

**ACT No. 36**

2022 Regular Session

HOUSE BILL NO. 162

BY REPRESENTATIVE MARINO

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 983(H) and (I), to enact Code of  
3 Criminal Procedure Article 983(J) and (K), and to repeal Code of Criminal  
4 Procedure Article 983(F)(4), relative to expungement of records; to provide relative  
5 to the fees for expungement of a record; to provide for exemptions of fees in certain  
6 expungement cases; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 983(H) and (I) are hereby amended  
9 and reenacted and Code of Criminal Procedure Article 983(J) and (K) are hereby enacted to  
10 read as follows:

11 Art. 983. Costs of expungement of a record; fees; collection; exemptions;  
12 disbursements

13 \* \* \*

14 H. Notwithstanding any other provision of law to the contrary, a person who  
15 was determined to be factually innocent and entitled to compensation for a wrongful  
16 conviction pursuant to the provisions of R.S. 15:572.8 shall be exempt from payment  
17 of the processing fees otherwise authorized by this Article.

18 I. Notwithstanding any other provision of law to the contrary, a person who  
19 has been granted a pardon shall be exempt from payment of the processing fees  
20 otherwise authorized by this Article. However, no person granted a first offender  
21 pardon pursuant to Article IV, Section 5(E)(1) of the Constitution of Louisiana shall  
22 be exempt from payment of the processing fees otherwise authorized by this Article.

1                    ~~H. J.~~ If an application for an expungement of a record includes two or more  
2                    offenses arising out of the same arrest, including misdemeanors, felonies, or both,  
3                    the applicant shall be required to pay only one fee as provided for by this Article.

4                    ~~H. K.~~ Notwithstanding any provision of law to the contrary, an applicant for  
5                    the expungement of a record, other than as provided in Paragraphs F and G of this  
6                    Article, may proceed in forma pauperis in accordance with the provisions of Code  
7                    of Civil Procedure Article 5181 et seq.

8                    Section 2. Code of Criminal Procedure Article 983(F)(4) is hereby repealed in its  
9                    entirety.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

**ACT No. 42**

2022 Regular Session

HOUSE BILL NO. 247

BY REPRESENTATIVE MAGEE

(On Recommendation of the Louisiana State Law Institute)

1 AN ACT

2 To amend and reenact the heading of Title XXII of the Code of Criminal Procedure, the  
3 heading of Chapter 1 of Title XXII of the Code of Criminal Procedure, Code of  
4 Criminal Procedure Articles 671 through 676, 678, and 679, the heading of Chapter  
5 3 of Title XXII of the Code of Criminal Procedure, and Code of Criminal Procedure  
6 Article 684, and to repeal Code of Criminal Procedure Article 677, relative to the  
7 recusal of judges; to provide for the grounds for recusal; to provide for recusal on the  
8 motion of the court; to provide for authority of judges; to provide for the procedure  
9 for recusal; to provide for the selection of a judge to try the motion to recuse; to  
10 provide for the selection of a judge after recusal; to provide for the recusal of an ad  
11 hoc judge, appellate judge, and supreme court justice; to provide for review of  
12 recusal rulings; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. The heading of Title XXII of the Code of Criminal Procedure, the heading  
15 of Chapter 1 of Title XXII of the Code of Criminal Procedure, Code of Criminal Procedure  
16 Articles 671 through 676, 678, and 679, the heading of Chapter 3 of Title XXII of the Code  
17 of Criminal Procedure, and Code of Criminal Procedure Article 684 are hereby amended and  
18 reenacted to read as follows:

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TITLE XXII

~~RECUSATION~~ RECUSAL OF JUDGES AND DISTRICT ATTORNEYS

CHAPTER 1. ~~RECUSATION~~ RECUSAL OF JUDGES

Art. 671. Grounds for ~~recusation~~ recusal of judge

A. In a criminal ~~case~~ cause, a judge of any trial or appellate court, ~~trial or appellate~~, shall be recused ~~when he~~ upon any of the following grounds:

(1) ~~Is~~ The judge is biased, prejudiced, or personally interested in the cause to such an extent that ~~he~~ the judge would be unable to conduct a fair and impartial trial;

(2) ~~Is~~ The judge is the spouse of the accused, of the party injured, of an attorney employed in the cause, or of the district attorney; or is related to the accused or the party injured, or to the spouse of the accused or party injured, within the fourth degree; or is related to an attorney employed in the cause or to the district attorney, or to the spouse of either, within the second degree;

(3) ~~Has~~ The judge has been employed or consulted as an attorney in the cause, or has been associated with an attorney during the latter's employment in the cause;

(4) ~~Is~~ The judge is a witness in the cause;

(5) ~~Has~~ The judge performed a judicial act in the ~~case~~ cause in another court; ~~or~~

(6) ~~Would~~ The judge would be unable, for any other reason, to conduct a fair and impartial trial.

B. In a criminal cause, a judge of any trial or appellate court shall also be recused when there exists a substantial and objective basis that would reasonably be expected to prevent the judge from conducting any aspect of the cause in a fair and impartial manner.

B.C. In any cause in which the state, or a political subdivision thereof, or a religious body is interested, the fact that the judge is a citizen of the state or a resident of the political subdivision, or pays taxes thereto, or is a member of the religious body is not of itself a ground for ~~recusation~~ recusal. In any cause in which

1 a religious body or religious corporation is interested, the fact that a judge is a  
 2 member of the religious body or religious corporation is not alone a ground for  
 3 recusal.

4 Comments - 2022

5 (a) This Article generally follows Code of Civil Procedure Article 151, with  
 6 such adaptations as are necessary to adjust the grounds for recusal to the special  
 7 differences in criminal proceedings.

8 (b) Subparagraph (A)(1) is the most important ground for recusal. It  
 9 continues the rule that interest in the cause is a ground for recusal and includes the  
 10 much-needed provision that bias or prejudice is also a ground for recusal. Bias or  
 11 prejudice of the trial judge was not a ground for recusal prior to the 1928 Code. In  
 12 State v. Phillips, 106 So. 375 (La. 1925), it was held that "interested in the cause"  
 13 means that the judge must have some personal gain at stake before he can be recused.  
 14 The Louisiana Supreme Court followed this rule after the 1928 Code in State v.  
 15 LaBorde, 38 So. 2d 371 (La. 1948). Recognition of bias or prejudice as a ground for  
 16 recusal is in line with the basic purpose of recusal procedure, i.e., to protect the  
 17 defendant's right to a fair and impartial trial. The requirement that the bias,  
 18 prejudice, or interest must be such that the judge would be unable to conduct a fair  
 19 and impartial trial is a standard requiring that the disqualifying bias, interest, or  
 20 prejudice must be of a substantial nature.

21 (c) Subparagraph (A)(2) is similar to Code of Civil Procedure Article  
 22 152(A)(4) in specifying the degrees of relationship that will serve as a ground for  
 23 recusal of the judge. In addition, Subparagraph (A)(2) clarifies that the district  
 24 attorney is one of the attorneys to whom the relationships apply.

25 (d) Subparagraph (A)(3) follows Code of Civil Procedure Article 151(A)(2).  
 26 State v. Perkins, 50 So. 805 (La. 1910), held that the statutory provision was met  
 27 when the judge was previously employed on the same matter in a civil proceeding.

28 (e) Subparagraph (A)(4), in conformity with Code of Civil Procedure Article  
 29 151(A)(1), provides for recusal if the judge is a material witness in the cause.  
 30 Construing Article 303 of the 1928 Code of Criminal Procedure, the Louisiana  
 31 Supreme Court stated that it "contemplates and refers to the judge's being a material  
 32 witness in the actual trial of the criminal cause and before the court - not a witness  
 33 at a hearing to determine whether he should be recused." State v. Riviere, 72 So. 2d  
 34 316, 319 (La. 1954). In State v. Kelly, 128 So. 2d 18 (La. 1961), the court stated that  
 35 the testimony of the judge must relate to the defendant's guilt or innocence. Under  
 36 this logical interpretation of the phrase "material witness," the judge would not be  
 37 recused if he had been called to testify to a matter relating to something other than  
 38 the guilt or innocence.

39 (f) Subparagraph (A)(5) follows Code of Civil Procedure Article 152(A)(3)  
 40 and makes no change in the law. Beginning with State v. Bill, 15 La. Ann. 114  
 41 (1860), it has been consistently held that a judge is competent to conduct the trial  
 42 after a mistrial has been declared, and retrial of a case after a new trial is ordered  
 43 may also be held before the same judge who originally tried the case.

44 (g) The term "cause" rather than "case" is used in this Chapter. The broader  
 45 word "cause" embraces the entire situation, in both its civil and criminal  
 46 implications. The word "case" is limited to the particular criminal prosecution at bar.  
 47 "Case is more of a limited signification, importing a collection of facts, with the  
 48 conclusion of law thereon, whereas cause imports a judicial proceeding entire, and

1 is nearly synonymous with lis in Latin, or suit in English." Black's Law Dictionary  
 2 (11th ed. 2019).

3 (h) Subparagraph (A)(6) is a catchall provision to include circumstances that  
 4 clearly indicate that the judge would not be able to serve fairly and impartially, even  
 5 though none of the specified grounds for recusal exist.

6 (i) A new Paragraph B has been added to provide an additional mandatory  
 7 ground for recusal when a substantial and objective basis exists that would  
 8 reasonably be expected to prevent the judge from conducting any aspect of the case  
 9 in a fair and impartial manner. This provision is intended to serve as a catch-all  
 10 supplementing the mandatory grounds for recusal set forth in Paragraph A and to  
 11 incorporate a clearer, more objective standard than the language of Canon 3C of the  
 12 Code of Judicial Conduct, which provides that a judge should recuse himself when  
 13 "the judge's impartiality might reasonably be questioned."

14 (j) Paragraph C, like Code of Civil Procedure Article 151(C), serves to  
 15 avoid frivolous claims that the judge is interested or prejudiced by reason of his  
 16 residence, or his membership in a religious organization that may be interested in the  
 17 prosecution. It will be significant in connection with the remaining provisions of this  
 18 Article.

19 (k) The terms "court" and "judge" are broadly defined by Article 931 to  
 20 include the various courts with criminal jurisdiction, except mayors' courts and  
 21 justice of the peace courts.

22 Art. 672. ~~Recusation~~ Recusal on court's own motion; ~~by supreme court~~

23 A. A judge may recuse himself in any cause in which a ground for recusal  
 24 exists, whether or not a motion for his ~~recusation~~ recusal has been filed by a party  
 25 or not, in any case in which a ground for ~~recusation~~ exists.

26 ~~On the written application of a trial judge, the supreme court may recuse him~~  
 27 ~~for any reason that it considers sufficient.~~

28 B. Prior to the cause being allotted to another judge, a judge who recuses  
 29 himself for any reason shall contemporaneously file in the record the order of recusal  
 30 and written reasons that provide the factual basis for recusal under Article 671. The  
 31 judge shall also provide a copy of the recusal and the written reasons therefor to the  
 32 judicial administrator of the supreme court.

33 Comments - 2022

34 (a) Paragraph A of this Article conforms with the generally accepted view  
 35 that a judge may recuse himself only if there is a valid ground for recusal. State ex  
 36 rel. Jones v. Judge, 6 So. 22 (La. 1889). This provision is broad enough to allow a  
 37 judge to recuse himself without a motion being filed.

38 (b) Paragraph B of this Article is new and requires the judge to file written  
 39 reasons containing the factual basis for the judge's self-recusal prior to the cause  
 40 being allotted to another judge. This provision also requires the judge to provide a  
 41 copy of both the recusal and the written reasons for the recusal to the judicial

1 administrator of the supreme court. This reporting requirement reflects the  
 2 countervailing considerations of a judge's duty to sit and his obligation to recuse  
 3 when a valid ground for recusal exists. A judge is "not at liberty, nor does he have  
 4 the right, to take himself out of a case and burden another judge with his  
 5 responsibility without good and legal cause." In re Lemoine, 686 So. 2d 837 (La.  
 6 1997).

7 (c) The factual basis for the judge's recusal must pertain to one of the  
 8 grounds for recusal set forth in Article 671. The fact that a judicial complaint has  
 9 been filed against the judge by one of the parties, without more, is not sufficient to  
 10 constitute a ground for recusal.

11 Art. 673. Judge may act until recused

12 A judge has full power and authority to act, even though a ground for  
 13 ~~recusation~~ recusal exists, until he is recused, or a motion for his ~~recusation~~ recusal  
 14 is filed. The judge to whom the motion to recuse is assigned shall have full power  
 15 and authority to act in the cause pending the disposition of the motion to recuse.

16 Comments - 2022

17 This Article provides a judge who has been selected to hear a motion to  
 18 recuse with full power and authority to act in the cause, but such power and authority  
 19 is discretionary. This provision is not intended to require the judge selected to hear  
 20 the recusal to act on other matters in the cause.

21 Art. 674. Procedure for ~~recusation~~ recusal of trial judge

22 A. A party desiring to recuse a trial judge shall file a written motion therefor  
 23 assigning the ground for ~~recusation~~ recusal under Article 671. The motion shall be  
 24 filed not later than thirty days after discovery of the facts constituting the ground  
 25 upon which the motion is based, but in all cases at least thirty days prior to  
 26 commencement of the trial. ~~unless the party discovers~~ In the event that the facts  
 27 constituting the ground for ~~recusation~~ recusal occur thereafter, ~~in which event it or~~  
 28 the party moving for recusal could not, in the exercise of due diligence, have  
 29 discovered such facts, the motion to recuse shall be filed immediately after the facts  
 30 occur or are discovered, but prior to verdict or judgment.

31 B. ~~If a valid ground for recusation is set forth in the motion to recuse sets~~  
 32 forth facts constituting a ground for recusal under Article 671, not later than seven  
 33 days after the judge's receipt of the motion from the clerk of court, the judge shall  
 34 either recuse himself; or refer the motion for hearing to another judge or to a an ad  
 35 hoc judge ad hoc, as provided in Article 675.





1 C. ~~When the ground assigned for the recusation of the judge of a district~~  
 2 ~~court having one judge is that he is biased, prejudiced, or personally interested in the~~  
 3 ~~cause, the judge shall appoint a district judge of an adjoining district to try the~~  
 4 ~~motion to recuse. When any other ground is assigned for the recusation of such a~~  
 5 ~~district judge, he may appoint either a district judge of an adjoining district or a~~  
 6 ~~lawyer domiciled in the judicial district who has the qualifications of a district judge~~  
 7 ~~to try the motion to recuse. In a city court, a separate juvenile court, or a family~~  
 8 ~~court, when the court has a single judge, the judge shall refer the motion to recuse~~  
 9 ~~to a district judge of his district. In a court having only one judge, the judge shall~~  
 10 ~~make a written request to the supreme court for the appointment of an ad hoc judge~~  
 11 ~~to try the motion to recuse.~~

12 D. The order of the court appointing a an ad hoc judge ad hoc shall be  
 13 entered on the minutes of the court, and the clerk of court shall forward a certified  
 14 copy of the order to the appointed ad hoc judge ad hoc. The motion to recuse shall  
 15 be tried promptly in a contradictory hearing in the court in which the ~~case~~ cause is  
 16 pending.

17 Comments - 2022

18 This Article is similar to the corresponding provisions of Code of Civil  
 19 Procedure Articles 155 (applicable to district courts) and 4863 (applicable to city  
 20 courts) with such changes as are necessary in criminal proceedings.

21 Art. 676. ~~Judge ad hoc~~ Ad hoc judge to try ~~case~~ cause when judge recused

22 A. ~~When a district court judge, or a judge of a separate juvenile court or of~~  
 23 ~~a family court, recuses himself, a judge ad hoc shall be assigned to try the case in the~~  
 24 ~~manner provided by Article 675 for the appointment of a judge ad hoc to try a~~  
 25 ~~motion to recuse. When a city court judge of a court having a single judge recuses~~  
 26 ~~himself, he shall appoint to try the case either a city court judge from an adjoining~~  
 27 ~~parish or a lawyer who is domiciled in the parish and has the qualifications of a city~~  
 28 ~~court judge.~~

29 B. ~~When a district court judge or a judge of a separate juvenile court or of~~  
 30 ~~a family court~~ When a judge of a court having more than two judges recuses himself  
 31 or is recused after a trial of the motion, the matter shall be randomly reassigned to

1 another judge for trial of the ~~case~~ cause in accordance with the procedures contained  
2 in ~~Code of Criminal Procedure~~ Article 675.

3 B. When a judge of a court having two judges recuses himself or is recused  
4 after a trial of the motion, the cause shall be tried by the other judge of that court.

5 C. When a city court the judge of a court having a single only one judge  
6 recuses himself or is recused after a trial on of the motion, the supreme court shall  
7 appoint an ad hoc judge ad hoc who tried the motion to recuse shall appoint to try the  
8 case cause either a city court judge from an adjoining parish or a lawyer who is  
9 domiciled in the parish and has the qualifications of a city court judge.

10 C. When a city court has two judges, if a judge recuses himself or is recused,  
11 the case shall be tried by the other judge of that court.

12 D. When a city court has more than two judges, if a judge recuses himself  
13 or is recused, the case shall be tried by another judge of that court through a random  
14 reassignment process.

15 E.D. The ad hoc judge ad hoc has the same power and authority to dispose  
16 of the ~~case~~ cause as the recused judge would have.

17 Comments - 2022

18 The provisions of this Article are similar to Code of Civil Procedure Articles  
19 156 and 4864. If a judge is recused, the cause will be allotted to another judge in the  
20 same court. In courts with only one judge, the supreme court will appoint an ad hoc  
21 judge to hear the cause.

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23 Art. 678. ~~Recusation of judge~~ Recusal of ad hoc judge

24 ~~A judge~~ An ad hoc judge appointed to try a motion to recuse a judge, or  
25 appointed to try the ~~case~~ cause, may be recused on the grounds and in the manner  
26 provided in this Chapter for the ~~recusation~~ recusal of judges.

27 Comments - 2022

28 This Article is taken verbatim from Code of Civil Procedure Article 159.

29 Art. 679. ~~Recusation~~ Recusal of an appellate judge and a supreme court justice

30 A. A party desiring to recuse a judge of a court of appeal shall file a written  
31 motion therefor assigning the ground for recusal under Article 671. When a written

1 motion is filed to recuse a judge of a court of appeal, ~~he~~ the judge may recuse  
 2 himself or the motion shall be heard by the other judges on the panel to which the  
 3 cause is assigned, or by all judges of the court, except the judge sought to be recused,  
 4 sitting en banc.

5 B. When a judge of a court of appeal recuses himself or is recused, the court  
 6 shall ~~appoint~~ randomly allot another of its judges to act for the recused judge in the  
 7 hearing and disposition of the ~~case~~ cause.

8 C. If the motion to recuse fails to set forth facts constituting a ground for  
 9 recusal under Article 671, the judge may deny the motion without a hearing but shall  
 10 provide written reasons for the denial.

11 D. A party desiring to recuse a justice of the supreme court shall file a  
 12 written motion therefore assigning the ground for recusal under Article 671. When  
 13 a written motion is filed to recuse a justice of the supreme court, ~~he~~ the justice may  
 14 recuse himself or the motion shall be heard by the other justices of the court.

15 ~~D.E.~~ When a justice of the supreme court recuses himself; or is recused, the  
 16 court may have the ~~case~~ cause argued before and disposed of by the other justices or  
 17 appoint a sitting or retired judge of a district court or of a court of appeal having the  
 18 qualifications of a justice of the supreme court to sit as a member of the court in the  
 19 hearing and disposition of the ~~case~~ cause.

20 Comments - 2022

21 (a) Neither this Article nor its source provision states the time when the  
 22 motion to recuse a judge of a court of appeal or a justice of the supreme court must  
 23 be filed. However, it is certain that the motion must be filed before the court has  
 24 rendered its decision. State v. Jefferson Parish School Board, 19 So. 2d 153 (La.  
 25 1943). The general limitation of Article 674, that the motion for recusal shall be  
 26 filed "at least thirty days prior to commencement of the trial," does not apply to this  
 27 special situation. A ground for recusal of a judge of a court of appeal or a supreme  
 28 court justice will sometimes become apparent, for the first time, during the hearing  
 29 before that court.

30 (b) This Article includes language from Code of Civil Procedure Article 158  
 31 that provides a specific procedure for the resolution of a motion to recuse an  
 32 appellate judge.

1 (c) Paragraph C of this Article is similar to Article 674 in that it allows a  
2 judge of a court of appeal to deny a motion to recuse that fails to set forth facts  
3 constituting a ground for recusal without a hearing, but the judge must give written  
4 reasons for the denial.

5 \* \* \*

6 CHAPTER 3. REVIEW OF ~~RECUSATION~~ RECUSAL RULING

7 Art. 684. Review of ~~recusation~~ recusal ruling

8 A. If a judge or a district attorney is recused over the objection of the state,  
9 or if an application by the state for recusation of a judge is denied, the state may  
10 apply for a review of the ruling by supervisory writs. The defendant may not appeal  
11 prior to sentence from a ruling recusing or refusing to recuse the ~~judge or the~~ district  
12 attorney.

13 B. If a judge is recused over the objection of the state or the defendant, or if  
14 a motion by the state or the defendant to recuse a judge is denied, the party's  
15 exclusive remedy is to apply for a review of the ruling by supervisory writs. A  
16 ruling recusing or refusing to recuse the judge shall not be considered on appeal.

17 C. Upon ruling on a motion to recuse a judge, the judge shall advise the  
18 defendant in open court or in writing that the ruling may be reviewed only by a  
19 timely filed supervisory writ to the appellate court and shall not be raised on appeal.

20 Comments - 2022

21 (a) Under Paragraph A of this Article, the manner in which rulings  
22 concerning recusals of district attorneys are reviewed remains the same and has not  
23 been changed.

24 (b) Paragraph B of this Article provides that if either party seeks to challenge  
25 a ruling concerning the recusal of a judge, the party must do so in the form of a  
26 timely filed supervisory writ. This is the party's exclusive remedy. This revision is  
27 intended to ensure that rulings concerning the recusal of a judge are reviewed prior  
28 to the trial on the merits.

29 (c) Because Paragraph B of this Article creates an exception to a defendant's  
30 constitutional right to an appeal, Paragraph C requires the judge to advise the  
31 defendant that the recusal ruling may be reviewed only by a timely filed supervisory  
32 writ and cannot be raised on appeal. This notice must be given in open court or in  
33 writing, and the form of the notice will likely depend upon the manner in which the  
34 recusal ruling is made. The failure of the judge to provide the required notice to the  
35 defendant may give rise to the issue of recusal being reviewed on appeal.

36 Section 2. Code of Criminal Procedure Article 677 is hereby repealed in its entirety.

1           Section 3. The existing Comments to Code of Criminal Procedure Articles 671  
2 through 679 and 684 are superseded by the Comments appearing beneath those Articles in  
3 this Act. The Louisiana State Law Institute is hereby directed to remove the existing  
4 Comments and to print only the Comments appearing in this Act.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

SENATE BILL NO. 360

BY SENATOR FOIL

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AN ACT

To amend and reenact Code of Criminal Procedure Art. 331(I), (J), and (K) and to enact Code of Criminal Procedure Art. 331(L), relative to the discharge of bail obligations; to provide relative to the surrender of the defendant during a statewide public health emergency; to provide relative to bond forfeiture due to the defendant's failure to appear; to provide for procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 331(I), (J), and (K) are hereby amended and reenacted and Code of Criminal Procedure Art. 331(L) is here by enacted to read as follows:

Art. 331. Discharge of bail obligation

\* \* \*

I. In all cases and by operation of law, during the period of time declared by the governor to be a statewide public health emergency due to COVID-19, the time period for the appearance or surrender of a defendant ~~is interrupted. The surety's opportunity to resolve a failure to appear by surrendering, constructively surrendering, or otherwise satisfying the bail obligation is automatically extended for one hundred eighty days following the declared end of the state of emergency or from the date of proper notice of a failure to appear to the defendant, surety agent and surety, whichever is later, without need for the filing of any motion.~~ **shall be calculated as follows:**

**(1) For cases when the defendant failed to appear in court and one hundred eighty days from the date the notice of warrant for arrest was sent has not elapsed prior to March 11, 2020, the one hundred eighty day period required before filing a rule to show cause to obtain a judgment of bond forfeiture shall not begin to run until March 17, 2022.**

1           **(2) For cases when the defendant failed to appear in court between**  
2           **March 11, 2020, and August 31, 2020, the one hundred eighty day period**  
3           **required before filing a rule to show cause to obtain a judgment of bond**  
4           **forfeiture shall not begin to run until June 1, 2022.**

5           **(3) For cases when the defendant failed to appear in court between**  
6           **September 1, 2020, and February 28, 2021, the one hundred eighty day period**  
7           **required before filing a rule to show cause to obtain a judgment of bond**  
8           **forfeiture shall not begin to run until August 1, 2022.**

9           **(4) For cases when the defendant failed to appear in court between**  
10           **March 1, 2021, and August 31, 2021, the one hundred eighty day period**  
11           **required before filing a rule to show cause to obtain a judgment of bond**  
12           **forfeiture shall not begin to run until October 1, 2022.**

13           **(5) For cases when the defendant failed to appear in court between**  
14           **September 1, 2021, and March 16, 2022, the one hundred eighty day period**  
15           **required before filing a rule to show cause to obtain a judgment of bond**  
16           **forfeiture shall not begin to run until December 1, 2022.**

17           **(6) For cases when the defendant failed to appear in court on or after**  
18           **March 17, 2022, the one hundred eighty day period required before filing a rule**  
19           **to show cause to obtain a judgment of bond forfeiture shall begin to run after**  
20           **the notice of warrant for arrest is sent pursuant to Article 335.**

21           **J.(1) Additionally, a surety may file a motion in the criminal court of records**  
22           **seeking additional time to surrender a defendant citing specific circumstances related**  
23           **to COVID-19 and pertaining to the defendant in a ~~the~~ criminal matter. ~~A motion~~**  
24           **seeking relief pursuant to this Paragraph shall be filed prior to or at a hearing**  
25           **on a rule to show cause to obtain a judgment of bond forfeiture. The motion**  
26           **shall include all of the following as a bona fide effort of active investigation in**  
27           **the recovery of the defendant:**

28           **(a) A sworn affidavit affirming efforts to locate and recover the**  
29           **defendant.**

30           **(b) A signed agreement of the engagement contract between the bail**

1           **bondsman surety and the fugitive recovery team.**

2                           **(c) Evidence of the last contact between the bail bondsman and either the**  
3                           **defendant's next of kin or the indemnitor of the defendant.**

4                           **(2) If the motion meets the requirements of this Paragraph, the court**  
5                           **may grant an additional extension of time not to exceed one hundred eighty**  
6                           **days. If the court grants an extension of time, the rule to show cause hearing**  
7                           **shall be continued after the expiration of the extension of time. If the motion**  
8                           **does not meet the requirements of this Paragraph, the court may deny the**  
9                           **motion.**

10                          **J.K.** In cases which were continued by the court during the time period  
11                          declared by the governor to be a statewide public health emergency due to  
12                          COVID-19, it is required that notice of any new date be provided to the defendant  
13                          or his duly appointed agent and his personal surety or the commercial surety or the  
14                          agent or bondsman who posted the bail undertaking for the commercial surety in  
15                          accordance with Article 330(D).

16                          **K.L.** The court shall order the bail obligation canceled when there is no  
17                          further liability thereon.

18                          Section 2. This Act shall become effective upon signature by the governor or, if not  
19                          signed by the governor, upon expiration of the time for bills to become law without signature  
20                          by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
21                          vetoed by the governor and subsequently approved by the legislature, this Act shall become  
22                          effective on the day following such approval.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_



SENATE BILL NO. 148

BY SENATORS MIZELL, ABRAHAM, BARROW, BERNARD, BOUIE, CARTER, CATHEY, CLOUD, CONNICK, CORTEZ, FESI, FIELDS, FOIL, HENRY, HEWITT, JACKSON, LAMBERT, MCMATH, MILLIGAN, FRED MILLS, ROBERT MILLS, MORRIS, POPE, PRICE, REESE, SMITH, STINE, TALBOT, WARD, WHITE AND WOMACK AND REPRESENTATIVES BACALA, BUTLER, EMERSON, FONTENOT, FREEMAN, FREIBERG, GAROFALO, GOUDEAU, LAFLEUR, MARCELLE, MARINO, MCCORMICK, NELSON, SEABAUGH AND WHITE

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Art. 983(H) and (I) and R.S.  
3 14:46.2(A)(1), (C)(1) and (3)(b) and (f), and (D), to enact Code of Criminal  
4 Procedure Art. 983(J) and 997, and R.S. 14:46.2(C)(3)(k) and (l), relative to human  
5 trafficking; to provide relative to expungement of records of arrest and conviction  
6 for certain offenses related to human trafficking; to provide for immunity from  
7 prosecution for victims of human trafficking; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Art. 983(H) and (I) are hereby amended and  
10 reenacted and Code of Criminal Procedure Art. 983(J) and 997 are hereby enacted to read  
11 as follows:

12 Art. 983. Cost of expungement of a record; fees; collection; exemptions;  
13 disbursements

14 \* \* \*

15 **H. Human trafficking victim request for certification and application for**  
16 **expungement.**

17 **(1) An applicant for the expungement of a record of offense who was a**  
18 **victim of human trafficking, in accordance with R.S. 14:46.2, may request a**  
19 **certification from the prosecuting authority that the offense for which the**  
20 **expungement is sought was committed, in substantial part, as the result of the**  
21 **applicant being a victim of "human trafficking" in accordance with R.S.**  
22 **14:46.2.**

1           **(2) To obtain certification, the applicant has the burden of establishing**  
2           **by a preponderance of the evidence to the prosecuting authority that the offense**  
3           **was committed, in substantial part, as the result of the applicant being a victim**  
4           **of human trafficking in accordance with R.S. 14:46.2.**

5           **(3) The certification shall be prima facie evidence that similar eligible**  
6           **crimes committed within other Louisiana jurisdictions during the time period**  
7           **the applicant was a victim of human trafficking were committed, in substantial**  
8           **part, as the result of the applicant being a victim of human trafficking in**  
9           **accordance with R.S. 14:46.2.**

10           **(4) All applicable time delays pertaining to expungement provided by**  
11           **Code of Criminal Procedure Articles 977 and 978 shall be waived when the**  
12           **certification is presented to the clerk of court with the application for**  
13           **expungement.**

14           **(5) An applicant for the expungement of a record of offense who was a**  
15           **victim of human trafficking, in accordance with R.S. 14:46.2, shall not be**  
16           **required to pay any fees relative to the application for expungement to the clerk**  
17           **of court, the Louisiana Bureau of Criminal Identification and Information, the**  
18           **sheriff, the district attorney, or any other agency.**

19           **(6) Utilization of the process outlined within this Subsection shall not**  
20           **preclude any applicant from seeking additional expungement to which the**  
21           **applicant may be entitled, in accordance with law.**

22           **(7) The Louisiana District Attorneys Association shall annually submit**  
23           **a report to the legislature, no later than February first, that includes the**  
24           **number of applications for, denials of, and approvals of the certification**  
25           **provided for by this Subsection for the prior year.**

26           **I.** If an application for an expungement of a record includes two or more  
27           offenses arising out of the same arrest, including misdemeanors, felonies, or both,  
28           the applicant shall be required to pay only one fee as provided for by this Article.

29           ~~**J.**~~ Notwithstanding any provision of law to the contrary, an applicant for the  
30           expungement of a record, other than as provided in Paragraphs F and G of this

1 Article, may proceed in forma pauperis in accordance with the provisions of Code  
2 of Civil Procedure Article 5181 et seq.

3 \* \* \*

4 Art. 997. Certification of Human Trafficking Victim Status

5  
6 STATE OF LOUISIANA

7 JUDICIAL DISTRICT FOR THE PARISH OF  
8 \_\_\_\_\_

9 **NO.:** \_\_\_\_\_

**DIVISION:** \_\_\_\_\_

10  
11 STATE OF LOUISIANA

12 vs.

13 \_\_\_\_\_

14  
15 CERTIFICATION OF HUMAN TRAFFICKING VICTIM STATUS

16  
17 In accordance with the provisions of Louisiana Code of Criminal Procedure  
18 Article 983, the Office of the District Attorney has reviewed and determined that one,

19  
20 \_\_\_\_\_,

21 **RACE/ GENDER:** \_\_\_\_\_ **DOB:** \_\_\_\_\_,

22 **SSN:** \_\_\_\_\_, **has established by a preponderance of the**  
23 **evidence proof of status as a victim of human trafficking in accordance with the**  
24 **provisions of R. S. 14:46.2, for the following offense(s), detailed specifically as follows:**

25 *(If more than one offense, each relevant offense must be specifically listed in the*  
26 *following format)*

27  
28 **OFFENSE:** \_\_\_\_\_

29 **DOCKET NO:** \_\_\_\_\_

30 **CHARGE:** \_\_\_\_\_

1 DATE OF ARREST: \_\_\_\_\_

2 ARRESTING AGENCY: \_\_\_\_\_

3 CITY/PARISH OF ARREST: \_\_\_\_\_

4 FURTHER, that the above offense(s) for which this Certification issued was  
5 committed, in substantial part, as a result of the above-named being a victim of human  
6 trafficking, in accordance with R.S. 14:46.2.

7 FURTHER, this Certification shall be considered as prima facie evidence of the  
8 victim's status in similar eligible crimes committed within other Louisiana jurisdictions  
9 during the time period in which the above-named was a victim of human trafficking.

10 FURTHER, all applicable time delays pertaining to expungement contained in  
11 Louisiana Code of Criminal Procedure Articles 977 and 978 shall be waived when  
12 presented to the clerk of court with an application for expungement of the  
13 above-specified offense(s).

14 FURTHER, any application for expungement of the above-specified offense(s)  
15 shall be at no cost to the above-named victim.

16

17

18 \_\_\_\_\_

\_\_\_\_\_

19 DATE

DISTRICT ATTORNEY

20 PARISH OF \_\_\_\_\_

21 JUDICIAL DISTRICT

22 STATE OF LOUISIANA

23 Section 2. R.S. 14:46.2(A)(1), (C)(1) and (3)(b) and (f), and (D) are hereby amended  
24 and reenacted and R.S. 14:46.2(C)(3)(k) and (l) are hereby enacted to read as follows:

25 §46.2. Human trafficking

26 A. It shall be unlawful:

27 (1)(a) For any person to knowingly recruit, harbor, transport, provide, solicit,  
28 receive, isolate, entice, obtain, patronize, procure, purchase, hold, restrain,  
29 induce, threaten, subject, or maintain the use of another person through fraud,  
30 force, or coercion to provide services or labor.

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

10 \* \* \*

11 C. For purposes of this Section:

12 (1) "Commercial sexual activity" means any sexual act performed or  
 13 conducted when anything of value has been given, promised, or received by any  
 14 person, directly or indirectly, including the production of pornography.

15 \* \* \*

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

18 \* \* \*

19 (b) Physically restraining, isolating, confining, or threatening to physically  
 20 restrain, isolate, or confine another person.

21 \* \* \*

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

26 \* \* \*

27 (k) Exposing or threatening to expose any fact or information that would  
 28 subject an individual to criminal or immigration proceedings.

29 (l) Causing or threatening to cause financial harm to an individual or  
 30 using financial control over an individual.

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\* \* \*

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

\* \* \*

Section 3. This Act shall be known and may be cited as the "Michelle Johnson Act".

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

SENATE BILL NO. 64

BY SENATORS CONNICK AND BARROW AND REPRESENTATIVES CARRIER,  
HORTON, ILLG, THOMPSON AND VILLIO

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AN ACT

To amend and reenact R.S. 14:2(B)(8), (29) and (40), 41(B), 42(A)(6) and (C), 43.2(A)(1) and (2), 43.3(A)(1), 44.1(A)(3), 44.2(B)(2), and the introductory paragraph of 93.5(A) and (B), Code of Criminal Procedure Art. 814(A)(12), and Code of Evidence Art. 412.1, and to enact R.S. 14:41(D), and 42(A)(7) and Code of Criminal Procedure Art. 814(A)(69) and (70), relative to sex offenses; to provide relative to crimes of violence; to provide relative to the elements of certain sex offenses; to provide relative to certain evidence in sexual assault cases; to provide relative to responsive verdicts for certain sex offenses; to provide definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:2(B)(8), (29) and (40), 41(B), 42(A)(6) and (C), 43.2(A)(1) and (2), 43.3(A)(1), 44.1(A)(3), 44.2(B)(2), and the introductory paragraph of 93.5(A) and (B) are hereby amended and reenacted and R.S. 14:41(D) and 42(A)(7) are hereby enacted to read as follows:

§2. Definitions

\* \* \*

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 (8) Repealed by Acts 2017, No. 281, §3, eff. August 1, 2017 Aggravated  
2 kidnapping of a child.

3 \* \* \*

4 (29) Repealed by Acts 2017, No. 281, §3, eff. August 1, 2017 Molestation  
5 of a juvenile or a person with a physical or mental disability.

6 \* \* \*

7 (40) Repealed by Acts 2014, No. 602, §7, eff. June 12, 2014 Sexual battery  
8 of persons with infirmities.

9 \* \* \*

10 §41. Rape; defined

11 \* \* \*

12 B. Emission is not necessary, and any sexual penetration, when the rape  
13 involves vaginal or anal intercourse, whether the penetration is accomplished  
14 using the genitals of the offender or victim or using any instrumentality and  
15 however slight, is sufficient to complete the crime.

16 \* \* \*

17 D. For purposes of this Subpart, "anal sexual intercourse" and "vaginal  
18 sexual intercourse" mean the intentional engaging in any of the following acts  
19 with another person:

20 (1) The penetration of the victim's anus or vagina by the offender using  
21 the genitals of the offender.

22 (2) The penetration of the offender's anus or vagina by the victim using  
23 the genitals of the victim.

24 (3) The penetration of the victim's anus or vagina by the offender using  
25 any instrumentality, except that normal medical treatment or normal sanitary  
26 care shall not be construed as sexual intercourse under the provisions of this  
27 Section.

28 (4) The penetration of the offender's anus or vagina by the victim using  
29 any instrumentality except that normal medical treatment or normal sanitary  
30 care shall not be construed as sexual intercourse under the provisions of this



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Section.

\* \* \*

§42. First degree rape

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

\* \* \*

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

(7) When the offender commits the act when engaged in the perpetration or attempted perpetration of any violation of Subsubpart 3 of Subpart A of Part III of Chapter 1 of this Title, relative to burglary offenses.

\* \* \*

C. For purposes of this Section, "person with a disability" means a person with a mental, physical, or developmental disability that substantially impairs the person's ability to provide adequately for his or her own care or protection.

~~the following words have the following meanings:~~

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

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

\* \* \*

§43.2. Second degree sexual battery

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

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

1 (2) The touching of the anus or genitals of the offender by the victim using  
2 any instrumentality or any part of the body of the victim, **directly or through**  
3 **clothing.**

4 \* \* \*

5 §43.3. Oral sexual battery

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

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

12 \* \* \*

13 §44.1. Second degree kidnapping

14 A. Second degree kidnapping is the doing of any of the acts listed in  
15 Subsection B of this Section wherein the victim is any of the following:

16 \* \* \*

17 (3) Physically injured or sexually abused. **For the purposes of this**  
18 **Paragraph, "sexually abused" means that the victim was subjected to any sex**  
19 **offense as defined in R.S. 15:541.**

20 \* \* \*

21 §44.2. Aggravated kidnapping of a child

22 \* \* \*

23 B. \* \* \*

24 (2) Notwithstanding the provisions of Paragraph (1) of this Subsection, if the  
25 child is returned not physically injured or sexually abused, then the offender shall be  
26 punished in accordance with the provisions of R.S. 14:44.1. **For the purposes of this**  
27 **Paragraph, "sexually abused" means that the child was subjected to any sex**  
28 **offense as defined in R.S. 15:541.**

29 \* \* \*

30 §93.5. Sexual battery of persons with infirmities

1 A. Sexual battery of persons with infirmities is the intentional engaging in  
2 any of the sexual acts listed in Subsection B of this Section with another person,~~who~~  
3 ~~is not the spouse of the offender~~, when:

4 \* \* \*

5 B. For purposes of this Section, "sexual acts" mean either of the following:

6 (1) The touching of the anus or genitals of the victim by the offender using  
7 any instrumentality or any part of the body of the offender, **directly or through**  
8 **clothing.**

9 (2) The touching of the anus or genitals of the offender by the victim using  
10 any instrumentality or any part of the body of the victim, **directly or through**  
11 **clothing.**

12 \* \* \*

13 Section 2. Code of Criminal Procedure Art. 814(A)(12) is hereby amended and  
14 reenacted and (69) and (70) are hereby enacted to read as follows:

15 Art. 814. Responsive verdicts; in particular

16 A. The only responsive verdicts which may be rendered when the indictment  
17 charges the following offenses are:

18 \* \* \*

19 12. First degree rape (formerly titled aggravated rape) of a child under the age  
20 of thirteen:

21 Guilty.

22 Guilty of attempted first degree rape.

23 Guilty of second degree rape.

24 Guilty of attempted second degree rape.

25 Guilty of third degree rape.

26 Guilty of attempted third degree rape.

27 **Guilty of sexual battery of a child under the age of thirteen.**

28 **Guilty of attempted sexual battery of a child under the age of thirteen.**

29 Guilty of sexual battery.

30 **Guilty of attempted sexual battery.**

1                    Guilty of molestation of a juvenile or a person with a physical or mental  
2                    disability with a victim under the age of thirteen.

3                    Guilty of attempted molestation of a juvenile or a person with a physical  
4                    or mental disability with a victim under the age of thirteen.

5                    Guilty of molestation of a juvenile or a person with a physical or mental  
6                    disability.

7                    Guilty of attempted molestation of a juvenile or a person with a physical or  
8                    mental disability.

9                    Guilty of indecent behavior with a juvenile with a victim under the age  
10                   of thirteen.

11                   Guilty of attempted indecent behavior with a juvenile with a victim  
12                   under the age of thirteen.

13                   Guilty of indecent behavior with a juvenile.

14                   Guilty of attempted indecent behavior with a juvenile.

15                   Not guilty.

16                   \*           \*           \*

17                   69. Second Degree Kidnapping When Victim is Sexually Abused:

18                   Guilty.

19                   Guilty of attempted second degree kidnapping.

20                   Guilty of any predicate sex offense or offenses alleged in the indictment  
21                   or bill of information.

22                   Not guilty.

23                   70. Aggravated Kidnapping of a Child When Victim is Sexually Abused:

24                   Guilty.

25                   Guilty of attempted aggravated kidnapping of a child.

26                   Guilty of any predicate sex offense or offenses alleged in the indictment.

27                   Not guilty.

28                   \*           \*           \*

29                   Section 3. Code of Evidence Art. 412.1 is hereby amended and reenacted to read as  
30 follows:

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

1 Art. 412.1. Victim's attire in sexual assault cases

2 A. When an accused is charged with a crime involving sexually assaultive  
3 behavior, or with acts that constitute a sex offense involving a victim who was  
4 under the age of seventeen at the time of the offense, ~~the crime of aggravated or~~  
5 ~~first degree rape, forcible or second degree rape, simple or third degree rape, sexual~~  
6 ~~battery, or second degree sexual battery,~~ the manner and style of the victim's attire  
7 shall not be admissible as evidence that the victim encouraged or consented to the  
8 offense; however, items of clothing or parts thereof may be introduced in order to  
9 establish the presence or absence of the elements of the offense and the proof of its  
10 occurrence.

11 B. The rules of admissibility of evidence provided by this Article shall also  
12 apply to civil actions brought by the victim which are alleged to arise from ~~the~~  
13 ~~crimes of aggravated or first degree rape, forcible or second degree rape, simple or~~  
14 ~~third degree rape, sexual battery, or second degree sexual battery~~ any crime  
15 referenced in Paragraph A of this Article committed by the defendant, whether  
16 or not convicted of such crimes.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

# ACT No. 202

2022 Regular Session

HOUSE BILL NO. 64

BY REPRESENTATIVE LANDRY

1 AN ACT

2 To amend and reenact Children's Code Articles 323(2)(a), 324(B), and 1103(3), Code of  
3 Criminal Procedure Article 571.1, and R.S. 15:440.2(C)(1), relative to the definition  
4 of a child; to provide in certain contexts that a child is a person under the age of  
5 eighteen years; to provide for definitions; to provide for the videotaping of  
6 statements; to provide for time limitations for certain sex offenses; and to provide for  
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Children's Code Articles 323(2)(a), 324(B), and 1103(3) are hereby  
10 amended and reenacted to read as follows:

11 Art. 323. Definitions

12 \* \* \*

13 (2) "Protected person" means any person who is a victim of a crime or a  
14 witness in a juvenile proceeding and who either:

15 (a) Is under the age of ~~seventeen~~ eighteen years.

16 \* \* \*

17 Art. 324. Authorization

18 \* \* \*

19 B. The coroner may, in conjunction with the district attorney and appropriate  
20 hospital personnel and pursuant to their duties in R.S. 40:2109.1 and R.S. 40:2113.4,  
21 provide for the videotaping of the statements of children under the age of ~~seventeen~~

1 eighteen who present themselves or who are brought to a hospital for treatment as  
2 victims of rape or who have been otherwise physically or sexually abused.

3 \* \* \*

4 Art. 1103. Definitions

5 As used in this Title:

6 \* \* \*

7 (3) "Child" means a person under ~~seventeen~~ eighteen years of age and not  
8 emancipated by marriage.

9 \* \* \*

10 Section 2. Code of Criminal Procedure Article 571.1 is hereby amended and  
11 reenacted to read as follows:

12 Art. 571.1. Time limitation for certain sex offenses

13 Except as provided by Article 572 of this Chapter, the time within which to  
14 institute prosecution of the following sex offenses, regardless of whether the crime  
15 involves force, serious physical injury, death, or is punishable by imprisonment at  
16 hard labor shall be thirty years: attempted first degree rape, also formerly titled  
17 aggravated rape (R.S. 14:27, R.S. 14:42), attempted second degree rape, also  
18 formerly titled forcible rape (R.S. 14:27, R.S. 14:42.1), sexual battery (R.S. 14:43.1),  
19 second degree sexual battery (R.S. 14:43.2), oral sexual battery (R.S. 14:43.3),  
20 human trafficking (R.S. 14:46.2(B)(2) or (3)), trafficking of children for sexual  
21 purposes (R.S. 14:46.3), felony carnal knowledge of a juvenile (R.S. 14:80), indecent  
22 behavior with juveniles (R.S. 14:81), pornography involving juveniles (R.S.  
23 14:81.1), molestation of a juvenile or a person with a physical or mental disability  
24 (R.S. 14:81.2), prostitution of persons under eighteen (R.S. 14:82.1), enticing  
25 persons into prostitution (R.S. 14:86), crime against nature (R.S. 14:89), aggravated  
26 crime against nature (R.S. 14:89.1), crime against nature by solicitation (R.S.  
27 14:89.2(B)(3)), that involves a victim under ~~seventeen~~ eighteen years of age. This  
28 thirty-year period begins to run when the victim attains the age of eighteen.

1 Section 3. R.S. 15:440.2(C)(1) is hereby amended and reenacted to read as follows:

2 §440.2. Authorization

3 \* \* \*

4 C. For purposes of this Part "protected person" means any person who is a  
5 victim of a crime or a witness in a criminal proceeding and who is any of the  
6 following:

7 (1) Under the age of ~~seventeen~~ eighteen years.

8 \* \* \*

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_



**ACT No. 219**

2022 Regular Session

HOUSE BILL NO. 443

BY REPRESENTATIVE MAGEE

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 875.1, relative to the financial  
3 obligations for criminal offenders; to provide relative to the payment of fines, fees,  
4 costs, restitution, and other monetary obligations related to an offender's conviction;  
5 to require the court to determine the offender's ability to pay the financial obligations  
6 imposed; to authorize the court to waive, modify, or create a payment plan for the  
7 offender's financial obligations; to provide relative to the recovery of uncollected  
8 monetary obligations at the end of a probation period; and to provide for related  
9 matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Code of Criminal Procedure Article 875.1 is hereby amended and  
12 reenacted to read as follows:

13 Art. 875.1. Determination of substantial financial hardship to the defendant

14 A. The purpose of imposing financial obligations on an offender who is  
15 convicted of a criminal offense is to hold the offender accountable for his action, to  
16 compensate victims for any actual pecuniary loss or costs incurred in connection  
17 with a criminal prosecution, to defray the cost of court operations, and to provide  
18 services to offenders and victims. These financial obligations should not create a  
19 barrier to the offender's successful rehabilitation and reentry into society. Financial  
20 obligations in excess of what an offender can reasonably pay undermine the primary  
21 purpose of the justice system which is to deter criminal behavior and encourage  
22 compliance with the law. Financial obligations that cause undue hardship on the  
23 offender should be waived, modified, or forgiven. Creating a payment plan for the  
24 offender that is based upon the ability to pay, results in financial obligations that the

1 offender is able to comply with and often results in more money collected.  
2 Offenders who are consistent in their payments and in good faith try to fulfill their  
3 financial obligations should be rewarded for their efforts.

4 B. For purposes of this Article, "financial obligations" shall include any fine,  
5 fee, cost, restitution, or other monetary obligation authorized by this Code or by the  
6 Louisiana Revised Statutes of 1950 and imposed upon the defendant as part of a  
7 criminal sentence, incarceration, or as a condition of the defendant's release on  
8 probation or parole.

9 C.(1) Notwithstanding any provision of law to the contrary, prior to ordering  
10 the imposition or enforcement of any financial obligations as defined by this Article,  
11 the court shall conduct a hearing to determine whether payment in full of the  
12 aggregate amount of all the financial obligations to be imposed upon the defendant  
13 would cause substantial financial hardship to the defendant or his dependents. The  
14 court may consider, among other factors, whether any victim of the crime has  
15 incurred a substantial financial hardship as a result of the criminal act or acts and  
16 whether the defendant is employed. The court may delay the hearing to determine  
17 substantial financial hardship for a period not to exceed ninety days, in order to  
18 permit either party to submit relevant evidence.

19 (2) The defendant or the court may ~~not~~ waive the judicial determination of  
20 a substantial financial hardship required by the provisions of this Paragraph. If the  
21 court waives the hearing on its own motion, the court shall provide reasons, entered  
22 upon the record, for its determination that the defendant is capable of paying the  
23 finances, fees, and penalties imposed without causing a substantial financial hardship.

24 D.(1) If the court determines that payment in full of the aggregate amount  
25 of all financial obligations imposed upon the defendant would cause substantial  
26 financial hardship to the defendant or his dependents, the court shall do either of the  
27 following:

28 (a) Waive all or any portion of the financial obligations, except as provided  
29 in Paragraph E of this Article.

1 (b) Order a payment plan that requires the defendant to make a monthly  
2 payment to fulfill the financial obligations.

3 (2)(a) The amount of each monthly payment for the payment plan ordered  
4 pursuant to the provisions of Subsubparagraph (1)(b) of this Paragraph shall be ~~equal~~  
5 ~~to the defendant's average gross daily income for an eight-hour work day determined~~  
6 by the court after considering all relevant factors, including but not limited to the  
7 defendant's average gross daily income for an eight-hour work day.

8 (b) If the court has ordered restitution, half of the defendant's monthly  
9 payment shall be distributed toward the defendant's restitution obligation.

10 (c) ~~During~~ Except as provided in Paragraph E of this Article, during any  
11 periods of unemployment, homelessness, or other circumstances in which the  
12 defendant is unable to make the monthly payment, the court or the defendant's  
13 probation and parole officer is authorized to impose a payment alternative, including  
14 but not limited to ~~any of the following~~: substance abuse treatment, education, job  
15 training, or community service.

16 (3) If, after the initial determination of the defendant's ability to fulfill his  
17 financial obligations, the defendant's circumstances and ability to pay his financial  
18 obligations change, the state, the defendant or ~~his~~ the defendant's attorney may file  
19 a motion with the court to reevaluate the defendant's circumstances and determine,  
20 in the same manner as the initial determination, whether ~~under the defendant's~~  
21 ~~current circumstances payment in full of the aggregate amount of all the financial~~  
22 ~~obligations imposed upon the defendant would cause substantial financial hardship~~  
23 ~~to the defendant or his dependents. Upon such motion, if the court determines that~~  
24 ~~the defendant's current circumstances would cause substantial financial hardship to~~  
25 ~~the defendant or his dependents, the court may either waive or modify the~~  
26 ~~defendant's financial obligation, or recalculate the amount of the monthly payment~~  
27 ~~made by the defendant under the payment plan set forth in Subsubparagraph (1)(b)~~  
28 ~~of this Paragraph~~ a modification of the monthly financial obligation imposed  
29 pursuant to this Section is appropriate under the circumstances.

1           E. ~~If a defendant is ordered to make monthly payments under a payment plan~~  
 2           ~~established pursuant to the provisions of Subsubparagraph (D)(1)(b) of this Article,~~  
 3           ~~the defendant's outstanding financial obligations resulting from his criminal~~  
 4           ~~conviction are forgiven and considered paid-in-full if the defendant makes consistent~~  
 5           ~~monthly payments for either twelve consecutive months or consistent monthly~~  
 6           ~~payments for half of the defendant's term of supervision, whichever is longer~~  
 7           Notwithstanding any other provision of this Article or any other provision of law to  
 8           the contrary, a court may not waive nor forgive restitution due to a crime victim  
 9           unless the victim to whom restitution is due consents to such an action.

10           F. If, at the termination or end of the defendant's term of supervision, any  
 11           restitution ordered by the court remains outstanding, the balance of the unpaid  
 12           restitution shall be reduced to a civil money judgment in favor of the person to whom  
 13           restitution is owed, ~~which may be enforced in the same manner as provided for the~~  
 14           ~~execution of judgments pursuant to the Code of Civil Procedure~~ which may be  
 15           enforced in the same manner as provided for the execution of judgments in the  
 16           Louisiana Code of Civil Procedure. For any civil money judgment ordered under  
 17           this Article, the clerk shall send notice of the judgment to the last known address of  
 18           the person to whom the restitution is ordered to be paid.

19           G. The provisions of this Article shall apply only to defendants convicted of  
 20           offenses classified as felonies under applicable law.

21           Section 2. Notwithstanding Section 5(A) of Act No. 313 of the 2021 Regular Session  
 22           of the Legislature, Sections 1 and 2 of that Act shall not become effective.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

**ACT No. 384**

2022 Regular Session

HOUSE BILL NO. 361

BY REPRESENTATIVE MARINO

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 161(A)(introductory paragraph)  
3 and 163(C) and to enact Code of Criminal Procedure Article 163.2, relative to search  
4 warrants; to provide relative to search warrants for medical records; to authorize the  
5 issuance of a search warrant for medical records of any person; to provide for  
6 procedures for the execution of such warrants; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Articles 161(A)(introductory paragraph) and  
9 163(C) are hereby amended and reenacted and Code of Criminal Procedure Article 163.2 is  
10 hereby enacted to read as follows:

11 Art. 161. Property subject to seizure

12 A. Except as authorized by Article 163.1 or 163.2, a judge may issue a  
13 warrant authorizing the search for and seizure of any thing within the territorial  
14 jurisdiction of the court which:

15 \* \* \*

16 Art. 163. Officer to whom directed; time for execution; electronic devices

17 \* \* \*

18 C. Except as authorized by Article 163.1 or 163.2, or as otherwise provided  
19 in this Article, or as otherwise provided by law, a search warrant cannot be lawfully  
20 executed after the expiration of the tenth day after its issuance.

21 \* \* \*

1           Art. 163.2. Search warrant for medical records

2                   A. A judge may issue a search warrant authorizing the search for and seizure  
3                   of the medical records of any person.

4                   B. The warrant may be issued by a judge of either the court of territorial  
5                   jurisdiction where the investigation for the medical records is being conducted or the  
6                   court of territorial jurisdiction where the custodian of the medical records may be  
7                   found. The warrant may be executed in any place the medical records may be found  
8                   and shall be directed to any peace officer who shall obtain and distribute the medical  
9                   records as directed in the warrant.

10                  C. A warrant issued pursuant to this Article remains in effect for one  
11                  hundred eighty days after its issuance.

12                  D.(1) Any examination of any medical records seized pursuant to the  
13                  provisions of this Article shall be at the direction of the attorney general, the district  
14                  attorney, or the investigating agency.

15                  (2) Notwithstanding any other provision of law to the contrary, any  
16                  examination of the medical records may be conducted at any time before or during  
17                  the pendency of any criminal proceeding in which the medical records may be used  
18                  as evidence.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

# ACT No. 391

2022 Regular Session

HOUSE BILL NO. 726

BY REPRESENTATIVE LYONS

1 AN ACT

2 To enact Code of Criminal Procedure Article 875.1(H), relative to the financial obligations  
3 for criminal offenders; to provide relative to incarceration; and to provide for related  
4 matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 875.1(H) is hereby enacted to read  
7 as follows:

8 Art. 875.1. Determination of substantial financial hardship to the defendant

9 \* \* \*

10 H. Notwithstanding any provision of this Article or any other law to the  
11 contrary, if the financial obligations imposed upon a defendant would cause  
12 substantial financial hardship to the defendant or his dependents, the court shall not  
13 order that the defendant be incarcerated for his inability to meet those financial  
14 obligations. This provision shall apply to defendants convicted of traffic offenses,  
15 misdemeanor offenses, or felonies under applicable law.

16 Section 2. Notwithstanding Section 5(A) of Act No. 313 of the 2021 Regular Session  
17 of the Legislature, Sections 1 and 2 of that Act shall not become effective.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

# ACT No. 446

2022 Regular Session  
HOUSE BILL NO. 200

BY REPRESENTATIVE BROWN

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 833(B) and (C)(introductory  
3 paragraph), relative to the presence of the defendant; to provide relative to the  
4 presence of the defendant in misdemeanor prosecutions; to require the court to allow  
5 a plea of not guilty by the filing of a sworn affidavit in advance of the scheduled  
6 arraignment date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 833(B) and (C)(introductory  
9 paragraph) are hereby amended and reenacted to read as follows:

10 Art. 833. Presence of defendant; misdemeanor prosecution

11 \* \* \*

12 B.(1) A plea of not guilty of a misdemeanor ~~shall~~ may be allowed to be  
13 entered through counsel of record.

14 (2) and in A plea of not guilty of a misdemeanor shall be allowed to be  
15 entered through counsel of record in the absence of the defendant by the filing of a  
16 sworn affidavit in advance of the scheduled arraignment date.

17 C. The sworn affidavit referenced in ~~Paragraph B~~ Subparagraph (B)(2) of  
18 this Article shall include the caption of the case and summons number, citation  
19 number or docket number as applicable, and state as follows:

20 \* \* \*

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_



**ACT No. 473**

2022 Regular Session

HOUSE BILL NO. 629

BY REPRESENTATIVE BRYANT

1 AN ACT

2 To enact Code of Criminal Procedure Article 162.4, relative to search warrants; to provide  
3 relative to a search without a warrant; to prohibit the search without a warrant of a  
4 person's residence based on the odor of marijuana; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 162.4 is hereby enacted to read as  
7 follows:

8 Art. 162.4. Search of a person's place of residence; odor of marijuana

9 Notwithstanding any provision of law to the contrary, the odor of marijuana  
10 alone shall not provide a law enforcement officer with probable cause to conduct a  
11 search without a warrant of a person's place of residence.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

**ACT No. 484**

2022 Regular Session

HOUSE BILL NO. 585

BY REPRESENTATIVE FREEMAN

1 AN ACT

2 To enact Code of Criminal Procedure Article 1005, relative to firearm data collection; to  
3 provide for required reporting of aggregate firearm transfer data to the Louisiana  
4 Commission on Law Enforcement and Administration of Criminal Justice; to provide  
5 for the creation of a standardized form used to report aggregate data fields; to  
6 provide for submission of forms; to provide for submission dates; to provide for  
7 publication of data; to provide for a report; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Article 1005 is hereby enacted to read as  
10 follows:

11 Art. 1005. Transfer of firearms; aggregate data collection and reporting

12 A.(1) The sheriff of each parish shall report on an annual basis to the  
13 Louisiana Commission on Law Enforcement and Administration of Criminal Justice  
14 the following aggregate data:

15 (a) The total number of civil orders to transfer firearms received by the  
16 sheriff's office pursuant to Article 1002(C)(3).

17 (b) The total number of criminal orders to transfer firearms received by the  
18 sheriff's office pursuant to Article 1002(C)(3).

19 (c) The total number of proof of transfer forms completed and retained by  
20 the sheriff's office as required by Article 1002(D)(1).

21 (d) The total number of declarations of non-possession received by the  
22 sheriff's office pursuant to Article 1002(E)(1).

- 1                    (e) The number of firearm transfers completed as required by Article 1002
- 2                    including:
- 3                    (i) The total number of firearms transferred to the sheriff's office.
- 4                    (ii) The total number of firearms transferred to a third-party entity.
- 5                    (iii) The total number of firearms transferred to contracted storage.
- 6                    (iv) The total number of firearms transferred via legal sale.
- 7                    (f) The number of orders received from the court stating that firearms shall
- 8                    be returned to the transferor pursuant to Article 1003(D)(2).
- 9                    (2) The sheriff shall submit a report to the Louisiana Commission on Law
- 10                   Enforcement and Administration of Criminal Justice regardless of whether the
- 11                   sheriff is able to complete a firearm transfer pursuant to Subparagraph (1) of this
- 12                   Paragraph.
- 13                   B. Not later than January 1, 2023, the Louisiana Commission on Law
- 14                   Enforcement and Administration of Criminal Justice shall create and distribute a
- 15                   standardized form for use by the sheriff of each parish to use to report all aggregate
- 16                   data fields required by Paragraph A of this Article. The form shall not contain any
- 17                   identifying information of the person who possesses the firearm and shall only
- 18                   contain numerical data provided in Paragraph A of this Article.
- 19                   C. The Louisiana Commission on Law Enforcement and Administration of
- 20                   Criminal Justice shall identify a single point of contact or web portal to which each
- 21                   sheriff shall submit the completed form created pursuant to Paragraph B of this
- 22                   Article.
- 23                   D. The sheriff of each parish shall submit the completed form to the
- 24                   Louisiana Commission on Law Enforcement and Administration of Criminal Justice
- 25                   no later than January thirty-first of each calendar year. Each form shall contain the
- 26                   aggregate data for each of the items listed in Paragraph A of this Article for the prior
- 27                   calendar year.
- 28                   E. The Louisiana Commission on Law Enforcement and Administration of
- 29                   Criminal Justice shall publish the data collected from the sheriff of each parish

1           pursuant to Paragraph D of this Article to the commission's public website by  
2           February twenty-eighth of each calendar year.

3                   F. The Louisiana Commission on Law Enforcement and Administration of  
4           Criminal Justice shall submit a report containing the information received pursuant  
5           to Paragraph D of this Article to the House Committee on Administration of  
6           Criminal Justice and the Senate Committee on Judiciary C no later than March first  
7           of each calendar year.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

**ACT No. 493**

2022 Regular Session

HOUSE BILL NO. 706

BY REPRESENTATIVE STEFANSKI

1 AN ACT

2 To amend and reenact R.S. 14:40.1 and 107.2(A) and to enact Code of Criminal Procedure  
3 Article 814(A)(69), relative to the crime of terrorizing; to create the crime of  
4 menacing; to provide for penalties; to provide relative to hate crimes; to add the  
5 crime of menacing to the list of hate crimes; to provide for responsive verdicts; and  
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:40.1 and 107.2(A) are hereby amended and reenacted to read as  
9 follows:

10 §40.1. Terrorizing; menacing

11 A.(1) Terrorizing is the intentional communication of information that the  
12 commission of a crime of violence is imminent or in progress or that a circumstance  
13 dangerous to human life exists or is about to exist, with the intent of causing  
14 members of the general public to be in sustained fear for their safety; or causing  
15 evacuation of a building, a public structure, or a facility of transportation; or causing  
16 other serious disruption to the general public.

17 ~~B.(2) It shall be an affirmative defense that the person communicating the~~  
18 ~~information provided for in Subsection A of this Section was not involved in the~~  
19 ~~commission of a crime of violence or creation of a circumstance dangerous to human~~  
20 ~~life and reasonably believed his actions were necessary to protect the welfare of the~~  
21 ~~public. Whoever commits the offense of terrorizing shall be fined not more than~~  
22 ~~fifteen thousand dollars or imprisoned with or without hard labor for not more than~~  
23 ~~fifteen years, or both.~~

24 ~~C.B.(1) Whoever commits the offense of terrorizing shall be fined not more~~  
25 ~~than fifteen thousand dollars or imprisoned with or without hard labor for not more~~

1 ~~than fifteen years, or both.~~ Menacing is the intentional communication of  
2 information that the commission of a crime of violence, as defined in R.S. 14:2(B),  
3 is imminent or in progress or that a circumstance dangerous to human life exists or  
4 is about to exist, when committed under any of the following circumstances:

5 (a) The actions of the offender cause members of the general public to be in  
6 sustained fear for their safety, and a reasonable person would have known that such  
7 actions could cause such sustained fear.

8 (b) The actions of the offender cause the evacuation of a building, a public  
9 structure, or a facility of transportation, and a reasonable person would have known  
10 that such actions could cause an evacuation.

11 (c) The actions of the offender cause any other serious disruption to the  
12 general public, and a reasonable person would have known that such actions could  
13 cause serious disruption to the general public.

14 (2) Whoever commits the offense of menacing shall be fined not more than  
15 one thousand dollars or imprisoned with or without hard labor for not more than two  
16 years, or both.

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

22 \* \* \*

23 §107.2. Hate crimes

24 A. It shall be unlawful for any person to select the victim of the following  
25 offenses against person and property because of actual or perceived race, age,  
26 gender, religion, color, creed, disability, sexual orientation, national origin, or  
27 ancestry of that person or the owner or occupant of that property or because of actual  
28 or perceived membership or service in, or employment with, an organization, or  
29 because of actual or perceived employment as a law enforcement officer, firefighter,  
30 or emergency medical services personnel: first or second degree murder;



# ACT No. 494

HOUSE BILL NO. 729

BY REPRESENTATIVES DUPLESSIS, BOYD, BRASS, BRYANT, WILFORD  
CARTER, FISHER, FREEMAN, GAINES, GREEN, HUGHES, JEFFERSON,  
JENKINS, TRAVIS JOHNSON, JORDAN, LANDRY, LARVADAIN, LYONS,  
MARCELLE, NEWELL, PIERRE, SELDERS, STAGNI, AND WILLARD

1 AN ACT

2 To amend and reenact R.S. 44:4.1(B)(38) and to enact Code of Criminal Procedure Article  
3 234, relative to photo identification of an arrested person; to provide for a public  
4 records exception; to provide for definitions; to provide relative to the duty of law  
5 enforcement; to provide relative to submission of requests; to provide for criminal  
6 liability; to provide relative to time periods; to provide relative to attorney fees; to  
7 provide for applicability; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 44:4.1(B)(38) is hereby amended and reenacted to read as follows:

10 §4.1. Exceptions

11 B. The legislature further recognizes that there exist exceptions, exemptions,  
12 and limitations to the laws pertaining to public records throughout the revised  
13 statutes and codes of this state. Therefore, the following exceptions, exemptions, and  
14 limitations are hereby continued in effect by incorporation into this Chapter by  
15 citation:

16 \* \* \*

17 (38) Code of Criminal Procedure Articles 103, 234, 877, 894, Title XXXIV  
18 of the Code of Criminal Procedure comprised of Articles 971 through 995, Title  
19 XXXV of the Code of Criminal Procedure comprised of Articles 1001 through 1004

20 \* \* \*



1           Section 2. Code of Criminal Procedure Article 234 is hereby enacted to read as  
 2 follows:

3           Art. 234. Booking photographs

4                     A. As used in this Article:

5                             (1) "Booking photograph" means a photograph or still, non-video image of  
 6 an individual generated by a law enforcement agency for identification purposes  
 7 after arrest or while in the agency's custody.

8                             (2) "Remove-for-pay publication or website" means a publication that  
 9 requires the payment of a fee or other valuable consideration in order to remove or  
 10 delete a booking photograph from the publication or which utilizes the publication  
 11 of booking photographs for profit or to obtain advertising revenue.

12                            B. Except as provided in this Article, a law enforcement officer or agency  
 13 shall not provide a copy of a booking photograph in any format to a person  
 14 requesting a copy of that photograph.

15                            C.(1) No law enforcement officer or agency shall publish, release, or  
 16 disseminate in any format a booking photograph to the public or to a private person  
 17 or entity unless any of the following occurs:

18                                     (a) The individual is a fugitive, and a law enforcement officer or agency  
 19 determines that releasing or disseminating the booking photograph will assist in  
 20 apprehending the individual.

21                                     (b) A law enforcement officer or agency determines that the individual is an  
 22 imminent threat to an individual or to public safety and determines that releasing or  
 23 disseminating the booking photograph will assist in reducing or eliminating the  
 24 threat.

25                                     (c) A judge of a court of competent jurisdiction orders the release or  
 26 dissemination of the booking photograph based on a finding that the release or  
 27 dissemination is in furtherance of a legitimate interest.

28                                     (d) The individual is convicted of or pleads guilty or nolo contendere to a  
 29 crime, lesser crime, or lesser included offense as defined in Article 558 in response

1 to the same crime for which he was arrested or if there is criminal litigation related  
2 to the same crime that is pending or reasonably anticipated.

3 (e) The individual is charged with a crime of violence as defined in R.S.  
4 14:2(B), except stalking, or charged with any of the following offenses:

5 (i) Sex offenses as defined in R.S. 15:541.

6 (ii) Human trafficking offenses as defined in R.S. 14:46.2 and 46.3.

7 (iii) Offenses affecting the health and morals of minors, R.S. 14:91 et seq.

8 (iv) Offenses affecting the health and safety of person with infirmities,  
9 R.S.14:93.3 et seq.

10 (v) Video voyeurism.

11 (vi) Cruelty to animals.

12 (vii) Dogfighting.

13 (2) Notwithstanding the provisions of Subparagraph (1) of this Paragraph,  
14 a law enforcement officer or agency shall provide a copy of a booking photograph  
15 to the individual who is the subject of the booking photograph or to the counsel of  
16 record for the individual upon request.

17 (3) A booking photograph published, released, or disseminated by a law  
18 enforcement officer or agency, except after the subject of the booking photograph  
19 being found guilty or pleading guilty or nolo contendere as provided in  
20 Subsubparagraph (B)(1)(d) of this Paragraph, shall include a disclaimer that states  
21 "all persons are presumed innocent until proven guilty".

22 (4) No law enforcement agency or employee thereof shall be subject to civil  
23 action or be held liable when the publication, release, or dissemination was made by  
24 mistake of fact or error, or was inadvertent and made in good faith.

25 D. The publication of a booking photograph of a Louisiana resident  
26 constitutes minimum contact with the state and by doing so, the party shall be subject  
27 to the jurisdiction of Louisiana courts.

28 E.(1) A remove-for-pay publication or website shall remove and destroy a  
29 booking photograph of an individual who submits a request for removal and

1           destruction within seven calendar days from the day that the individual makes the  
2           request if both of the following conditions exist:

3                   (a) The individual in the booking photograph was acquitted of the criminal  
4                   charge or not prosecuted, or the individual had the criminal charge expunged,  
5                   vacated, or pardoned.

6                   (b) The individual submits, in relation to the request, evidence of a  
7                   disposition described in Subsubparagraph (1)(a) of this Paragraph.

8                   (2)(a) A remove-for-pay publication or website shall not require payment for  
9                   removal or destruction of the booking photograph.

10                   (b) Any remove-for-pay publication or website that seeks any fee or other  
11                   valuable consideration for the removal or destruction of a booking photograph shall  
12                   be subject to prosecution under R.S. 14:66.

13                   (2) If the remove-for-pay publication or website does not remove and destroy  
14                   the booking photograph, the remove-for-pay publication or website shall be liable  
15                   for all costs, including reasonable attorney fees, resulting from any legal action that  
16                   the individual brings in relation to the failure of the remove-for-pay publication or  
17                   remove-for-pay website to remove and destroy the booking photograph.

18           Section 3. This Act shall become effective upon signature by the governor or, if not  
19           signed by the governor, upon expiration of the time for bills to become law without signature  
20           by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
21           vetoed by the governor and subsequently approved by the legislature, this Act shall become  
22           effective on the day following such approval.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

SENATE BILL NO. 396

BY SENATOR MORRIS

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AN ACT

To amend and reenact Code of Criminal Procedure Art. 331(A)(1), relative to bail; to provide relative to bail obligations after a conviction; to provide relative to the rights of the district attorney; to provide relative to the obligations owed at the time of conviction; to provide relative to a judgment of bond forfeiture; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 331(A)(1) is hereby amended and reenacted to read as follows:

Art. 331. Discharge of bail obligation

A.(1) Upon conviction in any case, the bail undertaking shall cease and the surety shall be relieved of all obligations under the bail undertaking **by operation of law without the need to file a motion or other pleading. The provisions of this Subparagraph shall not prejudice the state's right to obtain a judgment of bond forfeiture after the elapse of one hundred eighty days following the execution of the certificate that notice of warrant for arrest was sent pursuant to Code of Criminal Procedure Article 334.**

\* \* \*

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

# ACT No. 615

2022 Regular Session

HOUSE BILL NO. 282

BY REPRESENTATIVE MARINO

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AN ACT

To amend and reenact R.S. 13:5304(B)(3)(b) and Code of Criminal Procedure Article 893(B)(3), relative to probation programs; to provide relative to the probation period for certain defendants who participate in a drug division probation program; to provide relative to the supervision of defendants on probation in specialty court programs; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 13:5304(B)(3)(b) is hereby amended and reenacted to read as follows:

§5304. The drug division probation program

\* \* \*

B. Participation in probation programs shall be subject to the following provisions:

\* \* \*

(3) In offering a defendant the opportunity to request treatment, the court shall advise the defendant of the following:

\* \* \*

(b) If the defendant requests to undergo treatment and is accepted, the defendant will be placed under the supervision of the drug division probation program for a period of determined by the court, except that the probation period for a defendant convicted of a violation of R.S. 14:98, 98.1, 98.2, or 98.3 shall not be less than twelve months.

\* \* \*

1 Section 2. Code of Criminal Procedure Article 893(B)(3) is hereby amended and  
2 reenacted to read as follows:

3 Art. 893. Suspension and deferral of sentence and probation in felony cases

4 \* \* \*

5 B.

6 \* \* \*

7 (3) When suspension is allowed under this Paragraph, the defendant shall be  
8 placed on probation under the supervision of the division of probation and parole.  
9 If the defendant has been sentenced to complete a specialty court program as  
10 provided in Subsubparagraph (2)(b) of this Paragraph, the defendant may be placed  
11 on probation under the supervision of a probation office, agency, or officer  
12 designated by the court, other than the division of probation and parole of the  
13 Department of Public Safety and Corrections. The period of probation shall be  
14 specified and shall not be more than three years, except as provided in Paragraph G  
15 of this Article. The suspended sentence shall be regarded as a sentence for the  
16 purpose of granting or denying a new trial or appeal.

17 \* \* \*

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

# ACT No. 621

2022 Regular Session

HOUSE BILL NO. 409

BY REPRESENTATIVE MARINO

1 AN ACT

2 To enact Code of Criminal Procedure Article 211(E), relative to summons by an officer  
3 instead of arrest and booking; to provide an exception to the issuance of a summons  
4 by an officer instead of arrest and booking when certain domestic violence crimes  
5 have occurred; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 211(E) is hereby enacted to read as  
8 follows:

9 Art. 211. Summons by officer instead of arrest and booking

10 \* \* \*

11 E. The provisions of this Article shall not apply when the officer has  
12 reasonable grounds to believe a person committed the offense of domestic abuse  
13 battery, battery of a dating partner, violation of a protective order, stalking, or any  
14 other offense involving the use or threatened use of force or a deadly weapon upon  
15 the defendant's family members, as defined in R.S. 46:2132, upon the defendant's  
16 household member, as defined in R.S. 14:35.3, or upon the defendant's dating  
17 partner, as defined in R.S. 46:2151.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_