

## **§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.

#### **§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 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.

### **§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.

#### **§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 than 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.

#### **§40.8. 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.

#### **§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.

**§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.

**§52.2. Negligent arson**

A. Negligent arson is the damaging of any building, as defined by R.S. 33:4771, of another by the setting of fire or causing an explosion, without consent of the owner or custodian of the building, when the offender's criminal negligence causes the fire or the explosion.

B. If the offender knows or should have known that he has no possessory right to the building or other interest therein, or has not previously established a right of entry into or onto the building, it may be inferred that the setting of the fire or the causing of the explosion was without consent of the owner or custodian of the building.

C. Whoever commits the crime of negligent arson where it is not foreseeable that human life might be endangered shall be subject to the following:

(1) On a first conviction, the offender shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both. In addition, the offender shall be ordered to pay restitution for damages sustained.

(2) On a second and subsequent conviction, the offender shall be fined not more than two thousand dollars and imprisoned, with or without hard labor, for not more than two years. In addition, the offender shall be ordered to pay restitution for damages sustained.

D. Whoever commits the crime of negligent arson where it is foreseeable that human life might be endangered shall be fined not more than three thousand dollars and imprisoned, with or without hard labor, for not more than three years. In addition, the offender shall be ordered to pay restitution for damages sustained.

E. Whoever commits the crime of negligent arson resulting in death or serious bodily injury to a human being shall be fined not more than five thousand dollars and imprisoned, with or without hard labor, for not more than five years. In addition, the offender shall be ordered to pay restitution for damages sustained. For the purposes of this Subsection, "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.

F. Any person convicted of a violation of this Section shall register with the state fire marshal in accordance with R.S. 15:562.3.

G. The provisions of this Section shall not apply to commonly accepted practices of prescribed burning of agricultural and forestry land including prescribed burning done in accordance with R.S. 3:17.

Acts 2018, No. 576, §1, eff. May 31, 2018.

#### **§61.1. Criminal damage to a critical infrastructure**

A. Criminal damage to a critical infrastructure is the intentional damaging of a critical infrastructure as defined in R.S. 14:61.

B. Any person who commits the crime of criminal damage to a critical infrastructure shall be imprisoned with or without hard labor for not more than fifteen years, fined not more than ten thousand dollars, or both.

C. Any person who commits the crime of criminal damage to a critical infrastructure wherein it is foreseeable that human life will be threatened or operations of a critical infrastructure will be disrupted as a result of such conduct shall be imprisoned at hard labor for not more than twenty years, fined not more than twenty-five thousand dollars, or both.

D. A person convicted under the provisions of this Section may be ordered to make restitution to the owner of the property pursuant to Code of Criminal Procedure Article 883.2.

E. A person convicted under R.S. 14:26 of a violation of this Section shall not be limited by R.S. 14:26(D) where it is foreseeable that more than one human life will be threatened as a result of such conduct, and each conspirator shall be imprisoned at hard labor for no more than twelve years, fined not more than two hundred fifty thousand dollars, or both.

Acts 2018, No. 692, §1.

#### **§61. Unauthorized entry of a critical infrastructure**

A. Unauthorized entry of a critical infrastructure is any of the following:

(1) The intentional entry by a person without authority into any structure or onto any premises, belonging to another, that constitutes in whole or in part a critical infrastructure that is completely enclosed by any type of physical barrier.

(2) The use or attempted use of fraudulent documents for identification purposes to enter a critical infrastructure.

(3) Remaining upon or in the premises of a critical infrastructure after having been forbidden to do so, either orally or in writing, by any owner, lessee, or custodian of the property or by any other authorized person.

(4) The intentional entry into a restricted area of a critical infrastructure which is marked as a restricted or limited access area that is completely enclosed by any type of physical barrier when the person is not authorized to enter that restricted or limited access area.

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

(1) "Critical infrastructure" means any and all structures, equipment, or other immovable or movable property located within or upon chemical manufacturing facilities, refineries, electrical power generating facilities, electrical transmission substations and distribution substations, water intake structures and water treatment facilities, natural gas transmission compressor stations, liquified natural gas (LNG) terminals and storage facilities, natural gas and hydrocarbon storage facilities, transportation facilities, such as ports, railroad switching yards, pipelines, and trucking terminals, or any site where the construction or improvement of any facility or structure referenced in this Section is occurring.

(2) "Fraudulent documents for identification purposes" means documents which are presented as being bona fide documents which provide personal identification information but which are, in fact, false, forged, altered, or counterfeit.

(3) "Pipeline" means flow, transmission, distribution, or gathering lines, regardless of size or length, which transmit or transport oil, gas, petrochemicals, minerals, or water in a solid, liquid, or gaseous state.

C. Whoever commits the crime of unauthorized entry of a critical infrastructure shall be imprisoned with or without hard labor for not more than five years, fined not more than one thousand dollars, or both.

D. Nothing in this Section shall be construed to apply to or prevent the following:

(1) Lawful assembly and peaceful and orderly petition, picketing, or demonstration for the redress of grievances or to express ideas or views regarding legitimate matters of public interest, including but not limited to any labor dispute between any employer and its employee or position protected by the United States Constitution or the Constitution of Louisiana.

(2) Lawful commercial or recreational activities conducted in the open or unconfined areas around a pipeline, including but not limited to fishing, hunting, boating, and birdwatching.

(3) Nothing in this Section shall be construed to prevent the owner of an immovable from exercising right of ownership, including use, enjoyment, and disposition within the limits and under the conditions established by law.

Acts 2004, No. 157, §1, eff. June 10, 2004; Acts 2015, No. 366, §1; Acts 2018, No. 692, §1.

#### 4. CRIMINAL TRESPASS

##### **§63. Criminal trespass**

A. No person shall enter any structure, watercraft, or movable owned by another without express, legal, or implied authorization.

B.(1) No person shall enter upon immovable property owned by another without express, legal, or implied authorization.

(2) For purposes of this Subsection, the phrase "enter upon immovable property" as used in this Subsection, in addition to its common meaning, signification, and connotation, shall include the operation of an unmanned aircraft system as defined by R.S. 14:337 in the air space over immovable property owned by another with the intent to conduct surveillance of the property or of any individual lawfully on the property.

(3) The provisions of Paragraph (1) of this Subsection shall not apply to any person operating an unmanned aircraft system in compliance with federal law or Federal Aviation Administration regulations or authorization.

C.(1) No person shall remain in or upon property, movable or immovable, owned by another without express, legal, or implied authorization.

(2) For purposes of this Subsection, the phrase "remain in or upon property" as used in this Subsection, in addition to its common meaning, signification, and connotation, shall include the operation of an unmanned aircraft system as defined by R.S. 14:337 in the air space over immovable property owned by another with the intent to conduct surveillance of the property or of any individual lawfully on the property.

(3) The provisions of Paragraph (1) of this Subsection shall not apply to any person operating an unmanned aircraft system in compliance with federal law or Federal Aviation Administration regulations or authorization.

D. It shall be an affirmative defense to a prosecution for a violation of Subsection A, B, or C of this Section, that the accused had express, legal, or implied authority to be in the movable or on the immovable property.

E. The following persons may enter or remain upon the structure, watercraft, movable or immovable property, of another:

(1) A duly commissioned law enforcement officer in the performance of his duties.

(2) Any firefighter, whether or not a member of a volunteer or other fire department, and any employee or agent of the Louisiana Department of Agriculture and Forestry engaged in locating and suppressing a fire.

(3) Emergency medical personnel engaged in the rendering of medical assistance to an individual.

(4) Any federal, state or local government employee, public utility employee or agent engaged in suppressing or dealing with an emergency that presents an imminent danger to human safety or health or to the environment.

(5) Any federal, state or local government employee, public utility employee or agent in the performance of his duties when otherwise authorized by law to enter or remain on immovable or movable property.

(6) Any person authorized by a court of law to enter or remain on immovable property.

(7) Any person exercising the mere right of passage to an enclosed estate, as otherwise provided by law.

F. The following persons may enter or remain upon immovable property of another, unless specifically forbidden to do so by the owner or other person with authority, either orally or in writing:

(1) A professional land surveyor or his authorized personnel, engaged in the "practice of land surveying", as defined in R.S. 37:682.

(2) A person, affiliate, employee, agent or contractor of any business which is regulated by the Louisiana Public Service Commission or by a local franchising authority or the Federal Communication Commission under the Cable Reregulation Act of 1992 or of a municipal or public utility, while acting in the course and scope of his employment or agency relating to the operation, repair, or maintenance of a facility, servitude or any property located on the immovable property which belongs to such a business.

(3) Any person making a delivery, soliciting, selling any product or service, conducting a survey or poll, a real estate licensee or other person who has a legitimate reason for making a delivery, conducting business or communicating with the owner, lessee, custodian or a resident of the immovable property, and who, immediately upon entry, seeks to make the delivery, to conduct business or to conduct the communication.

(4) An employee of the owner, lessee or custodian of the immovable property while performing his duties, functions and responsibilities in the course and scope of his employment.

(5) The owner of domestic livestock or his employees or agents while in the process of retrieving his domestic livestock that have escaped from an area fenced to retain such domestic livestock.

(6) The owner of a domestic animal while in the sole process of merely retrieving his domestic animal from immovable property and not having a firearm or other weapon on his person.

(7) Any candidate for political office or any person working on behalf of a candidate for a political office.

(8) The owner or occupant of a watercraft or vessel traveling in salt water engaged in any lawful purpose for the purpose of retrieval of his property or for obtaining assistance in an emergency situation.

G. The following penalties shall be imposed for a violation of this Section:

(1) For the first offense, the fine shall be not less than one hundred dollars and not more than five hundred dollars, or imprisonment for not more than thirty days, or both.

(2) For the second offense, the fine shall be not less than three hundred dollars and not more than seven hundred fifty dollars, or imprisonment for not more than ninety days, or both.

(3) For the third offense and all subsequent offenses, the fine shall be not less than five hundred dollars and not more than one thousand dollars, or imprisonment for not less than sixty days and not more than six months, or both, and forfeiture to the law enforcement authority of any property seized in connection with the violation.

(4) A person may be convicted of a second offense and any subsequent offenses regardless of whether any prior conviction involved the same structure, watercraft, movable or immovable property and regardless of the time sequence of the occurrence of the offenses.

(5) In addition to the foregoing penalties, and notwithstanding any other law to the contrary, a person convicted under this Section who has killed or otherwise misappropriated any wildlife, as defined by R.S. 56:8, in the course of commission of the offense shall forfeit the misappropriated wildlife to the law enforcement authority, and shall be ordered to pay the value of the misappropriated wildlife into the Conservation Fund of the Department of Wildlife and Fisheries in accordance with R.S. 56:40.1 et seq. The value of the wildlife that was misappropriated shall be determined by the guidelines adopted by the Wildlife and Fisheries Commission pursuant to R.S. 56:40.2.

H. The provisions of any other law notwithstanding, owners, lessees, and custodians of structures, watercraft, movable or immovable property shall not be answerable for damages sustained by any person who enters upon the structure, watercraft, movable or immovable property without express, legal or implied authorization, or who without legal authorization, remains upon the structure, watercraft, movable or immovable property after being forbidden by the owner, or other person with authority to do so; however, the owner, lessee or custodian of the property may be answerable for damages only upon a showing that the damages sustained were the result of the intentional acts or gross negligence of the owner, lessee or custodian.

I. A minor ten years old or younger shall not be arrested, detained or apprehended for the crime of trespass.

J. Although not required by this Section, notice that entrance upon any structure, watercraft, movable, or immovable property owned by another is prohibited may be indicated by either of the following:

(1) A sign or signs posted on or in the property at a place or places where such sign or signs may be reasonably expected to be seen.

(2) The placement of identifying purple paint marks on the trees or posts on the property, provided that such marks are:

(a) Vertical lines of not less than eight inches in length and not less than one inch in width.

(b) Placed so that the bottom of the mark is not less than three feet from the ground nor more than five feet from the ground.

(c) Placed at locations that are readily visible to any person approaching the property and no more than one hundred feet apart on forest land, as defined in R.S. 3:3622, or one thousand feet apart on land other than forest land.

Amended by Acts 1960, No. 458, §1; Acts 1964, No. 497, §1; Acts 1981, No. 78, §1, eff. Jan. 1, 1982; Acts 1990, No. 870, §1, eff. Jan. 1, 1991; Acts 1991, No. 438, §1; Acts 1993, No. 887, §1; Acts 2003, No. 279, §3; Acts 2003, No. 802, §1; Acts 2012, No. 561, §1; Acts 2016, No. 529, §1, eff. June 17, 2016; Acts 2018, No. 347, §1.

## **§66. Extortion**

A. Extortion is the communication of threats to another with the intention thereby to obtain anything of value or any acquittance, advantage, or immunity of any description. Any one of the following kinds of threats shall be sufficient to constitute extortion:

(1) A threat to do any unlawful injury to the person or property of the individual threatened or of any member of his family or of any other person held dear to him.

(2) A threat to accuse the individual threatened or any member of his family or any other person held dear to him of any crime. An offer to participate in a theft prevention program pursuant to Code of Criminal Procedure Article 215 shall not constitute a violation of the provisions of this Paragraph.

(3) A threat to expose or impute any deformity or disgrace to the individual threatened or to any member of his family or to any other person held dear to him.

(4) A threat to expose any secret affecting the individual threatened or any member of his family or any other person held dear to him.

(5) A threat to cause harm as retribution for participation in any legislative hearing or proceeding, administrative proceeding, or in any other legal action.

(6) A threat to do any other harm.

B. Whoever commits the crime of extortion shall be imprisoned at hard labor for not less than one nor more than fifteen years.

Acts 2011, No. 243, §1; Acts 2018, No. 61, §2.

#### SUBPART C. BY MISAPPROPRIATION WITHOUT VIOLENCE

##### **§67. Theft**

A. Theft is the misappropriation or 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. An intent to deprive the other permanently of whatever may be the subject of the misappropriation or taking is essential.

B.(1) Whoever commits the crime of theft when the misappropriation or taking amounts to a value of twenty-five thousand dollars or more shall be imprisoned at hard labor for not more than twenty years, or may be fined not more than fifty thousand dollars, or both.

(2) When the misappropriation or taking amounts to a value of five thousand dollars or more, but less than a value of 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.

(3) When the misappropriation or taking amounts to a value of one thousand dollars or more, but less than a value of 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.

(4) When the misappropriation or taking amounts to less than a value of one thousand dollars, the offender shall be imprisoned for not more than six months, or may be 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, upon any subsequent conviction he shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than two thousand dollars, or both.

C. When there has been a misappropriation or taking by a number of distinct acts of the offender, the aggregate of the amount of the misappropriations or taking shall determine the grade of the offense.

D. In a prosecution under this Section where the property allegedly misappropriated or taken was held for sale by a merchant, an intent to permanently deprive the merchant of the property held for sale may be inferred when the defendant:

(1) Intentionally conceals, on his person or otherwise, goods held for sale.

(2) Alters or transfers any price marking reflecting the actual retail price of the goods.

(3) Transfers goods from one container or package to another or places goods in any container, package, or wrapping in a manner to avoid detection.

(4) Willfully causes the cash register or other sales recording device to reflect less than the actual retail price of the goods.

(5) Removes any price marking with the intent to deceive the merchant as to the actual retail price of the goods.

Acts 1990, No. 118, §1; Acts 1999, No. 338, §1; Acts 1999, No. 1251, §1; Acts 2001, No. 944, §4; Acts 2006, No. 82, §1; Acts 2010, No. 585, §1; Acts 2014, No. 255, §1; Acts 2017, No. 281, §1; Acts 2018, No. 303, §1.

##### **§67.1. Theft of livestock**

A. Any of the following acts shall constitute theft of livestock:

(1) The misappropriation or taking of livestock belonging to another or proceeds derived from the sale of such livestock or its meat, whether done without the consent of the owner to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations, with the intent to deprive the owner permanently of the livestock or proceeds derived from the sale of the livestock or its meat.

(2) Transporting or causing the transportation of livestock to a slaughterhouse or a public livestock market as defined in R.S. 3:663, for purposes of selling or keeping the livestock or meat with the intent to deprive the owner permanently of the livestock or meat or proceeds derived from the sale of the livestock or meat.

(3) Failing or refusing to pay for livestock purchased from an agent, dealer, public livestock market as defined in R.S. 3:663, or owner, or acquired with the consent of the agent, dealer, public livestock market, or owner, within thirty days of the date the livestock was purchased or acquired or the date payment was due, whichever is longer, with the intent to permanently deprive the other of the livestock or the value of the livestock.

B. Either of the following acts shall constitute presumptive evidence of the intent to permanently deprive the other of the livestock or meat, or proceeds derived from sale of the livestock or meat:

(1) Assignment of the livestock in a record book maintained by a slaughterhouse or public livestock market as defined in R.S. 3:663, in a name other than that of the owner.

(2) Failing to pay for the livestock within ten days after notice of a request for payment or return of the livestock or meat has been sent by the agent, dealer, public livestock market as defined in R.S. 3:663, or owner, to the offender's last known address by either registered or certified mail, return receipt requested, or by actual delivery by a commercial courier.

C. Affirmative defenses shall include but not be limited to a contract establishing longer terms for payment and fraud with regard to the quality of the livestock.

D. "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 silviculture, 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.

E. The Livestock Brand Commission shall have primary responsibility for the enforcement and collection of information in such cases, and livestock brand inspectors shall aid all law enforcement agencies in such investigations.

F. Whoever commits the crime of theft of livestock shall be fined not more than five thousand dollars, imprisoned, with or without hard labor, for not more than ten years, or both.

Acts 2018, No. 68, §1.

## **§67.2. Theft of timber**

A. Theft of timber is the misappropriation or taking of timber belonging to another, or proceeds derived from the sale of such timber, either taken without the consent of the owner, or by means of fraudulent conduct, practices, or representations, with the intent to deprive the owner permanently of the timber or proceeds derived therefrom.

B.(1) Whoever commits the crime of theft of timber when the misappropriation or taking amounts to a value of twenty-five thousand dollars or more shall be fined not more than ten thousand dollars and imprisoned at hard labor for not more than ten years.

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

C. The enforcement division of the office of forestry within the Department of Agriculture and Forestry shall have primary responsibility for collection, preparation, and central registry of information relating to theft of timber and shall assist all law enforcement agencies in investigations of violations of the provisions of this Section.

Acts 2018, No. 68, §1.

### **§67.16. Identity theft**

A. As used in this Section the following terms have the following meanings:

(1) "Caller identification system" means any device that displays or otherwise indicates to the person who is the recipient of a telephone call another person's name, telephone number, the name of a legitimate or fictitious business, or any other name or telephone number from which the telephone call purportedly originated.

(2) "Insert" means to enter by voice communication, by written communication, or by any other means.

(3) "Person" means any individual, partnership, association, joint stock association, trust, corporation, or other business entity whether incorporated or not.

(4) "Personal identifying information" shall include but not be limited to a person's:

(a) Social security number.

(b) Driver's license number.

(c) Checking account number.

(d) Savings account number.

(e) Credit card number.

(f) Debit card number.

(g) Electronic identification number.

(h) Digital signatures.

(i) Birth certificate.

(j) Date of birth.

(k) Mother's maiden name.

(l) Armed forces identification number.

(m) Government issued identification number.

(n) Financial institution account number.

(o) Telephone number, when inserted into any caller identification system.

(5) "Person with a disability" means any person regardless of age who has a mental, physical, or developmental disability that substantially impairs the person's ability to provide adequately for his own care or protection.

B. Identity theft is the intentional use, possession, transfer, or attempted use, with fraudulent intent, by any person of any personal identifying information of another person to obtain, possess, or transfer, whether contemporaneously or not, credit, money, goods, services, or any thing else of value without the authorization or consent of the other person.

C.(1)(a) Whoever commits the crime of identity theft when credit, money, goods, services, or any thing else of value is obtained, possessed, or transferred, which amounts to a value of one thousand dollars or more, 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.

(b) Whoever commits the crime of identity theft when the victim is sixty years of age or older or a person with a disability when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value of one thousand dollars or more, shall be imprisoned, with or without hard labor, for not less than three years and for not more than ten years, or may be fined not more than ten thousand dollars, or both.

(c) Whoever commits the crime of identity theft when the victim is under the age of seventeen when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value of one thousand dollars or more, shall be imprisoned, with or without hard labor, for not less than three years and for not more than ten years, or may be fined not more than ten thousand dollars, or both.

(2)(a) Whoever commits the crime of identity theft when credit, money, goods, services, or any thing else of value is obtained, possessed, or transferred, which amounts to a value of five hundred dollars or more, but less than one thousand dollars, shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than five thousand dollars, or both.

(b) Whoever commits the crime of identity theft when the victim is sixty years of age or older or a person with a disability when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value of five hundred dollars or more, but less than one thousand dollars, shall be imprisoned, with or without hard labor, for not less than two years and not more than five years, or may be fined not more than five thousand dollars, or both.

(c) Whoever commits the crime of identity theft when the victim is under the age of seventeen when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value of five hundred dollars or more, but less than one thousand dollars, shall be imprisoned, with or without hard labor, for not less than two years and not more than five years, or may be fined not more than five thousand dollars, or both.

(3)(a) Whoever commits the crime of identity theft when credit, money, goods, services, or any thing else of value is obtained, possessed, or transferred, which amounts to a value of three hundred dollars or more, but less than five hundred dollars, shall be imprisoned, with or without hard labor, for not more than three years, or may be fined not more than three thousand dollars, or both.

(b) Whoever commits the crime of identity theft when the victim is sixty years of age or older or a person with a disability when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value of three hundred dollars or more, but less than five hundred dollars, shall be imprisoned, with or without hard labor, for not less than one year and not more than three years, or may be fined not more than three thousand dollars, or both.

(c) Whoever commits the crime of identity theft when the victim is under the age of seventeen when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value of three hundred dollars or more, but less than five hundred dollars, shall be imprisoned, with or without hard labor, for not less than one year and not more than three years, or may be fined not more than three thousand dollars, or both.

(4)(a) Whoever commits the crime of identity theft when credit, money, goods, services, or any thing else of value is obtained, possessed, or transferred, which amounts to a value less than three hundred dollars, shall be imprisoned for not more than six months, or may be fined not more than five hundred dollars, or both.

(b) Whoever commits the crime of identity theft when the victim is sixty years of age or older or a person with a disability when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value less than three hundred dollars, shall be imprisoned with or without hard labor, for not less than six months and not more than one year, or may be fined not more than five hundred dollars, or both.

(c) Whoever commits the crime of identity theft when the victim is under the age of seventeen when the credit, money, goods, services, or any thing else of value is obtained which amounts to a value less than three hundred dollars, shall be imprisoned with or without hard labor, for not less than six months and not more than one year, or may be fined not more than five hundred dollars, or both.

D. Upon a third or subsequent conviction of a violation of the provisions of this Section, the offender shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than twenty thousand dollars, or both.

E. When there has been a theft by a number of distinct acts of the offender, the aggregate of the amount of the theft shall determine the grade of the offense.

F. In addition to the foregoing penalties, a person convicted under this Section 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. 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.

G. The provisions of this Section shall not apply to any person who obtains another's driver's license or other form of identification for the sole purpose of misrepresenting his age.

H.(1) Any person who has learned or reasonably suspects that his personal identifying information has been unlawfully used by another in violation of any provision of this Section may initiate a law enforcement investigation by contacting the local law enforcement agency that has jurisdiction over the area of his residence. Any law enforcement agency which is requested to conduct an investigation under the provisions of this Subsection shall take a police report of the matter from the victim, provide the complainant with a copy of such report, and begin an investigation of the facts. If the crime was committed in a different jurisdiction, the agency preparing the report shall refer the matter, with a copy of the report, to the local law enforcement agency having jurisdiction over the area in which the alleged crime was committed for an investigation of the facts.

(2) Any officer of any law enforcement agency who investigates an alleged violation in compliance with the provisions of this Subsection shall make a written report of the investigation that includes the name of the victim; the name of the suspect, if known; the type of personal identifying information obtained, possessed, transferred, or used in violation of this Section; and the results of the investigation. At the request of the victim who has requested the investigation,

the law enforcement agency shall provide to such victim the report created under the provisions of this Paragraph. In providing the report, the agency shall eliminate any information that is included in the report other than the information required by this Paragraph.

I. Nothing in this Section shall preclude or abrogate any remedy otherwise provided by law, including but not limited to remedies available pursuant to R.S. 51:1741.1 et seq.

Acts 1999, No. 1337, §1; Acts 2003, No. 844, §1; Acts 2006, No. 176, §1; Acts 2006, No. 241, §1; Acts 2007, No. 312, §1; Acts 2008, No. 95, §1; Acts 2008, No. 495, §1; Acts 2014, No. 811, §6, eff. June 23, 2014; Acts 2018, No. 401, §1.

#### **§70.9. Government benefits fraud**

A. The crime of government benefits fraud is the act of any person who, with intent to defraud the state or any person or entity through any government benefits administered by any state department, agency, or political subdivision, does any of the following:

(1) Presents for allowance or payment any false or fraudulent claim for furnishing services, merchandise, or payments.

(2) Knowingly submits false information for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services, merchandise, or payments.

(3) Knowingly submits false information for the purpose of obtaining authorization for furnishing services, merchandise, or payments.

(4) Knowingly makes or causes to be made a false statement or representation of material fact on an application or form for assistance, goods, services, or payments when the false statement or representation is made for the purpose of determining the person's eligibility to receive benefits or payments.

(5) Knowingly conceals or fails to disclose any material fact affecting the applicant's or recipient's initial or continued eligibility to receive benefits or payments.

B. Whoever commits the crime of government benefits fraud shall be imprisoned, with or without hard labor, for not more than five years, may be fined not more than ten thousand dollars, or both imprisoned and fined.

C. For the purpose of this Section, government benefits include any record, voucher, payment, money or thing of value, good, service, right, or privilege provided or administered by a state government entity.

Acts 2018, No. 707, §1.

### 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.

### **§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.

## **§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.

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.

**§87.3. 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.

#### **§87.6. 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.

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.

### **§89.3. 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.

## SUBPART B. OFFENSES AFFECTING GENERAL MORALITY

### 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, 1<sup>st</sup> Ex. Sess., No. 17, §1; Acts 2012, No. 161, §1, eff. August 1, 2012; Acts 2018, No. 322, §3, see Act.

### **§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.

### **§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.

### **§91.8. 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](http://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](http://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.

### **§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.

### **§93.5. 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.

### **§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.

#### **§95.1.3. 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.

### **§95.9. 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.

**§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.

### 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.

## **§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 corraling 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.

#### **§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.

#### **§126.1.1. False communication with the intent to cause an emergency response**

A. No person shall, with the intent to cause an emergency response by any law enforcement agency or other first responder in the absence of circumstances requiring such response, knowingly communicate or transmit false or misleading information indicating that conduct has taken place, is taking place, or will take place that may reasonably be believed to constitute a violation of the criminal law of any state or the United States, or that may reasonably be believed to endanger public health or safety.

B. Any person convicted of violating the provisions of this Section:

(1) If no emergency response results, shall be imprisoned for not more than six months, or fined not more than five hundred dollars, or both.

(2) Except as provided in Paragraphs (3) and (4) of this Subsection, if an emergency response results, shall be imprisoned, with or without hard labor, for not more than five years, or fined not less than one hundred dollars nor more than one thousand dollars, or both.

(3) If an emergency response results and serious bodily injury occurs, shall be imprisoned, with or without hard labor, for not less than eight years, or fined not less than five hundred dollars nor more than two thousand five hundred dollars, or both.

(4) If an emergency response results and the death of a person occurs, shall be imprisoned at hard labor for not less than ten years nor more than forty years.

C.(1) In addition to the penalties provided by Subsection B of this Section, the court shall order the defendant to reimburse the appropriate party or parties for any expenses incurred for an emergency response resulting from the commission of the offense.

(2) A person ordered to make reimbursement under this Subsection shall be jointly and severally liable for such expenses with any other person who is ordered to make reimbursement under this Subsection for the same expenses.

(3) An order of reimbursement under this Subsection shall, for the purposes of enforcement, be treated as a civil judgment.

D. For purposes of this Section:

(1) "Emergency response" means any action taken by a law enforcement agency or other first responder to immediately respond to any conduct or event that is reasonably believed to violate the criminal law of any state or the United States, or that threatens or may reasonably be believed to threaten public health or safety.

(2) "Law enforcement agency" includes any federal, state, or local law enforcement agency.

Acts 2018, No. 348, §1, eff. May 20, 2018.

### **§133.7. Publication of certain criminal record information or juvenile record information prohibited**

A.(1) No person or business entity shall:

(a) Publish confidential juvenile record information or confidential criminal record information of a child.

(b) Publish any criminal history record or criminal history record information in the person's or business entity's possession with respect to which the person or business entity has received notice that either:

(i) An order of expungement has been entered pursuant to Code of Criminal Procedure Article 971 et seq.

(ii) An order of nondisclosure has been issued by a court of competent jurisdiction.

(c) Charge a fee to remove, correct, or modify any criminal history record or criminal history record information that the person or business entity has published.

(d) Continue to publish an incomplete or inaccurate criminal history record or inaccurate criminal history record information.

(2) A person or business entity does not violate this Section if the person or business entity published confidential juvenile record information or confidential criminal record information of a child and:

(a) The child who is the subject of the records gives written consent to the publication on or after the child reaches the age of eighteen years.

(b) The publication of the information is authorized or required by any other provision of law.

B.(1) A person or business entity shall ensure that a criminal history record or criminal history record information that the person or business entity publishes is complete and accurate.

(2) For purposes of this Section, a criminal history record or criminal history record information published by a person or business entity is considered:

(a) "Complete" if the information reflects the notations of arrest and the filing and disposition of criminal charges, as applicable.

(b) "Accurate" if the information reflects the most recent information received by the entity from a law enforcement agency, criminal justice agency, or any other governmental entity within sixty days preceding the date of publication.

(3) The person or business entity shall clearly and conspicuously publish an email address, facsimile transmission number, or mailing address in order to enable a person who is the subject of a criminal history record or criminal history record information published by the person or business entity to dispute the completeness or accuracy of the published information.

(4) If a person or business entity receives a dispute regarding the completeness or accuracy of a criminal history record or criminal history record information from a person who is the subject of the published information, the person or business entity shall, within thirty business days of receiving the notice of the dispute, verify with the appropriate law enforcement agency, criminal justice agency, or any other governmental entity, without cost to the person, the disputed information.

(5) If the person or business entity finds an incomplete or inaccurate criminal history record or inaccurate criminal history record information after conducting an investigation as prescribed by this Section, the person or business entity shall promptly remove the inaccurate information from the website or other publication or shall promptly correct the information, as applicable.

(6) The person or business entity shall provide written notice to the person who disputed the completeness or accuracy of published information of the results of an investigation conducted under this Section not later than the fifth business day after the date on which the investigation is completed.

C.(1) If a person or business entity receives a written notice from any person that the person or business entity is publishing information in violation of this Section, the person or business entity shall immediately remove the information from the website or publication.

(2) If the person or business entity confirms that the information is not confidential juvenile record information or confidential criminal record information of a child and the publication of the information is not otherwise prohibited, the person or business entity may republish the information.

D.(1) Except as provided in Paragraph (2) of this Subsection, this Section shall apply to:

(a) A person or business entity that publishes a criminal history record or criminal history record information, including information originally obtained pursuant to a public records request or purchased or otherwise obtained from a law enforcement agency, criminal justice agency, or any other governmental entity.

(b) A person or business entity that publishes confidential juvenile record information or confidential criminal record information of a child in any manner not permitted by Children's Code Article 412 or other provision of law, regardless of the source of the information.

(2) This Chapter shall not apply to:

(a) Any statewide juvenile information sharing system authorized by Children's Code Article 541 or other provision of law.

(b) A publication of general circulation or an internet website related to such a publication that contains news or other information, including a magazine, periodical newsletter, newspaper, pamphlet, or report.

(c) A radio or television station that holds a license issued by the Federal Communications Commission.

- (d) A telecommunications provider.
- (e) A movie, film, or audiovisual work.

E. For purposes of this Section:

(1) "Confidential criminal record information of a child" means information relative to a person's involvement in the criminal justice system resulting from conduct that occurred or was alleged to occur when the person was younger than eighteen years of age and that is confidential pursuant to Children's Code Article 412 or any other provision of law. This term does not include:

(a) A criminal history record or criminal history record information of a person who is to stand trial as an adult for that conduct, as provided by Children's Code Article 305 or any other provision of law.

(b) Records or information relating to a traffic offense.

(2) "Confidential juvenile record information" means information about a person's involvement in the juvenile justice system that is confidential, sealed, under restricted access, or required to be destroyed under any provision of law, including:

(a) A description or notation of any referral to a juvenile probation department or court with jurisdiction over the juvenile, including any instances of being taken into custody, any informal disposition of a custodial or referral event, or any formal charges and the disposition of those charges.

(b) A photograph or photographs of the person taken pursuant to a custodial event or other involvement in the juvenile justice system.

(c) Personal identifying information of the person contained in any other records of the person's involvement in the juvenile justice system.

(3) "Criminal history record" or "criminal history record information" mean information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition arising therefrom, including sentencing, correctional supervision, and release. These terms do not include intelligence or investigatory purposes, nor does it include any identification information that does not indicate involvement of the individual in the criminal justice system. These terms do not include records of juvenile criminal conduct. These terms include but are not limited to the following:

(a) A description or notation of any arrests, any formal criminal charges, and the dispositions of those criminal charges.

(b) A photograph or photographs of the person taken pursuant to an arrest or other involvement in the criminal justice system.

(c) Personal identifying information of a person displayed in conjunction with any other record of the person's involvement in the criminal justice system.

(4) "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 record or crime information.

(5) "Juvenile justice system" means the system of public and private services in Louisiana that includes prevention, early identification, early intervention, child protection, law enforcement, prosecution, defense, adjudication, diversion and informal processing, probation, corrections, aftercare, transitional living, and other services provided to children and families who either are or are likely to be brought into a court with juvenile jurisdiction because of problems such as abuse,

neglect or abandonment, mental illness, substance abuse, aspects of a divorce and breakup of families, predelinquency, social irresponsibility or delinquent behavior, or domestic abuse involving children.

(6) "Personal identifying information" means information that alone or in conjunction with other information identifies a person, including a person's name, address, date of birth, photograph, and social security number or other government-issued identification number.

(7) "Publish" means:

(a) In the case of the records of adults, to communicate or make information available to another person on a publicly available internet website or in any other publication that charges a fee for the removal of the information.

(b) In the case of the records of a juvenile, to communicate or make information available to another person by any means, including but not limited to a publicly available internet website that charges a fee for the removal of the information.

F. Whoever violates any provision of this Section:

(1) On a first conviction shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(2) On a second conviction shall be fined not more than five thousand dollars, or imprisoned for not more than one year, or both.

(3) On a third or subsequent conviction shall be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than six months nor more than one year, or both.

G. In addition to the penalties provided by Subsection F of this Section, a person or business entity that publishes information in violation of any provision of this Section shall be liable to pay restitution to the individual who is the subject of the information in an amount not to exceed five hundred dollars for each separate violation and, in the case of a continuing violation, an amount not to exceed five hundred dollars for each subsequent day on which the violation occurs.

H. Venue shall be appropriate in the jurisdiction where the subject of publication resides and where the offense was committed.

Acts 2018, No. 385, §1.

### **§139.1. Political payroll padding by sheriff; sale of assets of sheriff's office prohibited**

A. During the six months preceding a gubernatorial election and during the time interval between the gubernatorial election and the first day of July following election, it shall be unlawful for any sheriff to do any of the following:

(1) Increase the number of deputies or employees in his office by more than five percent over the average number of such employees for each of the first six months of the twelve months preceding the election.

(2) Increase the payroll or other operating expenses of his office more than fifteen percent over its average amount of such expenditures for each of the months of the first six months of the twelve months preceding the election.

(3) Transfer title and ownership of the capital assets of his office of a value in excess of ten percent of the total value of assets as reflected in the current inventory filed in the office of the sheriff under the provisions of R.S. 24:513, as of the date of the primary election.

B. In determining whether any surplus or deficit exists in the office of any sheriff at the expiration of a term of office, the current market value of the capital assets of the office as set forth

in the inventory filed in accordance with R.S. 24:513 shall be included in the total assets of the sheriff's office.

C. The provisions of this Section shall not apply when the increases or decreases are necessitated by flood, invasion by common enemy, or other public emergency. In addition, the provisions of this Section shall not apply to any increase based upon the utilization of additional revenue from a tax district election or to an increase necessitated by the completion of a new or expansion of an existing prison facility or an emergency communications call or dispatch center.

D. Whoever violates the provisions of Subsection A of this Section shall be imprisoned, with or without hard labor, for not more than five years or shall be fined not more than five thousand dollars, or both.

Added by Acts 1981, No. 505, §1; Acts 1999, No. 108, §1; Acts 2018, No. 212, §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.

### **§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.

**§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:

(a) Payment of actual medical expenses, including hospital, testing, nursing, midwifery, pharmaceutical, travel, or other similar expenses, incurred by the gestational carrier for prenatal care and those medical and hospital expenses incurred incident to birth.

(b) Payment of actual expenses incurred for mental health counseling services provided to the gestational carrier prior to the birth and up to six months after birth.

(c) Payment of actual lost wages of the gestational carrier, not covered under a disability insurance policy, when bed rest has been prescribed for the gestational carrier for some maternal or fetal complication of pregnancy and the gestational carrier, who is employed, is unable to work during the prescribed period of bed rest.

(d) Payment of actual travel costs related to the pregnancy and delivery, court costs, and attorney fees incurred by the gestational carrier.

(3) It shall be unlawful for any person to enter into, induce, arrange, procure, knowingly advertise for, or otherwise assist in an agreement for genetic gestational carrier, with or without compensation, whether written or unwritten. For purposes of this Section, "genetic gestational carrier" and "compensation" shall have the same meaning as defined in R.S. 9:2718.1.

(4) It shall be unlawful for any person to give or offer payment of money, objects, services, or anything of monetary value to induce any gestational carrier, whether or not she is party to an enforceable or unenforceable agreement for genetic gestational carrier or gestational carrier contract, to consent to an abortion as defined in R.S. 40:1061.9.

C. A person convicted of violating any of the provisions of this Section shall be punished by a fine not to exceed fifty thousand dollars or imprisonment with or without hard labor for not more than ten years, or both.

Added by Acts 1976, No. 253, §1; Acts 1984, No. 209, §1; Acts 1986, No. 262, §1; Acts 1987, No. 556, §1; Acts 1999, No. 1062, §1; Acts 2016, No. 494, §3; Acts 2018, No. 562, §2.

**§402. Contraband defined; certain activities regarding contraband in penal institutions prohibited; penalty; disposition of seized contraband**

A. No person shall introduce contraband into or upon the grounds of any state correctional institution.

B. No person shall possess contraband upon the grounds of any state correctional institution.

C. No person shall send contraband from any state correctional institution.

D. "Contraband" as used herein means:

(1) Any controlled dangerous substance as defined in R.S. 40:961 et seq., or any other drug or substance that if taken internally, whether separately or in combination with another drug or substance, produces or may produce a hypnotic effect. The introduction by a person of any controlled dangerous substance as defined in R.S. 40:961 et seq., upon the grounds of any state correctional institution shall constitute distribution of that controlled dangerous substance and shall be subject to the penalties provided in R.S. 40:961 et seq. The provisions of this Paragraph shall not apply to a drug or substance that has been prescribed by a physician, if the drug or substance is in a container issued by the pharmacy or other place of dispensation, the container identifies the prescription number, prescribing physician, and issuing pharmacist or other person, and the container is not concealed upon the body of the person.

(2) A dangerous weapon, or other instrumentality customarily used or intended for probable use as a dangerous weapon or to aid in an escape, unless authorized by the warden of the institution.

(3) Explosives or combustibles, unless authorized by the warden of the institution.

(4) Plans for the making or manufacturing of a dangerous weapon or other instrumentality customarily used or intended for probable use as a dangerous weapon or to aid in an escape, or for the making or manufacturing of explosives or combustibles, or for an escape from an institution, unless authorized by the warden of the institution.

(5) An alcoholic beverage or other beverage which produces or may produce an intoxicating effect, unless authorized by the warden of the institution for employee residential housing areas. However, employee residential housing areas shall not include bachelor officer quarters located within the secure perimeter of the institution. A reasonably small amount of sacramental wine shall be permitted to be brought onto the grounds of a state correctional institution for use by a clergy member only, as part of a religious service.

(6) Stolen property.

(7) Any currency or coin, unless authorized by the warden of the institution.

(8) Any article of food, toiletries, or clothing, unless authorized by the warden of the institution.

(9) Any telecommunications equipment or component hardware, including but not limited to cellular phones, pagers, beepers, global satellite system equipment, subscriber identity module (SIM) cards, portable memory chips, batteries, and chargers, whether or not such equipment may be intended for use in planning or aiding an escape or attempt to escape from any institution, unless authorized by the warden of the institution.

(10) Any sketch, painting, drawing or other pictorial rendering produced in whole or in part by a capital offender, unless authorized by the warden of the institution.

E. It shall be unlawful to possess or to introduce or attempt to introduce into or upon the premises of any municipal or parish prison or jail or to take or send or attempt to take or send therefrom, or to give or to attempt to give to an inmate of any municipal or parish prison or jail, any of the following articles which are hereby declared to be contraband for the purpose of this Section, to wit:

(1) Any currency or coin which is legal tender.

(2) Any stolen property.

(3) Any article of food or clothing.

(4) Any intoxicating beverage or beverages which cause or may cause any intoxicating effects.

(5) Any narcotic or hypnotic or excitive drug or any drugs of whatever kind or nature, including nasal inhalators of any variety, sleeping pills or barbiturates of any variety that create or may create a hypnotic effect if taken internally, or any other controlled dangerous substance as defined in R.S. 40:961 et seq. The introduction by a person of any controlled dangerous substance as defined in R.S. 40:961 et seq., upon the grounds of any municipal or parish prison or jail shall constitute distribution of that controlled dangerous substance and shall be subject to the penalties provided in R.S. 40:961 et seq.

(6) Any firearm or any instrumentality customarily used as a dangerous weapon, including explosives or combustibles, except through regular channels as authorized by the officer in charge of any institution herein, or any plans for the making or manufacturing of such weapons or devices.

(7) Any telecommunications equipment or component hardware, including but not limited to cellular phones, beepers, global positioning satellite system equipment, subscriber identity module (SIM) cards, portable memory chips, batteries, and chargers, whether or not such equipment may be intended for use in planning or aiding an escape or attempt to escape from any institution.

(8) Any equipment, whether professionally made or homemade, intended for use in tattooing.

(9) Any electronic device including but not limited to computers, telephoto equipment, communications equipment, whether modified or not that is intended for use in the planning or aiding in an escape or attempt to escape from any institution.

(10) Any object or instrumentality intended for use as a tool in the planning or aiding in an escape or attempt to escape from any institution.

F. Any contraband which is seized may be destroyed, donated to a charitable organization, or put to lawful use within the institution, unless it is needed as evidence in a criminal prosecution. However, any money seized which is legal tender shall be placed in a fund at the institution at which the money was seized to be used solely for the purchase of contraband detection and escape chase team equipment. A record of the disposition of all contraband shall be maintained.

G.(1) Whoever violates any provision of this Section shall be fined not less than five hundred dollars and not more than ten thousand dollars and shall be imprisoned with or without hard labor for not more than ten years. Notwithstanding any other law to the contrary, whoever introduces contraband as defined in Paragraph (D)(1) of this Section, upon the grounds of any state correctional institution, or Paragraph (E)(5) of this Section, upon the grounds of any municipal or parish prison or jail, shall be punished in accordance with the penalties for the distribution of the controlled dangerous substance provided in R.S. 40:961 et seq.

(2) If the person who violates any provision of this Section is incarcerated in the state correctional institution or the municipal or parish prison or jail in which the contraband is introduced, possessed, or sent from, the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served consecutively to the sentence the person was serving at the time the violation of this Section occurred.

(3) Any fine collected under the provisions of this Subsection shall be placed in a fund located within the division of probation and parole to be used solely for the purchase of reentry services provided to offenders by the division of probation and parole.

Added by Acts 1958, No. 269, §1. Amended by Acts 1966, No. 538, §1; Acts 1976, No. 241, §1; Acts 1977, No. 326, §1; Acts 1978, No. 731, §1; Acts 1980, No. 365, §1; Acts 1981, No. 282, §1; Acts 1986, No. 989, §1; Acts 1991, No. 191, §1; Acts 2004, No. 602, §1; Acts 2008, No. 102, §1; Acts 2010, No. 505, §1; Acts 2012, No. 727, §1; Acts 2012, No. 799, §1, eff. June 13, 2012; Acts 2013, No. 288, §1, eff. June 14, 2013; Acts 2018, No. 464, §1.

#### **§402.1. Taking of contraband to hospitals unlawful; penalty**

A. It shall be unlawful for any person to introduce or attempt to introduce into or upon the grounds or buildings of any hospital or related facility, except through regular channels as authorized by the administrator of the hospital, any of the following articles which are hereby declared contraband for the purposes of this Section, namely: Any intoxicating beverage or beverage which causes or may cause an intoxicating effect, any controlled dangerous substance that has not been prescribed or recommended in accordance with the Uniform Controlled Dangerous Substances Law at R.S. 40:961 et seq., and any firearm or other instrumentality customarily considered a dangerous weapon possessed by a person who is prohibited from possessing the firearm or instrumentality pursuant to state or federal law.

B. Whoever violates any provision of this Section shall upon conviction be imprisoned with or without hard labor for not more than three years.

Added by Acts 1962, No. 383, §1; Acts 2001, No. 403, §1, eff. June 15, 2001; Acts 2018, No. 516, §1.

#### **§403. Abuse of children; reports; waiver of privilege**

A.(1)(a) Any person who, pursuant to Children's Code Article 609(A), is required to report the abuse or neglect of a child and knowingly and willfully fails to so report shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(b)(i) Any person who, pursuant to Children's Code Article 609(A), is required to report the sexual abuse of a child, or the abuse or neglect of a child that results in the serious bodily injury, neurological impairment, or death of the child, and the person knowingly and willfully fails to so report, shall be fined not more than three thousand dollars, imprisoned, with or without hard labor, for not more than three years, or both.

(ii) For purposes of this Subparagraph, "serious bodily injury" includes but is not limited to 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, or injury resulting from starvation or malnutrition.

(2) Any person, any employee of a local child protection unit of the Department of Children and Family Services, any employee of any local law enforcement agency, any employee or agent of any state department, or any school employee who knowingly and willfully violates the

provisions of Chapter 5 of Title VI of the Children's Code, or who knowingly and willfully obstructs the procedures for receiving and investigating reports of child abuse or neglect or sexual abuse, or who discloses without authorization confidential information about or contained within such reports shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(3) Any person who reports a child as abused or neglected or sexually abused to the department or to any law enforcement agency, knowing that such information is false, shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(4)(a) Notwithstanding the provisions of Paragraph (1) of this Subsection, any person who is eighteen years of age or older who witnesses the sexual abuse of a child and knowingly and willfully fails to report the sexual abuse to law enforcement or to the Department of Children and Family Services as required by Children's Code Article 610, shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

(b) For purposes of this Paragraph, "sexual abuse" shall include but is not limited to the perpetration or attempted perpetration of R.S. 14:41, 42, 42.1, 43, 43.1, 43.2, 43.3, 43.4, 46.2, 46.3, 80, 81, 81.1, 81.2, 86, 89, or 89.1.

B. In any proceeding concerning the abuse or neglect or sexual abuse of a child or the cause of such condition, evidence may not be excluded on any ground of privilege, except in the case of communications between an attorney and his client or between a priest, rabbi, duly ordained minister or Christian Science practitioner and his communicant.

Acts 1964, No. 116, §§1 to 5. Amended by Acts 1970, No. 636, §1; Acts 1972, No. 556, §1; Acts 1974, No. 384, §1; Acts 1974, No. 596, §1; Acts 1975, No. 737, §1; Acts 1979, No. 664, §1; Acts 1979, No. 769, §1; Acts 1980, No. 495, §1; Acts 1983, No. 529, §1; Acts 1984, No. 690, §1; Acts 1985, No. 864, §1, eff. July 23, 1985; Acts 1985, No. 339, §1, eff. July 9, 1985; Acts 1985, No. 615, §1; Acts 1985, No. 198, §1, eff. July 6, 1985; Acts 1985, No. 658, §1; Acts 1986, No. 428, §1, eff. July 2, 1986; Acts 1986, No. 1006, §1; Acts 1987, No. 626, §1; Acts 1988, No. 437, §1; Acts 1989, No. 595, §1; Acts 1990, No. 439, §1, eff. July 18, 1990; Acts 1992, No. 705, §3, eff. July 6, 1992; Acts 2012, No. 268, §1, eff. May 25, 2012; Acts 2012, No. 614, §1, eff. June 7, 2012; Acts 2016, No. 302, §2; Acts 2018, No. 458, §1.

## **§502. Failure to seek assistance**

A.(1) Any person at the scene of an emergency who knows that another person has suffered serious bodily injury shall, to the extent that the person can do so without danger or peril to self or others, give reasonable assistance to the injured person. Reasonable assistance includes immediately seeking or reporting the need for medical assistance from an appropriate authority.

(2) Any person who engages in reckless behavior that results in the serious bodily injury of any person shall, to the extent that the person can do so without danger or peril to self or others, give reasonable assistance to the person. Reasonable assistance includes immediately seeking or reporting the need for medical assistance from an appropriate authority.

B. For purposes of this Section:

(1) "Appropriate authority" includes:

(a) Any state or local law enforcement agency.

(b) A 911 Public Safety Answering Point as defined in Title 33 of the Louisiana Revised Statutes of 1950.

(c) Emergency medical personnel.

(2) "Reckless behavior" means an activity or behavior in which a reasonable person knew or reasonably should have known that the activity or behavior may result in injury to another, including but not limited to excessive consumption of alcohol, binge drinking, drag racing, consumption of any controlled dangerous substance, acts of hazing, or other similar activity, including activity which is defined as a criminal offense under this Title.

(3) "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, death, or a substantial risk of death.

C.(1) Except as provided in Paragraph (2) of this Subsection, any person who 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.

(2) If the serious bodily injury results in the death of the person, any person who violates the provisions 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.

Acts 2018, No. 637, §1.