and Hospitals, office of behavioral health, to determine the nature and extent of the offender's substance abuse disorder and to participate in any treatment plan recommended by the office of behavioral health, including treatment in an inpatient facility approved by the office for a period of not less than four weeks, followed by outpatient treatment services for a period not to exceed twelve months.

(ii) Participate in substance abuse treatment in an alcohol and drug abuse program provided by a drug division subject to the applicable provisions of R.S. 13:5301 et seq. if the offender is otherwise eligible to participate in such program.

(c) In addition to the requirements set forth in Subparagraphs (a) and (b) of this Paragraph, any offender placed on probation pursuant to the provisions of this Subsection shall be placed in a home incarceration program approved by the division of probation and parole for a period of time not less than six months and not more than the remainder of the sentence of imprisonment. The terms of home incarceration shall be in compliance with the provisions of R.S. 14:98.5(B) and Code of Criminal Procedure Article 894.2.

(d)(i) Notwithstanding any law to the contrary and the provisions of R.S. 32:414(D)(1)(b), upon conviction of a third offense violation of R.S. 14:98, any motor vehicle, while being operated by the offender, shall be equipped with a functioning ignition interlock device in accordance with the provisions of R.S. 15:306. The ignition interlock device shall remain installed and operative until the offender has completed the requirements of substance abuse treatment and home incarceration, or, if applicable, the requirements of the drug division probation program provided in R.S. 13:5301 et seq.

(ii) Notwithstanding any provision of law to the contrary, any offender convicted of a third offense violation of R.S. 14:98 shall, after one year of the suspension required by R.S. 32:414(D)(1)(a), upon proof to the Department of Public Safety and Corrections that the motor vehicles being operated by the offender are equipped with functioning ignition interlock devices,

be issued a restricted driver's license. The restricted license shall be effective for the period of time that the offender's driver's license is suspended. The restricted license shall entitle the offender to operate the vehicles equipped with a functioning ignition interlock device in order to earn a livelihood and to travel to and from the places designated in R.S. 14:98.5(B)(3)(e).

(e) If an offender placed on probation pursuant to the provisions of this Paragraph fails to complete the substance abuse treatment required by this Subsection or violates any other condition of probation, including conditions of home incarceration, his probation may be revoked, and he may be ordered to serve the balance of the sentence of imprisonment, without credit for time served under home incarceration.

B.(1) If the offender has previously received the benefit of parole, probation, or suspension of sentence on a conviction of a third or subsequent offense violation of R.S. 14:98, or if the offender has previously participated in a drug division probation program pursuant to R.S. 13:5301 et seq., pursuant to a sentence imposed on a conviction of a third or subsequent offense violation of R.S. 14:98, or if the offender has previously been required to participate in substance abuse treatment or home incarceration pursuant to a sentence imposed on a conviction of a third or subsequent offense violation of R.S. 14:98, then on a conviction of a subsequent third offense violation of R.S. 14:98, notwithstanding any other provision of law to the contrary and regardless of whether the offense occurred before or after an earlier conviction, the offender shall be fined two thousand dollars and imprisoned, with or without hard labor, for not less than two nor more than five years. At least two years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Except in compliance with R.S. 14:98.5(B)(1), the mandatory minimum sentence cannot be served on home incarceration.

(2) Except where inconsistent with the provisions of this Subsection, the conditions of probation shall include but not be limited to the conditions of probation provided by Paragraph (A)(3) of this Section, except that the offender shall not be sentenced to substance abuse treatment provided for by Items (A)(3)(b)(i) and (ii) of this Section. Nothing in this Section shall prohibit the court from ordering substance abuse treatment if it determines that the offender is able to pay for the substance abuse treatment.

C. In addition to any other penalty, the court shall order, upon motion of the prosecuting district attorney, that the vehicle being operated by the offender at the time of the offense be seized and impounded, and sold at auction in accordance with the provisions of R.S. 14:98(F).

Acts 2009, No. 236, §1, eff. July 1, 2009; Acts 2014, No. 385, §1, eff. Jan. 1, 2015.

§98.4. Operating while intoxicated; fourth offense; penalties

A.(1) Except as modified by Subparagraphs (a) and (b) of this Paragraph, or as provided by Subsections B and C of this Section, on a conviction of a fourth or subsequent offense violation of R.S. 14:98, regardless of whether the fourth offense occurred before or after an earlier conviction, the offender shall be fined five thousand dollars and imprisoned, with or without hard labor, for not less than ten years nor more than thirty years. Two years of the sentence of imprisonment shall be imposed without benefit of parole, probation, or suspension of sentence. Except in compliance with R.S. 14:98.5(B)(1), the mandatory minimum sentence cannot be served on home incarceration.

(a) Except as prohibited by Subparagraph (b) of this Paragraph, the two-year period, which shall otherwise be imposed without benefit of parole, probation, or suspension of sentence, may be suspended if the offender is accepted into a drug division probation program pursuant to R.S. 13:5301 et seq. The provisions of R.S. 14:98(F) relative to vehicle seizure and sale shall also be applicable to any offender whose sentence is served with the benefit of parole, probation, or suspension of sentence pursuant to the provisions of this Paragraph.

(b) If the offender has previously participated in a drug division probation program pursuant to R.S. 13:5301 et seq., pursuant to a sentence imposed on a third or subsequent offense conviction under R.S. 14:98, three years of the sentence imposed in this Paragraph shall be imposed without benefit of parole, probation, or suspension of sentence. Notwithstanding any other law to the contrary, the offender shall not be eligible to have the mandatory portion of his sentence suspended because of his participation in a drug division program under Item (2)(b)(ii) of this Subsection.

(2)(a) The court, in its discretion, may suspend all or any part of the remainder of the sentence of imprisonment. If any of the sentence is suspended, the offender shall be placed on supervised probation with the Department of Public Safety and Corrections, division of probation and parole, for a period of five years, which probation shall commence on the day after the offender's release from imprisonment after serving the mandatory sentence required by this Section, unless the offender was released by diminution of sentence for good behavior pursuant to R.S. 15:571.3, in which case the probation shall commence simultaneously with the period of supervision provided by R.S. 15:571.5 and shall run concurrently therewith. The offender must comply with both the conditions of his release as set by the committee on parole in accordance with R.S. 15:571.5 and with the conditions of probation set by the sentencing court.

(b) Any offender placed on probation pursuant to this Paragraph shall be required as a condition of probation to participate in three hundred twenty hours of court-approved community service activities, obtain employment, participate in a court-approved driver improvement program at his expense, and submit to and complete either of the following requirements:

(i) Immediately undergo an evaluation by the Department of Health and Hospitals, office of behavioral health, to determine the nature and extent of the offender's substance abuse disorder, and participate in any treatment plan recommended by the office of behavioral health, including treatment in an inpatient facility approved by the office for a period of not less than four weeks followed by outpatient treatment services for a period not to exceed twelve months.

(ii) Except as provided in Subparagraph (1)(b) of this Subsection, participate in substance abuse treatment in an alcohol and drug abuse program provided by a drug division subject to the applicable provisions of R.S. 13:5301 et seq. if the offender is otherwise eligible to participate in such program.

(c) In addition to the requirements set forth in Subparagraphs (a) and (b) of this Paragraph, any offender placed on probation pursuant to the provisions of this Subsection shall be placed in a home incarceration program approved by the division of probation and parole for the remainder of the term of supervised probation. The terms of home incarceration shall be in compliance with the provisions of R.S. 14:98.5(B) and Code of Criminal Procedure Article 894.2.

(d)(i) Notwithstanding any law to the contrary and the provisions of R.S. 32:414(D)(1)(b), upon conviction of a fourth or subsequent offense, any motor vehicle, while being operated by the offender, shall be equipped with a functioning ignition interlock device in accordance with the provisions of R.S. 15:306. The ignition interlock device shall remain installed and operative until the offender has completed the requirements of substance abuse treatment and home incarceration or, if applicable, the requirements of the drug division probation program provided for in R.S. 13:5301 et seq.

(ii) Any offender convicted of a fourth or subsequent offense shall, after one year of the suspension required by R.S. 32:414(D)(1)(a), upon proof to the Department of Public Safety and Corrections that the motor vehicles being operated by the offender are equipped with functioning ignition interlock devices, be issued a restricted driver's license. The restricted license shall be effective for the period of time that the offender's driver's license is suspended. The restricted license shall entitle the offender to operate the vehicles equipped with a functioning ignition interlock device in order to earn a livelihood and to travel to and from the places designated in R.S. 14:98.5(B)(3)(e).

(e) If an offender placed on probation pursuant to the provisions of this Paragraph fails to complete the substance abuse treatment required by this Subsection or violates any other condition of probation, including conditions of home incarceration, his probation may be revoked, and he may be ordered to serve the balance of the sentence of imprisonment, without credit for time served under home incarceration.

B.(1) If the offender has previously been required to participate in substance abuse treatment or home incarceration pursuant to a sentence imposed on a conviction of a third offense violation of R.S. 14:98, then on a conviction of a fourth or subsequent offense, notwithstanding any other provision of law to the contrary and regardless of whether the fourth offense occurred before or after an earlier conviction, the offender shall be fined five thousand dollars and imprisoned at hard labor for not less than ten nor more than thirty years, at least three years of which shall be imposed without benefit of parole, probation, or suspension of sentence. Notwithstanding any provision of law to the contrary, the offender shall not be eligible to have the mandatory portion of his sentence suspended because of his participation in a drug division program under Item (A)(2)(b)(ii) of this Section, and except in compliance with R.S. 14:98.5(B)(1), the mandatory minimum sentence cannot be served on home incarceration.

(2) After serving the mandatory sentence, if any of the remainder of the sentence is suspended, the offender shall be placed on supervised probation with the Department of Public Safety and Corrections, division of probation and parole, for a period of five years, which probation shall commence on the day after the offender's release from imprisonment after serving the mandatory sentence required by this Section, unless the offender was released by diminution of sentence for good behavior pursuant to R.S. 15:571.3, in which case the probation shall commence simultaneously with the period of supervision provided by R.S. 15:571.5 and shall run concurrently therewith. The offender shall comply with both the conditions of his release as set by the parole board in accordance with R.S. 15:571.5 and with the conditions of probation set by the sentencing court.

(3) Except where inconsistent with the provisions of this Subsection, the conditions of probation shall include but not be limited to the conditions of probation provided by Paragraph

(A)(2) of this Section, but the offender shall not be sentenced to substance abuse treatment provided for by Items (A)(2)(b)(i) and (ii) of this Section. Nothing in this Section shall prohibit the court from ordering substance abuse treatment if it determines that the offender is able to pay for the substance abuse treatment.

C. If the offender has previously received the benefit of parole, probation, or suspension of sentence on a conviction of a fourth or subsequent offense violation of R.S. 14:98, then on a subsequent conviction of a fourth or subsequent offense, notwithstanding any other provision of law to the contrary and regardless of whether the offense occurred before or after an earlier conviction, the offender shall be fined five thousand dollars and imprisoned at hard labor for not less than ten nor more than thirty years. No part of the sentence shall be imposed with benefit of parole, probation, or suspension of sentence, and no portion of the sentence shall be imposed concurrently with the remaining balance of any sentence to be served for a prior conviction for any offense.

D. In addition to any other penalty, the court shall order, upon motion of the prosecuting district attorney, that the vehicle being operated by the offender at the time of the offense be seized and impounded, and sold at auction in accordance with the provisions of R.S. 14:98(F).

Acts 2014, No. 385, §1, eff. Jan. 1, 2015.

§98.5. Special provisions and definitions

A.(1) An offender ordered to participate in a substance abuse program, home incarceration, or a driver improvement program in accordance with the penalty provisions of R.S. 14:98, 98.1, 98.2, 98.3, and 98.4 shall pay the cost incurred in participating in the program. Failure to make such payment shall subject the offender to revocation of probation, unless the court determines that the offender is unable to pay.

(2) On a conviction of a third or subsequent offense violation of R.S. 14:98, if the court determines that the offender is unable to pay, the state shall pay for the cost of the substance abuse treatment. If the court determines that an offender is unable to pay the costs incurred for participating in a substance abuse treatment program, driver improvement program, or home incarceration, the court may, upon completion of such program or home incarceration, require that the offender reimburse the state for all or a portion of such costs pursuant to a payment schedule determined by the court. This Paragraph shall not apply to substance abuse treatment imposed as a condition of probation under R.S. 14:98.3(B)(2) or R.S. 14:98.4(B)(3).

B.(1) For felony violations of R.S. 14:98, the mandatory minimum sentence imposed by the court shall not be served on home incarceration unless either:

(a) The Department of Public Safety and Corrections, through the division of probation and parole, recommends home incarceration of the defendant and specific conditions of that home incarceration.

(b) The district attorney recommends home incarceration.

(2) Except as provided by Paragraph (4) of this Subsection and unless otherwise authorized or prohibited, on a misdemeanor violation of R.S. 14:98 or on a felony violation of R.S. 14:98 after the offender has served the mandatory minimum sentence, the court may sentence the offender to home incarceration.

(3) Except as modified by Paragraph (5) of this Subsection, when the court sentences an offender to home incarceration, the offender shall be subject to special conditions to be determined by the court, which shall include but not be limited to the following:

(a) Electronic monitoring. However, nothing in this Section shall prohibit a court from ordering nonelectronic monitored home incarceration as a condition of probation for a first or second conviction where the period of home incarceration is less than five days.

(b) Curfew restrictions.

(c) The court shall require the offender to obtain employment.

(d) The court shall require the offender to participate in a court-approved driver improvement program, if not already a condition of his probation.

(e) The activities of the offender outside of his home shall be limited to traveling to and from work, church services or other religious services, Alcoholics Anonymous meetings, Narcotics Anonymous meetings, other secular-based addiction recovery group meetings, accredited educational institutions, meetings with his probation or parole officer, court-ordered community service activities, court-ordered substance abuse treatments, and a court-approved driver improvement program.

(f) Except as inconsistent with the provisions of this Subsection, an offender sentenced to home incarceration shall be subject to all other applicable provisions of Code of Criminal Procedure Article 894.2.

(4) An offender who has been convicted of any second violation of any state or local law or ordinance prohibiting operating a vehicle while intoxicated, committed within five years of the commission of any prior operating while intoxicated violation, shall not be eligible for home incarceration until the offender has first served a minimum of forty-eight consecutive hours of imprisonment.

(5) When the offender is on probation for a third or subsequent offense, or on a second offense under R.S. 14:98.2(D), a home visitation shall be conducted at least once per month by the Department of Public Safety and Corrections for the first six months. After the first six months, the level of supervision shall be determined by the department based upon a risk assessment instrument.

C.(1) No offender who is ordered to install an ignition interlock device as a condition of probation shall:

(a) Fail to comply with all applicable provisions of R.S. 15:306 and 307 and R.S. 32:378.2 and 414(D)(1)(b).

(b) Violate the conditions of his restricted driver's license as set by the Department of Public Safety and Corrections.

(c) Operate, rent, lease, or borrow a motor vehicle unless that vehicle is equipped with a functioning ignition interlock device.

(d) Request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the offender with an operable motor vehicle.

(2) If the court imposes the use of an ignition interlock device as a condition of probation, the offender shall provide proof of compliance to the court or the probation officer within thirty days. If the offender fails to provide proof of installation within that period, absent

a finding by the court of good cause for the failure that is entered into the court record, the court shall revoke the offender's probation.

(3) The provisions of this Subsection shall not require installation of an ignition interlock device in any vehicle described in R.S. 32:378.2(I).

D.(1) "Community service activities" as used in this Section and R.S. 14:98.1, 98.2, 98.3, and 98.4, in addition to participation in a litter abatement or collection program, may include duty in any morgue, coroner's office, or emergency treatment room of a state-operated hospital or other state-operated emergency treatment facility, with the consent of the administrator of the morgue, coroner's office, hospital, or facility.

(2) An offender who participates in a litter abatement or collection program pursuant to this Subsection shall have no cause of action for damages against the entity conducting the program or supervising the offender's participation therein, including a municipality, parish, sheriff, or other entity, nor against any official, employee, or agent of such entity, for any injury or loss suffered by him during or arising out of his participation therein, if such injury or loss is a direct result of the lack of supervision or act or omission of the supervisor, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the entity or its official, employee, or agent.

Acts 2014, No. 385, §1, eff. Jan. 1, 2015.

§98.6. Underage operating while intoxicated

A. The crime of underage operating a vehicle while intoxicated is the operating of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance when the operator's blood alcohol concentration is 0.02 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, if the operator is under the age of twenty-one.

B. Any underage person whose blood alcohol concentration is found to be in violation of R.S. 14:98(A)(1)(b) shall be charged under the provisions of that Subparagraph rather than under this Section.

C.(1) On a first conviction, the offender shall be fined not less than one hundred dollars nor more than two hundred fifty dollars, and imprisoned for not less than ten days nor more than three months. Imposition or execution of sentence shall not be suspended unless the offender is placed on probation with the minimum conditions that he:

(a) Perform thirty-two hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program.

(b) Participate in a court-approved substance abuse and driver improvement program.

(2) On a second or subsequent conviction, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than two hundred fifty dollars nor more than five hundred dollars, and imprisoned for not less than thirty days nor more than six months. Imposition or execution of sentence under this Paragraph shall not be suspended unless the offender is placed on probation with the minimum conditions that he:

(a) Serve forty-eight hours in jail without benefit of parole, probation, or suspension of sentence, or in lieu thereof, perform no less than eighty hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program.

(b) Participate in a court-approved substance abuse program.

(c) Participate in a court-approved driver improvement program.

(3) Nothing in this Section shall prohibit a court from sentencing an offender to serve any portion of the sentence under home incarceration either in lieu of, or in addition to, a term of imprisonment if otherwise allowed under the provisions of Code of Criminal Procedure Article 894.2 and R.S. 14:98.5(B).

(4) The court may require that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in accordance with R.S. 14:98.5(C).

D. Court programs regarding substance abuse as provided for by Subsection C of this Section shall include a screening procedure to determine the portions of the program that may be applicable and appropriate for individual offenders.

Acts 2014, No. 385, §1, eff. Jan. 1, 2015.

§98.7. Unlawful refusal to submit to chemical tests; arrests for driving while intoxicated

A. No person under arrest for a violation of R.S. 14:98, or 98.6, or any other law or ordinance that prohibits operating a vehicle while intoxicated, may refuse to submit to a chemical test when requested to do so by a law enforcement officer if he has refused to submit to such test on two previous and separate occasions of any such violation.

B.(1) Whoever violates the provisions of this Section shall be fined not less than three hundred dollars nor more than one thousand dollars, and shall be imprisoned for not less than ten days nor more than six months.

(2) Imposition or execution of sentence shall not be suspended unless one of the following occurs:

(a) The offender is placed on probation with the minimum conditions that he serve two days in jail and participate in a court-approved substance abuse program and participate in a court-approved driver improvement program.

(b) The offender is placed on probation with the minimum conditions that he perform thirty-two hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program, participate in a court-approved substance abuse program, and participate in a court-approved driver improvement program. An offender who participates in a litter abatement or collection program pursuant to this Subparagraph shall have no cause of action for damages against the entity conducting the program or supervising his participation therein, as provided by R.S. 14:98.5(D).

Acts 2014, No. 385, §1, eff. Jan. 1, 2015.

§98.8. Operating a vehicle while under suspension for certain prior offenses

A. It is unlawful to operate a motor vehicle on a public highway where the operator's driving privileges have been suspended under the authority of R.S. 32:414(A)(1), (B)(1) or (2), (D)(1)(a), or R.S. 32:667. It shall not be a violation of the provisions of this Section when a person operates a motor vehicle to obtain emergency medical care for himself or any other person.

B. Whoever violates the provisions of this Section shall be imprisoned for not less than fifteen days nor more than six months without benefit of suspension of imposition or execution of sentence, except as provided in Subsection C of this Section.

C. When the operator's driving privileges were suspended for manslaughter, vehicular homicide, or negligent homicide, the offender shall be imprisoned for not less than sixty days nor more than six months without benefit of suspension of imposition or execution of sentence.

Acts 2014, No. 385, §1, eff. Jan. 1, 2015.

§99. Reckless operation of a vehicle

A. Reckless operation of a vehicle is the operation of any motor vehicle, aircraft, vessel, or other means of conveyance in a criminally negligent or reckless manner.

B.(1) Whoever commits the crime of reckless operation of a vehicle shall be fined not more than two hundred dollars, or imprisoned for not more than ninety days, or both.

(2) On a second or subsequent conviction the offender shall be fined not less than twenty-five nor more than five hundred dollars, or imprisoned for not less than ten days nor more than six months, or both.

Acts 2014, No. 791, §7.

§99.1. Hit and run damaging of a potable waterline by operation of a watercraft or vessel

A. Hit and run damaging of a potable waterline by operation of a watercraft or vessel is the intentional failure of the driver of a watercraft or vessel involved in or causing any accident resulting in damage to a potable waterline to stop such vehicle at the scene of the accident to give his identity.

B. For the purpose of this Section:

(1) "Accident resulting in damage to a potable waterline" means an incident or event resulting in damage to a potable waterline or other device used for transporting potable water across marshlands or inland waterways or barrier islands.

(2) "To give his identity" means that the driver of any vehicle involved in any accident shall give his name, address, and the license number of his vessel or watercraft to the enforcement authorities at the scene or shall report the accident to the police if there are no enforcement authorities at the scene.

(3) "Potable waterline" means a potable waterline that is marked as such every two thousand feet with a sign giving notice of the crime created by this Section and the penalties imposed.

(4) "Inland waterway" shall not include the Mississippi River.

C. Whoever commits the crime of hit and run damaging of a potable waterline by operation of a watercraft or vessel shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than five years, or both.

Acts 2006, No. 140, §1.

§99.2. Reckless operation of an off-road vehicle

A. Reckless operation of an off-road vehicle is the operation of any off-road vehicle in a criminally negligent or reckless manner upon any public roadway or right of way.

B.(1) For purposes of this Section, "off-road vehicle" shall include but not be limited to three-wheelers, four-wheelers, dirt bikes, or other all-terrain vehicles that are not specifically designed for use on public roads and highways.

(2) For the purposes of this Section, acts which may constitute reckless operation of an off-road vehicle shall include but not be limited to operating the vehicle on a public roadway or right of way in a manner that:

(a) Forces another vehicle to leave the roadway.

(b) Collides with another vehicle or person.

(c) Exceeds the posted speed limit.

(d) Travels against the flow of traffic.

(e) Disregards traffic control devices.

(f) Drives around or between standing or moving vehicles without regard to lanes of traffic.

(g) Impedes traffic flow.

(h) Travels off the roadway and back on to the roadway deliberately.

(3) For purposes of this Section, reckless operation of an off-road vehicle shall also include operating the vehicle on a public roadway or right of way:

(a) While performing stunts of showmanship, such as riding wheelies or acrobatic stunts.

(b) While harassing the drivers of other vehicles or pedestrians by verbal taunting or making threatening gestures.

(c) While corralling an occupied vehicle or a pedestrian.

C. It shall be unlawful for a person to solicit or to assist in soliciting participation in any rally, ride, or gathering that encourages the violation of this Section by the use of a computer online service, internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, internet chat room, electronic mail, social media, or online messaging service.

D. Any drivers of motor vehicles participating in or traveling in support of persons in violation of this Section shall be considered in violation of this Section. Persons who are directly participating in this activity by photographing or filming violations of this Section to document the activity for the riders shall also be considered in violation of this Section. This Section shall not apply to individuals who are not participating in the violation of this Section and who are filming or photographing.

E.(1) Whoever commits a violation of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than ninety days, or both.

(2) In addition to any other sentence, the court shall order, upon motion of the prosecuting district attorney, that the off-road vehicle being operated by the offender at the time of the offense be seized and impounded and destroyed when:

(a) The driver was wearing a hood, mask, or disguise of any kind with the intent to hide or conceal his identity during the commission of the crime of reckless operation of an off-road vehicle.

(b) It is a second or subsequent conviction for the offender pursuant to this Section.

(c) The driver has a previous conviction in this state or under a similar law in another state for:

(i) R.S. 14:96, aggravated obstruction of a highway of commerce.

(ii) R.S. 14:97, simple obstruction of a highway of commerce.

(iii) R.S. 14:99, reckless operation.

(iv) R.S. 14:108, resisting an officer.

(3) Notwithstanding the provisions of Paragraph (2) of this Subsection, the off-road vehicle shall not be destroyed if it was stolen, or if the driver of the off-road vehicle at the time of the violation was not the owner and the owner did not know that the driver was operating the off-road vehicle in violation of this Section. However, the off-road vehicle shall not be released from impoundment until such time as towing and storage fees have been paid. In addition, the off-road vehicle shall not be destroyed if the towing and storage fees are paid by a valid lienholder.

(4) If the district attorney elects to seize and impound the off-road vehicle, he shall file a written motion at least five days prior to sentencing, stating his intention to destroy the off-road vehicle. When the district attorney elects to seize, impound, and destroy the off-road vehicle, the court shall order it seized and impounded. The court shall also order the vehicle destroyed unless the provisions of Paragraph (3) of this Subsection are applicable.

Acts 2018, No. 415, §1.

§100. Hit-and-run driving

A. Hit and run driving is the intentional failure of the driver of a vehicle involved in or causing any accident, to stop such vehicle at the scene of the accident, to give his identity, and to render reasonable aid.

B. For the purpose of this Section:

(1) "To give his identity", means that the driver of any vehicle involved in any accident shall give his name, address, and the license number of his vehicle, or shall report the accident to the police.

(2) "Serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain, or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

(3) "Vehicle" includes a watercraft.

(4) "Accident" means an incident or event resulting in damage to property or injury to person.

C.(1)(a) Whoever commits the crime of hit-and-run driving where there is no death or serious bodily injury shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(b) Whoever commits the crime of hit-and-run driving where there is no death or serious bodily injury shall be fined not more than five hundred dollars, imprisoned for not less than ten days nor more than six months, or both when: (i) there is evidence that the vehicle operator consumed alcohol or used drugs or a controlled dangerous substance prior to the accident; (ii) the consumption of the alcohol, drugs, or a controlled dangerous substance contributed to the accident; and (iii) the driver failed to stop, give his identity, or render aid with the knowledge that his actions could affect an actual or potential present, past, or future criminal investigation or proceeding.

(2) Whoever commits the crime of hit-and-run driving, when death or serious bodily injury is a direct result of the accident and when the driver knew or should have known that

death or serious bodily injury has occurred, shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than ten years, or both.

(3) Whoever commits the crime of hit-and-run driving where all of the following conditions are met shall be imprisoned, with or without hard labor, for not less than five years nor more than twenty years:

(a) Death or serious bodily injury is a direct result of the accident.

(b) The driver knew or must have known that the vehicle he was operating was involved in an accident or that his operation of the vehicle was the direct cause of an accident.

(c) The driver had been previously convicted of any of the following:

(i) A violation of R.S. 14:98, or a law or an ordinance of any state or political subdivision prohibiting operation of any vehicle or means of transportation or conveyance while intoxicated, impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance on two or more occasions within ten years of this offense.

(ii) A violation of R.S. 14:32.1-vehicular homicide.

(iii) A violation of R.S. 14:39.1-vehicular negligent injuring.

(iv) A violation of R.S. 14:39.2-first degree vehicular negligent injuring.

Amended by Acts 1968, No. 647, §1. Acts 1988, No. 671, §1; Acts 1997, No. 561, §1; Acts 1999, No. 1103, §1; Acts 2003, No. 159, §1.

4. OBSTRUCTING PUBLIC PASSAGES

§100.1. Obstructing public passages

A. No person shall wilfully obstruct the free, convenient, and normal use of any public sidewalk, street, highway, bridge, alley, road, or other passageway, or the entrance, corridor, or passage of any public building, structure, water craft, or ferry, by impeding, hindering, stifling, retarding, or restraining traffic or passage thereon or therein.

B. Whoever violates the provisions of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both fined and imprisoned.

C. This Section shall not be applicable to the erection or construction of any barricades or other forms of obstructions as a safety measure in connection with construction, excavation, maintenance, repair, replacement, or other work in or adjacent to any public sidewalk, street, highway, bridge, alley, road, or other passageway, nor to the placing of barricades or other forms of obstruction by governmental authorities, or any officer or agent thereof, in the proper performance of duties.

Added by Acts 1960, No. 80, §1. Amended by Acts 1976, No. 488, §1; Acts 2014, No. 791, §7.

5. PREVENTION OF TERRORISM ON THE HIGHWAYS

§100.11. Legislative findings; purpose

A. The legislature finds that the devastating consequences of the barbaric attacks on September 11, 2001 on the World Trade Center and the Pentagon as well as the pervasive bomb

threats and biological terrorism in various parts of the country were committed for the purposes of demoralizing and destabilizing our society and creating a climate of fear. These heinous deeds designed to kill, maim, and strike terror into the hearts of innocent citizens of this country cannot be tolerated, nor can those less violent acts to the infrastructure of our state which are designed to intimidate, confuse, and disrupt everyday commerce and the delivery of goods and services to the populace be permitted.

B. The legislature further finds that it is imperative that state laws be enacted to complement federal efforts to uncover those who seek to use the highways of this state to commit acts of terror and who seek to gain drivers' licenses or identification cards for the purposes of masking their illegal status in this state. Accordingly, the legislature finds that state law must be strengthened with a comprehensive framework for punishing those who give false information in order to obtain drivers' licenses or identification cards from the office of motor vehicles of the Department of Public Safety and Corrections, to limit the issuance of such documentation to correspond to the time limits placed by the federal Immigration and Naturalization Service on documentation, and to make operating a motor vehicle in this state when not lawfully present in the United States a crime.

Acts 2002, 1st Ex. Sess., No. 46, §1.

§100.12. Definitions

As used in this Subdivision, the following terms shall have the following meanings:

(1) "Act of terrorism" means the commission of any of the following acts when the offender has the intent to intimidate or coerce the civilian population, influence the policy of a unit of government by intimidation or coercion, or affect the conduct of a unit of government by intimidation or coercion:

(a) Intentional killing of a human being.

(b) Intentional infliction of serious bodily injury upon a human being.

(c) Kidnapping of a human being.

(d) Aggravated arson upon any structure, watercraft, or movable.

(e) Intentional aggravated criminal damage to property.

(2) "Alien student" means any person who is attending an institution of education in the state who is not a citizen of the United States.

(3) "Documentation demonstrating lawful presence in the United States" is a document demonstrating lawful presence in the United States as determined by the Department of Public Safety and Corrections pursuant to R.S. 32:409.1(A)(2)(d)(vi).

(4) "INS" means the United States Immigration and Naturalization Service.

(5) "Nonresident alien" means any person who is not a United States citizen and who is a citizen of any country other than the United States, who is physically present in the United States and who has not acquired INS permanent resident status.

Acts 2002, 1st Ex. Sess., No. 46, §1.

§100.13. Operating a vehicle without lawful presence in the United States

A. No alien student or nonresident alien shall operate a motor vehicle in the state without documentation demonstrating that the person is lawfully present in the United States.

B. Upon arrest of a person for operating a vehicle without lawful presence in the United States, law enforcement officials shall seize the driver's license and immediately surrender such license to the office of motor vehicles for cancellation and shall immediately notify the INS of the name and location of the person.

C. Whoever commits the crime of driving without lawful presence in the United States shall be fined not more than one thousand dollars, imprisoned for not more than one year, with or without hard labor, or both.

Acts 2002, 1st Ex. Sess., No. 46, §1.

§100.14. Giving false information regarding lawful presence in the United States in order to obtain a driver's license

A. No alien student or nonresident alien shall falsify any information required in R.S. 32:409.1 for the purpose of obtaining a driver's license or a special identification card from the office of motor vehicles.

B. Upon arrest for falsifying information pursuant to this Section, the arresting agency shall immediately notify the INS of the name and location of the person.

C. Whoever commits the crime of falsifying information required for the purpose of obtaining a driver's license shall be fined not more than five hundred dollars, imprisoned for not less than six months, or both.

Acts 2002, 1st Ex. Sess., No. 46, §1.

SUBPART B. OFFENSES AFFECTING THE PUBLIC SENSIBILITY

§101. Desecration of graves

A. Desecration of graves is either of the following:

(1) Unauthorized opening of any place of interment, or building wherein the dead body of a human being is located, with the intent to remove or to mutilate the body or any part thereof, or any article interred or intended to be interred with the body.

(2) Intentional or criminally negligent damaging in any manner of any grave, tomb, or mausoleum erected for the dead.

B. Whoever commits the crime of desecration of graves shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

Amended by Acts 1968, No. 647, §1, eff. July 20, 1968; Acts 2014, No. 791, §7.

§101.1. Purchase or sale of human organs

A. No person shall intentionally acquire, receive, sell, or otherwise transfer in exchange for anything of value any human organ for use in human transplantation.

B. For purposes of Subsection A:

(1) The term "human organ" means the human kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, skin, and any other human organ.

(2) The term "anything of value" shall not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and

storage of a human organ or the expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ.

C. Whoever violates the provisions of this Section shall be fined not more than fifty thousand dollars or imprisoned with or without hard labor not more than five years, or both.

Added by Acts 1986, No. 775, §1.

§101.2. Unauthorized use of sperm, ovum, or embryo

A. No person shall knowingly use a sperm, ovum, or embryo, through the use of assisted reproduction technology, for any purpose other than that indicated by the sperm, ovum, or embryo provider's signature on a written consent form.

B. No person shall knowingly implant a sperm, ovum, or embryo, through the use of assisted reproduction technology, into a recipient who is not the sperm, ovum, or embryo provider, without the signed written consent of the sperm, ovum, or embryo provider and recipient.

C. Knowing violation of the provisions of this Section shall be grounds for immediate revocation of the violator's professional license.

D. This Section shall not apply to the use by a surviving spouse of the human ova or sperm of the deceased spouse in order to conceive a child, provided that prior to his death the deceased spouse signed a consent form authorizing such a donation.

Acts 1999, No. 1246, §1.

§102. Definitions; cruelty to animals

The following words, phrases, and terms as used in R.S. 14:102.1 through R.S. 14:102.4 shall be defined and construed as follows:

(1) "Cruel" means every act or failure to act whereby unjustifiable physical pain or suffering is caused or permitted.

(2) "Abandons" means to completely forsake and desert an animal previously under the custody or possession of a person without making reasonable arrangements for its proper care, sustenance, and shelter.

(3) "Proper food" means providing each animal with daily food of sufficient quality and quantity to prevent unnecessary or unjustifiable suffering by the animal.

(4) "Proper water" means providing each animal with daily water of sufficient quality and quantity to prevent unnecessary or unjustifiable suffering by the animal.

(5) "Proper shelter" means providing each animal with adequate shelter from the elements as required to prevent unnecessary or unjustifiable suffering by the animal.

(6) "Proper veterinary care" means providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(7) "Livestock" means cattle, sheep, swine, goats, horses, mules, burros, asses, other livestock of all ages, farm-raised cervidae species, and farm-raised ratite species.

(8) "Public livestock exhibition" means any place, establishment, or facility commonly known as a "livestock market", "livestock auction market", "sales ring", "stockyard", or the like, operated for compensation or profit as a public market for livestock, consisting of pens, or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale

or shipment. "Public livestock exhibition" also means any public exhibition or sale of livestock or a livestock show.

(9) "Tampers" means any of the following:

(a) The injection, use, or administration of any drug or other internal or external administration of any product or material, whether gas, solid, or liquid, to livestock for the purpose of concealing, enhancing, transforming, or changing the true conformation, configuration, condition, natural color, or age of the livestock or making the livestock appear more sound than they actually are.

(b) The use or administration, for cosmetic purposes, of steroids, growth stimulants, or internal artificial filling, including paraffin, silicone injection, or any other substance.

(c) The use or administration of any drug or feed additive affecting the central nervous system of the livestock, unless administered or prescribed by a licensed veterinarian for the treatment of an illness or an injury.

(d) The use or administration of diuretics for cosmetic purposes.

(e) The surgical manipulation or removal of tissue so as to change, transform, or enhance the true conformation, configuration, or natural color of the livestock unless the procedure is considered an accepted livestock management practice.

Amended by Acts 1982, No. 431, §1; Acts 1997, No. 461, §2.

§102.1. Cruelty to animals; simple and aggravated

A.(1) Any person who intentionally or with criminal negligence commits any of the following shall be guilty of simple cruelty to animals:

(a) Overdrives, overloads, drives when overloaded, or overworks a living animal.

(b) Torments, cruelly beats, or unjustifiably injures any living animal, whether belonging to himself or another.

(c) Having charge, custody, or possession of any animal, either as owner or otherwise, unjustifiably fails to provide it with proper food, proper drink, proper shelter, or proper veterinary care.

(d) Abandons any animal. A person shall not be considered to have abandoned an animal if he delivers to an animal control center an animal which he found running at large.

(e) Impounds or confines or causes to be impounded or confined in a pound or other place, a living animal and fails to supply it during such confinement with proper food, proper drink, and proper shelter.

(f) Carries, or causes to be carried, a living animal in or upon a vehicle or otherwise, in a cruel or inhumane manner.

(g) Unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken or swallowed by any domestic animal.

(h) Injures any animal belonging to another person.

(i) Mistreats any living animal by any act or omission whereby unnecessary or unjustifiable physical pain, suffering or death is caused to or permitted upon the animal.

(j) Causes or procures to be done by any person any act enumerated in this Subsection.

(2)(a) Whoever commits the crime of simple cruelty to animals shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(b) Whoever commits a second or subsequent offense of simple cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both. In addition, the court shall issue an order prohibiting the defendant from owning or keeping animals for a period of time deemed appropriate by the court.

(c) In addition to any other penalty imposed, a person who commits the crime of cruelty to animals shall be ordered to perform five eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(d) In addition to any other penalty imposed, the court may order a psychological evaluation or anger management treatment for a first conviction of the crime of simple cruelty to animals. For a second or subsequent offense of the crime of simple cruelty to an animal, the court shall order a psychological evaluation or anger management treatment. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(3) For purposes of this Subsection, if more than one animal is subject to an act of cruel treatment by an offender, each act shall constitute a separate offense.

B.(1) Any person who intentionally or with criminal negligence tortures, maims, or mutilates any living animal, whether belonging to himself or another, shall be guilty of aggravated cruelty to animals.

(2) Any person who tampers with livestock at a public livestock exhibition or at a private sale shall also be guilty of aggravated cruelty to animals.

(3) Any person who causes or procures to be done by any person any act designated in this Subsection shall also be guilty of aggravated cruelty to animals.

(4) Any person who intentionally or with criminal negligence mistreats any living animal whether belonging to himself or another by any act or omission which causes or permits unnecessary or unjustifiable physical pain, suffering, or death to the animal shall also be guilty of aggravated cruelty to animals.

(5) In addition to any other penalty imposed for a violation of this Subsection, the offender shall be ordered to undergo a psychological evaluation and subsequently recommended psychological treatment and shall be banned by court order from owning or keeping animals for a period of time deemed appropriate by the court. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(6) Whoever commits the crime of aggravated cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both.

(7) For purposes of this Subsection, where more than one animal is tortured, maimed, mutilated, or maliciously killed1 or where more than one head of livestock is tampered with, each act comprises a separate offense.

C. This Section shall not apply to any of the following:

(1) The lawful hunting or trapping of wildlife as provided by law.

(2) Herding of domestic animals.

(3) Accepted veterinary practices.

(4) Activities carried on for scientific or medical research governed by accepted standards.

(5) Traditional rural Mardi Gras parades, processions, or runs involving chickens.

(6) Nothing in this Section shall prohibit the standard transportation and agricultural processing of agriculture products as defined in R.S. 3:3602(5) and (6).

D. Repealed by Acts 2007, No. 425, §2, eff. August 15, 2008.

Added by Acts 1982, No. 431, §1. Acts 1983, 1st Ex. Sess., No. 6, §1; Acts 1987, No. 336, §1; Acts 1995, No. 1165, §1; Acts 1995, No. 1246, §1, eff. June 29, 1995; Acts 1997, No. 461, §2; Acts 1997, No. 1212, §1; Acts 2006, No. 228, §1; Acts 2007, No. 425, §§1 and 2, eff. Aug. 15, 2008; Acts 2009, No. 106, §1; Acts 2009, No. 179, §1.

1As appears in enrolled bill.

§102.2. Seizure and disposition of animals cruelly treated

A. When a person is charged with cruelty to animals, said person's animal may be seized by the arresting officer and held pursuant to this Section.

B.(1) The seizing officer shall notify the owner of the seized animal of the provisions of this Section by posting written notice at the location where the animal was seized or by leaving it with a person of suitable age and discretion residing at that location within twenty-four hours of the seizure.

(2) The seizing officer shall photograph the animal within fifteen days after posting of the notice of seizure and shall cause an affidavit to be prepared in order to document its condition in accordance with R.S. 15:436.2.

(3) The seizing officer shall appoint a licensed veterinarian or other suitable custodian to care for any such animal. The custodian shall retain custody of the animal in accordance with this Section.

(4) The seized animal shall be held by the custodian provided for in Paragraph (3) for a period of fifteen consecutive days, including weekends and holidays, after such notice of seizure is given. Thereafter, if a person who claims an interest in such animal has not posted bond in accordance with Subsection C, the animal may be humanely disposed of by sale, adoption, or euthanasia.

C.(1) A person claiming an interest in any animal seized pursuant to this Section may prevent the disposition of the animal as provided for in Subsection B of this Section by posting a bond with the court within fifteen days after receiving notice of such seizure. Such bond shall prevent the disposition of the animal for a period of thirty days commencing on the date of initial seizure.

(2)(a) The amount of the bond shall be determined by the department, agency, humane society, and the custodian of the animal as authorized by the court and shall be sufficient to secure payment for all reasonable costs incurred during the thirty-day period for the boarding and medical treatment of the animal after examination by a licensed veterinarian.

(b) The court shall order that the bond be given to the custodian of the animal to cover such costs.

(3) Such bond shall not prevent the department, agency, humane society, or other custodian of the animal from disposing of the animal in accordance with Subsection B of this

Section at the end of the thirty-day period covered by the bond, unless the person claiming an interest posts an additional bond for such reasonable expenses for an additional thirty-day period. In addition, such bond shall not prevent disposition of the animal for humane purposes at any time, in accordance with Subsection E of this Section.

D. Upon a person's conviction of cruelty to animals, it shall be proper for the court, in its discretion, to order the forfeiture and final determination of the custody of any animal found to be cruelly treated in accordance with this Section and the forfeiture of the bond posted pursuant to Subsection C as part of the sentence. The court may, in its discretion, order the payment of any reasonable or additional costs incurred in the boarding or veterinary treatment of any seized animal prior to its disposition, whether or not a bond was posted by the defendant. In the event of the acquittal or final discharge without conviction of the accused, the court shall, on demand, direct the delivery of any animal held in custody to the owner thereof and order the return of any bond posted pursuant to Subsection C, less reasonable administrative costs.

E. Nothing in this Section shall prevent the euthanasia of any seized animal, at any time, whether or not any bond was posted, if a licensed veterinarian determines that the animal is not likely to survive and is suffering, as a result of any physical condition. In such instances, the court, in its discretion, may order the return of any bond posted, less reasonable costs, at the time of trial.

Added by Acts 1982, No. 431, §1; Acts 1997, No. 1212, §1; Acts 2010, No. 916, §1.

§102.3. Search warrant; animal cruelty offenses

If the complaint is made, by affidavit, to any magistrate authorized to issue search warrants in criminal cases, that the complainant has reason to believe that an animal has been or is being cruelly treated in violation of R.S. 14:102.1, in any building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant to any law enforcement officer authorized by law to make arrests for such offenses, authorizing any such officer to make a search of said building or place, and to arrest any person found violating R.S. 14:102.1. Said warrant may also authorize said officer to seize any animal believed to be cruelly treated and to take custody thereof. This section shall not be construed as a limitation on the power of law enforcement officers to seize animals as evidence at the time of the arrest.

Added by Acts 1982, No. 431, §1.

§102.4. Confined animals; necessary food and water

When a living animal is impounded or confined, and continues without necessary food and water for more than twenty-four consecutive hours, any law enforcement officer may, as often as is necessary, enter any place in which the animal is impounded or confined and supply it with necessary food and water so long as it shall remain impounded or confined.

Added by Acts 1982, No. 431, §1.

§102.5. Dogfighting; training and possession of dogs for fighting

A. No person shall intentionally do any of the following:

(1) For amusement or gain, cause any dog to fight with another dog, or cause any dogs to injure each other.

(2) Permit any act in violation of Paragraph (1) to be done on any premises under his charge or control, or aid or abet any such act.

(3) Promote, stage, advertise, or be employed at a dogfighting exhibition.

(4) Sell a ticket of admission or receive money for the admission of any person to any place used, or about to be used, for any activity described in Paragraph (2).

(5) Own, manage, or operate any facility kept or used for the purpose of dogfighting.

(6) Knowingly attend as a spectator at any organized dogfighting event.

(7)(a) Own, possess, keep, or train a dog for purpose of dogfighting.

(b) The following activities shall be admissible as evidence of a violation of this Paragraph:

(i) Possession of any treadmill wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia, together with evidence that the paraphernalia is being used or intended for use in the unlawful training of a dog to fight with another dog, along with the possession of any such dog.

(ii) Tying, attaching, or fastening any live animal to a machine or power propelled device, for the purpose of causing the animal to be pursued by a dog, together with the possession of a dog.

(iii) Possession or ownership of a dog exhibiting injuries or alterations consistent with dogfighting, including but not limited to torn or missing ears, scars, lacerations, bite wounds, puncture wounds, bruising or other injuries, together with evidence that the dog has been used or is intended for use in dogfighting.

B. "Dogfighting" means an organized event wherein there is a display of combat between two or more dogs in which the fighting, killing, maiming, or injuring of a dog is the significant feature, or main purpose, of the event.

C. Whoever violates any provision of Subsection A of this Section shall be fined not less than one thousand dollars nor more than twenty-five thousand dollars, or be imprisoned with or without hard labor for not less than one year nor more than ten years, or both.

D. Nothing in this Section shall prohibit any of the following activities:

(1) The use of dogs for hunting.

(2) The use of dogs for management of livestock by the owner, his employees or agents, or any other person having lawful custody of livestock.

(3) The training of dogs or the possession or use of equipment in the training of dogs for any purpose not prohibited by law.

(4) The possessing or owning of dogs with ears cropped or otherwise surgically altered for cosmetic purposes.

E. Repealed by Acts 2008, No. 14, §2.

Added by Acts 1982, No. 432, §1. Acts 1984, No. 661, §1; Acts 1993, No. 1002, §1; Acts 2001, No. 547, §1; Acts 2001, No. 734, §1, eff. June 25, 2001; Acts 2008, No. 14, §§1, 2.

§102.6. Seizure and destruction or disposition of dogs and equipment used in dogfighting

A.(1) Any law enforcement officer making an arrest under R.S. 14:102.5 may lawfully take possession of all fighting dogs on the premises where the arrest is made or in the immediate possession or control of the person being arrested, whether or not the dogs are actually engaged

in a fight at the time, and all paraphernalia, implements, equipment, or other property or things used or employed in violation of that Section.

(2) The legislature finds and declares that fighting dogs used or employed in violation of R.S. 14:102.5 are dangerous, vicious, and a threat to the health and safety of the public. Therefore, fighting dogs seized in accordance with this Section are declared to be contraband and, notwithstanding R.S. 14:102.1, the officer, an animal control officer, or a licensed veterinarian may cause them to be humanely euthanized as soon as possible by a licensed veterinarian or a qualified technician and shall not be civilly or criminally liable for so doing. Fighting dogs not destroyed immediately shall be disposed of in accordance with R.S. 14:102.2.

B.(1) The officer, after taking possession of any dogs other than those destroyed or disposed of pursuant to Subsection A and of the other paraphernalia, implements, equipment, or other property or things, shall file with the district court of the parish within which the alleged violation occurred an affidavit stating therein the name of the person charged, a description of the property so taken and the time and place of the taking thereof, together with the name of the person who claims to own such property, if known, and that the affiant has reason to believe and does believe, stating the ground of such belief, that the property so taken was used or employed in such violation.

(2) The seizing officer shall dispose of any dogs or other animals seized in the manner provided for in R.S. 14:102.2.

(3) He shall thereupon deliver the other property so taken to such court which shall, by order in writing, place such paraphernalia, implements, equipment, or other property in the custody of a suitable custodian, to be kept by such custodian until the conviction or final discharge of the accused, and shall send a copy of such order without delay to the district attorney of the parish. The custodian so named and designated in such order shall immediately thereupon assume the custody of such property and shall retain the same, subject to the order of the court before which the accused shall be required to appear for trial.

C. Any person claiming an interest in a seized animal may post a bond with the court in accordance with the provisions of R.S. 14:102.2(C) in order to prevent the disposition of such animal.

D. Upon conviction of the person so charged, all dogs so seized shall be adjudged by the court to be forfeited and the court shall order a humane disposition of the same in accordance with R.S. 14:102.2. The court may also in its discretion order the forfeiture of the bond posted, as well as payment of any reasonable or additional costs incurred in the boarding or veterinary treatment of any seized dog, as provided in R.S. 14:102.2. In the event of the acquittal or final discharge, without conviction, of the accused, the court shall, on demand, direct the delivery of the animals and other property so held in custody to the owner thereof and order the return of any bond posted pursuant to R.S. 14:102.2(C), less reasonable administrative costs.

Added by Acts 1982, No. 432, §1; Acts 1987, No. 590, §1; Acts 1993, No. 1002, §1; Acts 1997, No. 1212, §1; Acts 2010, No. 369, §1.

§102.7. Search warrant for dogfighting offenses

If complaint is made, by affidavit, to any magistrate authorized to issue search warrants in criminal cases, that the complainant has reason to believe that R.S. 14:102.5 has been violated

within the past forty-eight hours, is being, or will be violated in any building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any law enforcement officer competent by law to make arrests for such offenses to make a search of said building or place, and to arrest any person found violating R.S. 14:102.5. This Section shall not be construed as a limitation on the power of law enforcement officers to seize animals or evidence at the time of arrest.

Added by Acts 1982, No. 432, §1.

§102.8. Injuring or killing of a police animal

A. Injuring or killing of a police animal is the intentional infliction of great bodily harm, permanent disability, or death upon a police animal.

B. As used in this Section:

(1) "Police animal" means:

(a) Any dog which is owned or the service of which is used by any state or local law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

(b) Any dog which is owned or the service of which is used by any public safety agency and which is trained in accordance with the standards of a national or regional search and rescue association to respond to instructions from its handler in the search for possibly deceased individuals and in the search and rescue of lost or missing individuals and which dog, together with its handler, is prepared to render search and rescue services at the request of a public safety agency.

(c) Any horse which is used by a state or local law enforcement officer in the course of his official duty.

(2) "Public safety agency" means any agency of the state or political subdivision of the state which provides or has authority to provide law enforcement, fire protection, emergency medical services, emergency preparedness services, or any other type of emergency services.

C. It shall be an affirmative defense to a prosecution under this Section when the injuring or killing of a police animal is committed with the reasonable belief by one not involved in or being apprehended for the commission of any offense or by one taken into custody that:

(1) He is in imminent danger of losing his life or receiving great bodily harm and that the injuring or killing is necessary to save himself from that danger.

(2) Another person not involved in or being apprehended for the commission of any offense is in imminent danger of losing his life or receiving great bodily harm and that the injury or killing is necessary to save that person from that danger.

(3) His animal or other property not involved in the commission of any offense or in the apprehension of any person for an offense is in imminent danger of being destroyed or receiving grave injury or damage that may result in its destruction.

D.(1) Whoever commits the crime of injuring or killing of a police animal shall be fined not less than five thousand dollars nor more than ten thousand dollars, or imprisoned with or without hard labor for not less than one year nor more than three years, or both.

(2) Upon a second or subsequent conviction, regardless of whether the second or subsequent offense occurred before or after the first conviction, the offender shall be fined not

less than five thousand dollars and not more than ten thousand dollars, or imprisoned with or without hard labor for not less than five years nor more than seven years, or both.

E. In addition to the foregoing penalties, a person convicted under this Section shall be ordered to make full restitution to the public safety agency suffering a financial loss from the injury or killing of a police animal. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

Acts 1984, No. 534, §1; Acts 1986, No. 997, §1, eff. July 16, 1986; Acts 1992, No. 921, §1; Acts 1994, 3rd Ex. Sess., No. 82, §1; Acts 1995, No. 208, §1; Acts 1997, No. 130, §1; Acts 2001, No. 213, §1; Acts 2008, No. 158, §1.

§102.9. Interference with animal research; research laboratory or farm

A. Interference with animal research is any of the following:

(1) The unauthorized entry of any research laboratory or research farm with the intent of releasing or causing the release of any animal housed or kept within such research facility.

(2) The intentional or criminally negligent damaging of any research laboratory or research farm.

(3) The intentional or criminally negligent unauthorized release of any animal housed or kept within any research laboratory or research farm.

B. Whoever commits the crime of interference with animal research shall, upon conviction, be fined not less than one thousand nor more than five thousand dollars and may be imprisoned, with or without hard labor, for not more than one year.

Acts 1989, No. 784, §1.

{{NOTE: SEE ALSO R.S. 14:228.}}

§102.10. Bear wrestling; penalty

A. Any person who intentionally commits any of the following shall be guilty of bear wrestling:

(1) Promotes, engages in, or is employed by anyone who conducts a bear wrestling match.

(2) Receives money for the admission of another person to a place kept for bear wrestling matches.

(3) Sells, purchases, possesses, or trains a bear for a bear wrestling match.

B. For the purposes of this Section, a "bear wrestling match" means a match or contest between one or more persons and a bear for the purpose of fighting or engaging in a physical altercation.

C. Whoever commits the crime of bear wrestling shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Acts 1992, No. 740, §1.

§102.11. Illegal contact sports; penalty

A. Any person who intentionally commits any of the following shall be guilty of illegal contact sports:

(1) Promotes, engages or participates in, judges, or referees a tough-man competition or is employed by anyone who conducts a tough-man competition.

(2) Receives money for the admission of another person to a place which holds or has held tough-man competitions.

B. For the purposes of this Section, a "tough-man contest or competition" means any boxing match, wrestling event, or contest or competition, or combination thereof, between two or more persons, whether professional or amateur, who use their hands, with or without gloves, or their feet, or both, in any manner unauthorized by the State Boxing and Wrestling Commission, and compete for money, financial prize, or any item of pecuniary or nonpecuniary value or compete at an event where a fee is charged whereby either participant may obtain pecuniary gain. "Tough-man contest or competition" shall not include, nor shall the provisions of this Section apply to any contest, competition, or exhibition of any of the recognized martial arts including karate, judo, kung fu, tae kwan do, jujitsu, kickboxing, or any substantially similar tradition.

C. Whoever commits the crime of illegal contact sports shall be fined not more than five hundred dollars or imprisoned, with or without hard labor, for not more than one year, or both.

Acts 1995, No. 1275, §2.

§102.12. Definitions

As used in this Section and R.S. 14:102.13 through 102.18, the following definitions shall apply:

(1) "Animal control agency" means the parish or local animal control agency. If the municipality or parish does not have an animal control agency, it means whatever entity performs animal control functions.

(2) "Impounded" means taken into the custody of the animal control agency or provider of animal control services to the municipality or parish where the dangerous or vicious dog is found.

(3) "Secure enclosure" means a fence or structure suitable to prevent the entry of young children, and which is suitable to confine a dangerous dog in conjunction with other measures which may be taken by the owner of the dog. The enclosure shall be designed in order to prevent the animal from escaping.

(4) "Serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

Acts 2001, No. 823, §1; Acts 2003, No. 563, §1.

§102.13. Hearing to determine if dog is dangerous or vicious

A. The district attorney, the sheriff, an animal control officer, or other designated representative, in the name of and on behalf of the parish and without the payment of any costs, shall be authorized to file a petition in the district court having jurisdiction requesting a hearing

for the purpose of determining whether or not a dog should be declared dangerous as defined in R.S. 14:102.14(A) or vicious as defined in R.S. 14:102.15(A).

B. Upon the filing of the petition, the district judge shall immediately issue a rule on the owner of the dog to show cause why the dog should not be declared a dangerous or vicious dog. This rule shall, at the time of its issuance, be fixed for hearing not later than five days, including Sundays, half-holidays and holidays, from the date of its issuance, and shall be heard by preference over all other matters and cases fixed for the same day and shall be heard continuously day after day until submitted for adjudication.

C. Upon the showing made by the parties on the trial of the rule to show cause, the court shall determine whether the dog is a dangerous dog or a vicious dog and may make other orders authorized by this Section.

D. In every case where the dog is established to be a dangerous dog, the court shall enter an order declaring the dog to be a dangerous dog and shall direct the owner of the dog to comply with conditions established for the restraint and confinement of the dog as provided by law.

E. In every case where the dog is established to be a vicious dog, the court shall enter an order declaring the dog to be a vicious dog and shall direct that the vicious dog be humanely euthanized.

F. Any person who fails to restrain and confine a dangerous dog as ordered by the court shall be guilty of contempt and shall be fined not less than one hundred dollars nor more than five hundred dollars.

G. The pleading and practice in all cases under this Section shall be in accordance with the Code of Civil Procedure and the laws and rules of court governing practice before the district courts of this state.

H. The owner of the dog may appeal to the court of competent jurisdiction an order of the district court determining the dog to be dangerous or vicious. Such appeal shall be perfected within five calendar days from the rendition of the order and shall be made returnable to the appropriate appellate court in not more than fifteen calendar days from the rendition of the order. The applicant for the determination may appeal to the court of competent jurisdiction for an order reversing the order of the district court.

I. No dog shall be declared dangerous or vicious if at the hearing authorized by this Section evidence presented is sufficient to establish any of the following:

(1) Any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a crime upon the property of the owner of the dog.

(2) Any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was teasing, tormenting, abusing, or assaulting the dog.

(3) Any injury or damage is sustained by a domestic animal which, at the time the injury or damage was sustained, was teasing, tormenting, abusing, or assaulting the dog.

(4) If the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault.

(5) If the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the

control of, its owner, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.

J. The owner of a dog determined to be a vicious dog may be prohibited by the court from owning, possessing, controlling, or having custody of any dog for a period of up to three years, when it is found, after proceedings conducted pursuant to this Section, that ownership or possession of a dog by that person would create a significant threat to the health, safety, or welfare of the public.

Acts 2001, No. 823, §1.

§102.14. Unlawful ownership of dangerous dog

A. For the purposes of this Section "dangerous dog" means:

(1) Any dog which when unprovoked, on two separate occasions within the prior thirty-six-month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner of the dog; or

(2) Any dog which, when unprovoked, bites a person causing an injury; or

(3) Any dog which, when unprovoked, on two separate occasions within the prior thirty-six-month period, has killed, seriously bitten, inflicted injury, or otherwise caused injury to a domestic animal off the property of the owner of the dog.

B. It is unlawful for any person to own a dangerous dog without properly restraining or confining the dog.

C. A dangerous dog, while on the owner's property, shall, at all times, be kept indoors, or in a secure enclosure. A dangerous dog may be off the owner's property only if it is restrained by a leash which prevents its escape or access to other persons.

D. The owner of a dog determined by the court to be dangerous shall post signs around the secure enclosure no more than thirty feet apart and at each normal point of ingress and egress. The signs shall bear the words "Beware of Dog", or "Dangerous Dog" in letters at least three and one-half inches high and shall be so placed as to be readily visible to any person approaching the secure enclosure.

E. If the dog in question dies, or is sold, transferred, or permanently removed from the municipality or parish where the owner resides, the owner of a dangerous dog shall notify the animal control agency of the changed condition and new location of the dog in writing within two days.

F. Whoever violates the provisions of this Section shall be fined not more than three hundred dollars.

G. The provisions of this Section shall not apply to:

(1) Any dog which is owned, or the service of which is employed, by any state or local law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

(2) Any dog trained in accordance with the standards of a national or regional search and rescue association to respond to instructions from its handler in the search and rescue of lost or missing individuals and which dog, together with its handler, is prepared to render search and rescue services at the request of law enforcement.

Acts 2001, No. 823, §1.

§102.15. Unlawful ownership of a vicious dog

A. For the purposes of this Section "vicious dog" means any dog which, when unprovoked, in an aggressive manner, inflicts serious bodily injury on or kills a human being and was previously determined to be a dangerous dog.

B. It is unlawful for any person to own a vicious dog.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

D. The provisions of this Section shall not apply to:

(1) Any dog which is owned, or the service of which is employed, by any state or local law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

(2) Any dog trained in accordance with the standards of a national or regional search and rescue association to respond to instructions from its handler in the search and rescue of lost or missing individuals and which dog, together with its handler, is prepared to render search and rescue services at the request of law enforcement.

Acts 2001, No. 823, §1.

§102.16. Seizure and destruction or disposition of dangerous or vicious dogs

A.(1) Any law enforcement officer making an arrest under R.S. 14:102.14 or R.S. 14:102.15 may lawfully take possession of all dogs on the premises where the arrest is made or in the immediate possession or control of the person being arrested.

(2) The legislature finds and declares that dangerous or vicious dogs are a threat to the health and safety of the public. Dogs seized in accordance with this Section are declared to be contraband, and the officer may cause them to be impounded pending the hearing held pursuant to R.S. 14:102.13.

B. A dog determined to be a vicious dog by the court shall be humanely euthanized by the animal control agency, a licensed veterinarian, or a qualified technician.

C. A dog determined by the court to be a dangerous dog may be humanely euthanized if it is determined that the dog poses an immediate threat to public health and safety.

D. The owner of the dog shall be liable to the municipality or parish where the dog is impounded for the costs and expenses of keeping the dog if the dog is later adjudicated dangerous or vicious.

Acts 2001, No. 823, §1.

§102.17. Registration of dangerous dogs; fees

A. All dangerous dogs shall be properly licensed and vaccinated. The licensing authority shall include the dangerous designation in the registration records of the dog, either after the owner of the dog has agreed to the designation or the court has determined the designation applies to the dog.

B. The municipality or parish may charge a dangerous dog fee in addition to the regular licensing fee to provide for the increased costs of maintaining the records of the dog.

Acts 2001, No. 823, §1.

§102.18. Seizure and disposition of dogs which cause death or inflict bodily injury

A. Any law enforcement officer or animal control officer may seize any dog which when unprovoked, in an aggressive manner, causes the death of or inflicts bodily injury on a human being. Any dog seized pursuant to the provisions of this Section may be impounded pending the outcome of the hearing held in accordance with this Section.

B. The district attorney, the sheriff, an animal control officer, or other designated representative, in the name of and on behalf of the parish, and without the payment of any costs, shall be authorized to file a petition in the district court having jurisdiction requesting a hearing for the purpose of determining whether or not a dog which, when unprovoked, in an aggressive manner, causes the death of or inflicts bodily injury on a human being, shall be euthanized.

C. The hearing shall be conducted in accordance with the procedure provided in R.S. 14:102.13.

D. A dog determined by the court to have, when unprovoked, in an aggressive manner, caused the death of or inflicted bodily injury on a human being may be humanely euthanized by the animal control agency, a licensed veterinarian, or a qualified technician.

E. The owner of the dog shall be liable to the municipality or parish where the dog is impounded for the costs and expenses of keeping the dog if the dog is later adjudicated to have, when unprovoked, in an aggressive manner, caused the death or inflicted bodily injury on a human being.

Acts 2003, No. 563, §1.

§102.19. Hog and canine fighting prohibited; penalties

A. It shall be unlawful for any person to organize or conduct any commercial or private event, wherein there is a display of combat or fighting among one or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

B. It shall be unlawful for any person to intentionally do any of the following for the purpose of organizing, conducting, or financially or materially supporting any event as provided in Subsection A of this Section:

(1) Finance, commercially advertise, sell admission tickets, or employ persons.

(2) Own, manage, or operate any facility or property.

(3) Supply, breed, train, or keep canines or hogs.

(4) Knowingly purchase tickets of admission.

C. The provisions of this Section shall not apply to any competitive event in which canines, which are trained for hunting or herding activities, are released in an open area or an enclosed area to locate and corner hogs, and in which competitive points are deducted if a hog is caught and held, unless by such actions it is reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

D. The provisions of this Section shall not apply to the lawful hunting of hogs with canines or the use of canines for the management, farming, or herding of hogs which are livestock or the private training of canines for the purposes enumerated in this Subsection

provided that such training is conducted in the field and is not in violation of the provisions of Subsection A of this Section.

E. The provisions of this Section shall not apply to "Uncle Earl's Hog Dog Trials", as defined in R.S. 49:170.10.

F. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

G. For the purposes of this Section:

(1) "Hog" shall include a pig, swine, or boar.

(2) "Person" means an individual, corporation, partnership, trust, firm, association or other legal entity.

Acts 2004, No. 111, §1.

§102.20. Sport killing of zoo or circus animals prohibited

A. No person shall kill for sport an animal that is presently or was formerly a part of a zoo or circus.

B. No zoo or circus shall provide, sell, or donate any animal for use in any business or activity wherein the animal may be intentionally killed for sport.

C. No person shall knowingly transfer or conspire to transfer any animal from a zoo or circus to any business, person, or activity wherein the animal may be intentionally killed for sport.

D. No business or person wherein an animal may be intentionally killed for sport shall purchase, accept as a donation, or receive any animal that was formerly a part of a zoo or circus.

E. Whoever violates the provisions of this Section or rules and regulations promulgated pursuant thereto shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Acts 2004, No. 891, §1.

§102.21. Unauthorized use of the identity of a deceased soldier

A. It shall be unlawful for any person to use for the purpose of advertising for the sale of any goods, wares, or merchandise, or for the solicitation of patronage by any business the name, portrait, or picture of any deceased soldier, without having obtained prior consent to such use by the soldier, or by the closest living relative, by blood or marriage, of the deceased.

B. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned for not more than one year, or both.

C. For purposes of this Section, "soldier" means any active duty member or former member of the armed forces of the United States including any member who was killed in the line of duty.

Acts 2006, No. 239, §1.

§102.22. Harboring or concealing an animal which has bitten or inflicted serious bodily injury on a human

A. Harboring or concealing an animal which has bitten or inflicted serious bodily injury on a human is committed when a person knows or has reason to know that an animal has bitten

or inflicted serious bodily injury on a human and the person intentionally harbors or conceals the animal from any law enforcement or animal control agency investigator or agent.

B. For the purposes of this Section:

(1) "Animal control agency" means the parish or local animal control agency. If the municipality or parish does not have an animal control agency, it means the entity designated to perform animal control functions.

(2) "Serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

C. Whoever commits the crime of harboring or concealing an animal which has bitten or inflicted serious bodily injury on a human shall be fined not more than one thousand dollars or imprisoned with or without hard labor, for not more than two years, or both.

D.(1) Any health care provider, as provided in R.S. 40:1231.1, who examines or treats any person who has been bitten by an animal or upon whom an animal has inflicted serious bodily injury shall report such bite or injury to the law enforcement or animal control agency for the location where the bite or injury occurred. Such report shall be made immediately, if possible, and in any event shall be made within twenty-four hours.

(2) The report shall include as much of the following information as is available:

(a) The patient's name, date of birth, sex, and current home and work addresses.

(b) The nature of the bite or injury that is the subject of the report.

(c) Any information about the location of the biting animal and the name and address of any known owner.

(d) The name and address of the health care provider.

Acts 2006, No. 788, §1.

§102.23. Cockfighting

A. It shall be unlawful for any person to:

(1) Organize or conduct any commercial or private cockfight wherein there is a display of combat or fighting among one or more domestic or feral chickens and in which it is intended or reasonably foreseeable that the chickens would be injured, maimed, mutilated, or killed; or

(2) Possess, train, purchase, or sell any chicken with the intent that the chicken shall be engaged in an unlawful commercial or private cockfight as prohibited in Paragraph (1) of this Subsection.

B. As used in this Section, the following words and phrases have the following meanings ascribed to them:

(1) "Chicken" means any game fowl or rooster whether domestic or feral normally used in a cockfight.

(2) "Cockfight" means a contest wherein chickens are set against one another with the intention that they engage in combat.

C. Possessing, manufacturing, buying, selling, or trading of paraphernalia such as spurs, gaffs, knives, leather training spur covers, and other items or substances normally used in cockfighting with the intent that they shall be used in a cockfight together with evidence that the paraphernalia is being used or intended for use in the unlawful training of a chicken to fight with

another chicken, shall be admissible as evidence of a violation of this Section. Whoever violates the provisions of this Subsection, upon conviction shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. However, the provisions of this Section shall not be construed to prohibit the possessing, buying, selling, or trading of any spurs, gaffs, knives, leather training spur covers, or any other items normally used in cockfighting which are at least five years old and have historical value.

D.(1) Whoever violates the provisions of this Section, on conviction of a first offense, shall be fined not less than seven hundred fifty dollars, nor more than two thousand dollars, or imprisoned, with or without hard labor, for not less than six months nor more than one year, or both. In addition to any other penalty imposed, on a conviction of a first offense, the offender shall be ordered to perform fifteen eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(2) On a conviction of a second offense, the offender shall be fined not less than one thousand dollars, nor more than two thousand dollars, and shall be imprisoned, with or without hard labor, for not less than one year nor more than three years. At least six months of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

E. For the purposes of this Section, when more than one chicken is subject to an act that would constitute cockfighting, each chicken involved shall constitute a separate offense.

F. The provisions of this Section shall not be construed to prohibit the raising of any chicken, rooster, or gamefowl for the purposes of personal enjoyment, exhibition, or agricultural pursuits as long as the purpose of such pursuits are legal.

Acts 2007, No. 425, §1, eff. Aug. 15, 2008; Acts 2014, No. 395, §1.

§102.24. Participation in cockfighting

A. It shall be unlawful for any person to attend a cockfight, or to bet on a cockfight, or to pay admission at any location to view or bet on a cockfight.

B. As used in this Section, the following words and phrases have the following meaning ascribed to them:

(1) "Chicken" means any bird which is of the species Gallus gallus, whether domestic or feral.

(2) "Cockfight" means a contest wherein chickens are set against one another with the intention that they engage in combat.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

Acts 2010, No. 114, §1.

§102.25. Unlawfully supplying any product for the purpose of falsifying a screening test

A. Unlawfully supplying any product for the purpose of falsifying or altering a drug, urine, or alcohol screening test is committed when a person intentionally:

(1) Sells, trades, furnishes, supplies, gives, distributes, or markets human or synthetic urine in this state or transports human or synthetic urine into this state with the intent of using the urine to falsify or alter results in a urine, drug, or alcohol screening test.

(2) Advertises for sale any product designed to falsify or alter a urine, drug, or alcohol screening test.

(3) Adulterates a urine or other bodily fluid sample with the intent to falsify or alter results in a urine, drug, or alcohol screening test.

(4) Possesses adulterants which are intended to be used to adulterate a urine or other bodily fluid sample for the purpose of falsifying or altering results in a urine, drug, or alcohol screening test.

(5) Sells, trades, furnishes, supplies, gives, distributes, or markets an adulterant with the intent by the seller or marketer that the product be used to adulterate a urine or other bodily fluid sample for the purpose of falsifying or altering results in a urine, drug, or alcohol screening test.

B. The intent to falsify or alter results in a urine, drug, or alcohol screening test shall be presumed if either of the following occur:

(1) A heating element or any other device used to thwart a drug screening test accompanies the sale, trading, furnishing, supplying, giving, distribution, or marketing of urine or adulterants.

(2) Instructions that provide a method for thwarting a drug screening test accompany the sale, giving, distribution, or marketing of urine or adulterants.

C. As used in this Section, "adulterant" means a substance that is not expected to be in human urine or a substance expected to be present in human urine but that is at a concentration so high that it is not consistent with human urine, including, but not limited to:

(1) Bleach.
(2) Chromium.
(3) Creatinine.
(4) Detergent.
(5) Glutaraldehyde.
(6) Hydrochloric acid.
(7) Hydroiodic acid.
(8) Iodine.
(9) Nitrite.
(10) Peroxidase.
(11) Potassium dichromate.
(12) Potassium nitrite.
(13) Pyridinium chlorochromate.
(14) Sodium nitrite.

D. Whoever commits the crime of unlawfully supplying any product for the purpose of falsifying or altering a drug, urine, or alcohol screening test shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

Acts 2010, No. 361, §1.

§102.26. Unlawful restraint of a dog; definitions; penalties

A. As used in this Section:

(1) "Collar" means any collar constructed of nylon, leather, or similar material, specifically designed to be used for a dog.

(2) "Owner" means a person who owns or has custody or control of a dog.

(3) "Properly fitted" means, with respect to a collar, a collar that measures the circumference of a dog's neck plus at least one inch.

(4) "Restraint" means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

B. It shall be unlawful to tie, tether, or restrain any animal in a manner that is inhumane, cruel, or detrimental to its welfare.

C. The provisions of this Section shall not apply to any of the following:

(1) Accepted veterinary practices.

(2) Activities carried on for scientific or medical research governed by accepted standards.

(3) A dog restrained to a running line, pulley, or trolley system and is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type, or improperly fitted collar.

(4) A dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction.

(5) A dog restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog.

(6) A dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock.

(7) A dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products if the restraint is reasonably necessary for the safety of the dog.

(8) A dog being restrained and walked with a hand-held leash regardless of the type of collar being used.

D. Whoever violates the provisions of this Section shall be fined not more than three hundred dollars.

Acts 2010, No. 977, §1.

§102.27. Unlawful sale of a live dog or cat at certain locations

A. It shall be unlawful for any person to offer for sale or sell any dog or cat on any highway, right-of-way, flea market, public park, public playground, public swimming pool, any other public recreational area, or adjacent property to such locations regardless of whether or not access to those locations is authorized, or on any commercial or retail parking lot unless permission is granted by the owner of the parking lot.

B. The provisions of this Section shall not apply to:

(1) Bona fide humane societies, animal welfare groups, animal control agencies, or nonprofit organizations sponsoring animal adoption events.

(2) The offering of dogs or cats for sale at a private residence.

(3) The offering of dogs or cats for sale by a paid entrant to a competitive cat show or dog show, provided that the sale occurs on the premises and within the confines of the show.

(4) Any retail pet store or licensed breeder.

(5) Any raffle or drawing for a dog or cat which is a fundraising event for a waterfowl, wetland, or natural resources conservation organization.

C.(1) Whoever violates the provisions of this Section shall be fined not more than two hundred fifty dollars for a first offense.

(2) Whoever violates the provisions of this Section for a second or subsequent offense shall be fined not more than one thousand dollars per violation.

D. For the purposes of this Section:

(1) "Highway" means the entire width between the boundary lines of every way or place of whatever nature publicly maintained and open to the use of the public for the purpose of vehicular travel, including bridges, causeways, tunnels, and ferries; synonymous with the word "street".

(2) "Right-of-way" means the privilege of the immediate use of the highway.

Acts 2012, No. 700, §1.

§102.28. Transporting live feral swine prohibited; penalties

A. It shall be unlawful to transport live feral swine by any person not in possession of proof of registration as a feral swine authorized transporter with the Louisiana Board of Animal Health within the Department of Agriculture and Forestry.

B. For the purposes of this Section, "feral swine" shall mean any hog, pig, or swine species, *Sus scrofa*, including but not limited to Russian and European wild boar and their hybrids that are running at large, free roaming, or wild upon public or private lands in this state, and shall also include any hog, pig, or swine species that has lived any part of its life running at large, free roaming, or wild. The term feral swine shall also include any feral phenotype swine, whether or not running at large, free roaming, or wild.

C. Whoever violates the provisions of this Section shall be fined not more than nine hundred dollars, or imprisoned for not more than six months, or both.

D. The provisions of this Section shall not apply to "Uncle Earl's Hog Dog Trials" as defined in R.S. 49:170.10.

Acts 2018, No. 681, §1.

SUBPART C. OFFENSES AFFECTING THE GENERAL PEACE AND ORDER

§103. Disturbing the peace

A. Disturbing the peace is the doing of any of the following in such manner as would foreseeably disturb or alarm the public:

(1) Engaging in a fistic encounter; or

(2) Addressing any offensive, derisive, or annoying words to any other person who is lawfully in any street, or other public place; or call him by any offensive or derisive name, or make any noise or exclamation in his presence and hearing with the intent to deride, offend, or annoy him, or to prevent him from pursuing his lawful business, occupation, or duty; or

(3) Appearing in an intoxicated condition; or

(4) Engaging in any act in a violent and tumultuous manner by any three or more persons; or

(5) Holding of an unlawful assembly; or

(6) Interruption of any lawful assembly of people; or

(7) Intentionally engaging in any act or any utterance, gesture, or display designed to disrupt a funeral, funeral route, or burial of a deceased person during the period beginning one hundred twenty minutes before and ending one hundred twenty minutes after the funeral or burial, within three hundred feet of the funeral or burial.

(8)(a) Intentionally blocking, impeding, inhibiting, or in any other manner obstructing or interfering with a funeral route.

(b) Intentionally blocking, impeding, inhibiting, or in any other manner obstructing or interfering, within five hundred feet, with access into or from any building or parking lot of a building in which a funeral or burial is being conducted, or any burial plot or the parking lot of the cemetery in which a funeral or burial is being conducted, during the period beginning one hundred twenty minutes before and ending one hundred twenty minutes after the funeral or burial.

B.(1) Whoever commits the crime of disturbing the peace shall be fined not more than one hundred dollars or imprisoned for not more than ninety days, or both.

(2) Whoever commits the crime of disturbing the peace as provided for in Paragraphs (A)(7) and (8) of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

C. For purposes of Paragraphs (A)(7) and (8) of this Section:

(1) "Funeral" includes a funeral, funeral home viewing, wake, or memorial service.

(2) "Funeral route" means the route of ingress or egress from the location of a funeral or burial, including thirty feet from the outer edge of the outside lane of the route.

Amended by Acts 1960, No. 70, §1; Acts 1963, No. 93, §1; Acts 1968, No. 647, §1; Acts 1979, No. 222, §1; Acts 2006, No. 805, §1; Acts 2013, No. 30, §1, eff. May 29, 2013.

§103.1. Emanation of excessive sound or noise; exceptions; penalties

A. No person shall operate or permit the operation of any sound amplification system which emanates unreasonably loud or excessive sound or noise which is likely to cause inconvenience or annoyance to persons of ordinary sensibilities, when both the following exist:

(1) The sound amplification system is located in or on any motor vehicle on a public street, highway, or public park.

(2) The sound or noise emanating from the sound amplification system is audible at a distance of greater than twenty-five feet which exceeds eighty-five decibels.

B. The provisions of this Section do not apply to the use of a horn, alarm, or other warning device which has as its purpose the signaling of unsafe or dangerous situations or to summon the assistance of law enforcement when used for such purpose, or when used in conjunction with a permitted event.

C. Whoever violates a provision of this Section shall be fined two hundred dollars for a first offense, and not less than three hundred dollars nor more than five hundred dollars for second and subsequent offenses.

D.(1) Upon conviction for a first offense, the court may order the violator to surrender to the law enforcement agency that arrested the violator or reported the violation the driver's license of the driver involved in the violation for a period not to exceed thirty days. The violator shall be responsible for the retrieval of his driver's license from the law enforcement agency after the expiration of the period of surrender.

(2) Upon conviction for a second or subsequent offense, the court may order the violator to surrender to the law enforcement agency that arrested the violator or reported the violation the driver's license of the driver involved in the violation for a period not less than thirty days nor more than ninety days. The violator shall be responsible for the retrieval of his driver's license from the law enforcement agency after the expiration of the period of surrender.

E. A governing authority of a parish or municipality may enact an ordinance consistent with the provisions of this Section and shall incorporate the standards and elements of the crime, and the penalty provided in the ordinance shall not exceed the penalty provided in this Section.

Acts 1997, No. 811, §1, eff. Jan. 1, 1998; Acts 2005, No. 490, §1; Acts 2008, No. 94, §1.

§103.2. Amplified devices in public places; quiet zones; penalties

A. No person shall operate or play any sound-producing device or sound-amplification device in a public street, public park, or other public place in a manner likely to disturb, inconvenience, or annoy a person of ordinary sensibilities, if the sound produced is in excess of fifty-five decibels as measured within ten feet of the entrance to:

(1) Hospitals.

(2) Churches, synagogues, temples, or other houses of religious worship, while the building is occupied and services are being performed, provided that a sign is posted within ten feet of the front door when services are being performed.

B. Whoever violates any of the provisions of this Section shall be imprisoned for not more than thirty days.

Acts 1999, No. 1227, §1.

§104. Keeping a disorderly place

A. Keeping a disorderly place is the intentional maintaining of a place to be used habitually for any illegal purpose.

B.(1) Whoever commits the crime of keeping a disorderly place shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Whoever commits the crime of keeping a disorderly place for the purpose of prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the crime of keeping a disorderly place for the purpose of prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense, or the proceeds of any such conduct, shall be seized and impounded, and after

conviction, sold at public sale or public auction by the district attorney, or otherwise distributed or disposed of, in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media, and currency, instruments, or securities.

Amended by Acts 1970, No. 460, §1; Acts 1979, No. 224, §1, eff. July 8, 1979; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017.

§105. Letting a disorderly place

A. Letting a disorderly place is the granting of the right to use any premises knowing that they are to be used as a disorderly place, or allowing the continued use of the premises with such knowledge.

B.(1) Whoever commits the crime of letting a disorderly place shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Whoever commits the crime of letting a disorderly place for the purpose of prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the crime of letting a disorderly place for the purpose of prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense, or the proceeds of any such conduct, shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney, or otherwise distributed or disposed of, in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media, and currency, instruments, or securities.

Amended by Acts 1970, No. 459, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017.

§106. Obscenity

A. The crime of obscenity is the intentional:

(1) Exposure of the genitals, pubic hair, anus, vulva, or female breast nipples in any public place or place open to the public view, or in any prison or jail, with the intent of arousing sexual desire or which appeals to prurient interest or is patently offensive.

(2)(a) Participation or engagement in, or management, operation, production, presentation, performance, promotion, exhibition, advertisement, sponsorship, electronic communication, or display of, hard core sexual conduct when the trier of fact determines that the average person applying contemporary community standards would find that the conduct, taken

as a whole, appeals to the prurient interest; and the hard core sexual conduct, as specifically defined herein, is presented in a patently offensive way; and the conduct taken as a whole lacks serious literary, artistic, political, or scientific value.

(b) Hard core sexual conduct is the public portrayal, for its own sake, and for ensuing commercial gain of:

(i) Ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being; or

(ii) Masturbation, excretory functions or lewd exhibition, actual, simulated, or animated, of the genitals, pubic hair, anus, vulva, or female breast nipples; or

(iii) Sadomasochistic abuse, meaning actual, simulated or animated, flagellation, or torture by or upon a person who is nude or clad in undergarments or in a costume that reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or in the condition of being fettered, bound, or otherwise physically restrained, on the part of one so clothed; or

(iv) Actual, simulated, or animated touching, caressing, or fondling of, or other similar physical contact with a pubic area, anus, female breast nipple, covered or exposed, whether alone or between humans, animals, or a human and an animal, of the same or opposite sex, in an act of apparent sexual stimulation or gratification; or

(v) Actual, simulated, or animated stimulation of a human genital organ by any device whether or not the device is designed, manufactured, or marketed for such purpose.

(3)(a) Sale, allocation, consignment, distribution, dissemination, advertisement, exhibition, electronic communication, or display of obscene material, or the preparation, manufacture, publication, electronic communication, or printing of obscene material for sale, allocation, consignment, distribution, advertisement, exhibition, electronic communication, or display.

(b) Obscene material is any tangible work or thing which the trier of fact determines that the average person applying contemporary community standards would find, taken as a whole, appeals to the prurient interest, and which depicts or describes in a patently offensive way, hard core sexual conduct specifically defined in Paragraph (2) of this Subsection, and the work or thing taken as a whole lacks serious literary, artistic, political, or scientific value.

(4) Requiring as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, or publication to a purchaser or consignee that such purchaser or consignee also receive or accept any obscene material, as defined in Paragraph (3) of this Subsection, for resale, distribution, display, advertisement, electronic communication, or exhibition purposes; or, denying or threatening to deny a franchise to, or imposing a penalty, on or against, a person by reason of his refusal to accept, or his return of, such obscene material.

(5) Solicitation or enticement of an unmarried person under the age of seventeen years to commit any act prohibited by Paragraphs (1), (2), or (3) of this Subsection.

(6) Advertisement, exhibition, electronic communication, or display of sexually violent material. "Violent material" is any tangible work or thing which the trier of facts determines depicts actual or simulated patently offensive acts of violence, including but not limited to, acts depicting sadistic conduct, whippings, beatings, torture, and mutilation of the human body, as described in Item (2)(b)(iii) of this Subsection.

(7)(a) Transmission or causing the transmission by a person, knowing the content of an advertisement to be sexually explicit as defined in this Paragraph, of an unsolicited advertisement containing sexually explicit materials in an electronic communication to one or more persons within this state without including in the advertisement the term "ADV-ADULT" at the beginning of the subject line of the advertisement. A "subject line" is the area of an electronic communication that contains a summary description of the content of the message.

(b) As used in this Paragraph, "sexually explicit" means the graphic depiction of sex, including but not limited to sexual audio, text, or images; depiction of sexual activity; nudity; or sexually oriented language.

(8)(a) Transmission or causing the transmission by a person, knowing its content to be sexually explicit as defined in this Paragraph, of an unsolicited text message containing sexually explicit materials to a wireless telecommunications device of one or more persons within this state.

(b) As used in this Paragraph:

(i) "Sexually explicit" means the graphic depiction of sex, including but not limited to sexual audio, text, or images, the depiction of sexual activity, nudity, or sexually oriented language and is obscene as defined in Subparagraph (A)(3)(b) of this Section.

(ii) "Wireless telecommunications device" means a cellular telephone, a text-messaging device, a personal digital assistant, a tablet computer, or any other substantially similar wireless device.

B. Lack of knowledge of age or marital status shall not constitute a defense.

C. If any employee of a theatre or bookstore acting in the course or scope of his employment, is arrested for an offense designated in this Section, the employer shall reimburse the employee for all attorney's fees and other costs of defense of such employee. Such fees and expenses may be fixed by the court exercising criminal jurisdiction after contradictory hearing or by ordinary civil process.

D.(1) The provisions of this Section do not apply to recognized and established schools, churches, museums, medical clinics, hospitals, physicians, public libraries, governmental agencies, quasi-governmental sponsored organizations and persons acting in their capacity as employees or agents of such organizations, or a person solely employed to operate a movie projector in a duly licensed theatre.

(2) For the purpose of this Subsection, the following words and terms shall have the respective meanings defined as follows:

(a) "Churches" means any church, affiliated with a national or regional denomination.

(b) "Medical clinics and hospitals" means any clinic or hospital of licensed physicians or psychiatrists used for the reception and care of persons who are sick, wounded, or infirm.

(c) "Physicians" means any licensed physician or psychiatrist.

(d) "Recognized and established schools" means schools having a full time faculty and pupils, gathered together for instruction in a diversified curriculum.

E. This Section does not preempt, nor shall anything in this Section be construed to preempt, the regulation of obscenity by municipalities, parishes, and consolidated city-parish governments; however, in order to promote uniform obscenity legislation throughout the state, the regulation of obscenity by municipalities, parishes, and consolidated city-parish governments

shall not exceed the scope of the regulatory prohibitions contained in the provisions of this Section.

F.(1) Except for those motion pictures, printed materials, electronic communication and photographic materials showing actual ultimate sexual acts or simulated or animated ultimate sexual acts when there is an explicit, close-up depiction of human genital organs so as to give the appearance of the consummation of ultimate sexual acts, no person, firm, or corporation shall be arrested, charged, or indicted for any violations of a provision of this Section until such time as the material involved has first been the subject of an adversarial hearing under the provisions of this Section, wherein such person, firm, or corporation is made a defendant and, after such material is declared by the court to be obscene, such person, firm, or corporation continues to engage in the conduct prohibited by this Section. The sole issue at the hearing shall be whether the material is obscene.

(2) The hearing shall be held before the district court having jurisdiction over the proceedings within seventy-two hours after receipt of notice by the person, firm, or corporation. The person, firm, or corporation shall be given notice of the hearing by registered mail or by personal service on the owner, manager, or other person having a financial interest in the material; provided, if there is no such person on the premises, then notice may be given by personal service on any employee of the person, firm, or corporation on such premises. The notice shall state the nature of the violation, the date, place, and time of the hearing, and the right to present and cross-examine witnesses.

(3) The state or any defendant may appeal from a judgment. Such appeal shall not stay the judgment. Any defendant engaging in conduct prohibited by this Section subsequent to notice of the judgment, finding the material to be obscene, shall be subject to criminal prosecution notwithstanding the appeal from the judgment.

(4) No determination by the district court pursuant to this Section shall be of any force and effect outside the judicial district in which made and no such determination shall be res judicata in any proceeding in any other judicial district. In addition, evidence of any hearing held pursuant to this Section shall not be competent or admissible in any criminal action for the violation of any other Section of this Title; provided, however, that in any criminal action, charging the violation of any other Section of this Title, against any person, firm, or corporation that was a defendant in such hearing, involving the same material declared to be obscene under the provisions of this Section, then evidence of such hearing shall be competent and admissible as bearing on the issue of scienter only.

G.(1) Except as provided in Paragraph (5) of this Subsection, on a first conviction, whoever commits the crime of obscenity shall be fined not less than one thousand dollars nor more than two thousand five hundred dollars, or imprisoned, with or without hard labor, for not less than six months nor more than three years, or both.

(2)(a) Except as provided in Paragraph (5) of this Subsection, on a second conviction, the offender shall be imprisoned, with or without hard labor for not less than six months nor more than three years, and in addition may be fined not less than two thousand five hundred dollars nor more than five thousand dollars.

(b) The imprisonment provided for in Subparagraph (a) of this Paragraph, may be imposed at court discretion if the court determines that the offender, due to his employment,

could not avoid engagement in the offense. This Subparagraph shall not apply to the manager or other person in charge of an establishment selling or exhibiting obscene material.

(3) Except as provided in Paragraph (5) of this Subsection, on a third or subsequent conviction, the offender shall be imprisoned with or without hard labor for not less than two years nor more than five years, and in addition may be fined not less than five thousand dollars nor more than ten thousand dollars.

(4) When a violation of Paragraph (1), (2), or (3) of Subsection A of this Section is with or in the presence of an unmarried person under the age of seventeen years, the offender shall be fined not more than ten thousand dollars and shall be imprisoned, with or without hard labor, for not less than two years nor more than five years, without benefit of parole, probation, or suspension of sentence.

(5) Whoever violates the provisions of Paragraphs (A)(7) or (A)(8) of this Section may be fined not less than one hundred dollars nor more than five hundred dollars.

H.(1) When a corporation is charged with violating this Section, the corporation, the president, the vice president, the secretary, and the treasurer may all be named as defendants. Upon conviction for a violation of this Section, a corporation shall be sentenced in accordance with Subsection G of this Section. All corporate officers who are named as defendants shall be subject to the penalty provisions of this Section as set forth in Subsection G of this Section.

(2) If the corporation is domiciled in this state, upon indictment or information filed against the corporation, a notice of arraignment shall be served upon the corporation, or its designated agent for service of process, which then must appear before the district court in which the prosecution is pending to plead to the charge within fifteen days of service. If no appearance is made within fifteen days, an attorney shall be appointed by the court to represent the defendant corporation with respect to the charge or to show cause why the corporation should not be enjoined from continuing in business during the pendency of the criminal proceedings. Appearance for arraignment may be made through private counsel.

(3) If the corporation is domiciled out of state and is registered to do business in Louisiana, notice of arraignment shall be served upon the corporate agent for service of process or the secretary of state, who shall then notify the corporation charged by indictment or information to appear before the district court in which the prosecution is pending for arraignment within sixty days after the notice is mailed by the secretary of state. If no appearance is made within sixty days the court shall appoint an attorney to represent the defendant corporation with respect to the charge or to show cause why the corporation should not be enjoined from continuing in business during the pendency of the criminal proceedings. Appearance for arraignment may be made by private counsel.

(4) If the corporation is domiciled out of state and is not registered to do business in Louisiana, notice of arraignment of the corporation shall be served upon the secretary of state and an employee, officer, or agent for service of process of the corporation found within the parish where the violation of this Section has allegedly occurred. Such notice shall act as a bar to that corporation registering to do business in Louisiana until it appears before the district court in which the prosecution is pending to answer the charge.

I.(1)(a) When an act of obscenity as defined in Paragraph (A)(1) of this Section is reported, the law enforcement agency acting in response to the reported incident shall provide

notice of the incident to the principal or headmaster of each school located within two thousand feet of where the incident occurred. This notice shall be provided by the law enforcement agency to the principal or headmaster within twenty-four hours of receiving the report of the incident and by any reasonable means, including but not limited to live or recorded telephone message or electronic mail.

(b) The notice required by the provisions of Subparagraph (a) of this Paragraph shall include the date, time, and location of the incident, a brief description of the incident, and a brief description of the physical characteristics of the alleged offender which may include but shall not be limited to the alleged offender's sex, race, hair color, eye color, height, age, and weight.

(2)(a) Within twenty-four hours of receiving notice of the incident from law enforcement pursuant to the provisions of Paragraph (1) of this Subsection, the principal or headmaster shall provide notice of the incident to the parents of all students enrolled at the school by any reasonable means, including but not limited to live or recorded telephone message or electronic mail.

(b) The notice required by the provisions of Subparagraph (a) of this Paragraph shall include the same information required for the notice provided in Paragraph (1) of this Subsection to the extent that the information is provided by law enforcement to the principal or headmaster of the school.

(3) When the expiration of the twenty-four-hour period occurs on a weekend or holiday, notice shall be provided no later than the end of the next regular school day.

(4) For purposes of this Subsection, "school" means any public or private elementary or secondary school in this state, including all facilities of the school located within the geographical boundaries of the school property.

(5) The principal, headmaster, school, owner of the school, operator of the school, and the insurer or self-insurance program for the school shall be immune from any liability that arises as a result of compliance or noncompliance with this Subsection, except for any willful violation of the provisions of this Subsection.

Amended by Acts 1950, No. 314, §1; Acts 1958, No. 388, §1; Acts 1960, No. 199, §1; Acts 1962, No. 87, §1; Acts 1968, No. 647, §1; Acts 1970, No. 167, §1; Acts 1972, No. 605, §1; Acts 1972, No. 743, §1; Acts 1974, No. 274, §1; Acts 1977, No. 97, §2; Acts 1977, No. 717, §1, eff. July 20, 1977; Acts 1979, No. 252, §1; Acts 1980, No. 464, §1; Acts 1981, No. 159, §1; Acts 1982, No. 680, §1; Acts 1983, No. 384, §1; Acts 1983, No. 385, §1; Acts 2001, No. 177, §1; Acts 2001, No. 403, §1, eff. June 15, 2001; Acts 2003, No. 237, §1; Acts 2012, No. 846, §1; Acts 2014, No. 531, §1; Acts 2014, No. 811, §6, eff. June 23, 2014.

§106.1. Promotion or wholesale promotion of obscene devices

A. For the purposes of this Section, the following definitions shall apply unless the context clearly requires otherwise:

(1) "Obscene device" means a device, including an artificial penis or artificial vagina, which is designed or marketed as useful primarily for the stimulation of human genital organs.

(2) "Promote" means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, distribute, circulate, disseminate, present, or exhibit, including the offer or agreement to do any of these things, for the purpose of sale or resale.

B. No person shall knowingly and intentionally promote an obscene device.

C.(1) On a first conviction, whoever commits the crime of promoting an obscene device shall be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned with or without hard labor for not less than six months nor more than three years, or both.

(2) On a second conviction, the offender shall be imprisoned with or without hard labor for not less than six months nor more than three years, and in addition may be fined not less than two thousand five hundred dollars nor more than five thousand dollars.

Acts 1985, No. 928, §1; Acts 2001, No. 403, §1, eff. June 15, 2001.

§106.2. Sexual acts prohibited in public; penalties

A. It shall be unlawful for any person to engage in vaginal, anal, or oral sexual intercourse in any public place or place open to the public view for the purpose of gaining the attention of the public.

B. Whoever violates a provision of this Section shall be fined not more than one thousand dollars and imprisoned for not less than ten days nor more than one year. At least ten days of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

Acts 2003, No. 895, §1.

§106.3. Unlawful exhibition of sexually explicit material in a motor vehicle; penalties

A. It shall be unlawful for any person to knowingly exhibit sexually explicit material in a motor vehicle on a public street, highway, public place, or any place open to public view knowing that the material is visible to the public from outside the motor vehicle.

B. For the purposes of this Section the term "exhibit sexually explicit material" means to present, exhibit, project, or display a motion picture, film, videotape, compact disc, digital versatile disc, digital video disc, or any other form of visual technology of any of the following:

(1) Ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being.

(2) The graphic depiction of sex, including but not limited to the visual depiction of sexual activity or nudity.

C.(1) Whoever violates a provision of this Section upon a first conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) Upon a second conviction, the offender shall be fined not more than one thousand dollars and imprisoned for not more than one year, or both.

(3) Upon a third or subsequent conviction, the offender shall be fined not more than one thousand dollars and shall be imprisoned for not more than one year, or both. At least ten days of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

Acts 2004, No. 767, §1.

§107. Vagrancy

The following persons are and shall be guilty of vagrancy:

(1) Habitual drunkards; or

(2) Persons who live in houses of ill fame or who habitually associate with prostitutes; or

(3) Able-bodied persons who beg or solicit alms, provided that this article shall not apply to persons soliciting alms for bona fide religious, charitable or eleemosynary organizations with the authorization thereof; or

(4) Habitual gamblers or persons who for the most part maintain themselves by gambling; or

(5) Able-bodied persons without lawful means of support who do not seek employment and take employment when it is available to them; or

(6) Able-bodied persons of the age of majority who obtain their support gratis from persons receiving old age pensions or from persons receiving welfare assistance from the state; or

(7) Persons who loaf the streets habitually or who frequent the streets habitually at late or unusual hours of the night, or who loiter around any public place of assembly, without lawful business or reason to be present; or

(8) Persons found in or near any structure, movable, vessel, or private grounds, without being able to account for their lawful presence therein; or

(9) Prostitutes.

Whoever commits the crime of vagrancy shall be fined not more than two hundred dollars, or imprisoned for not more than six months, or both.

Amended by Acts 1952, No. 434, §1; Acts 1968, No. 647, §1.

§107.1. Ritualistic acts

A.(1) The legislature hereby finds that this enactment is necessary for the immediate preservation of the public peace, health, morals, safety, and welfare and for the support of state government and its existing public institutions.

(2) The legislature further recognizes that:

(a) The preamble to the Constitution of Louisiana affirmatively states "We, the people of Louisiana, grateful to Almighty God for the civil, political, economic, and religious liberties we enjoy, and desiring to protect individual rights to life, liberty, and property; afford opportunity for the fullest development of the individual; assure equality of rights; promote the health, safety, education, and welfare of the people; maintain a representative and orderly government; ensure domestic tranquility; provide for the common defense; and secure the blessings of freedom and justice to ourselves and our posterity, do ordain and establish this constitution."

(b) The state, under its police power, may enact laws in order to promote public peace, health, morals, and safety.

B.(1) For purposes of this Subsection, "ritualistic acts" means those acts undertaken as part of a ceremony, rite, initiation, observance, performance, or practice that result in or are intended to result in:

(a) The mutilation, dismemberment, torture, abuse, or sacrifice of animals.

(b) The ingestion of human or animal blood or human or animal waste.

(2) The acts defined in this Subsection are hereby determined to be destructive of the peace, health, morals, and safety of the citizens of this state and are hereby prohibited.

(3) Any person committing, attempting to commit, or conspiring with another to commit a ritualistic act may be sentenced to imprisonment for not more than five years or fined not more than five thousand dollars, or both.

C.(1) No person shall commit ritualistic mutilation, dismemberment, or torture of a human as part of a ceremony, rite, initiation, observance, performance, or practice.

(2) No person shall commit ritualistic sexual abuse of children or of adults with physical or mental disabilities as part of a ceremony, rite, initiation, observance, performance, or practice.

(3) No person shall commit ritualistic psychological abuse of children or of adults with physical or mental disabilities as part of a ceremony, rite, initiation, observance, performance, or practice.

(4) Any person who commits, attempts to commit, or conspires with another to commit a violation of this Subsection shall be sentenced to imprisonment for not less than five nor more than twenty-five years and may be fined not more than twenty-five thousand dollars.

D. Each violation that occurs under the provisions of this Section shall be considered a separate violation.

E. The provisions of this Section shall not be construed to apply to generally accepted agricultural or horticultural practices and specifically the branding or identification of livestock.

F. The provisions of this Section shall not be construed to apply to any state or federally approved, licensed, or funded research project.

Acts 1989, No. 637, §1; Acts 2014, No. 811, §6, eff. June 23, 2014.

§107.2. Hate crimes

A. It shall be unlawful for any person to select the victim of the following offenses against person and property because of actual or perceived race, age, gender, religion, color, creed, disability, sexual orientation, national origin, or ancestry of that person or the owner or occupant of that property or because of actual or perceived membership or service in, or employment with, an organization, or because of actual or perceived employment as a law enforcement officer, firefighter, or emergency medical services personnel: first or second degree murder; manslaughter; battery; aggravated battery; second degree battery; aggravated assault with a firearm; terrorizing; mingling harmful substances; simple or third degree rape, forcible or second degree rape, or aggravated or first degree rape; sexual battery, second degree sexual battery; oral sexual battery; carnal knowledge of a juvenile; indecent behavior with juveniles; molestation of a juvenile or a person with a physical or mental disability; simple, second degree, or aggravated kidnapping; simple or aggravated arson; communicating of false information of planned arson; simple or aggravated criminal damage to property; contamination of water supplies; simple or aggravated burglary; criminal trespass; simple, first degree, or armed robbery; purse snatching; extortion; theft; desecration of graves; institutional vandalism; or assault by drive-by shooting.

B. If the underlying offense named in Subsection A of this Section is a misdemeanor, and the victim of the offense listed in Subsection A of this Section is selected in the manner proscribed by that Subsection, the offender may be fined not more than five hundred dollars or

imprisoned for not more than six months, or both. This sentence shall run consecutively to the sentence for the underlying offense.

C. If the underlying offense named in Subsection A of this Section is a felony, and the victim of the offense listed in Subsection A of this Section is selected in the manner proscribed by that Subsection, the offender may be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than five years, or both. This sentence shall run consecutively to the sentence for the underlying offense.

D. "Organization", as used in this Section, means all of the following:

(1) Any lawful corporation, trust, company, partnership, association, foundation, or fund.

(2) Any lawful group of persons, whether or not incorporated, banded together for joint action on any subject or subjects.

(3) Any entity or unit of federal, state, or local government.

E. As used in this Section:

(1) "Emergency medical services personnel" shall have the same meaning ascribed to it by R.S. 40:1075.3.

(2) "Firefighter" means any firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state of Louisiana.

(3) "Law enforcement officer" means any active or retired city, parish, or state law enforcement officer, peace officer, sheriff, deputy sheriff, probation or parole officer, marshal, deputy, wildlife enforcement agent, state correctional officer, or commissioned agent of the Department of Public Safety and Corrections, as well as any federal law enforcement officer or employee, whose permanent duties include making arrests, performing search and seizures, execution of criminal arrest warrants, execution of civil seizure warrants, any civil functions performed by sheriffs or deputy sheriffs, enforcement of penal or traffic laws, or the care, custody, control, or supervision of inmates.

Acts 1997, No. 1479, §2, eff. July 15, 1997; Acts 2001, No. 301, §1; Acts 2004, No. 676, §1; Acts 2011, No. 67, §3; Acts 2014, No. 791, §7; Acts 2015, No. 184, §1; Acts 2016, No. 184, §1.

§107.3. Criminal blighting of property

A. The terms used in this Section shall have the following meanings:

(1) "Blighted property" means those commercial or residential premises, including lots, which have been declared vacant, uninhabitable, and hazardous by an administrative hearing officer acting pursuant to R.S. 13:2575 or 2576 or other applicable law. Such premises may include premises which, because of their physical condition, are considered hazardous to persons or property, have been declared or certified blighted, and have been declared to be a public nuisance by an administrative hearing officer acting pursuant to R.S. 13:2575 or 2576, or any other applicable law.

(2) "Housing violations" means only those conditions in privately owned structures which are determined to constitute a threat or danger to the public health, safety, and welfare or to the environment.

(3) "Public nuisance" means any garage, shed, barn, house, building, or structure, that by reason of the condition in which it is permitted to remain, may endanger the health, life, limb, or

property of any person, or cause any hurt, harm, damages, injury, or loss to any person in any one or more of the following conditions:

(a) The property is dilapidated, decayed, unsafe, or unsanitary, is detrimental to health, morals, safety, public welfare, and the well-being of the community, endangers life or property, or is conducive to ill health, delinquency, and crime.

(b) The property is a fire hazard.

(c) The conditions present on the property and its surrounding grounds are not reasonably or adequately maintained, thereby causing deterioration and creating a blighting influence or condition on nearby properties and thereby depreciating the value, use, and enjoyment to such an extent that it is harmful to the public health, welfare, morals, safety, and the economic stability of the area, community, or neighborhood in which such public nuisance is located.

B. Criminal blighting of property is the intentional or criminally negligent permitting of the existence of a condition of deterioration of property by the owner, which is deemed to have occurred when the property has been declared or certified as blighted after an administrative hearing, pursuant to R.S. 13:2575 or 2576, and after all reviews or appeals have occurred.

C.(1) On the first conviction, the offender shall be punished by a fine not to exceed five hundred dollars. Imposition of a fine may be suspended and in lieu thereof, the court may require the offender to correct all existing housing violations on the blighted property.

(2) On a second conviction, the offender shall be punished by a fine not to exceed five hundred dollars and ordered to perform not more than forty hours of community service. Additionally, the court shall require that the offender correct all existing housing violations on the blighted property.

(3) On any third or subsequent conviction, the offender shall be punished by a fine not to exceed two thousand dollars, and ordered to perform not more than eighty hours of community service, or both. Additionally, the court shall require that the offender correct all existing housing violations on the blighted property.

D. On any conviction under Paragraph (C)(2) or (3) of this Section, the court may order the offender to occupy the blighted property for a designated period of time not to exceed sixty days.

E. Any offense committed more than five years prior to the commission of the crime for which the defendant is being tried shall not be considered in the assessment of penalties hereunder.

F. The satisfactory performance of correction of housing violations on the blighted property provided for in this Section shall include inspections by a municipal entity responsible for inspecting property and enforcing health, housing, fire, historic district, and environment codes, or any other entity designated by the local governing authority, whose representatives shall report to the court on the successful or otherwise, correction of housing violations on the blighted property.

G. Community service activities as used in this Section may include clearing properties that have been declared or certified as blighted or a public nuisance as set forth herein, of debris, cutting grass, performing repairs, and otherwise correcting any situations giving rise to housing violations. Correction of housing violations on the offender's own property will not be

considered as fulfillment of the offender's community service hours requirement. All community service activities assessed under this Section will be under the direct supervision of a municipal entity responsible for inspecting property and enforcing health, housing, fire, historic district, and environmental codes, or any other entity designated by the local governing authority.

Acts 1999, No. 1229, §1; Acts 2001, No. 232, §1.

§107.4. Unlawful posting of criminal activity for notoriety and publicity

A. It shall be unlawful for a person who is either a principal or accessory to a crime to obtain an image of the commission of the crime using any camera, videotape, photo-optical, photo-electric, or any other image recording device and to transfer that image obtained during the commission of the crime by the use of a computer online service, Internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or online messaging service for the purpose of gaining notoriety, publicity, or the attention of the public.

B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

C. The provisions of this Section shall not apply to any of the following:

(1) The obtaining, use, or transference of such images by a telephone company, cable television company, or any of its affiliates, an Internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial online services or in the production, exhibition, or presentation of an audiovisual work in any medium, including but not limited to a motion picture or television program.

(2) The obtaining, use, or transference of images by a law enforcement officer pursuant to investigation of criminal activity.

(3) The obtaining, use, or transference of images by any bona fide member of the news media broadcasting a news report through television, cable television, or other telecommunication.

(4) The obtaining, use, or transference of images for use in a feature-length film, short subject film, video, television series, television program, public service announcement, or commercial.

D. After the institution of prosecution, access to, and the disposition of any material seized as evidence of this offense shall be in accordance with R.S. 46:1845.

E. Any evidence resulting from the commission of unlawful filming or recording criminal activity shall be contraband.

Acts 2008, No. 660, §1.

§107.5. Solicitation of funds or transportation for certain unlawful purposes

A. It shall be unlawful for any person to solicit funds or transportation with the intention to solicit the person to engage in indiscriminate sexual intercourse for compensation.

B. For purposes of this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

C. Whoever violates the provisions of this Section shall be fined not more than two hundred dollars, imprisoned for not more than six months, or both.

Acts 2014, No. 673, §1.

SUBPART D. OFFENSES AFFECTING LAW ENFORCEMENT

§108. Resisting an officer

A. Resisting an officer is the intentional interference with, opposition or resistance to, or obstruction of an individual acting in his official capacity and authorized by law to make a lawful arrest, lawful detention, or seizure of property or to serve any lawful process or court order when the offender knows or has reason to know that the person arresting, detaining, seizing property, or serving process is acting in his official capacity.

B.(1) The phrase "obstruction of" as used herein shall, in addition to its common meaning, signification, and connotation mean the following:

(a) Flight by one sought to be arrested before the arresting officer can restrain him and after notice is given that he is under arrest.

(b) Any violence toward or any resistance or opposition to the arresting officer after the arrested party is actually placed under arrest and before he is incarcerated in jail.

(c) Refusal by the arrested or detained party to give his name and make his identity known to the arresting or detaining officer or providing false information regarding the identity of such party to the officer.

(d) Congregation with others on a public street and refusal to move on when ordered by the officer.

(e) Knowing interference with a police cordon resulting from the intentional crossing or traversing of a police cordon by an unauthorized person or an unmanned aircraft system (UAS). The cordoned area includes the airspace above the cordoned area.

(i) For purposes of this Subparagraph, "police cordon" means any impediment or structure erected or established by an officer for crowd or traffic control, or to prevent or obstruct the passage of a person at the scene of a crime or investigation.

(ii) "Impediment or structure" includes but is not limited to crime scene tape, rope, cable, wire or metal barricades, or the posting of uniformed officers or other personnel otherwise identifiable as law enforcement officers.

(iii) "Unmanned aircraft system" shall have the same meaning as provided by R.S. 14:337(B).

(iv) If the flight of a UAS into the cordoned area endangers the public or an officer's safety, law enforcement personnel or fire department personnel are authorized to disable the UAS.

(2) The word "officer" as used herein means any peace officer, as defined in R.S. 40:2402, and includes deputy sheriffs, municipal police officers, probation and parole officers, city marshals and deputies, and wildlife enforcement agents.

C. Whoever commits the crime of resisting an officer shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

Amended by Acts 1952, No. 127, §4; Acts 1960, No. 76, §1; Acts 1963, No. 98, §1; Acts 1968, No. 647, §1; Acts 1984, No. 584, §1; Acts 1989, No. 206, §1; Acts 1991, No. 677, §1; Acts 1992, No. 302, §1; Acts 1993, No. 860, §1; Acts 1997, No. 565, §1; Acts 2001, No. 247, §1; Acts 2006, No. 132, §1; Acts 2016, No. 268, §1.

§108.1. Flight from an officer; aggravated flight from an officer

A. No driver of a motor vehicle or operator of a watercraft shall intentionally refuse to bring a vehicle or watercraft to a stop knowing that he has been given a visual and audible signal to stop by a police officer when the officer has reasonable grounds to believe that the driver has committed an offense. The signal shall be given by an emergency light and a siren on a vehicle marked as a police vehicle or marked police watercraft.

B. Whoever commits the crime of flight from an officer shall be fined not less than one hundred fifty dollars, nor more than five hundred dollars, or imprisoned for not more than six months, or both.

C. Aggravated flight from an officer is the intentional refusal of a driver to bring a vehicle to a stop or of an operator to bring a watercraft to a stop, under circumstances wherein human life is endangered, knowing that he has been given a visual and audible signal to stop by a police officer when the officer has reasonable grounds to believe that the driver or operator has committed an offense. The signal shall be given by an emergency light and a siren on a vehicle marked as a police vehicle or marked police watercraft.

D. Circumstances wherein human life is endangered shall be any situation where the operator of the fleeing vehicle or watercraft commits at least two of the following acts:

(1) Leaves the roadway or forces another vehicle to leave the roadway.

(2) Collides with another vehicle or watercraft.

(3) Exceeds the posted speed limit by at least twenty-five miles per hour.

(4) Travels against the flow of traffic or in the case of watercraft, operates the watercraft in a careless manner in violation of R.S. 34:851.4 or in a reckless manner in violation of R.S. 14:99.

(5) Fails to obey a stop sign or a yield sign.

(6) Fails to obey a traffic control signal device.

E.(1) Whoever commits aggravated flight from an officer shall be imprisoned at hard labor for not more than five years and may be fined not more than two thousand dollars.

(2)(a) Whoever commits the crime of aggravated flight from an officer that results in serious bodily injury shall be imprisoned at hard labor for not more than ten years and may be fined not more than two thousand dollars.

(b) For purposes of this Section, "serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

F. In addition to any other fine or penalty imposed pursuant to the provisions of this Section, the court may, in its discretion, order restitution as a part of the sentence. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable

to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

Added by Acts 1981, No. 307, §1; Acts 1997, No. 865, §1; Acts 2008, No. 3, §1; Acts 2009, No. 6, §1; Acts 2010, No. 512, §1; Acts 2011, No. 264, §1; Acts 2014, No. 50, §1.

§108.2. Resisting a police officer with force or violence

A. Resisting a police officer with force or violence is any of the following when the offender has reasonable grounds to believe the victim is a police officer who is arresting, detaining, seizing property, serving process, or is otherwise acting in the performance of his official duty:

(1) Using threatening force or violence by one sought to be arrested or detained before the arresting officer can restrain him and after notice is given that he is under arrest or detention.

(2) Using threatening force or violence toward or any resistance or opposition using force or violence to the arresting officer after the arrested party is actually placed under arrest and before he is incarcerated in jail.

(3) Injuring or attempting to injure a police officer engaged in the performance of his duties as a police officer.

(4) Using or threatening force or violence toward a police officer performing any official duty.

B. For purposes of this Section, "police officer" shall include any commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife enforcement agent, state park warden, or probation and parole officer.

C. Whoever commits the crime of resisting an officer with force or violence shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not less than one year nor more than three years, or both.

Acts 2008, No. 491, §1.

§109. §§109, 109.1 Repealed by Acts 1972, No. 740, §3

§110. Simple escape; aggravated escape

A. Simple escape shall mean any of the following:

(1) The intentional departure, under circumstances wherein human life is not endangered, of a person imprisoned, committed, or detained from a place where such person is legally confined, from a designated area of a place where such person is legally confined, or from the lawful custody of any law enforcement officer or officer of the Department of Public Safety and Corrections.

(2) The failure of a criminal serving a sentence and participating in a work release program authorized by law to report or return from his planned employment or other activity under the program at the appointed time.

(3) The failure of a person who has been granted a furlough under the provisions of R.S. 15:833 or R.S. 15:908 to return to his place of confinement at the appointed time.

B.(1) A person who is participating in a work release program as defined in Paragraph (A)(2) of this Section and who commits the crime of simple escape may be imprisoned with or without hard labor for not less than six months nor more than one year.

(2) A person who fails to return from an authorized furlough as defined in Paragraph A(3) of this Section shall be imprisoned with or without hard labor for not less than six months nor more than one year and any such sentence shall not run concurrently with any other sentence.

(3) A person participating in a home incarceration program under the jurisdiction and control of the sheriffs of the respective parishes who commits the crime of simple escape shall be imprisoned with or without hard labor for not less than six months nor more than five years, and such sentence shall not run concurrently with any other sentence.

(4) A person imprisoned, committed, or detained who commits the crime of simple escape as defined in Paragraph (A)(1) of this Section shall be imprisoned with or without hard labor for not less than two years nor more than five years; provided that such sentence shall not run concurrently with any other sentence.

C.(1) Aggravated escape is the intentional departure of a person from the legal custody of any officer of the Department of Public Safety and Corrections or any law enforcement officer or from any place where such person is legally confined when his departure is under circumstances wherein human life is endangered.

(2) Whoever commits an aggravated escape as herein defined shall be imprisoned at hard labor for not less than five years nor more than ten years and any such sentence shall not run concurrently with any other sentence.

D. For purposes of this Section, a person shall be deemed to be in the lawful custody of a law enforcement officer or of the Department of Public Safety and Corrections and legally confined when he is in a rehabilitation unit, a work release program, or any other program under the control of a law enforcement officer or the department.

E. The provisions of this Section shall be applicable to all penal, correctional, rehabilitational, and work release centers and any and all prison facilities under the control of the sheriffs of the respective parishes of the state of Louisiana. The prison facilities shall include but are not limited to parish jails, correctional centers, home incarceration, work release centers, and rehabilitation centers, hospitals, clinics, and any and all facilities where inmates are confined under the jurisdiction and control of the sheriffs of the respective parishes.

Amended by Acts 1954, No. 122, §1; Acts 1963, No. 65, §1; Acts 1968, No. 189, §1; Acts 1968, No. 647, §1; Acts 1970, No. 290, §1; Acts 1972, No. 740, §1; Acts 1975, No. 450, §1; Acts 1976, No. 345, §1; Acts 1977, No. 455, §1; Acts 1978, No. 177, §1; Acts 1981, No. 719, §1; Acts 1984, No. 746, §1; Acts 1985, No. 70, §1, eff. June 22, 1985; Acts 1985, No. 413, §1; Acts 2012, No. 137, §1; Acts 2013, No. 152, §1.

§110.1. Jumping bail

A. Jumping bail is the intentional failure to appear at the date, time, and place as ordered by the court before which the defendant's case is pending. If the state proves notice has been given to the defendant as set forth in Code of Criminal Procedure Articles 322 and 344, a rebuttable presumption of notice shall apply, and the burden of proof shifts to the defendant to

show that he did not receive notice. The fact that no loss shall result to any surety or bondsman is immaterial.

B. Whoever commits the crime of jumping bail when the bail is to assure the presence of the defendant for those cases defined as misdemeanors in this Title and in the Uniform Controlled Dangerous Substances Law shall be imprisoned for not more than six months, or fined not more than five hundred dollars, or both.

C. Whoever commits the crime of jumping bail when the bail is to assure the presence of the defendant for those cases defined as felonies in this Title and in the Uniform Controlled Dangerous Substances Law shall be imprisoned at hard labor for not more than two years.

Added by Acts 1950, No. 385, §1. Amended by Acts 1982, No. 523, §1; Acts 1993, No. 501, §1; Acts 2008, No. 54, §1.

§110.1.1. Out-of-state bail jumping

A. Out-of-state bail jumping is the intentional failure to appear, by leaving the state to avoid appearing in court, at the date, time, and place as ordered by the court before which the defendant's case is pending. If the state proves notice has been given to the defendant as set forth in Code of Criminal Procedure Articles 322 and 344, a rebuttable presumption of notice shall apply, and the burden of proof shifts to the defendant to show that he did not receive notice.

B. Whoever commits the crime of out-of-state bail jumping, when the bail is to assure the presence of the defendant for those cases defined as misdemeanors and felonies in this Title and in the Uniform Controlled Dangerous Substances Law shall be fined two thousand dollars and imprisoned at hard labor for not less than one year nor more than three years.

Acts 2010, No. 215, §1.

§110.1.2. Providing false, nonexistent, or incomplete declaration of residence for bail

A. Providing false, nonexistent, or incomplete declaration of residence for bail is committed when any person knowingly gives or places on any bail bond or declaration of residence false, nonexistent, or incomplete information for purposes of service or notice as required by Code of Criminal Procedure Article 329.

B. Whoever commits the crime of providing false, nonexistent, or incomplete declaration of residence for bail when the bail is to assure the presence of the defendant for those cases defined as misdemeanors in this Title and in the Uniform Controlled Dangerous Substances Law shall be imprisoned for not more than six months, or fined not more than five hundred dollars, or both.

C. Whoever commits the crime of providing false, nonexistent, or incomplete declaration of residence for bail when the bail is to assure the presence of the defendant for those cases defined as felonies in this Title and in the Uniform Controlled Dangerous Substances Law shall be imprisoned at hard labor for not more than two years.

Acts 2016, No. 547, §1.

§110.2. Tampering with electronic monitoring equipment

A. Tampering with electronic monitoring equipment is the intentional alteration, destruction, removal, or disabling of electronic monitoring equipment being utilized in accordance with the provisions of R.S. 46:2143.

B. Whoever commits the crime of tampering with electronic monitoring equipment shall be fined not more than five hundred dollars and shall be imprisoned for not more than six months. If the offender violates the provisions of this Section while he is involved in the commission of a felony, he shall be fined not more than one thousand dollars and shall be imprisoned for not more than one year. At least seventy-two hours of the sentence shall be served without benefit of probation, parole, or suspension of sentence.

Acts 2003, No. 1024, §1.

§110.3. Tampering with surveillance, accounting, inventory, or monitoring systems; definitions; penalties

A. No person shall intentionally defeat, degrade, tamper, damage, alter, destroy, remove, disable, obstruct, or impair in any way the operation of any surveillance, accounting, inventory, or monitoring system of any nature or purpose, including but not limited to any of the following:

(1) Removing, damaging, altering, destroying, disabling, impairing, obstructing, obscuring, covering, or infusing with any object, substance, or material any component of any surveillance, accounting, inventory, or monitoring system.

(2) Disconnecting, interfering with, damaging, tampering with, or temporarily or permanently delaying or interrupting the internal or external signal or electronic wire or wireless analog or digital transmissions of any surveillance, accounting, inventory, or monitoring system.

(3) Interrupting any source of power for or degrading the performance in any manner of the whole or any part or component or operating software or hardware of any surveillance, accounting, inventory, or monitoring system.

B. For the purposes of this Section, "surveillance, accounting, inventory, or monitoring system" means any electronic, analog, digital, radio, or other system which generates, detects, senses, or records any or all of the following: video, audio, radio waves of any frequency, light in the visible light spectrum, ultraviolet light, infrared radiation, laser light or impulses, microwaves, magnetism, ionization, heat, smoke, water, motion, or fire.

C.(1) Whoever commits the crime of tampering with surveillance, accounting, inventory, or monitoring systems shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

(2) If the surveillance, accounting, inventory, or monitoring system is located on the premises of any jail, prison, correctional facility, juvenile detention center, the offender shall be fined not more than two thousand dollars, imprisoned with or without hard labor for not more than two years, or both. Such sentence shall be consecutive to any other sentence imposed for violation of the provisions of any state criminal law.

Acts 2010, No. 351, §1.

§111. Assisting escape

A. Assisting escape is either of the following:

(1) Permitting, by any public officer, of the escape of any prisoner in his custody, by virtue of his active assistance or intentional failure to act.

(2) The active assistance given by any person to one in legal custody with intent to aid him in escaping therefrom.

B. Whoever commits the crime of assisting escape shall be fined not more than three thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

Acts 2014, No. 791, §7.

§112. False personation

A. False personation is the performance of any of the following acts with the intent to injure or defraud, or to obtain or secure any special privilege or advantage:

(1) Impersonating any public officer, or private individual having special authority by law to perform an act affecting the rights or interests of another, or the assuming, without authority, of any uniform or badge by which such officer or person is lawfully distinguished; or

(2) Performing any act purporting to be official in such assumed character.

B. Whoever commits the crime of false personation shall be fined not more than one hundred dollars, or imprisoned for not more than ninety days, or both.

Acts 2014, No. 791, §7.

§112.1. False personation of a peace officer or firefighter

A. False personation of a peace officer or firefighter is the performance of any one or more of the following acts with the intent to injure or defraud or to obtain or secure any special privilege or advantage:

(1) Impersonating any peace officer or firefighter or assuming, without authority, any uniform or badge by which a peace officer or firefighter is lawfully distinguished.

(2) Performing any act purporting to be official in such assumed character.

(3) Making, altering, possession, or use of a false document or document containing false statements which purports to be a training program certificate or in-service training certificate or other documentation issued by the Council on Peace Officer Standards and Training, pursuant to R.S. 40:2405, which certifies the peace officer has successfully completed the requirements necessary to exercise his authority as a peace officer.

(4) Equipping any motor vehicle with lights or sirens which simulate a law enforcement vehicle.

B. As used in this Section:

(1) "Badge" shall mean a device or emblem, regardless of the material of which it is made, worn as an insignia of rank, office, or membership in a law enforcement organization, including but not limited to those that bear the seal of the state of Louisiana.

(2) "Firefighter" means any certified first responder as defined in R.S. 40:1231, certified emergency medical technician as defined in R.S. 40:1231, or any firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state of Louisiana, or any volunteer fireman of the state of Louisiana.

(3) "Peace officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, park wardens, livestock brand inspectors, forestry officers, military police, fire marshal investigators, probation and parole officers, attorney general investigators, and district attorney investigators.

C. Whoever commits the crime of false personation of a peace officer or firefighter shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than two years, or both.

Acts 1993, No. 673, §1; Acts 2009, No. 157, §1; Acts 2012, No. 165, §1.

§112.2. Fraudulent portrayal of a law enforcement officer or firefighter

A. Fraudulent portrayal of a law enforcement officer or firefighter is the impersonation of any law enforcement officer or firefighter for the purpose of obtaining access to a public building, facility, or service. The fraudulent portrayal includes but is not limited to any of the following:

(1) Portraying or impersonating a law enforcement officer or firefighter by any means.

(2) Possessing, without authority, any uniform or badge by which a law enforcement officer or firefighter is identified.

(3) Performing any act purporting to be official while portraying a law enforcement officer or firefighter.

(4) Making, altering, possessing, or using a false document or document containing false statements which purports to be a training program certificate or in-service training certificate or other documentation issued by the Council on Peace Officer Standards and Training, pursuant to R.S. 40:2405, which certifies the peace officer has successfully completed the requirements necessary to exercise his authority as a peace officer.

(5) Making, altering, possessing, or using any false documents or credentials which purport to identify the person as a law enforcement officer or firefighter.

B. For the purposes of this Section, "law enforcement officer or firefighter" shall include police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, state park wardens, firemen, and probation and parole officers.

C. "Access to a public building, facility, or service" includes but is not limited to the following:

(1) Free and unhampered passage on and over toll bridges and ferries in this state.

(2) Free passage on and over the Crescent City Connection Bridge at New Orleans.

(3) Free passage on any tollway as defined in R.S. 48:2021(17).

(4) Free parking at any parking facility owned by the state or any of its political subdivisions.

(5) Free admission or reduced price admission to any entertainment, cultural, or sporting event.

D. Nothing herein shall be construed to expand the provisions of law which provide for the free and unhampered passage by law enforcement personnel over toll bridges and ferries.

E. Whoever commits the crime of fraudulent portrayal of a law enforcement officer or firefighter shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

Acts 2004, No. 85, §1.

§112.3. Aiding and abetting the fraudulent portrayal of a law enforcement officer or firefighter

A. Aiding and abetting the fraudulent portrayal of a law enforcement officer or firefighter is the inciting, soliciting, urging, encouraging, exhorting, instigating, or assisting any other person to commit the crime of fraudulent portrayal of a law enforcement officer or firefighter. For purposes of this Section, "law enforcement officer or firefighter" shall have the same meaning as provided in R.S. 14:112.2.

B. Whoever commits the crime of aiding and abetting the fraudulent portrayal of a law enforcement officer or firefighter shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Acts 2004, No. 85, §1.

§112.4. Unlawful production, manufacturing, distribution, or possession of unauthorized peace officer badges

A. It shall be unlawful for any person to knowingly or intentionally produce, manufacture, distribute, or possess unauthorized peace officer badges.

B. For purposes of this Section:

(1) "Distribute" means to sell, give, transport, issue, provide, lend, deliver, transfer, transmit, distribute, or disseminate.

(2) "Peace officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, park wardens, livestock brand inspectors, forestry officers, attorney general investigators, district attorney investigators, inspector general investigators, and probation and parole officers.

(3) "Produce or manufacture" means to develop, prepare, design, create, or otherwise process.

(4) "Unauthorized peace officer badge" means any device or emblem, regardless of the material of which it is made, worn as an insignia of rank, office, or membership of a peace officer in a law enforcement agency which has not been expressly authorized by the law enforcement agency.

C.(1) Whoever violates the provisions of this Section by possessing an unauthorized peace officer badge shall be fined not more than fifty dollars, imprisoned for not more than ten days, or both.

(2) Whoever violates the provisions of this Section by distributing, manufacturing, or producing an unauthorized peace officer badge upon a first conviction shall be fined not more than two hundred dollars, imprisoned for not more than ninety days, or both. Upon a second or subsequent conviction, the offender shall be fined not more than one thousand dollars, imprisoned for not more than six months, or both.

Added by Acts 1983, No. 531, §1; Acts 2001, No. 944, §2; Acts 2003, No. 1038, §2; Acts 2006, No. 143, §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.

C.(1) Any person violating this Section shall be guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than ninety days, fined not more than five hundred dollars per day of the violation, or both.

(2) Notwithstanding any action taken by the office of state fire marshal, any person who does not possess a license as required by R.S. 40:1664.4, and who violates any provision of this Section and causes harm or damage to another in excess of five hundred dollars, upon conviction, shall be imprisoned for up to six months, fined not less than five hundred dollars nor more than five thousand dollars, or both.

(3) Notwithstanding the provisions of R.S. 15:571.11, any fine assessed and collected pursuant to this Subsection shall be remitted to the Louisiana Life Safety and Property Protection Trust Fund provided for in R.S. 40:1664.9(J).

Acts 2017, No. 170, §1.

§207. Motor vehicles, alteration or removal of identifying numbers prohibited; sale, etc., of motor vehicle with altered identifying numbers prohibited; penalty; application of Section

A. No person shall cover, remove, deface, alter, or destroy the manufacturer's number or any other distinguishing number or identification mark on any motor vehicle, motor vehicle part, semi-trailer, or trailer as defined by R.S. 32:1 for the purpose of concealing or misrepresenting its identity; nor shall any person buy, sell, receive, dispose of, conceal, or knowingly have in his possession any motor vehicle, motor vehicle part, semi-trailer, or trailer as defined by R.S. 32:1 from or on which the manufacturer's number or any other distinguishing number or identification mark has been covered, removed, defaced, altered, or destroyed for the purpose of concealing or misrepresenting its identity.

B.(1) Whoever violates this Section shall be fined not more than two thousand dollars, or imprisoned with or without hard labor for not more than twenty-four months, or both, and, in default of fine, imprisoned with or without hard labor for not more than twelve months additional.

(2) On conviction of a second offense, the offender shall be fined not more than four thousand dollars, or imprisoned with or without hard labor for not more than forty-eight months, or both.

(3) On conviction of a third or subsequent offense, the offender shall be fined five thousand dollars and imprisoned with or without hard labor for not less than thirty-six months nor more than sixty months.

C. This Section shall apply to all vehicles propelled otherwise than by muscular power, except motor vehicles running upon rails or tracks.

Acts 1989, No. 537, §1; Acts 2008, No. 148, §1; Acts 2010, No. 389, §1.

§208. Operas, performance or representation without consent of owner prohibited; penalty

A. No person or company shall take part in or cause to be publicly performed or represented for profit any unpublished or undedicated dramatic or musical composition known as an opera without the consent of its owner or proprietor, or knowing an opera is unpublished or undedicated, shall permit, aid, or take part in a public performance or representation without the consent of the owner or proprietor.

B. Whoever violates this Section shall, for every performance, be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not less than thirty days.

Acts 2014, No. 791, §7.

§209. Seals, breaking prohibited; penalty

A. No person shall, without legal authority, break any seal placed, in accordance with law, on the effects or any place or thing containing the effects or property of any deceased person.

B. Whoever violates this Section shall be fined not more than one thousand dollars and imprisoned with or without hard labor for not more than two years.

Acts 2014, No. 791, §7.

§210. Taxicabs, tampering with meter forbidden; penalty

A. No person shall, without the written consent of the owner, tamper with or alter in any manner or form the fare-registering device of any taxicab or automobile for hire.

B. Whoever violates this Section shall be fined not less than fifty dollars nor more than two hundred dollars, or imprisoned for not less than six months nor more than one year, or both.

Acts 2014, No. 791, §7.

§211. Repealed by Acts 2017, No. 281, §3.

§212. Forest products, false statement prohibited; penalty

A. No person, in the course of a sale, attempted sale, delivery, removal, or other completed or attempted transaction involving forest products, shall willfully or knowingly make a false statement or cause a false statement to be made with regard to ownership or ownership interest of the forest products, with regard to ownership or ownership interest or tract name of the land where the forest products were harvested, or with regard to location of the land and property description of the land where the forest products were harvested.

B. Whoever violates this Section shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

Acts 1997, No. 108, §1; Acts 2003, No. 107, §1.

§213. False packing of cotton bales and other agricultural products; penalty

A. The false packing of cotton bales or other agricultural products is the packing of a bale or bales of cotton or other agricultural products in such manner as is calculated to deceive persons with regard to quantity, weight, or quality of the product therein contained, whether the false packing of cotton bales or other agricultural products be accomplished by the wetting of the product packed, or by concealing in the interior of the packed product another substance, or by plating the product by concealing in the interior thereof material inferior in grade or quality to that on the exterior thereof, or by any other means.

B. Whoever commits the crime of false packing of cotton bales or other agricultural products shall be punished, for the first offense, by a fine of five hundred dollars, or imprisoned for not less than sixty days nor more than six months, or both. For any offense beyond the first, the offender shall be punished by a fine of one thousand dollars, or imprisoned for not less than sixty days nor more than six months, or both.

Added by Acts 1954, No. 21, §1; Acts 2014, No. 791, §7.

§214. Fishing or hunting contest fraud

A. The crime of fishing or hunting contest fraud is the act of any person, who, with the intent to defraud, knowingly makes a false representation in an effort to win any prize awarded in any fishing or hunting contest.

B. When the most valuable prize offered in the contest amounts to a value of less than one hundred dollars, the offender shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

C. When the most valuable prize offered in the contest amounts to a value of one hundred dollars or more, the offender shall be fined not more than three thousand dollars, imprisoned, with or without hard labor, for not more than one year, or both.

Acts 1985, No. 856, §1.

§215. §§215, 216 Repealed by Acts 1962, No. 310, §III (§3)

§217. Purchase or sale of seafoods prohibited under certain conditions; penalties

A. It shall be unlawful for any person:

(1) Who is engaged commercially in catching or taking fish, shrimp, oysters, or other seafood in a joint adventure or other undertaking whereby he receives a percentage of the proceeds of the sale of the catch, or a share of the catch itself, to sell or offer for sale any of such products, obtained in the joint adventure, except as provided for and in accordance with the terms and conditions of such joint adventure, without the express or implied consent of his co-adventurer or co-adventurers, or

(2) Who is employed on a salary or any other basis in the commercial catching or taking of fish, shrimp, oysters, or other seafood, to sell or offer for sale such products without the express or implied consent of his employer, or

(3) To purchase any fish, shrimp, oysters, or other seafood, knowing it is offered for sale in violation of Paragraph (1) or (2) of this Subsection.

B. Any person who violates any provision of this Section shall be, for the first offense, fined not less than one hundred dollars nor more than two hundred dollars and, for the second and subsequent offenses, shall be fined not less than five hundred dollars nor more than two thousand dollars, or be sentenced to serve not less than five days nor more than six months in the parish jail, or shall be punished by both such fine and imprisonment.

Acts 1964, No. 82, §§1, 2.

§218. Seafood sales and purchases; commercial license required of seller; penalties

A. It shall be unlawful for any person, firm, or corporation to offer to sell or to sell any shrimp, oyster, fish, or other seafood without having first obtained a valid commercial fishing, retail, or wholesale license as provided in Subpart A of Part VII of Chapter 1 of Title 56 of the Louisiana Revised Statutes of 1950. It shall be unlawful for any person, firm, or corporation, including any restaurant or retail establishment, to purchase any shrimp, oyster, fish, or other seafood from any person who does not possess a valid commercial fishing, retail, or wholesale license lawfully issued in his name or his employer's name as provided in the above-referenced Subpart A. The commercial fishing license required herein shall be one which authorizes the bearer to sell his catch. Such license or a copy thereof shall be in the possession of the seller and conspicuously displayed at all times when transacting any sale.

B. The provisions of this Section shall be enforceable by all law enforcement agencies throughout the state, in addition to agents of the Department of Wildlife and Fisheries and including but not limited to law enforcement officers of local governmental subdivisions.

C.(1) The following penalties shall be imposed for violation of the provisions of Subsection A of this Section:

(a) For the first offense, the fine shall be not less than five hundred dollars nor more than seven hundred fifty dollars, or imprisonment for not more than one hundred twenty days, or both.

(b) For the second offense, the fine shall be not less than seven hundred fifty dollars nor more than three thousand dollars and imprisonment for not less than ninety days nor more than one hundred eighty days.

(c) For the third offense, the fine shall be not less than one thousand dollars nor more than five thousand dollars and imprisonment for not less than one hundred eighty days nor more than two years.

(2) The above penalties in all cases shall include forfeiture of anything seized in connection with the violation and may include revocation of any applicable fishing, retail, or wholesale license under which the violation occurred for the period for which it is issued.

Acts 1986, No. 660, §1.

§219. Removal of building or structure from immovable property subject to a conventional mortgage or vendor's privilege

Any person who wilfully or knowingly removes from any immovable property subject to a conventional mortgage or vendor's privilege affecting the immovable property, any building or other structure, or any part of a building or other structure, or any item which was so attached to or connected with any such building or structure as to become subject to a conventional mortgage or vendor's privilege affecting the immovable property at the time of the execution of

the mortgage or act creating the vendor's privilege, with intent to defraud and without first obtaining the written consent of all holders of conventional mortgages or vendor's privileges affecting the immovable property shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than two thousand dollars, or imprisoned for not more than one (1) year, or both, at the discretion of the Court.

Added by Acts 1964, No. 496, §1.

§220. Rented or leased motor vehicles; obtaining by false representation, etc.; failure to return; defenses; penalties

A. If any person rents or leases a motor vehicle and obtains or retains possession of the motor vehicle by means of any false or fraudulent representation including but not limited to a false representation as to his name, residence, employment, or operator's license, or by means of fraudulent concealment, or false pretense or personation, or trick, artifice, or device; or, if the person with fraudulent intent willfully refuses to return the leased vehicle to the lessor after the expiration of the lease term as stated in the lease contract, the person shall be guilty of a felony and upon conviction thereof shall be subject to the penalty provided for in Subsection B of this Section. Except as provided in Subsection D of this Section, the offender's failure to return or surrender the motor vehicle within seven calendar days after notice to make such return or surrender has been sent by certified mail to the offender's last known address, or has been delivered by commercial courier as defined in R.S. 13:3204(D), shall be presumptive evidence of his intent to defraud, and the lessor may report to any law enforcement agency that the rented or leased motor vehicle has been stolen.

B. Any person found guilty of violating the provisions of this Section shall be fined not more than five hundred dollars or imprisoned not more than five years with or without hard labor, or both.

C. It shall be a complete defense to any civil action arising out of or involving the arrest or detention of any person renting or leasing a motor vehicle that any representation made by him in obtaining or retaining possession of the vehicle is contrary to the fact.

D. It shall be a complete defense to any civil action arising out of or involving the arrest or detention of any person, upon whom such demand was personally made or personally served, that he failed to return the vehicle to the place specified in the rental agreement within such seventy-two hour period.

Acts 1964, No. 442, §§1 to 4. Amended by Acts 1975, No. 607, §1. Acts 1984, No. 146, §1; Acts 1997, No. 790, §1; Acts 2003, No. 596, §1.

§220.1. Leased movables; obtaining by false representation; failure to return or surrender; penalties; restitution

A. No person leasing a movable shall obtain or retain possession of the movable by:

(1) Making a false statement or false representation of a material fact, where such false statement or false representation is made with the intent to obtain or retain possession of the movable; or

(2) Intentionally failing to return or surrender the movable when obligated under the terms of the lease, or after the expiration or cancellation of the lease. The lessee's failure to

return or surrender the movable within fifteen calendar days or the number of days for which the movable was leased, whichever is less, after the date written notice requesting return or surrender of the movable was delivered or tendered to the lessee's last known address shall be presumptive evidence that the failure to return or surrender the movable was intentional. In order for the presumption to arise, the written notice must be sent by the lessor or the district attorney by means of registered or certified mail.

B.(1) Whoever violates the provisions of this Section when the value of the leased movable is less than one thousand dollars shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) Whoever violates the provisions of this Section when the value of the leased movable is one thousand dollars or more shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

C. When a defendant is convicted of violating Paragraph (A)(2) and the notice requirements of Paragraph (A)(2) are complied with, a court shall order, in addition to or in lieu of the penalty in Subsection B, upon proof established by a preponderance of the evidence, that defendant pay restitution to the victim for all acknowledged appropriate fees assessed for intentional failure to return or surrender the leased movable after the agreed rental period or lease term or in the amount of lost profit resulting from the defendant's failure to return or surrender the movable as stated under the terms of the lease, or after the expiration or cancellation of the lease. The court may permit the prosecuting attorney to present evidence of the amount of the victim's lost profits either at the trial of the matter or at the sentencing of the defendant.

D. The offender's failure to return or surrender a video cassette film or tape that has been rented from a facility which rents video cassette films or tapes within thirty calendar days after notice to make such return or surrender has been sent by certified mail to the offender's last known address shall be presumptive evidence of his intent to defraud and the lessor may report to any law enforcement agency that the rented video cassette film or tape has been stolen.

Acts 1984, No. 812, §1; Acts 1987, No. 771, §1; Acts 1992, No. 981, §1; Acts 1997, No. 790, §1; Acts 2006, No. 130, §1, eff. June 2, 2006.

§221. Avoiding payment for telecommunications services, cable television services, or multipoint distribution system service

A. Avoidance of payment for telecommunication, cable television, or multipoint distribution system services is the avoidance, attempt to avoid, or the causing of another person to avoid, the lawful charges, in whole or in part, for any telephone, telegraph, cable, or multipoint distribution system service utilized or for the transmission of a message, signal, or other communication over telephone, telegraph, cable facilities, or multipoint distribution system:

(1) By the use of a code, prearranged scheme, or other similar strategem or device whereby such person, in effect, sends or receives information; or

(2) By rearranging, tampering or interfering with, or making unauthorized connection with any facilities or equipment of a telephone or telegraph company, whether physically, inductively, acoustically, or otherwise; or

(3) By intercepting and decoding a transmission by a multipoint distribution system without the authorization of the provider of the service, the person intentionally or knowingly attaches to, causes to be attached to, or incorporates in a television set, video tape recorder, or other equipment designed to receive a television transmission a device that intercepts and decodes the transmission.

(4) By the use of any other fraudulent means, method, trick, or device.

B.(1) On a first conviction, the offender shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

(2) On a second conviction, the offender shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

C. Nothing herein shall prohibit the use of earth station receivers to receive satellite communications.

Added by Acts 1966, No. 305, §1. Amended by Acts 1981, No. 145, §1; Acts 1982, No. 751, §1.

§222. Possession, manufacture, sale or transfer of devices for avoidance of payment for telecommunications services or related offenses; seizure of devices

A. It shall be unlawful for any person to knowingly do either of the following:

(1) Make or possess any instrument, apparatus, equipment, or device designed, adapted, or which can be used for either of the following purposes:

(a) For commission of a crime in violation of R.S. 14:67.

(b) To conceal, or to assist another to conceal, from any supplier of telecommunications services or from any lawful authority the existence or place of origin or destination of any telecommunications.

(2) Sell, give, transport, or otherwise transfer to another, or offer or advertise to sell, give, or otherwise transfer, any instrument, apparatus, equipment, or device described in Paragraph (1) of this Subsection, or plans or instructions for making or assembling it, under circumstances evincing an intent to use or employ such instrument, apparatus, equipment, or device, or to allow it to be used or employed, for a purpose described in Subparagraph (1)(a) or (1)(b) of this Subsection, or knowing or having reason to believe that it is intended to be so used, or that the aforesaid plans or instructions are intended to be used for making or assembling such instrument, apparatus, equipment, or device.

B.(1) Whoever violates any provision of this Section shall, on first conviction, be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(2) On a second conviction, the offender shall be fined not more than two thousand dollars, or imprisoned for not more than one year, or both.

C. Any such instrument, apparatus, equipment, or device, or plans or instructions therefor, may be seized by court order under a search warrant or incident to a lawful arrest, and upon the conviction of any person for a violation of any provision of this Section, or R.S. 14:67, 67.3, or 221, such instrument, apparatus, equipment, device, plans, or instructions shall either be destroyed as contraband by the sheriff of the parish in which such person was convicted or turned over to the telephone company in whose territory such instrument, apparatus, equipment, device, plans, or instructions were seized.

D. The provisions of this Section shall not apply to privately owned communications equipment which is not connected with, or does not use the equipment or facilities of a telecommunications supplier regulated by a duly constituted governmental authority; nor shall the provisions of this Section apply to privately owned communications equipment which is connected with or does use the equipment or facilities of such telecommunications supplier when such connection or use is lawful and in accord with the tariffs of such supplier or is made with the consent of such supplier.

E. Nothing herein shall apply to public service and emergency communications performed by holders of valid Federal Communications Commission radio amateur licenses without charge on the part of such licensees; provided that nothing herein shall excuse any person from compliance with lawful tariffs or any telecommunications company.

F. Nothing herein shall apply to the sale of premises reception equipment by other than an operating cable company, so long as the equipment sold is not capable of descrambling cable signals.

G. Nothing herein shall be construed to allow, permit, or encourage the unauthorized interception of cable services.

Added by Acts 1966, No. 306, §§1 to 3. Acts 1988, No. 696, §1; Acts 2014, No. 791, §7.

*As it appears in Acts 1966, No. 306.

§222.1. Unauthorized interception, interference with, or retransmission of services offered over a cable television system

A. No person shall knowingly:

(1) Intercept, receive, retransmit, connect, attach, modify, alter, remove, or tamper with any equipment, device, or television or radio component for the purpose of intercepting, receiving, or retransmitting without the authorization of a cable television system any and all services provided by or through the facilities of that system; or

(2) Manufacture, sell, offer for sale, transfer, rent, or distribute any device, equipment, plans, schematics, instructions, kit, technology, software, electronic serial number, address, media access control address, Internet protocol address, account number, telephone number, credit number, code, personal identification number, dynamic host configuration protocol, counterfeit or clone device or component, tumbler microchip, cable television decoding device, or smart card, which is primarily designed, manufactured, sold, possessed, used, or offered for the purpose of violating this Section.

(3) Disrupt or interfere with the provision of services offered over a cable television system.

B. For the purposes of this Section the phrase "all services provided by or through the facilities of a cable television system" means for a charge or compensation to facilitate the programming, origination, transmission, projection, emission, or reception of signs, signals, data, audio, visual, writings, images, sounds, or intelligence of any nature including programming services, Internet access, and bandwidth.

C. For purposes of Subsections D and E of this Section, "second or subsequent offense" shall mean a violation of this Section, R.S. 14:67, 67.3, 222, 222.2, or 223 through 223.8 or any other law of this state prohibiting any of the actions set forth in Subsection A of this Section.

D. Whoever violates the provisions of Paragraph (A)(1) of this Section shall:

(1) On first offense, be fined not more than one thousand dollars; and

(2) On second or subsequent offense, be fined not more than twenty-five thousand dollars or imprisoned for not more than sixty days, or both.

E. Whoever violates the provisions of Paragraph (A)(2) of this Section shall:

(1)(a) On a first offense, when the offender is convicted of manufacturing, selling, transferring, renting, or selling five or less components enumerated in Paragraph (A)(2) of this Subsection, be fined not more than five thousand dollars or be imprisoned for not more than six months.

(b) On a first offense, when the offender is convicted of manufacturing, selling, transferring, renting, or selling six or more components enumerated in Paragraph (A)(2) of this Section, or for any violation of Paragraph (A)(3) of this Section, be fined not more than twenty-five thousand dollars or be imprisoned for not more than two years, or both.

(2) For the second and subsequent violations of Paragraph (A)(2) or Paragraph (A)(3) of this Subsection, the offender shall be punished by a fine not exceeding one hundred thousand dollars or by imprisonment for not more than two years, or both.

F. Any such equipment, or a kit for making such equipment herein, may be seized by court order under a search warrant or incident to lawful arrest; and upon the conviction of any person for a violation of this Section or R.S. 14:67, 67.3, 222, 222.2 or 223 through 223.8 inclusive, such equipment or kit shall either be destroyed as contraband by the parish in which such person was convicted or turned over to the cable television system in whose territory such equipment or kit was seized.

G. It shall not be a violation of this Section to manufacture, distribute, or sell any device used for legal purposes merely because the same device is capable of being used to commit a violation of this Section, if the manufacturer, distributor, or seller does not act with the intent that such device will be used for conduct violating this Section.

H. This Section shall not be construed to impose any criminal liability upon any state or local law enforcement agency, any state or local governmental agency, municipality, or any communications service provider, cable television company or multipoint distribution system, unless such entity knowingly and intentionally violates the provisions of this Section.

Added by Acts 1983, No. 471, §1; Acts 2004, No. 270, §1, eff. July 1, 2004.

§222.2. Cellular telephone counterfeiting

A. For purposes of this Section:

(1) "Cellular telephone" means a communication device containing a unique electronic serial number that is programmed into its computer chip by its manufacturer and the operation of which is dependent on the transmission of that electronic serial number along with a mobile identification number, which is assigned by the cellular telephone carrier, in the form of radio signals through cell sites and mobile switching stations.

(2) "Cloned cellular telephone" or "counterfeit cellular telephone" means a cellular telephone the electronic serial number of which has been altered from the electronic serial number that was programmed in the phone by the manufacturer.

(3) "Cloning paraphernalia" means materials that, when possessed in combination, are necessary for and capable of the creation of a cloned cellular telephone. These materials include scanners to intercept the electronic serial number and mobile identification number, cellular telephones, cables, EPROM chips, EPROM burners, software for programming the microchip of the cloned cellular telephone with a false electronic serial number and mobile identification number combination, a computer containing such software, and lists of electronic serial number and mobile identification number combinations.

(4) "Electronic serial number" means the unique numerical algorithm that is programmed into the microchip of each cellular telephone by the manufacturer and is vital to the successful operation and billing of the telephone.

(5) "Intercept" means to electronically capture, record, reveal, or otherwise access the signals emitted or received during the operation of a cellular telephone without the consent of the sender or receiver thereof, by means of any instrument, device, or equipment.

(6) "Mobile identification number" means the cellular telephone number assigned to the cellular telephone by the cellular telephone carrier.

(7) "Possess" means to have physical possession of or otherwise to exercise dominion or control over tangible property.

B. It is unlawful for any person to knowingly possess a cloned cellular telephone. Any person found guilty of knowingly possessing a cloned cellular telephone shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

C. It is unlawful for any person to knowingly sell a cloned cellular telephone. Any person found guilty of knowingly selling a cloned cellular telephone shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

D. It is unlawful for any person to knowingly possess an instrument capable of intercepting electronic serial number and mobile identification number combinations or other cloning paraphernalia under circumstances evidencing an intent to clone a cellular telephone. Any person violating this provision shall be fined not more than seven thousand five hundred dollars and imprisoned with or without hard labor for not less than five years nor more than seven years.

E. On a second and subsequent conviction of any of the offenses provided for in this Section, the offender shall be fined not less than ten thousand dollars nor more than fifteen thousand dollars and imprisoned with or without hard labor for not more than ten years.

F. Nothing herein shall make unlawful the possession or use of cloning paraphernalia, a cloned cellular telephone, or any intercept by a law enforcement officer or persons acting pursuant to a lawful court order in the course of a criminal investigation.

Acts 1997, No. 1014, §1.

§222.3. Unlawful use of a cellular tracking device; penalty

A. It shall be unlawful for any person to possess a cellular tracking device or to use a cellular tracking device for the purpose of collecting, intercepting, accessing, transferring, or forwarding the data transmitted or received by the communications device, or stored on the

communications device of another without the consent of a party to the communication and by intentionally deceptive means.

B. For the purposes of this Section:

(1) "Cellular tracking device" means a device that transmits or receives radio waves to or from a communications device in a manner that interferes with the normal functioning of the communications device or communications network and that can be used to intercept, collect, access, transfer, or forward the data transmitted or received by the communications device, or stored on the communications device; includes an international mobile subscriber identity (IMSI) catcher or other cell phone or telephone surveillance or eavesdropping device that mimics a cellular base station and transmits radio waves that cause cell phones or other communications devices in the area to transmit or receive radio waves, electronic data, location data, information used to calculate location, identifying information, communications content, or metadata, or otherwise obtains this information through passive means, such as through the use of a digital analyzer or other passive interception device; and does not include any device used or installed by an electric utility solely to the extent such device is used by that utility to measure electrical usage, to provide services to customers, or to operate the electric grid.

(2) "Telecommunications device" means any type of instrument, device, or machine that is capable of transmitting or receiving telephonic, electronic, radio, text, or data communications, including but not limited to a cellular telephone, a text-messaging device, a personal digital assistant, a computer, or any other similar wireless device that is designed to engage in a call or communicate text or data. It does not include citizens band radios, citizens band radio hybrids, commercial two-way radio communication devices, or electronic communication devices with a push-to-talk function.

C. The provisions of this Section shall not apply to any of the following:

(1) An investigative or law enforcement officer, judicial officer, probation or parole officer, or employee of the Department of Public Safety and Corrections using a cellular tracking device when that person is engaged in the lawful performance of official duties and in accordance with other state or federal law, including using a cellular tracking device in accordance with the Electronic Surveillance Act and pursuant to a court order as provided for in R.S. 15:1317 and 1318.

(2) An operator of a switchboard, or any officer, employee, or agent of any electronic communications carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is necessary to his service or to the protection of the rights or property of the carrier of such communication; however, such communications common carriers shall not utilize service observing or random monitoring, except for mechanical or service quality control checks.

(3) An officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of Chapter 5 of Title 47 of the United States Code.

(4) The owner of a motor vehicle, including the owner of a vehicle available for rent, who has consented to the use of the tracking device with respect to that vehicle.

(5) The lessor or lessee of a motor vehicle and the person operating the motor vehicle who have consented to the use of a tracking device with respect to that vehicle.

(6) An automobile manufacturer, its affiliates, subsidiaries, or a related telematics provider installing a feature that could be considered a tracking device with respect to that vehicle.

(7)(a) A parent or legal guardian of a minor child whose location or movements are being tracked by the parent or legal guardian.

(b) When the parents of the minor child are living separate and apart or are divorced from one another, this exception shall apply only if both parents consent to the tracking of the minor child's location and movements, unless one parent has been granted sole custody, in which case consent of the noncustodial parent shall not be required.

(8) The Department of Public Safety and Corrections tracking an offender who is under its custody or supervision.

(9) Any provider of a commercial mobile radio service (CMRS), such as a mobile telephone service or vehicle safety or security service, which allows the provider of CMRS to determine the location or movement of a device provided to a customer of such service.

(10) Any commercial motor carrier operation.

(11) A provider of a mobile application or similar technology that a consumer affirmatively chooses to download onto the consumer's wireless device, or any technology used in conjunction with the mobile application or similar technology.

(12) Any use of technology provided by an entity based upon the prior consent of a consumer for such use.

(13) A person acting in good faith on behalf of a business entity for a legitimate business purpose.

(14) A law enforcement agency conducting training or calibration and maintenance of tracking equipment on the cell phone of another law enforcement officer who has given consent for his phone to be tracked for training or calibration and maintenance purposes.

(15) Any person who has more than one cellular phone or similar wireless telecommunications device as part of a wireless service plan contract and who is ascertaining or attempting to ascertain the location of any telecommunications device that is part of that plan.

(16) Any person who has a cellular phone or similar wireless telecommunications device and wireless service plan contract, or a wireless service provider at the person's direction, who is ascertaining or attempting to ascertain the location of any telecommunications device that is part of that plan and that has been lost or stolen.

D. Whoever violates the provisions of this Section shall be fined not more than three thousand dollars, imprisoned with or without hard labor for not more than two years, or both.

Acts 2016, No. 308, §1.

§223. Sound reproductions without consent prohibited

Any person who, for commercial gain, knowingly transfers or causes to be transferred, sells, distributes, circulates, or causes to be sold, distributed, or circulated, directly or indirectly, or possesses for such purposes, any sounds recorded on any article for a consideration without the consent of the owner within the state of Louisiana shall be guilty of a criminal offense and

punished as provided in R.S. 14:223.3. This Section applies only to sound recordings and does not apply to motion pictures or other audiovisual works.

Acts 1972, No. 350, §1; Acts 1990, No. 122, §1; Acts 2007, No. 104, §1.

§223.1. Terms defined

The following terms have the meanings indicated:

(1) As used in R.S. 14:223 and 223.6*, "owner" means the person who owns the sounds fixed in the master phonograph record, master disc, master tape, master film, master audio or video cassette, or other device now known or later developed, used for reproducing recorded sounds or images on phonograph records, discs, tapes, films, video cassettes, or other articles or media on which sound is or may be recorded and from which the transferred recorded sounds are directly or indirectly derived. As used in R.S. 14:223.5, "owner" means the person who owns the sounds and images or the rights to authorize the recording of the sounds or images of any performance not fixed in a tangible medium of expression.

(2) "Person" means any individual, partnership, corporation, association, or any other legal entity.

(3) "Recording" and "article" mean any original phonograph record, disc, tape, audio or visual cassette, wire, film, or other medium known or later developed on which sounds or images are recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original.

(4) "Audiovisual work" means a series of related images intended to be shown through the use of mechanical or electronic devices, together with accompanying sounds, if any.

(5) "Motion picture" means an audiovisual work consisting of a series of images which, when shown in succession, impart an impression of motion together with accompanying sounds, if any.

(6) "Phonorecord" means a material object in which sounds other than those accompanying a motion picture or other audiovisual work are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated directly or with the aid of a machine or device. Phonorecord includes the material object in which the sound is first fixed.

(7) "Counterfeit label" means an identifying label or container that appears to be genuine but is not.

Acts 1972, No. 350, §2; Acts 1990, No. 122, §1.

*AS APPEARS IN ENROLLED BILL.

§223.2. Exceptions

R.S. 14:223 through 223.8 shall not apply to any person engaged in radio or television broadcasting who transfers or causes to be transferred any such sounds intended for or in connection with broadcast transmissions or related uses or for archival purposes.

Acts 1972, No. 350, §3; Acts 1990, No. 122, §1.

§223.3. Penalties

Any person, any member of a partnership, or any officer or employee of a corporation found guilty of violating any provision of R.S. 14:223 through 223.8 shall be punished as follows:

(1) For the first offense of a violation of R.S. 14:223, 223.5, or 223.6 involving fewer than one hundred phonorecords; a violation of R.S. 14:223.7 involving fewer than one hundred counterfeit labels affixed or designed to be affixed to phonorecords; a violation of R.S. 14:223.6 involving fewer than one hundred articles upon which motion pictures or other audiovisual works are recorded; or a violation of R.S. 14:223.7 involving fewer than one hundred counterfeit labels affixed or designed to be affixed to articles upon which motion pictures or other audiovisual works are or are to be recorded, the offender shall be punished by a fine of not more than five thousand dollars or by imprisonment not exceeding six months, or both.

(2) For the first offense of a violation of R.S. 14:223.8, the offender shall be punished by a fine not exceeding twenty-five thousand dollars, or by imprisonment for not more than two years with or without hard labor, or both.

(3) For any offense of a violation of R.S. 14:223, 223.5, or 223.6 involving one hundred or more phonorecords; a violation of R.S. 14:223.7 involving one hundred or more counterfeit labels affixed or designed to be affixed to phonorecords; a violation of R.S. 14:223.6 involving one hundred or more articles upon which motion pictures or other audiovisual works are recorded; or a violation of R.S. 14:223.7 involving one hundred or more counterfeit labels affixed or designed to be affixed to articles upon which motion pictures or other audiovisual works are or are to be recorded, the offender shall be punished by a fine not exceeding fifty thousand dollars or by imprisonment for not more than five years with or without hard labor, or both.

(4) For the second and subsequent violations of R.S. 14:223 through 223.8, the offender shall be punished by a fine not exceeding one hundred thousand dollars, or by imprisonment for not less than two years nor more than five years with or without hard labor, or both.

(5) Whenever any person is convicted of any violation of R.S. 14:223 through 223.8, the court in its judgment of conviction may, in addition to any other penalty, order the forfeiture and destruction or other disposition of all unlawful recordings, counterfeit labels, and all implements, devices, and equipment used or intended to be used in the manufacture of the unlawful recordings or counterfeit labels. The court may enter an order preserving such recordings, labels, implements, devices, or equipment as evidence for use in other cases or pending the final determination of an appeal.

Acts 1972, No. 350, §4; Acts 1990, No. 122, §1; Acts 2005, No. 13, §1.

§223.4. Civil remedies preserved

Nothing in R.S. 14:223 through 223.8 shall be construed to abrogate or modify any civil action for any of the acts referred to herein.

Acts 1972, No. 350, §5; Acts 1990, No. 122, §1.

§223.5. Recording of performances without consent prohibited

Any person who, without the consent of the owner and for commercial gain, knowingly transfers or causes to be transferred to any article, or sells, distributes, circulates, or causes to be sold, distributed, or circulated, directly or indirectly, or possesses for such purposes, a recording of any performance whether live before an audience or transmitted by wire or through the air by radio or television with intent to sell or cause to be sold or used to promote the sale of any article or product within the state of Louisiana shall be guilty of a criminal offense and punished as provided in R.S. 14:223.3.

Acts 1990, No. 122, §1.

§223.6. Rental or sale of improperly labeled articles prohibited

Any person who advertises, offers for rental, sale, resale, distribution, or circulation, or rents, sells, resells, distributes, or circulates, or causes to be sold, resold, distributed, or circulated, or possesses for such purposes, any recording the cover, label, or jacket of which fails to conspicuously display thereon in clearly readable print, the true name and address of the manufacturer and the name of any actual performer or group thereof shall be guilty of a criminal offense and punished as provided in R.S. 14:223.3.

Acts 1990, No. 122, §1.

§223.7. Counterfeiting or possessing counterfeit labels prohibited

Any person who has in his possession for any illegal purpose or who makes, sells, issues, distributes, circulates, or puts in circulation a counterfeit label affixed or designed to be affixed to a recording within the state of Louisiana shall be guilty of a criminal offense and punished as provided in R.S. 14:223.3.

Acts 1990, No. 122, §1.

§223.8. Possessing of tools and equipment used for manufacturing unauthorized sound recordings prohibited

Any person who, for any of the purposes mentioned in R.S. 14:223 through 223.7, possesses or controls any electronic, mechanical, or other device for manufacturing or reproducing recordings or counterfeit labels, or who possesses or controls any tool, implement, instrument, or thing, used, fitted, or intended to be used for such purposes within the state of Louisiana shall be guilty of a criminal offense and punished as provided in R.S. 14:223.3.

Acts 1990, No. 122, §1.

§223.9. Unlawful operation of a recording device

A. For the purposes of this Section:

(1) "Audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part thereof, including the audio portion, by means of any technology now known or later developed.

(2) "Motion picture theater" means a movie theater, screening room, or other venue that is being utilized primarily for the exhibition of a motion picture at the time of the offense.

B. It is unlawful for any person to knowingly operate the audiovisual recording function of any device in a motion picture theater while a motion picture is being exhibited without the written consent of the motion picture theater owner.

C.(1) Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) On a second or subsequent conviction, the offender shall be fined not more than five thousand dollars or imprisoned, with or without hard labor, for not more than five years, or both.

(3) For the purposes of this Section, "conviction" also includes a conviction for a similar offense under the law of another state or the federal government.

D. The owner or lessee of a motion picture theater, or the authorized agent or employee of such owner or lessee, who alerts law enforcement authorities of an alleged violation of this Section shall not be liable in any civil action arising out of actions taken by such owner, lessee, agent, or employee in the course of subsequently detaining a person believed in good faith to have violated the provisions of this Section unless the plaintiff can show by clear and convincing evidence that such measures were manifestly unreasonable or the period of detention was for an unreasonable length of time.

E. This Section shall not prevent any lawfully authorized investigative, law enforcement protective, or intelligence gathering employee or agent of the local, state, or federal government, from operating any audiovisual recording device in a motion picture theater, as part of lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities.

F. Nothing in this Section shall be construed to prevent prosecution under any other provision of law providing for a greater penalty.

Acts 2005, No. 11, §1.

§224. Transportation of water from St. Tammany Parish prohibited; penalties

A. No person, firm, corporation, public body, quasi-public body or political subdivision shall transport underground water or surface water from the parish of St. Tammany to any person, firm, corporation, municipality or city located outside of said parish; provided, however, that the provisions of this section shall not be construed to prohibit any person, firm or corporation engaged in the business of selling or furnishing to consumers bottled water from wells which are situated within the said parish.

B. Any violation of this law shall be punishable by a fine of not more than five thousand dollars or by a jail sentence of not more than six months, and each day of continued violation shall constitute a separate offense.

Acts 1968, No. 284, §§1, 2. Amended by Acts 1972, No. 42, §1.

§225. Institutional vandalism

A. A person commits the crime of institutional vandalism by knowingly vandalizing, defacing, or otherwise damaging the following:

(1) Any church, synagogue, or other building, structure, or place used for religious worship or other religious purpose.

(2) Any cemetery, mortuary, or other facility used for the purpose of burial or memorializing the dead.

(3) Any school, educational facility, or community center.

(4) The grounds adjacent to and owned or rented by any institution, facility, building, structure, or place described in Paragraphs (1), (2) or (3) above.

(5) Any personal property contained in any institution, facility, building, structure, or place described in Paragraphs (1), (2), or (3) above.

(6) Any building owned by the United States, state of Louisiana, or a political subdivision of this state.

B. Institutional vandalism is punishable as follows:

(1) When the damage is less than five hundred dollars, the offender shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

(2) When the damage amounts to five hundred dollars but less than fifty thousand dollars, the offender shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than two years or both.

(3) When the damage amounts to fifty thousand dollars or more, the offender shall be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than one nor more than ten years, or both.

C. In determining the amount of damage to or loss of property, damage includes the cost of repair or replacement of the property that was damaged or lost.

Acts 1984, No. 583, §1.

§226. Protection of owners of crayfish farms; penalties

A. It shall be unlawful for any person, other than the owner thereof, to fish for or to take crayfish from any domestic crayfish farm, unless the express consent of the owner is first obtained.

B. A domestic crayfish farm for the purposes of this Section means an earthen reservoir constructed so as to prevent the free ingress and egress of crayfish from public waters and on which the owner of private property cultivates, grows, harvests and markets domesticated crayfish that are spawned, grown, cultivated, managed, harvested and marketed on an annual, biennial or short term basis in privately owned waters which do not form a part of natural streams or lakes.

C. Whoever violates Subsection A of this Section shall, upon conviction thereof, be imprisoned for not more than one year or be subject to a fine of not less than fifty dollars nor more than three hundred dollars, or both.

Acts 1970, No. 627, §§2 to 4; Acts 2014, No. 791, §7.

§227. Identification number, personal property, alteration or removal prohibited

A. No person shall cover, remove, deface, alter, or destroy the manufacturer's number or any other distinguishing number or identification mark on any pipeline or oil and gas equipment for the purpose of concealing or misrepresenting its identity; nor shall any person knowingly buy, sell, receive, dispose of, conceal, or knowingly have in his possession any pipeline or oil and gas equipment from or on which the manufacturer's number or any other distinguishing number or identification mark has been covered, removed, defaced, altered, or destroyed, for the purpose of concealing or misrepresenting its identity.

B. The following definitions shall apply for the purpose of this Section, unless the context clearly requires otherwise:

(1) "Pipeline equipment" means all pipe, fittings, pumps, telephone and telegraph lines, and all other material and equipment used or intended to be used as part of or incident to the construction, maintenance, and operation of a pipeline for the transportation of oil, gas, water, or other liquid or gaseous substance.

(2) "Oil and gas equipment" means equipment and materials that are part of or incident to the development, maintenance, and operation of oil and gas properties, and includes equipment and materials that are part of or incident to the construction, maintenance, and operation of oil and gas wells, oil and gas leases, gasoline plants, and refineries.

C. Whoever violates this Section shall be fined not more than one thousand dollars or imprisoned for not more than twelve months, or both; and in default of fine, shall be imprisoned for not more than twelve additional months.

Added by Acts 1979, No. 251, §1.

§228. Interference with animal research facilities or animal management facilities

A. It shall be unlawful for any person:

(1) To intentionally release, steal, or otherwise cause the loss of any animal from an animal research facility or an animal management facility.

(2) To damage, vandalize, or steal any property from or on an animal research facility or an animal management facility.

(3) To obtain access to an animal research facility or an animal management facility by false pretenses for the purpose of performing acts described in Paragraphs (1) and (2) of this Subsection.

(4) To break and enter into any animal research facility or animal management facility with the intent to destroy, alter, duplicate, or obtain unauthorized possession of records, data, materials, equipment, or animals.

(5) To enter or remain on an animal research facility or an animal management facility with the intent to commit an act prohibited in Paragraphs (1) and (2) of this Subsection.

(6) To knowingly obtain or exert unauthorized control, by theft or deception, over records, data, material, equipment, or animals of any animal research facility or animal management facility for the purpose of depriving the legal owner of an animal research facility or animal management facility of records, material, data, equipment, or animals or for the purpose of using, concealing, abandoning, or destroying such records, material, data, equipment, or animals.

(7) To possess or use records, material, data, equipment, or animals or in any way to copy or reproduce records or data of an animal research facility or animal management facility, knowing or reasonably believing such records, material, data, equipment, or animals to have been obtained by theft or deception or without authorization of that facility.

B.(1) "Animal research facility" as used herein means that portion of the premises of an accredited institution of higher learning located within the state that is engaged in legitimate scientific, medical, or veterinary medicine research involving the use of animals.

(2) "Animal management facility" as used herein means that portion of any vehicle, building, structure, or premises, where an animal is kept, handled, housed, exhibited, bred, or offered for sale, and any agricultural trade association properties. Animal management facility also means that portion of any vehicle, building, structure, premises, property, or equipment used in the conduction of authorized wildlife management practices, including but not limited to the control of animals that damage property, natural resources, or human health and safety.

C. Whoever violates any provision of this Section shall be fined not more than five thousand dollars or imprisoned, with or without hard labor, for not more than one year, or both.

Acts 1989, No. 644, §1; Acts 1990, No. 445, §1.

{{NOTE: SEE ALSO R.S. 14:102.9.}}

§228.1. Unauthorized release of certain animals, birds, or aquatic species

A. It shall be unlawful for any person to intentionally and without permission, release any animal, bird, or aquatic species which has been lawfully confined for agriculture, science, research, commerce, public propagation, protective custody, or education.

B. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned for not more than one year, or both.

Acts 1990, No. 205, §2.

§229. Illegal use of counterfeit trademark; penalties

A. No person shall knowingly sell, possess with the intent to sell, or otherwise transfer for compensation anything of value having a counterfeit trademark.

B. For the purposes of this Section:

(1) "Person" shall include an individual, corporation, partnership, association, or other body of persons, whether incorporated or not.

(2) "Counterfeit trademark" shall mean a false trademark that is identical to or substantially indistinguishable from:

(a) A genuine trademark registered on the principal register in the United States Patent and Trademark Office and used or intended for use on or in connection with goods or services; or

(b) A genuine trademark specifically protected by any state or federal statute.

C. Whoever violates the provisions of this Section shall be fined not more than ten thousand dollars, or be imprisoned with or without hard labor for not more than five years, or both.

D. In lieu of a fine otherwise authorized by law, any person convicted of engaging in conduct in violation of the provisions of this Section through which said person derived pecuniary value, or by which said person caused personal injury or property damage or other loss, may be sentenced to pay a fine that does not exceed three times the gross value gained or three times the gross loss caused, whichever is greater. The court shall hold a hearing to determine the amount of the fine authorized by this Subsection.

Acts 1984, No. 224, §1; Acts 2011, No. 73, §1.

{{NOTE: SEE ACTS 1984, NO. 224, §2.}}

§230. Money laundering; transactions involving proceeds of criminal activity

A. As used in this Section:

(1) "Criminal activity" means any offense, including conspiracy and attempt to commit the offense, that is classified as a felony under the laws of this state or the United States or that is punishable by confinement for more than one year under the laws of another state.

(2) "Funds" means any of the following:

(a) Coin or paper money of the United States or any other country that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issue.

(b) United States silver certificates, United States Treasury notes, and Federal Reserve System notes.

(c) Official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country and foreign bank drafts.

(d) Electronic or written checks, drafts, money orders, traveler's checks, or other electronic or written instruments or orders for the transmission or payment of money.

(e) Investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery.

(3) "Peace officer" has the same meaning as in R.S. 40:2402(1)(a).

(4) "Proceeds" means funds acquired or derived directly or indirectly from or produced or realized through an act.

B. It is unlawful for any person knowingly to do any of the following:

(1) Conduct, supervise, or facilitate a financial transaction involving proceeds known to be derived from criminal activity, when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or the control of proceeds known to be derived from such violation or to avoid a transaction reporting requirement under state or federal law.

(2) Give, sell, transfer, trade, invest, conceal, transport, maintain an interest in, or otherwise make available anything of value known to be for the purpose of committing or furthering the commission of any criminal activity.

(3) Direct, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds known to be derived from any violation of criminal activity.

(4) Receive or acquire proceeds derived from any violation of criminal activity, or knowingly or intentionally engage in any transaction that the person knows involves proceeds from any such violations.

(5) Acquire or maintain an interest in, receive, conceal, possess, transfer, or transport the proceeds of criminal activity.

(6) Invest, expend, or receive, or offer to invest, expend, or receive, the proceeds of criminal activity.

C. It is a defense to prosecution under this Section that the person acted with intent to facilitate the lawful seizure, forfeiture, or disposition of funds or other legitimate law enforcement purpose pursuant to the laws of this state or the United States.

D. It is a defense to prosecution under this Section that the transaction was necessary to preserve a person's right to representation as guaranteed by the Sixth Amendment of the Constitution of the United States and by Article I, Section 13 of the Constitution of Louisiana or

that the funds were received as bona fide legal fees by a licensed attorney and, at the time of their receipt, the attorney did not have actual knowledge that the funds were derived from criminal activity.

E.(1) Whoever violates the provisions of this Section, if the value of the funds is less than three thousand dollars, may be imprisoned for not more than six months or fined not more than one thousand dollars, or both.

(2) Whoever violates the provisions of this Section, if the value of the funds is three thousand dollars or more but less than twenty thousand dollars, may be imprisoned with or without hard labor for not less than two years nor more than ten years and may be fined not more than ten thousand dollars.

(3) Whoever violates the provisions of this Section, if the value of the funds is twenty thousand dollars or more but less than one hundred thousand dollars, shall be imprisoned at hard labor for not less than two years nor more than twenty years and may be fined not more than twenty thousand dollars.

(4) Whoever violates the provisions of this Section, if the value of the funds is one hundred thousand dollars or more, shall be imprisoned at hard labor for not less than two years nor more than fifty years and may be fined not more than fifty thousand dollars.

Acts 1994, 3rd Ex. Sess., No. 78, §1; Acts 2010, No. 608, §1; Acts 2017, No. 281, §1.

§231. Counterfeit and nonfunctional air bags prohibited; air bag fraud

A. No person shall knowingly install or reinstall in any motor vehicle a counterfeit or nonfunctional air bag or any other object intended to fulfill the function of an air bag that does not meet the definition of "air bag" set forth in Subsection D of this Section.

B. No person shall knowingly manufacture, import, sell, or offer for sale a counterfeit or nonfunctional air bag or any other object intended to fulfill the function of an air bag that does not meet the definition of "air bag" set forth in Subsection D of this Section.

C. No person shall knowingly sell, install, or reinstall a device in a motor vehicle that causes the diagnostic system of the vehicle to indicate inaccurately that the vehicle is equipped with a functional air bag.

D. For purposes of this Section:

(1) "Air bag" means an inflatable occupant restraint system, including all component parts, such as the cover, sensors, controllers, inflators, and wiring, designed to activate in a motor vehicle in the event of a crash to mitigate injury or ejection and that meets the federal motor vehicle safety standards set forth in 49 C.F.R. 571.208 for the make, model, and model year of the motor vehicle.

(2) "Counterfeit air bag" means an air bag displaying a mark identically or substantially similar to the genuine mark of a motor vehicle manufacturer, without the authorization of the motor vehicle manufacturer.

(3) "Nonfunctional air bag" means any of the following:

(a) A replacement air bag that has been previously deployed or damaged.

(b) A replacement air bag that has an electrical fault that is detected by the air bag diagnostic system after the air bag is installed.

(c) A counterfeit air bag, air bag cover, or some other object that is installed in a motor vehicle in order to mislead or deceive an owner or operator of the motor vehicle into believing that a functional air bag has been installed.

(4) "Serious bodily injury" means bodily injury that involves unconsciousness, extreme physical pain, protracted and obvious disfigurement, protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

E. Whoever violates the provisions of Subsection A or C of this Section shall:

(1) Upon first conviction, be fined not more than one thousand dollars, or imprisoned for not more than six months, or both, except as provided in Paragraph (2) of this Subsection.

(2) Upon a second and subsequent conviction, or if the violation results in the serious bodily injury or death of any person, be fined not more than two thousand five hundred dollars, or imprisoned, with or without hard labor, for not more than one year, or both.

F. Whoever violates the provisions of Subsection B of this Section shall:

(1) Upon conviction, be fined not more than two thousand five hundred dollars, or imprisoned, with or without hard labor, for not more than one year, or both, except as provided in Paragraphs (2) and (3) of this Subsection.

(2) Upon conviction, if the cumulative sales price of the air bags or objects involved in the violation is at least five thousand dollars but less than one hundred thousand dollars, or if the number of air bags or objects involved in the violation is at least one hundred but less than one thousand, be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not less than six months nor more than two years, or both.

(3) Upon conviction, if the cumulative sales price of the air bags or objects involved in the violation is one hundred thousand dollars or more, or if the number of air bags or objects involved in the violation is one thousand or more, be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both.

G. Each manufacture, importation, installation, reinstallation, sale, or offer for sale in violation of this Section shall constitute a separate and distinct violation.

Acts 2003, No. 654, §1; Acts 2014, No. 105, §1, eff. May 16, 2014.

PART II. OFFENSES AFFECTING PUBLIC MORALS

§281. Disorderly place, maintaining of prohibited; penalty

No person shall maintain a place of public entertainment or a public resort or any place, room, or part of a building open to the public in such a manner as to disturb the public peace and quiet of the neighborhood, or in which lewd dancing is permitted, or in which lewd pictures are accessible to view.

Whoever violates this Section shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned for not less than thirty days nor more than ninety days, or both.

§282. Operation of places of prostitution prohibited; penalty

A. No person shall maintain, operate, or knowingly own any place or any conveyance used for the purpose of lewdness, assignation, or prostitution, or shall rent or let any place or conveyance to any person with knowledge of or good reason to believe that the lessee intends to use the place or conveyance for the purpose of lewdness, assignation, or prostitution, or reside in, enter, or remain in any place for the purpose of lewdness, assignation, or prostitution.

B.(1) Whoever violates or aids, abets, or participates in the violation of this Section shall be fined not less than twenty-five dollars nor more than five hundred dollars, imprisoned for not less than thirty days nor more than six months, or both.

(2) Whoever violates any provision of this Section for the purpose of lewdness, assignation, or prostitution of persons under the age of eighteen shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever violates any provision of this Section for the purpose of lewdness, assignation, or prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense, or the proceeds of any such conduct, shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney, or otherwise distributed or disposed of, in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media, and currency, instruments, or securities.

Amended by Acts 1980, No. 708, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017.

§283. Video voyeurism; penalties

A. Video voyeurism is any of the following:

(1) The use of any camera, videotape, photo-optical, photo-electric, or any other image recording device, or an unmanned aircraft system equipped with any camera, videotape, photo-optical, photo-electric, or any other image recording device, for the purpose of observing, viewing, photographing, filming, or videotaping a person where that person has not consented to the specific instance of observing, viewing, photographing, filming, or videotaping and either:

(a) It is for a lewd or lascivious purpose.

(b) The observing, viewing, photographing, filming, or videotaping is as described in Paragraph (B)(3) of this Section and occurs in a place where an identifiable person has a reasonable expectation of privacy.

(2) The transfer of an image obtained by activity described in Paragraph (1) of this Subsection by live or recorded telephone message, electronic mail, the Internet, or a commercial online service.

B.(1) Except as provided in Paragraphs (3) and (4) of this Subsection, whoever commits the crime of video voyeurism shall, upon a first conviction thereof, be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not more than two years, or both.

(2) On a second or subsequent conviction, the offender shall be fined not more than two thousand dollars and imprisoned at hard labor for not less than six months nor more than three years without benefit of parole, probation, or suspension of sentence.

(3) Whoever commits the crime of video voyeurism when the observing, viewing, photographing, filming, or videotaping is of any vaginal or anal sexual intercourse, actual or simulated sexual intercourse, masturbation, any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals shall be fined not more than ten thousand dollars and be imprisoned at hard labor for not less than one year or more than five years, without benefit of parole, probation, or suspension of sentence.

(4) Whoever commits the crime of video voyeurism when the observing, viewing, photographing, filming, or videotaping is of any child under the age of seventeen with the intention of arousing or gratifying the sexual desires of the offender shall be fined not more than ten thousand dollars and be imprisoned at hard labor for not less than two years or more than ten years without benefit of parole, probation, or suspension of sentence.

C. The provisions of this Section shall not apply to the transference of such images by a telephone company, cable television company, or any of its affiliates, an Internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial online services.

D. After the institution of prosecution, access to and the disposition of any material seized as evidence of this offense shall be in accordance with R.S. 46:1845.

E. Any evidence resulting from the commission of video voyeurism shall be contraband.

F. A violation of the provisions of this Section shall be considered a sex offense as defined in R.S. 15:541. Whoever commits the crime of video voyeurism shall be required to register as a sex offender as provided for in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

G. For purposes of this Section, "unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

H. This Section shall not apply to any bona fide news or public interest broadcast, website, video, report, or event and shall not be construed to affect the rights of any news-gathering organization.

Acts 1999, No. 1240, §1; Acts 2003, No. 690, §1; Acts 2003, No. 1245, §1; Acts 2016, No. 635, §1; Acts 2018, No. 630, §1.

§283.1. Voyeurism; penalties

A. Voyeurism is the viewing, observing, spying upon, or invading the privacy of a person by looking or using an unmanned aircraft system to look through the doors, windows, or other openings of a private residence without the consent of the victim who has a reasonable expectation of privacy for the purpose of arousing or gratifying the sexual desires of the offender.

B.(1) Whoever commits the crime of voyeurism, upon a first conviction, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Upon a second or subsequent conviction, the offender shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

C. For purposes of this Section, "unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

Acts 2004, No. 888, §1; Acts 2016, No. 635, §1.

§283.2. Nonconsensual disclosure of a private image

A. A person commits the offense of nonconsensual disclosure of a private image when all of the following occur:

(1) The person intentionally discloses an image of another person who is seventeen years of age or older, who is identifiable from the image or information displayed in connection with the image, and whose intimate parts are exposed in whole or in part.

(2) The person who discloses the image obtained it under circumstances in which a reasonable person would know or understand that the image was to remain private.

(3) The person who discloses the image knew or should have known that the person in the image did not consent to the disclosure of the image.

(4) The person who discloses the image has the intent to harass or cause emotional distress to the person in the image, and the person who commits the offense knew or should have known that the disclosure could harass or cause emotional distress to the person in the image.

B. Disclosure of an image under any of the following circumstances does not constitute commission of the offense defined in Subsection A of this Section:

(1) When the disclosure is made by any criminal justice agency for the purpose of a criminal investigation that is otherwise lawful.

(2) When the disclosure is made for the purpose of, or in connection with, the reporting of unlawful conduct to law enforcement or a criminal justice agency.

(3) When the person depicted in the image voluntarily or knowingly exposed his or her intimate parts in a public setting.

(4) When the image is related to a matter of public interest, public concern, or related to a public figure who is intimately involved in the resolution of important public questions, or by reason of his fame shapes events in areas of concern to society.

C. For purposes of this Section:

(1) "Criminal justice agency" means any government agency or subunit thereof, or private agency that, through statutory authorization or a legal formal agreement with a governmental unit or agency, has the power of investigation, arrest, detention, prosecution, adjudication, treatment, supervision, rehabilitation, or release of persons suspected, charged, or convicted of a crime; or that collects, stores, processes, transmits, or disseminates criminal history records or crime information.

(2) "Disclosure" means to, electronically or otherwise, transfer, give, provide, distribute, mail, deliver, circulate, publish on the internet, or disseminate by any means.

(3) "Image" means any photograph, film, videotape, digital recording, or other depiction or portrayal of an object, including a human body.

(4) "Intimate parts" means the fully unclothed, partially unclothed, or transparently clothed genitals, pubic area, or anus. If the person depicted in the image is a female, "intimate parts" also means a partially or fully exposed nipple, including exposure through transparent clothing.

D. Nothing in this Section shall be construed to impose liability on the provider of an interactive computer service as defined by 47 U.S.C. 230(f)(2), an information service as defined by 47 U.S.C. 153(24), or a telecommunications service as defined by 47 U.S.C. 153(53), for content provided by another person.

E. Whoever commits the offense of nonconsensual disclosure of a private image shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not more than two years, or both.

Acts 2015, No. 231, §1.

§283.3. Abuse of persons with infirmities through electronic means

A. A person commits the crime of abuse of persons with infirmities through electronic means when all of the following occur:

(1) The person transfers an image that was obtained by any camera, videotape, photo-optical, photo-electric, unmanned aircraft system, or any other image recording device and that was obtained for the purpose of observing, viewing, photographing, filming, or videotaping any person with an infirmity.

(2) The person transfers the image by live or recorded telephone message, electronic mail, the internet, or a commercial online service.

(3) The person transfers the image with the malicious and willful intent to embarrass, shame, harass, coerce, abuse, torment, or intimidate, regardless of whether the victim has knowledge of the transfer.

B. For purposes of this Section:

(1) "Person with an infirmity" means a person who suffers from a mental or physical disability, including those associated with advanced age, which renders the person incapable of adequately providing for his personal care. A person with an infirmity may include but is not limited to a person who is a resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential facility or recipients of home and community-based care.

(2) "Unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

C.(1) Whoever commits the crime of abuse of persons with infirmities through electronic means shall, upon a first conviction thereof, be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(2) On a second or subsequent conviction, the offender shall be fined not more than two thousand dollars and imprisoned at hard labor for not more than three years without benefit of parole, probation, or suspension of sentence.

D. The provisions of this Section shall not apply to the transference of such images by a telephone company, television broadcast licensee of the Federal Communications Commission, cable television company, or any of its affiliates, an internet provider, or commercial online

service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, over-the-air television, cable television, internet, or commercial online services.

E. The provisions of this Section shall not apply to any healthcare provider through its use of any of its cameras, videotape, photo-optical, photo-electric, unmanned aircraft system, or any other image recording device within the facility.

F. Any evidence resulting from the commission of abuse of persons with infirmities through electronic means shall be contraband.

Acts 2018, No. 263, §1.

§284. Peeping Tom; penalties

A. No person shall perform such acts as will make him a "Peeping Tom" on or about the premises of another, or go upon the premises of another for the purpose of becoming a "Peeping Tom".

B. "Peeping Tom" as used in this Section means one who peeps through windows or doors, or other like places, situated on or about the premises of another or uses an unmanned aircraft system for the purpose of spying upon or invading the privacy of persons spied upon without the consent of the persons spied upon. It is not a necessary element of this offense that the "Peeping Tom" be upon the premises of the person being spied upon.

C.(1) Whoever violates this Section, upon a first conviction, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Upon a second conviction, the offender shall be fined not more than seven hundred fifty dollars, imprisoned for not more than six months, or both.

(3) Upon a third or subsequent conviction, the offender shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

D. For purposes of this Section, "unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

Acts 1950, No. 437, §§1 to 3; Acts 2014, No. 662, §1; Acts 2016, No. 635, §1.

§285. Unlawful communications; telephones and telecommunications devices; improper language; harassment; penalty

A. No person shall:

(1) Engage in or institute a telephone call, telephone conversation, or telephone conference, with another person, or use any telecommunications device to send any text message or other message to another person directly, anonymously or otherwise, and therein use obscene, profane, vulgar, lewd, or lascivious language, or make any suggestion or proposal of an obscene nature or threaten any illegal or immoral act with the intent to coerce, intimidate, or harass any person.

(2) Make repeated telephone communications or send repeated text messages or other messages using any telecommunications device directly to a person anonymously or otherwise in a manner reasonably expected to abuse, torment, harass, embarrass, or offend another, whether or not conversation ensues.

(3) Make a telephone call and intentionally fail to hang up or disengage the connection.

(4) Engage in a telephone call, conference, or recorded communication by using obscene language or by making a graphic description of a sexual act, or use any telecommunications device to send any text message or other message containing obscene language or any obscene content, anonymously or otherwise, directly to another person, when the offender knows or reasonably should know that such obscene or graphic language is directed to, or will be heard by, a minor. Lack of knowledge of age shall not constitute a defense.

(5) Knowingly permit any telephone or any other telecommunications device under his control to be used for any purpose prohibited by this Section.

B. Any offense as set forth in this Section shall be deemed to have been committed at either the place where the communication originated or at the place where the communication was received.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

D. Upon second or subsequent offenses, the offender shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than two years, or both.

E. For the purposes of this Section, "telecommunications device" shall mean any type of instrument, device, or machine that is capable of transmitting or receiving telephonic, electronic, radio, text, or data communications, including but not limited to a cellular telephone, a text-messaging device, a personal digital assistant, a computer, or any other similar wireless device that is designed to engage in a call or communicate text or data.

Acts 1954, No. 435, §§1, 2. Amended by Acts 1958, No. 121, §§1, 2; Acts 1963, No. 54, §1; Acts 1966, No. 304, §1; Acts 1984, No. 477, §1; Acts 1999, No. 338, §1; Acts 2001, No. 944, §4; Acts 2018, No. 426, §1.

§286. Sale of minor children and other prohibited activities; penalties

A.(1) It shall be unlawful for any person to sell or surrender a minor child to another person for money or anything of value, or to receive a minor child for such payment of money or anything of value, except as specifically provided in Children's Code Articles 1200 and 1223.

(2) It shall be unlawful for any person to pay or receive anything of value for the procurement, attempted procurement, or assistance in the procurement of a party to an act of voluntary surrender of a child for adoption except as specifically provided in Children's Code Articles 1200 and 1223.

(3) It shall be unlawful for any petitioner, person acting on a petitioner's behalf, agency or attorney or other intermediary to make or agree to make any disbursements in connection with the adoptive placement, surrender, or adoption of a child except as specifically provided in Children's Code Articles 1200 and 1223.

(4) It shall be unlawful to make a false statement in any adoption disclosure affidavit with the intent to deceive and with knowledge that the statement is false.

B.(1) It shall be unlawful for any person to enter into, induce, arrange, procure, knowingly advertise for, or otherwise assist in a gestational carrier contract, whether written or unwritten, that is not in compliance with the requirements provided for in R.S. 9:2718 et seq.

(2) No person who is a party to, or acting on behalf of the parties to a gestational carrier contract shall make or agree to make any disbursements in connection with the gestational carrier contract other than the following:

PART VII. LOANSHARKING

§511. Loansharking; penalty

A. A person is guilty of loansharking when he knowingly solicits, or receives any money or anything of value, including services, as interest or compensation for a loan, or as forbearance of any right to money or other property, at a rate exceeding forty-five percentum per annum or the equivalent rate for a longer or shorter period. This Section shall not apply to any transaction under Title 6, Title 9, or Sections 1751 through 1770 of Title 37 of the Louisiana Revised Statutes of 1950 or under R.S. 9:3500.

B. Whoever commits the crime of loansharking is guilty of a felony and shall be punished by a fine of not more than ten thousand dollars or imprisoned for not less than one year nor more than five years with or without hard labor, or both.

C. For the purposes of this Part, the term "person" shall mean any individual, partnership, corporation, or combination of individuals.

Added by Acts 1979, No. 165, §1; Acts 1986, No. 878, §1; Acts 2004, No. 743, §3, eff. Jan. 1, 2005.

§512. Aggravated loansharking; penalty

A. A person is guilty of aggravated loansharking when, in the commission of loansharking or any attempt thereof, he engages in acts which do injury to the person or property of another, or which places that other person in fear that such injury will be done.

B. Whoever commits the crime of aggravated loansharking is guilty of a felony and shall be punished by a fine of not more than twenty thousand dollars or imprisoned for not less than five nor more than thirty years with or without hard labor, or both.

Added by Acts 1979, No. 165, §1.

§513. Possession of loanshark records; penalty

A. A person is guilty of possession of loanshark records when, with knowledge of the contents thereof, he possesses any writing, paper, instrument or article used to record loansharking transactions.

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 Committee on Judiciary C, and the chief justice of the Louisiana Supreme Court, no later than February 1, 2018. The report shall be made available to the public and the task force shall be abolished upon submission of the report.

E.(1) The task force may apply for, contract for, receive, and expend for purposes of this Chapter any appropriation or grant from the state, its political subdivisions, the federal government, or any other public or private source.

(2) The books and records of the task force shall be subject to audit by the legislative auditor pursuant to R.S. 24:513.

F. This Chapter shall become null and of no effect on February 2, 2018.

Acts 2017, No. 281, §1.