2022 Updates to the Louisiana Criminal Code

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§2. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Solicitation for murder.

(2) First degree murder.

(3) Second degree murder.

(4) Manslaughter.

(5) Aggravated battery.

(6) Second degree battery.

(7) Aggravated assault.
(8) Aggravated kidnapping of a child.
(9) Aggravated or first degree rape.
(10) Forcible or second degree rape.
(11) Simple or third degree rape.
(12) Sexual battery.
(13) Second degree sexual battery.
(14) Intentional exposure to AIDS virus.
(15) Aggravated kidnapping.
(16) Second degree kidnapping.
(17) Simple kidnapping.
(18) Aggravated arson.
(19) Aggravated criminal damage to property.
(20) Aggravated burglary.
(21) Armed robbery.
(22) First degree robbery.
(23) Simple robbery.
(24) Purse snatching.
(25) False imprisonment; offender armed with dangerous weapon.
(26) Assault by drive-by shooting.
(27) Aggravated crime against nature.
(28) Carjacking.
(29) Molestation of a juvenile or a person with a physical or mental disability.
(30) Terrorism.
(31) Aggravated second degree battery.
(32) Aggravated assault upon a peace officer.
(33) Aggravated assault with a firearm.
(34) Armed robbery; use of firearm; additional penalty.
(35) Second degree robbery.
(36) Disarming of a peace officer.
(37) Stalking.
(38) Second degree cruelty to juveniles.
(39) Aggravated flight from an officer.
(40) Sexual battery of persons with infirmities.
(41) Battery of a police officer.
(42) Trafficking of children for sexual purposes.
(43) Human trafficking.
(44) Home invasion.
(45) Domestic abuse aggravated assault.
(46) Vehicular homicide, when the operator's blood alcohol concentration exceeds 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood.
(47) Aggravated assault upon a dating partner.
(48) Domestic abuse battery punishable under R.S. 14:35.3(L), (M)(2), (N), (O), or (P).
(49) Battery of a dating partner punishable under R.S. 14:34.9(L), (M)(2), (N), (O), or (P).
(50) Violation of a protective order punishable under R.S. 14:79(C).
(51) Criminal abortion.

(52) First degree feticide.

(53) Second degree feticide.

(54) Third degree feticide.

(55) Aggravated abortion by dismemberment.

(56) Battery of emergency room personnel, emergency services personnel, or a healthcare professional.

(57) Possession of a firearm or carrying of a concealed weapon by a person convicted of certain felonies in violation of R.S. 14:95.1(D).

(58) Distribution of fentanyl or carfentanil punishable under R.S. 40:967(B)(4)(b).

(59) Distribution of heroin punishable under R.S. 40:966(B)(3)(b).

C. For purposes of this Title, "serious bodily injury" means bodily injury which involves unconsciousness; extreme physical pain; protracted and obvious disfigurement; protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or a substantial risk of death. For purposes of R.S. 14:403, "serious bodily injury" shall also include injury resulting from starvation or malnutrition.

Amended by Acts 1962, No. 68, §1; Acts 1976, No. 256, §1; Acts 1977, No. 128, §1; Acts 1989, No. 777, §1; Acts 1992, No. 1015, §1; Acts 1994, 3rd Ex. Sess., No. 73, §1; Acts 1995, No. 650, §1; Acts 1995, No. 1223, §1; Acts 2001, No. 301, §2; Acts 2002, 1st Ex. Sess., No. 128, §2; Acts 2003, No. 637, §1; Acts 2004, No. 651, §1; Acts 2004, No. 676, §1; Acts 2006, No. 72, §1; Acts 2008, No. 619, §1; Acts 2010, No. 387, §1; Acts 2010, No. 524, §1; Acts 2014, No. 194, §1; Acts 2014, No. 280, §1, eff. May 28, 2014; Acts 2014, No. 602, §7, eff. June 12, 2014; Acts 2015, No. 184, §1; Acts 2016, No. 225, §1; Acts 2017, No. 84, §1; Acts 2017, No. 281, §3; Acts 2018, No. 293, §1; Acts 2018, No. 674, §1, eff. June 1, 2018; Acts 2019, No. 2, §1; Acts 2020, No. 101, §1; Acts 2021, No. 484, §1; Acts 2022, No. 75, §1; Acts 2022, No. 129, §1; Acts 2022, No. 173, §1; Acts 2022, No. 465, §1, eff. June 15, 2022; Acts 2022, No. 671, §2; Acts 2022, No. 702, §1, eff. June 18, 2022.

§32.9. Redesignated as R.S. 14:87.10 by Acts 2022, No. 545, §6A.

§32.9.1. Redesignated as R.S. 14:87.11 by Acts 2022, No. 545, §6A.

§34.2. Battery of a police officer

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

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

(3) For purposes of this Section, "battery of a police officer" includes the use of force or violence upon the person of the police officer by throwing water or any other liquid, feces, urine, blood, saliva, or any form of human waste.

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

(b) Whoever commits a second or subsequent offense of battery of a police officer shall be fined not more than one thousand dollars and imprisoned with or without hard labor for not less than one year nor more than three years. At least fifteen days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(2) If at the time of the commission of the offense the offender is under the jurisdiction and legal custody of the Department of Public Safety and Corrections, or is being detained in any jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility, the offender shall be fined not more than one thousand dollars and imprisoned with or without hard labor without benefit of parole, probation, or suspension of sentence for not less than one year nor more than five years. Such sentence shall be consecutive to any other sentence imposed for violation of the provisions of any state criminal law.

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

(b) If the battery produces an injury that requires medical attention, and the offense is a second or subsequent violation of the provisions of this Section, the offender shall be fined not more than two thousand dollars and shall be imprisoned with or without hard labor for not less than two years nor more than five years. At least sixty days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

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

Added by Acts 1981, No. 258, §1. Amended by Acts 1982, No. 594, §1; Acts 1984, No. 871, §1; Acts 1989, No. 206, §1; Acts 1990, No. 84, §1; Acts 1991, No. 132, §1; Acts 1993, No. 438, §1; Acts 1994, 3rd Ex. Sess., No. 16, §1; Acts 1997, No. 486, §1; Acts 1999, No. 338, §1; Acts 1999, No. 872, §1; Acts 2001, No. 944, §4; Acts 2007, No. 52, §1, eff. June 18, 2007; Acts 2012, No. 174, §1; Acts 2020, No. 64, §1; Acts 2020, No. 174, §1; Acts 2022, No. 468, §1.

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

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

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

while being evaluated or treated in a medical facility shall also constitute battery of emergency room personnel, emergency services personnel, or a healthcare professional.

B. For purposes of this Section:

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

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

(3) "Healthcare professional" means a person licensed or certified by this state to provide healthcare or professional services as a physician, physician assistant, dentist, registered or licensed practical nurse or certified nurse assistant, advanced practice registered nurse, certified emergency medical technician, paramedic, certified registered nurse anesthetist, nurse practitioner, respiratory therapist, clinical nurse specialist, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, licensed radiologic technologist, licensed clinical laboratory scientist, licensed professional counselor, certified social worker, psychologist, patient transporter, dietary worker, patient access representative, security personnel, patient relations advocate, or any other person who otherwise assists in or supports the performance of healthcare services.

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

(b) Whoever commits a second or subsequent offense of battery of emergency room personnel, emergency services personnel, or a healthcare professional shall be fined not more than one thousand dollars and imprisoned, with or without hard labor, for not less than one year nor more than three years. At least forty-five days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

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

(b) If the battery produces an injury that requires medical attention, and the offense is a second or subsequent offense, the offender shall be fined not more than ten thousand dollars and shall be imprisoned with or without hard labor for not less than two nor more than five years. At least ninety days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

Acts 2014, No. 664, §1; Acts 2022, No. 129, §1.

§38.5. Assault on emergency room personnel, emergency services personnel, or a healthcare professional

A.(1) Assault on emergency room personnel, emergency services personnel, or a healthcare professional is an assault committed when the offender has reasonable grounds to believe the

victim is an emergency room personnel, emergency services personnel, or a healthcare professional acting in the performance of his duties.

(2) For purposes of this Section:

(a) "Assault" shall have the same definition as in R.S. 14:36 but shall additionally include making statements threatening physical harm to an emergency room personnel, emergency services personnel, or a healthcare professional.

(b) "Emergency room personnel" shall have the same definitions as in R.S. 14:34.8.

(c) "Emergency services personnel" shall have the same definitions as in R.S. 14:34.8.

(d) "Healthcare professional" shall have the same definitions as in R.S. 14:34.8.

B. Whoever commits the crime of assault on emergency room personnel, emergency services personnel, or a healthcare professional shall be fined not more than one thousand dollars or imprisoned for not less than thirty days nor more than one hundred eighty days, or both.

Acts 2022, No. 129, §1.

§40.1. Terrorizing; menacing

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

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

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

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

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

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

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

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

Acts 1985, No. 191, §1; Acts 1997, No. 1318, §2, eff. July 15, 1997; Acts 2001, No. 1112, §1; Acts 2008, No. 451, §2, eff. June 25, 2008; Acts 2022, No. 493, §1.

§40.9. Unlawful disruption of the operation of a healthcare facility

A. Unlawful disruption of the operation of a healthcare facility is the intentional communication of information that the commission of a crime of violence is imminent or in progress, or that a circumstance dangerous to human life exists or is about to exist, when committed under any one or more of the following circumstances:

(1) When the offender's actions cause emergency room personnel, emergency services personnel, or healthcare professionals at a healthcare facility to be in sustained fear for their safety and a reasonable person would have known that his actions could cause sustained fear.

(2) When the offender's actions cause the evacuation of a healthcare facility and a reasonable person would have known that his actions could cause an evacuation.

(3) When the offender's actions cause any other serious disruption to the operation of a healthcare facility and a reasonable person would have known that such actions could cause serious disruption to the operation of a healthcare facility.

B. For purposes of this Section:

(1) "Emergency room personnel" shall have the same definitions as in R.S. 14:34.8.

(2) "Emergency services personnel" shall have the same definitions as in R.S. 14:34.8.

(3) "Healthcare facility" means any hospital, outpatient clinic, ambulatory surgical center, or other setting where healthcare services are provided.

(4) "Healthcare professional" shall have the same definitions as in R.S. 14:34.8.

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

Acts 2022, No. 129, §1.

§41. Rape; defined

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

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

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

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

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

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

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

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

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

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

Acts 1978, No. 239, §1. Acts 1985, No. 587, §1; Acts 1990, No. 722, §§1, 2; Acts 2001, No. 301, §1; Acts 2022, No. 173, §1.

NOTE: This provision of law was included in the Unconstitutional Statutes Biennial Report to the Legislature, dated March 14, 2016.

§42. First degree rape

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

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

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

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

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

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

(6) When the victim is prevented from resisting the act because the victim 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 this Chapter, relative to burglary offenses.

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

(1) Commit the act of rape.

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

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.

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

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

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

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

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

Acts 1978, No. 239, §1. Amended by Acts 1981, No. 707, §1; Acts 1984, No. 579, §1; Acts 1993, No. 630, §1; Acts 1995, No. 397, §1; Acts 1997, No. 757, §1; Acts 1997, No. 898, §1; Acts 2001, No. 301, §1; Acts 2003, No. 795, §1; Acts 2006, No. 178, §1; Acts 2015, No. 184, §1; Acts 2015, No. 256, §1; Acts 2022, No. 173, §1.

§43.2. Second degree sexual battery

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

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

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

B. Repealed by Acts 2019, No. 2, §3.

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

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

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

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

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

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

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

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

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

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

Added by Acts 1983, No. 78, §1. Acts 1984, No. 568, §1; Acts 1995, No. 946, §2; Acts 2004, No. 676, §1; Acts 2006, No. 103, §1; Acts 2008, No. 33, §1; Acts 2011, No. 67, §§1, 2; Acts 2019, No. 2, §3; Acts 2022, No. 173, §1.

§43.3. Oral sexual battery

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

(1) The victim is under the age of fifteen years and is at least three years younger than the offender.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Acts 1985, No. 287, §1; Acts 1995, No. 946, §2; Acts 2001, No. 301, §1; Acts 2006, No. 103, §1; Acts 2008, No. 33, §1; Acts 2011, No. 67, §§1, 2; Acts 2022, No. 173, §1.

§44.1. Second degree kidnapping

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

(1) Used as a shield or hostage.

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

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

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

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

(6) Used to facilitate the commission of a simple escape or an aggravated escape, including a simple escape or aggravated escape from either an adult or juvenile correctional or detention facility, in violation of R.S. 14:110.

B. For purposes of this Section, kidnapping is any of the following:

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

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

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

(4) The forcible seizing of any corrections officer or any other official or employee of an adult or juvenile correctional or detention facility for any period of time whatsoever.

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

Acts 1989, No. 276, §1; Acts 2021, No. 484, §1; Acts 2022, No. 173, §1.

§44.2. Aggravated kidnapping of a child

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

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

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

Acts 2001, No. 654, §1; Acts 2006, No. 118, §1; Acts 2022, No. 173, §1.

§46.2. Human trafficking

A. It shall be unlawful:

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

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

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

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

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

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

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

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

(4) Repealed by Acts 2020, No. 352, §2.

C. For purposes of this Section:

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

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

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

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

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

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

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

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

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

(c) Abduction or threatened abduction of an individual.

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

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

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

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

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

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

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

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

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

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

D. It shall not be a defense to prosecution for a violation of this Section that the person being recruited, harbored, transported, provided, solicited, received, isolated, patronized, procured,

purchased, enticed, obtained, or maintained is actually a law enforcement officer or peace officer acting within the official scope of his duties.

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

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

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

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

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

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

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

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

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

Acts 2005, No. 187, §1; Acts 2010, No. 382, §1; Acts 2010, No. 763, §1; Acts 2011, No. 64, §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1; Acts 2016, No. 269, §1; Acts 2017, No. 180, §1, eff. June 12, 2017; Acts 2020, No. 352, §2; Acts 2022, No. 130, §2, eff. May 26, 2022.

§56. Simple criminal damage to property

A.(1) Simple criminal damage to property is the intentional damaging of any property of another, without the consent of the owner, and except as provided in R.S. 14:55, by any means other than fire or explosion.

(2) The provisions of this Section shall include the intentional damaging of a dwelling, house, apartment, or other structure used in whole or in part as a home, residence, or place of abode by a person who leased or rented the property.

B.(1) Whoever commits the crime of simple criminal damage to property where the damage is less than one thousand dollars shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(2) Where the damage amounts to one thousand dollars but less than fifty thousand dollars, the offender shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

(3) Where the damage amounts to fifty thousand dollars or more, the offender shall be fined not more than ten thousand dollars or imprisoned with or without hard labor for not less than one nor more than ten years, or both.

(4) In addition to the foregoing penalties, a person convicted under the provisions of this Section may be ordered to make full restitution to the owner of the property. If a person ordered to make restitution is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's ability to pay.

C. When there has been damage to multiple properties by a number of distinct acts of the offender which are part of a continuous sequence of events, the aggregate of the amount of the damages shall determine the grade of the offense.

Amended by Acts 1981, No. 160, §1; Acts 2006, No. 84, §1; Acts 2008, No. 97, §1; Acts 2017, No. 281, §1; Acts 2022, No. 45, §1.

§64.2. Carjacking

A. Carjacking is the intentional taking of a motor vehicle, as defined in R.S. 32:1(40), belonging to another person, in the presence of that person, or in the presence of a passenger, or any other person in lawful possession of the motor vehicle, by the use of force or intimidation.

B.(1) Except as provided in Paragraph (2) of this Subsection, whoever commits the crime of carjacking shall be imprisoned at hard labor for not less than two years nor more than twenty years, without benefit of parole, probation, or suspension of sentence.

(2) Whoever commits the crime of carjacking when serious bodily injury results shall be imprisoned at hard labor for not less than ten years nor more than twenty years, without benefit of parole, probation, or suspension of sentence.

Acts 1993, No. 488, §1; Acts 2022, No. 131, §1.

§64.2.1. Carjacking; recruitment of juveniles

A. It shall be unlawful for any person over the age of seventeen to intentionally recruit, entice, aid, solicit, or encourage any child under the age of eighteen to commit the offense of carjacking as defined in R.S. 14:64.2.

B. Whoever violates the provisions of this Section shall be imprisoned at hard labor for not less than five years and for not more than twenty years, without benefit of parole, probation, or suspension of sentence.

Acts 2022, No. 220, §1.

§65. Simple robbery

A. Simple robbery is either of the following:

(1) The taking of anything of value belonging to another from the person of another or that is in the immediate control of another, by use of force or intimidation, but not armed with a dangerous weapon.

(2) The taking of anything of value when a person is part of a group of three or more individuals and the person has the intent to take anything of value from a retail establishment that is in the immediate control of a retail employee or employer and there is a reasonable belief that a reasonable person would not intercede because of fear.

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

Acts 1983, No. 70, §1; Acts 2022, No. 731, §1.

§67.3. False statements and false or altered documents; unclaimed property claim

A. Any person who intentionally makes a material false statement, submits false or altered documentation, or both in any claim submitted pursuant to the Uniform Unclaimed Property Act of 1997 commits a violation of the provisions of this Section.

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

C. Restitution shall be ordered pursuant to Code of Criminal Procedure Article 883.2 and shall be made payable to the Louisiana Unclaimed Property Permanent Trust Fund.

Acts 2021, No. 466, §1; Acts 2022, No. 33, §1.

§67.5. Adoption deception

A. Any person who is a birth mother, or who holds herself out to be a birth mother, who is interested in making an adoption plan and who knowingly or intentionally benefits from payment of adoption-related expenses in connection with that adoption plan commits adoption deception if any of the following occur:

(1) The person knows or should have known that she is not pregnant at the time the payments were requested or received.

(2) The person accepts living expenses assistance from a prospective adoptive parent or adoption entity without disclosing that she is receiving living expenses assistance from another prospective adoptive parent or adoption entity at the same time in an effort to adopt the same child.

(3) The person has the specific intent to make false representations to induce the payment of living expenses or other benefits in connection with a purported adoption placement.

B. Any person who commits the crime of adoption deception shall be punished as follows:

(1) If the amount received by the person is one thousand dollars or less, the person shall either be fined up to five hundred dollars, imprisoned for not more than sixty days, or both.

(2) If the amount received by the person exceeds one thousand dollars, the person shall either be fined up to five thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

C. The provisions of this Section shall not apply to a person who agrees to an adoption plan agreement and subsequently, in good faith, declines to proceed with the prospective adoption in favor of parenting the child.

Acts 2021, No. 464, §1; Acts 2022, No. 736, §1.

§67.12. Theft of a catalytic converter or engine control module

A. Theft of a catalytic converter or engine control module is the misappropriation or taking of a catalytic converter or engine control module which belongs to another, either without the consent of the owner to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the owner permanently of the catalytic converter or engine control module is essential.

B.(1) Whoever commits the crime of theft of a catalytic converter or engine control module when the misappropriation or taking and any related damage amounts to a value of twenty-five

thousand dollars or more shall be imprisoned at hard labor for not less than ten years nor more than twenty years, or may be fined not more than fifty thousand dollars, or both.

(2) When the misappropriation or taking and any related damage amounts to a value of five thousand dollars or more, but less than a value of twenty-five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not less than five years nor more than ten years, or may be fined not more than ten thousand dollars, or both.

(3) When the misappropriation or taking and any related damage amounts to a value of one thousand dollars or more, but less than a value of five thousand dollars, the offender shall be imprisoned, with or without hard labor, for not less than two years nor more than five years, or may be fined not more than three thousand dollars, or both.

(4) When the misappropriation or taking and any related damage amounts to a value of less than one thousand dollars, the offender shall be imprisoned for not less than ninety days nor more than six months, or may be fined not more than one thousand dollars, or both.

C. If the offender has been convicted under this Section two or more times previously, upon any subsequent conviction he shall be imprisoned, with or without hard labor, for an additional year to be served consecutively to the sentence imposed under Subsection B of this Section, or may be fined an additional one thousand dollars, or both.

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

E. For the purposes of this Section, "engine control module" means the electronic control unit of the vehicle that controls a series of actuators which ensures that the vehicle operates at optimal performance by monitoring all sensors in the engine bay.

Acts 2022, No. 127, §1.

§68.4. Unauthorized use of a motor vehicle

A. Unauthorized use of a motor vehicle is the intentional taking or use of a motor vehicle which belongs to another, either without the other's consent, or by means of fraudulent conduct, practices, or representations, but without any intention to deprive the other of the motor vehicle permanently.

B. Whoever commits the crime of unauthorized use of a motor vehicle shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than two years or both.

C. When the misappropriation or taking amounts to less than a value of one thousand dollars, the offender shall be imprisoned for not more than six months, or fined not more than one thousand dollars, or both.

Acts 1995, No. 904, §1; Acts 2017, No. 281, §1; Acts 2022, No. 746, §1.

SUBPART C. DOMESTIC VIOLENCE OFFENSES

§79. Violation of protective orders

A.(1)(a) Violation of protective orders is the willful disobedience of a preliminary or permanent injunction or protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 320 and 871.1 after a contradictory court hearing, or the willful disobedience of a temporary restraining order or any ex parte protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., criminal stay-away orders as provided for in Code of Criminal Procedure Article 320, Children's Code Article 1564 et seq., or Code of Civil Procedure Articles 3604 and 3607.1, if the defendant has been given notice of the temporary restraining order or ex parte protective order by service of process as required by law.

(b) A defendant may also be deemed to have been properly served if tendered a certified copy of a temporary restraining order or ex parte protective order, or if tendered a faxed or electronic copy of a temporary restraining order or ex parte protective order received directly from the issuing magistrate, commissioner, hearing officer, judge or court, by any law enforcement officer who has been called to any scene where the named defendant is present. Such service of a previously issued temporary restraining order or ex parte protective order if noted in the police report shall be deemed sufficient evidence of service of process and admissible in any civil or criminal proceedings. A law enforcement officer making service under this Subsection shall transmit proof of service to the judicial administrator's office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after making service, exclusive of weekends and holidays. This proof shall include, at a minimum, the case caption, docket number, type of order, serving agency and officer, and the date and time service was made.

(2) Violation of protective orders shall also include the willful disobedience of an order of protection issued by a foreign state.

(3) Violation of protective orders shall also include the willful disobedience of the following:

(a) An order issued by any state, federal, parish, city, or municipal court judge, magistrate judge, commissioner or justice of the peace that a criminal defendant stay away from a specific person or persons as a condition of that defendant's release on bond.

(b) An order issued by any state, federal, parish, city, or municipal court judge, magistrate judge, commissioner or justice of the peace that a defendant convicted of a violation of any state, federal, parish, municipal, or city criminal offense stay away from any specific person as a condition of that defendant's release on probation.

(c) A condition of a parole release pursuant to R.S. 15:574.4.2(A)(5) or any other condition of parole which requires that the parolee stay away from any specific person.

(d) An order issued pursuant to R.S. 46:1846.

(4) Violation of protective orders shall also include the possession of a firearm or carrying a concealed weapon in violation of R.S. 46:2136.3, the purchase or attempted purchase of a firearm, and the carrying of a concealed weapon in violation of R.S. 14:95.1, 95.1.3, or 95.10.

B.(1) On a first conviction for violation of protective orders, except as provided in Subsection C of this Section, the offender shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) On a second or subsequent conviction for violation of protective orders, except as provided in Subsection C of this Section, regardless of whether the current offense occurred before or after the earlier convictions, the offender shall be fined not more than one thousand dollars and imprisoned with or without hard labor for not less than fourteen days nor more than two years. At least fourteen days of the sentence of imprisonment imposed under this Paragraph shall be without benefit of probation, parole, or suspension of sentence. If a portion of the sentence is imposed with benefit of probation, parole, or suspension of sentence, the court shall require the offender to participate in a court-monitored domestic abuse intervention program as defined by R.S. 14:35.3.

C.(1) Except as provided in Paragraph (2) of this Subsection, whoever is convicted of the offense of violation of protective orders where the violation involves a battery or any crime of violence as defined by R.S. 14:2(B) against the person for whose benefit the protective order is in effect, or where the violation involves the offender going to the residence or household, school, or place of employment of the person for whose benefit the protective order is in effect while in possession of a firearm, shall be fined not more than one thousand dollars and imprisoned with or without hard labor for not less than three months nor more than two years. At least thirty days of the sentence of imprisonment imposed under this Paragraph shall be without benefit of probation, parole, or suspension of sentence. If a portion of the sentence is imposed with benefit of probation, parole, or suspension of sentence, the court shall require the offender to participate in a court-monitored domestic abuse intervention program as defined by R.S. 14:35.3.

(2) Whoever is convicted of the offense of violation of protective orders where the violation involves a battery or any crime of violence as defined by R.S. 14:2(B) against the person for whose benefit the protective order is in effect, or where the violation involves the offender going to the residence or household, school, or place of employment of the person for whose benefit the protective order is in effect while in possession of a firearm, and who has a conviction of violating a protective order or of an assault or battery upon the person for whose benefit the protective order is in effect during the five-year period prior to commission of the instant offense, regardless of whether the instant offense occurred before or after the earlier convictions, the offender shall be fined not more than two thousand dollars and imprisoned with or without hard labor for not less than one year nor more than five years. At least one year of the sentence of imprisonment imposed under this Paragraph shall be without benefit of probation, parole, or suspension of sentence.

D. If, as part of any sentence imposed under this Section, a fine is imposed, the court may direct that the fine be paid for the support of the spouse or children of the offender.

E.(1) Law enforcement officers shall use every reasonable means, including but not limited to immediate arrest of the violator, to enforce a preliminary or permanent injunction or protective order obtained pursuant to R.S. 9:361, R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 320 and 871.1 after a contradictory court hearing, or to enforce a temporary restraining order or ex parte protective order issued pursuant to R.S. 9:361, R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Article 320 if the defendant has been given notice of the temporary restraining order or ex parte protective order by service of process as required by law.

(2) Law enforcement officers shall at a minimum issue a summons to the person in violation of a temporary restraining order, a preliminary or permanent injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S.

46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 30, 320, and 871.1.

F. This Section shall not be construed to bar or limit the effect of any other criminal statute or civil remedy.

G. "Instant offense" as used in this Section means the offense which is before the court.

H. An offender ordered to participate in a court-monitored domestic abuse intervention program under the provision of this Section shall pay the cost incurred in participating in the program, unless the court determines that the offender is unable to pay. Failure to make payment under this Subsection shall subject the offender to revocation of probation.

Added by Acts 1983, No. 497, §1; Acts 1987, No. 268, §1; Acts 1994, 3rd Ex. Sess., No. 70, §1; Acts 1995, No. 905, §1; Acts 1997, No. 1156, §6; Acts 1999, No. 659, §1; Acts 1999, No. 1200, §1; Acts 2003, No. 750, §5; Acts 2003, No. 1198, §1; Acts 2014, No. 317, §2; Acts 2014, No. 318, §2; Acts 2014, No. 355, §3; Acts 2015, No. 242, §2; Acts 2015, No. 440, §1; Acts 2016, No. 409, §2; Acts 2017, No. 90, §1; Acts 2018, No. 293, §1; Acts 2018, No. 367, §1, eff. Oct. 1, 2018; Acts 2018, No. 679, §2; Acts 2020, No. 246, §2; Acts 2022, No. 75, §1.

§87.1. Definitions

Wherever used in this Subpart, unless a different meaning clearly appears in the context, the following terms, whether used in the singular or plural, shall have the following meanings:

(1)(a) "Abortion" or "induced abortion" means the performance of any act with the intent to terminate a clinically diagnosable pregnancy with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child by one or more of the following means:

(i) Administering, prescribing, or providing any abortion-inducing drug, potion, medicine, or any other substance, device, or means to a pregnant female.

(ii) Using an instrument or external force on a pregnant female.

(b) Abortion shall not mean any one or more of the following acts, if performed by a physician:

(i) A medical procedure performed with the intention to save the life or preserve the health of an unborn child.

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

(iii) The removal of an ectopic pregnancy.

(iv) The use of methotrexate to treat an ectopic pregnancy.

(v) The performance of a medical procedure necessary in good faith medical judgment or reasonable medical judgment to prevent the death or substantial risk of death to the pregnant woman due to a physical condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman. However, the physician shall make reasonable medical efforts under the circumstances to preserve both the life of the mother and the life of her unborn child in a manner consistent with reasonable medical practice.

(vi) The removal of an unborn child who is deemed to be medically futile. The diagnosis shall be a medical judgment certified by two qualified physicians and recorded in the woman's medical record. The medical procedure shall be performed in a licensed ambulatory surgical center or hospital. Upon the completion of the procedure, the physician shall submit an individual abortion report consistent with R.S. 40:1061.21 that includes appropriate evidence of the certified diagnosis.

(2)(a) "Abortion-inducing drug" means any drug or chemical, or any combination of drugs or chemicals, or any other substance when used with the intent to cause an abortion, including but not limited to RU-486, the Mifeprex regimen, misoprostol (Cytotec), or methotrexate.

(b) Abortion-inducing drug shall not mean a contraceptive, an emergency contraceptive, or the use of methotrexate to treat an ectopic pregnancy.

(3) "Bona fide medical reason" means a medical condition which is recognized by any medical licensing board as a standard of care, except that "bona fide medical reason" shall not include abortion, as defined in this Section.

(4) "Clinically diagnosable pregnancy" means a pregnancy that is capable of being verified by one of the following conventional medical testing methods, whether or not any testing was in fact performed by any person:

(a) A blood or urine test, whether used at home or in a medical setting, that tests for the human pregnancy hormone known as human chorionic gonadotropin (hCG) that medically indicates that implantation has occurred.

(b) An ultrasound examination.

(5) "Conception" or "fertilization" means the fusion of a human spermatozoon with a human ovum.

(6) "Contraceptive" means any device, measure, drug, chemical, or product, including single-ingredient levonorgestrel, that has been approved by the United States Food and Drug Administration for the purpose of preventing pregnancy and is intended to be administered prior to the time when a clinically diagnosable pregnancy can be determined, provided that the contraceptive is sold, prescribed, or administered in accordance with manufacturer's instructions.

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

(8) "Emergency contraceptive" means a drug, chemical, or product, including but not limited to single-ingredient levonorgestrel or ulipristal, that has been approved by the United States Food and Drug Administration designed or intended to be taken after sexual intercourse but prior to the time when a clinically diagnosable pregnancy can be determined, provided that the emergency contraceptive is sold, prescribed, or administered in accordance with manufacturer's instructions or is prescribed in accordance with the standard of care that is generally accepted by the American College of Obstetricians and Gynecologists.

(9) "Fertilization" means the fusion of a human spermatozoon with a human ovum.

(10) "Fetal body part" means a cell, tissue, organ, or other part of an unborn child who is aborted by an induced abortion.

(11) "Fetal heartbeat" means cardiac activity or the steady and repetitive rhythmic contraction of the fetal heart within the gestational sac.

(12) "Genetic abnormality" means any defect, disease, or disorder that is inherited genetically. The term includes, without limitation, any physical disfigurement, scoliosis, dwarfism, Down syndrome, albinism, amelia, and any other type of physical, mental, or intellectual disability, abnormality, or disease.

(13) "Gestational age" means the age of the unborn child as measured by the time elapsed since the first day of the last menstrual period as determined by a physician and confirmed through the use of an ultrasound test of a quality generally used in existing medical practice.

(14) "Good faith medical judgment" or "reasonable medical judgment" means a physician's use of reasonable care and diligence, along with his best judgment, in the application of his skill. The standard of care required of every healthcare provider, in rendering professional services or health care to a patient, shall be to exercise that degree of skill ordinarily employed, under similar circumstances, by the members of his profession in good standing in the same community or locality.

(15) "Infant" means the offspring of human parents from the moment of live birth, regardless of the duration of gestation in the womb prior to live birth.

(16) "Late term abortion" means the performance of an abortion when the gestational age of the unborn child is fifteen weeks or more.

(17) "Live birth", "born alive", or "live born human being" means a member of the species homo sapiens that is expelled or extracted from its mother, at any stage of development, who after that expulsion or extraction breathes or shows signs of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.

(18) "Medical emergency" means the existence of any physical condition, not including any emotional, psychological, or mental condition, within the reasonable medical judgment of a reasonably prudent physician, with knowledge of the case and treatment possibilities with respect

to the medical conditions involved, would determine necessitates the immediate abortion of the pregnancy to avert the pregnant woman's death or to avert substantial and irreversible impairment of a major bodily function arising from continued pregnancy.

(19)(a) "Medically futile" means that, in reasonable medical judgment as certified by two physicians, the unborn child has a profound and irremediable congenital or chromosomal anomaly that is incompatible with sustaining life after birth.

(b) The Louisiana Department of Health shall promulgate, in accordance with the Administrative Procedure Act, administrative rules establishing an exclusive list of anomalies, diseases, disorders, and other conditions which shall be deemed "medically futile" for purposes of this Subpart. The rules may also encompass diagnostic methods and standards by which a medically futile condition may be diagnosed, including but not limited to tests that are appropriate to the developmental stage and the condition of the unborn child.

(20) "Miscarriage" or "stillbirth" means the spontaneous or accidental death of an unborn child, whether the death occurred in the womb or in the process of birth. Death of the unborn child is indicated by the lack of signs of breathing or any other evidence of life, such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

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

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

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

(22) "Physician" means a person licensed to practice medicine in the state of Louisiana.

(23) "Pregnant" means that female reproductive condition of having a developing embryo or fetus in the uterus which commences at fertilization and implantation.

(24) "Receive a fetal organ" means acquiring any fetal organ or fetal body part, or the rights to any fetal organ or fetal body part, through an act of donation or sale via any transaction prohibited by this Subpart.

(25) "Serious bodily injury"shall have the same meaning as defined in R.S. 14:2. For the purposes of this Section, "serious bodily injury" that includes the loss of an organ shall include a hysterectomy.

(26) "Serious health risk to the unborn child's mother" means that in reasonable medical judgment the mother has a condition that so complicates her medical condition that it necessitates the abortion of her pregnancy to avert her death or to avert serious risk of substantial and

irreversible physical impairment of a major bodily function, not including psychological or emotional conditions.

(27) "Unborn child", "unborn human being", or "fetus" shall have the same meaning as "unborn child" as defined in R.S. 14:2.

(28) "Viable" or "viability" means that stage of fetal development when, in the judgment of the physician based upon the particular facts of the case before the physician, and in light of the most advanced medical technology and information available to the physician, there is a reasonable likelihood of sustained survival of the unborn child outside the body of his mother, with or without artificial support.

(29) "Woman" or "mother" means a female human being, whether or not she has reached the age of majority.

Added by Acts 1973, No. 74, §1; Acts 2014, No. 791, §7; Acts 2022, No. 545, §2.

§87.1.1. Killing a child during delivery; penalties

A. Killing a child during delivery is the intentional destruction, during parturition of the mother, of the vitality or life of a child in a state of being born and before actual birth, which child would otherwise have been born alive; provided, however, that the crime of killing a child during delivery shall not be construed to include any case in which the death of a child results from the use by a physician of a procedure during delivery which is necessary to save the life of the child or of the mother and is used for the express purpose of and with the specific intent of saving the life of the child or of the mother.

B. Whoever commits the crime of killing a child during delivery shall be imprisoned at hard labor in the penitentiary for life.

Acts 2022, No. 545, §2.

§87.2. Human experimentation on an infant born alive

A. Human experimentation is the use of any infant who is born alive, without consent of that live born human being, for any scientific or laboratory research or any other kind of experimentation or study except to protect or preserve the life and health of the live born human being, or the conduct, on a human embryo or fetus in utero, of any experimentation or study except to preserve the life or to improve the health of the human embryo or fetus.

B. Whoever commits the crime of human experimentation on an infant born alive shall be imprisoned at hard labor for not less than five nor more than twenty years, or fined not more than ten thousand dollars, or both.

Added by Acts 1973, No. 77, §1; Acts 2014, No. 791, §7; Acts 2022, No. 545, §2.

§87.3. Prohibited cutting, resection, excision, harvesting, removal, sale, receipt, research, commerce, or transport of fetal organs, tissues, and body parts; whistleblower account

A. No person may knowingly and for money, including but not limited to fees for storage or handling, any payments for reimbursement, repayments, or compensation, or any other consideration:

(1) Buy, sell, receive, or otherwise transfer or acquire a fetal organ or body part resulting from an induced abortion.

(2) Transport with the intent to sell or otherwise transfer a fetal organ or body part resulting from an induced abortion.

(3) Transport a fetal organ or body part resulting from an induced abortion that has been acquired by any person via any transaction prohibited by this Section.

B. Repealed by Acts 2022, No. 545, §4.

C. After an induced abortion has been completed, no person shall intentionally cut, resection, excise, harvest, or remove any body part, organ, or tissue of the aborted unborn child for any purpose prohibited by this Section, or for sale, commerce, transport, research, or profit.

D.(1) Nothing in this Section shall be construed to prohibit any transaction related to the final disposition of the bodily remains of the aborted human being in accordance with state law, or to prohibit any conduct permitted under state law that is undertaken with any of the following purposes:

(a) The purpose of providing knowledge solely to the mother, such as for pathological or diagnostic purposes.

(b) The purpose of providing knowledge solely to law enforcement officers, such as the case of an autopsy following a feticide.

(2) Nothing in this Section shall be construed to prohibit the donation of bodily remains from a human embryo or fetus whose death was caused by a natural miscarriage or stillbirth, in accordance with the guidelines and prohibitions provided in applicable state and federal law.

(3) Nothing in this Section shall be construed to affect existing federal or state law regarding the practice of abortion, or to create or recognize a right to abortion.

E. Any person who violates this Section shall be sentenced to a term of imprisonment at hard labor for not less than ten nor more than fifty years, at least ten years of which shall be served without benefit of probation or suspension of sentence, and may, in addition, be required to pay a fine of not more than fifty thousand dollars.

F.(1) The Fetal Organ Whistleblower Account, hereinafter referred to as "the account", is hereby created in the state treasury.

(2) The account shall be composed of any monies derived from appropriations by the legislature and any gift, grant, devise, donation, or bequest of monies or properties of any nature or description.

(3) An award of one thousand dollars shall be paid out of the account to any person who provides evidence that results in the arrest and indictment of any other person for a violation of this Section. Eligibility for an award pursuant to this Subsection shall be determined by the district attorney or the attorney general, as appropriate.

(4) All monies deposited in the account shall be used solely to pay awards to persons as provided by Paragraph (3) of this Subsection and shall be paid by the state treasurer upon written

order signed by the district attorney or the attorney general, as appropriate, except that monies deposited in the account may be used to pay reasonable costs of administering the account.

(5) The name and other identifying information of any person who is paid an award pursuant to this Subsection shall remain confidential.

Acts 2016, No. 196, §1; Acts 2017, No. 243, §1, eff. June 14, 2017; Acts 2018, No. 645, §1, eff. June 1, 2018; Acts 2022, No. 545, §4.

§87.5. Intentional failure to sustain life and health of aborted viable infant

A. The intentional failure to sustain the life and health of an aborted viable infant shall be a crime. The intentional failure to sustain the life and health of an aborted viable infant is the intentional failure, by any physician or person performing or inducing an abortion, to exercise that degree of professional care and diligence, and to perform such measures as constitute good medical practice, necessary to sustain the life and health of an aborted viable infant, when the death of the infant results.

B. Any person who commits the crime of intentional failure to sustain the life and health of an aborted viable infant shall be imprisoned at hard labor for not more than twenty-one years.

Added by Acts 1977, No. 406, §1; Acts 2022, No. 545, §2.

§87.7. Abortion

A. It shall be unlawful for a physician or other person to perform an abortion, with or without the consent of the pregnant female.

B. The terms used in this Section have the same meaning as the definitions provided in R.S. 14:87.1.

C. Whoever commits the crime of abortion shall be imprisoned at hard labor for not less than one year nor more than ten years and shall be fined not less than ten thousand dollars nor more than one hundred thousand dollars.

D. This Section does not apply to a pregnant female upon whom an abortion is committed or performed in violation of this Section, and the pregnant female shall not be held responsible for the criminal consequences of any violation of this Section.

E. This Section shall not apply to the sale, use, prescription, or administration of a contraceptive or an emergency contraceptive.

F. The provisions of this Section shall become effective immediately upon, and to the extent permitted by, the occurrence of any of the following circumstances:

(1) Any decision of the Supreme Court of the United States which overrules, in whole or in part, Roe v. Wade, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby restoring to the state of Louisiana the authority to prohibit or limit abortion.

(2) Adoption of an amendment to the United States Constitution which, in whole or in part, restores to the state of Louisiana the authority to prohibit or limit abortion.

(3) A decision of the Supreme Court of the United States in the case of Dobbs v. Jackson Women's Health Organization, Docket No. 19-1392, which overrules, in whole or in part, Roe v. Wade, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby restoring to the state of Louisiana the authority to prohibit or limit abortion.

Acts 2022, No. 545, §2.

§87.8. Late term abortion

A. It shall be unlawful for a physician or other person to perform a late term abortion, with or without the consent of the pregnant female.

B. Whoever commits the crime of late term abortion shall be imprisoned at hard labor for not less than one year nor more than fifteen years and shall be fined not less than twenty thousand dollars nor more than two hundred thousand dollars.

C. This Section does not apply to a pregnant female upon whom an abortion is committed or performed in violation of this Section, and the pregnant female shall not be held responsible for the criminal consequences of any violation of this Section.

D. This Section shall not apply to the sale, use, prescription, or administration of a contraceptive or an emergency contraceptive.

E. The provisions of this Section shall become effective immediately upon, and to the extent permitted by, the occurrence of any of the following circumstances:

(1) Any decision of the Supreme Court of the United States which overrules, in whole or in part, Roe v. Wade, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby restoring to the state of Louisiana the authority to prohibit, limit, or regulate abortion.

(2) Adoption of an amendment to the United States Constitution which, in whole or in part, restores to the state of Louisiana the authority to prohibit or limit abortion.

(3) A decision of the Supreme Court of the United States in the case of Dobbs v. Jackson Women's Health Organization, Docket No. 19-1392, which overrules, in whole or in part, Roe v. Wade, 410 U.S. 113, 93 S.Ct. 705, 35 L.Ed. 2d 147 (1973), thereby restoring to the state of Louisiana the authority to prohibit or limit abortion.

Acts 2022, No. 545, §2.

§87.9. Criminal abortion by means of abortion-inducing drugs

A. Criminal abortion by means of an abortion-inducing drug is committed when a person knowingly causes an abortion to occur by means of delivering, dispensing, distributing, or providing a pregnant woman with an abortion-inducing drug.

B.(1) Any person who knowingly performs an abortion by means of an abortion-inducing drug in violation of this Section shall be imprisoned at hard labor for not less than one nor more than five years, fined not less than five thousand nor more than fifty thousand dollars, or both.

(2) Any person who knowingly performs an abortion by means of an abortion-inducing drug in violation of this Section that results in the death or serious bodily injury of the pregnant woman shall be imprisoned at hard labor for not less than five nor more than ten years, fined not less than ten thousand nor more than seventy-five thousand dollars, or both.

(3) Any person who knowingly performs or induces an abortion that results in the death or serious bodily injury of a pregnant woman under the age of eighteen in violation of this Section shall be imprisoned at hard labor for not less than fifteen nor more than fifty years, fined not less than fifteen thousand nor more than one hundred thousand dollars, or both.

C. None of the following shall be construed to create the crime of criminal abortion by means of an abortion-inducing drug:

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

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

(3) Possessing for her own consumption or consuming an abortion-inducing drug by a pregnant woman in violation of this Section.

(4) Lawfully prescribing, dispensing, or distributing a drug, medicine, or other substance for a bona fide medical reason that is not intended to cause an abortion in violation of this Section.

(5)(a) The act of administering an abortion-inducing drug when the drug is administered by a physician licensed by the state of Louisiana who administers the abortion-inducing drug in person to the pregnant woman.

(b) The provisions of Subparagraph (a) of this Paragraph shall not be a defense against prosecution under any other provision of law that makes the abortion unlawful, whether the other provision of law is in effect on August 1, 2022, or becomes unlawful at a later date.

(6) Any act by a licensed pharmacist or pharmacy related to filling a prescription for a drug, medicine, or other substance prescribed for a bona fide medical reason shall not subject the pharmacist or the pharmacy to the criminal consequences of this Section. A diagnosis or a diagnosis code shall be written on the prescription by the prescriber indicating that the drug, medicine, or other substance is intended for a purpose other than to cause an abortion in violation of this Section.

Acts 2022, No. 548, §1.

§87.10. Abortion by an unlicensed physician

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

B. Repealed by Acts 2022, No. 545, §4.

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

D. None of the following shall be construed to create the crime of abortion by an unlicensed physician:

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

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

E. The provisions of R.S. 40:1061.1 shall apply to this Section.

Acts 2012, No. 646, §1; Acts 2022, No. 545, §§2, 4; Redesignated from R.S. 14:32.9 by Acts 2022, No. 545, §6A.

§87.11. Aggravated abortion by dismemberment

A. Aggravated abortion by dismemberment is the commission of an abortion when the unborn child is intentionally dismembered, whether the act of dismemberment was in the course of or following the death of the unborn child.

B. Repealed by Acts 2022, No. 545, §4.

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

D. None of the following shall be construed to create the crime of aggravated abortion by dismemberment:

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

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

Acts 2012, No. 646, §1; Acts 2022, No. 545, §§2, 4; Redesignated from R.S. 14:32.9.1 by Acts 2022, No. 545, §6A.

§87.12. Partial birth abortion

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

B. Repealed by Acts 2022, No. 545, §4.

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

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

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

Acts 2007, No. 477, §1, eff. July 12, 2007; Acts 2022, No. 545, §4; Redesignated from R.S. 14:32.11 by Acts 2022, No. 545, §6A.

§90.4. Unlawful playing of video draw poker devices by persons under the age of twenty-one; penalty

A. It is unlawful for any person under twenty-one years of age to play video draw poker devices.

B. For purposes of this Section, "video draw poker device" means a device, as defined in R.S. 27:402, placed in an establishment licensed for operation and regulated under the applicable provisions of Chapter 8 of Title 27 of the Louisiana Revised Statutes of 1950.

C. Whoever violates the provisions of this Section shall be fined not more than one hundred dollars for the first offense, two hundred fifty dollars for the second offense, and five hundred dollars for the third offense.

D. A gaming licensee, or a specifically authorized employee or agent of a gaming licensee, may use reasonable force to detain a person for questioning on the premises of the gaming establishment, for a length of time, not to exceed sixty minutes, unless it is reasonable under the circumstances that the person be detained longer, when he has reasonable cause to believe that the person has violated the provisions of this Section. The licensee or his employee or agent may also detain such a person for arrest by a peace officer. The detention shall not constitute an arrest.

Acts 1998, 1st Ex. Sess., No. 162, §1; Acts 2022, No. 310, §1, eff. July 1, 2022.

§93.5. Sexual battery of persons with infirmities

A. Sexual battery of persons with infirmities is the intentional engaging in any of the sexual acts listed in Subsection B of this Section with another person when:

(1) The offender compels the victim, who is physically incapable of preventing the act because of advanced age or physical infirmity, to submit by placing the victim in fear of receiving bodily harm.

(2) The victim is incapable of resisting or of understanding the nature of the act by reason of stupor or abnormal condition of the mind produced by an intoxicating, narcotic, or anesthetic agent administered by or with the privity of the offender.

(3) The victim has such incapacity, by reason of a stupor or abnormal condition of mind from any cause, and the offender knew or should have known of the victim's incapacity.

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

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

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

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

C. Normal medical treatment and normal sanitary care shall not be construed as an offense under the provisions of this Section.

D.(1) Except as provided in Paragraph (2) of this Subsection, whoever commits the crime of sexual battery of persons with infirmities shall be punished by imprisonment, with or without hard labor, for not more than twenty years.

(2) If the victim is a resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential facility and the offender is an employee of such home or facility, the offender shall be punished by imprisonment, with or without hard labor, for not more than twenty-five years.

Acts 1992, No. 617, §1; Acts 2014, No. 811, §6, eff. June 23, 2014; Acts 2018, No. 549, §1; Acts 2022, No. 173, §1.

§95. Illegal carrying of weapons

A. Illegal carrying of weapons is any of the following:

(1)(a) The intentional concealment of any firearm, or other instrumentality customarily used or intended for probable use as a dangerous weapon, on one's person.

(b) The provisions of this Paragraph shall not apply to a person with a valid concealed handgun permit issued pursuant to R.S. 40:1379.1.1, 1379.3, or 1379.3.2 nor shall it prohibit a person with a valid concealed handgun permit issued pursuant to R.S. 40:1379.1.1, 1379.3, or 1379.3.2 from carrying a concealed firearm or other instrumentality customarily used or intended for probable use as a dangerous weapon on his person unless otherwise prohibited by this Section.

(2) The ownership, possession, custody, or use of any firearm, or other instrumentality customarily used as a dangerous weapon, at any time by an enemy alien.

(3) The ownership, possession, custody, or use of any tools, or dynamite, or nitroglycerine, or explosives, or other instrumentality customarily used by thieves or burglars at any time by any person with the intent to commit a crime.

(4)(a) The intentional possession or use by any person of a dangerous weapon on a school campus during regular school hours or on a school bus. "School" means any elementary, secondary, high school, or vo-tech school in this state and "campus" means all facilities and property within the boundary of the school property. "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

(b) The provisions of this Paragraph shall not apply to:

(i) A peace officer as defined by R.S. 14:30(B) in the performance of his official duties.

(ii) A school official or employee acting during the normal course of his employment or a student acting under the direction of such school official or employee.

(iii) Any person having the written permission of the principal or school board and engaged in competition or in marksmanship or safety instruction.

(5) Repealed by Acts 2022, No. 587, §2.

B.(1) Whoever commits the crime of illegal carrying of weapons shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

(2) Whoever commits the crime of illegal carrying of weapons with any firearm used in the commission of a crime of violence as defined in R.S. 14:2(B), shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than two years, or both. Any sentence issued pursuant to the provisions of this Paragraph and any sentence issued pursuant to a violation of a crime of violence as defined in R.S. 14:2(B) shall be served consecutively.

C. On a second conviction, the offender shall be imprisoned with or without hard labor for not more than five years.

D. On third and subsequent convictions, the offender shall be imprisoned with or without hard labor for not more than ten years without benefit of parole, probation, or suspension of sentence.

E. If the offender uses, possesses, or has under his immediate control any firearm, or other instrumentality customarily used or intended for probable use as a dangerous weapon, while committing or attempting to commit a crime of violence or while unlawfully in the possession of a controlled dangerous substance except the possession of fourteen grams or less of marijuana, or during the unlawful sale or distribution of a controlled dangerous substance, the offender shall be fined not more than ten thousand dollars and imprisoned at hard labor for not less than five nor more than ten years without the benefit of probation, parole, or suspension of sentence. Upon a

second or subsequent conviction, the offender shall be imprisoned at hard labor for not less than twenty years nor more than thirty years without the benefit of probation, parole, or suspension of sentence.

F.(1) For purposes of determining whether a defendant has a prior conviction for a violation of this Section, a conviction pursuant to this Section or a conviction pursuant to an ordinance of a local governmental subdivision of this state which contains the elements provided for in Subsection A of this Section shall constitute a prior conviction.

(2) The enhanced penalty upon second, third, and subsequent convictions shall not be applicable in cases where more than five years have elapsed since the expiration of the maximum sentence, or sentences, of the previous conviction or convictions, and the time of the commission of the last offense for which he has been convicted; the sentence to be imposed in such event shall be the same as may be imposed upon a first conviction.

(3) Any ordinance that prohibits the unlawful carrying of firearms enacted by a municipality, town, or similar political subdivision or governing authority of this state shall be subject to the provisions of R.S. 40:1796.

G.(1) The provisions of this Section shall not apply to sheriffs and their deputies, state and city police, constables and town marshals, or persons vested with police power when in the actual discharge of official duties. These provisions shall not apply to sheriffs and their deputies and state and city police who are not actually discharging their official duties, provided that such persons are full time, active, and certified by the Council on Peace Officer Standards and Training and have on their persons valid identification as duly commissioned law enforcement officers.

(2) The provisions of this Section shall not apply to any law enforcement officer who is retired from full-time active law enforcement service with at least twelve years service upon retirement, nor shall it apply to any enforcement officer of the office of state parks, in the Department of Culture, Recreation and Tourism who is retired from active duty as an enforcement officer, provided that such retired officers have on their persons valid identification as retired law enforcement officers, which identification shall be provided by the entity which employed the officer prior to his or her public retirement. The retired law enforcement officer must be qualified annually in the use of firearms by the Council on Peace Officer Standards and Training and have proof of such qualification. This exception shall not apply to such officers who are medically retired based upon any mental impairment.

(3)(a) The provisions of this Section shall not apply to active or retired reserve or auxiliary law enforcement officers qualified annually by the Council on Peace Officer Standards and Training and who have on their person valid identification as active or retired reserve law or auxiliary municipal police officers. The active or retired reserve or auxiliary municipal police officer shall be qualified annually in the use of firearms by the Council on Peace Officer Standards and Training and have proof of such certification.

(b) For the purposes of this Paragraph, a reserve or auxiliary municipal police officer shall be defined as a volunteer, nonregular, sworn member of a law enforcement agency who serves with or without compensation and has regular police powers while functioning as such agency's representative, and who participates on a regular basis in agency activities including but not limited to those pertaining to crime prevention or control, and the preservation of the peace and enforcement of the law.

H.(1) Except as provided in Paragraph (A)(4) of this Section and in Paragraph (2) of this Subsection, the provisions of this Section shall not prohibit active justices or judges of the supreme court, courts of appeal, district courts, parish courts, juvenile courts, family courts, city courts,

federal courts domiciled in the state of Louisiana, and traffic courts; members of either house of the legislature; officers of either house of the legislature; the legislative auditor; designated investigative auditors; constables; coroners; designated coroner investigators; district attorneys and designated assistant district attorneys; United States attorneys and assistant United States attorneys and investigators; the attorney general; designated assistant attorneys general; city prosecutors; designated assistant city prosecutors; a United States representative from Louisiana and his designated, employed congressional staffer; a United States senator from Louisiana and his designated, employed congressional staffer; and justices of the peace from possessing and concealing a handgun on their person when such persons are qualified annually in the use of firearms by the Council on Peace Officer Standards and Training.

(2) Nothing in this Subsection shall permit the carrying of a weapon in the state capitol building.

I. The provisions of this Section shall not prohibit the carrying of a concealed handgun by a person who is a college or university police officer under the provisions of R.S. 17:1805 and who is carrying a concealed handgun in accordance with the provisions of that statute.

J. Repealed by Acts 2018, No. 341, §2.

K.(1) The provisions of this Section shall not prohibit a retired justice or judge of the supreme court, courts of appeal, district courts, parish courts, juvenile courts, family courts, city courts, federal courts; retired attorney general; retired assistant attorneys general; retired district attorneys; retired assistant district attorneys; retired United States attorneys, retired assistant United States attorneys, or retired federal investigators; retired justices of the peace; retired members of the United States Congress; and former members of either house of the legislature from possessing and concealing a handgun on their person provided that such retired person or former member of the legislature is qualified annually, at their expense, in the use of firearms by the Council on Peace Officer Standards and Training and has on their person valid identification showing proof of their status as a former member of the legislature or as a retired justice, judge, attorney general, assistant attorney general, district attorney, assistant district attorney, United States attorney, or assistant United States attorney or federal investigator, or retired justice of the peace. For a former member of the legislature, the valid identification showing proof of status as a former legislator required by the provisions of this Paragraph shall be a legislative badge issued by the Louisiana Legislature that shall include the former member's name, the number of the district that the former member was elected to represent, the years that the former member served in the legislature, and words that indicate the person's status as a former member of the legislature.

(2) The retired justice, judge, attorney general, assistant attorney general, district attorney, assistant district attorney, justice of the peace, or former member of the United States Congress or either house of the legislature shall be qualified annually in the use of firearms by the Council on Peace Officer Standards and Training and have proof of qualification. However, this Subsection shall not apply to a retired justice, judge, attorney general, assistant attorney general, district attorney, assistant district attorney, United States attorney, assistant United States attorney or federal investigator, retired justice of the peace, or to a former member of the legislature or the United States Congress who is medically retired based upon any mental impairment, or who has entered a plea of guilty or nolo contendere to or been found guilty of a felony offense.

(3) For the purposes of this Subsection:

(a) "Retired assistant United States attorney" or "retired federal investigator" means an assistant United States attorney or investigator receiving retirement benefits from the Federal Employees Retirement System.

(b) "Retired district attorney" or "retired assistant district attorney" means a district attorney or an assistant district attorney receiving retirement benefits from the District Attorneys' Retirement System.

(c) "Retired United States attorney" means a presidentially appointed United States attorney who separated from service in good standing.

L. The provisions of Paragraph (A)(1) of this Section shall not apply to any person who is not prohibited from possessing a firearm pursuant to R.S. 14:95.1 or any other state or federal law and who is carrying a concealed firearm on or about his person while in the act of evacuating during a mandatory evacuation order issued during a state of emergency or disaster declared pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act. For purposes of this Subsection, "in the act of evacuating" means the immediate and urgent movement of a person away from the evacuation area within forty-eight hours after a mandatory evacuation is ordered. The forty-eight-hour period may be extended by an order issued by the governor.

M. The provisions of Paragraph (A)(1) of this Section shall not apply to a resident of Louisiana if all of the following conditions are met:

(1) The person is twenty-one years of age or older.

(2) The person is not prohibited from possessing a firearm under R.S. 14:95.1, R.S. 40:1379.3(C)(5) through (17), 18 U.S.C. 922(g), or any other state or federal law.

(3)(a) The person is a reserve or active-duty member of any branch of the United States Armed Forces; a member of the Louisiana National Guard or the Louisiana Air National Guard; or a former member of any branch of the United States Armed Forces, the Louisiana National Guard, or the Louisiana Air National Guard who has been honorably discharged from service.

(b) At all times that a person is in possession of a concealed handgun pursuant to R.S. 40:1379.3(B)(2), that person shall have on his person proof that he meets the qualifications of Subparagraph (a) of this Paragraph demonstrated by one of the following:

(i) A valid military identification card.

(ii) A valid driver's license issued by the state of Louisiana displaying the word "Veteran" pursuant to R.S. 32:412(K).

(iii) A valid special identification card issued by the state of Louisiana displaying the word "Veteran" pursuant to R.S. 40:1321(K).

(iv) For a member released from service who does not qualify to have the word "Veteran" displayed on a state issued driver's license or special identification card, a Department of Defense Form 214 (DD-214) indicating the character of service as "Honorable" or "Under Honorable Conditions (General)" and a valid driver's license or special identification card issued by the state of Louisiana.

Amended by Acts 1956, No. 345, §1; Acts 1958, No. 21, §1; Acts 1958, No. 379, §§1, 3; Acts 1968, No. 647, §1; Acts 1975, No. 492, §1; Acts 1986, No. 38, §1; Acts 1992, No. 1017, §1; Acts 1993, No. 636, §1; Acts 1993, No. 844, §1; Acts 1994, 3rd Ex. Sess., No. 143, §1; Acts 1995, No. 636, §1; Acts 1995, No. 930, §1; Acts 1995, No. 1195, §1; Acts 1995, No. 1199, §1; Acts 1997, No. 508, §1; Acts 1997, No. 611, §1; Acts 1997, No. 1064, §1; Acts 1999, No. 738, §1; Acts 1999, No. 924, §1; Acts 1999, No. 953, §1; Acts 2003, No. 608, §1; Acts 2003, No. 766, §1; Acts 2006, No. 515, §1; Acts 2006, No. 589, §1; Acts 2008, No. 172, §1; Acts 2011, No. 159, §1; Acts 2012, No. 302, §1; Acts 2012, No. 383, §1; Acts 2014, No. 390, §2; Acts 2014, No. 776, §1, eff. June 19, 2014; Acts 2015, No. 176, §1; Acts 2015, No. 288, §1; Acts 2016, No. 541, §1; Acts 2016, No. 543, §1; Acts 2018, No. 341, §§1, 2; Acts 2018, No. 709, §1; Acts 2020, No. 322, §1;

Acts 2021, No. 465, §1; Acts 2022, No. 126, §1, eff. May 26, 2022; Acts 2022, No. 433, §1; Acts 2022, No. 587, §§1, 2; Acts 2022, No. 602, §1; Acts 2022, No. 680, §1.

§95.1. Possession of firearm or carrying concealed weapon by a person convicted of certain felonies

A. It is unlawful for any person who has been convicted of, or has been found not guilty by reason of insanity for, a crime of violence as defined in R.S. 14:2(B) which is a felony or simple burglary, burglary of a pharmacy, burglary of an inhabited dwelling, unauthorized entry of an inhabited dwelling, felony illegal use of weapons or dangerous instrumentalities, manufacture or possession of a delayed action incendiary device, manufacture or possession of a bomb, or possession of a firearm while in the possession of or during the sale or distribution of a controlled dangerous substance, or any violation of the Uniform Controlled Dangerous Substances Law which is a felony, or any crime which is defined as a sex offense in R.S. 15:541, or any crime defined as an attempt to commit one of the above-enumerated offenses under the laws of this state, or who has been convicted under the laws of any other state or of the United States or of any foreign government or country of a crime which, if committed in this state, would be one of the above-enumerated crimes, to possess a firearm or carry a concealed weapon.

B. Whoever is found guilty of violating the provisions of this Section shall be imprisoned at hard labor for not less than five nor more than twenty years without the benefit of probation, parole, or suspension of sentence and be fined not less than one thousand dollars nor more than five thousand dollars. Notwithstanding the provisions of R.S. 14:27, whoever is found guilty of attempting to violate the provisions of this Section shall be imprisoned at hard labor for not more than seven and one-half years and fined not less than five hundred dollars nor more than two thousand five hundred dollars.

C. The provisions of this Section prohibiting the possession of firearms and carrying concealed weapons by persons who have been convicted of, or who have been found not guilty by reason of insanity for, certain felonies shall not apply to any person who has not been convicted of, or who has not been found not guilty by reason of insanity for, any felony for a period of ten years from the date of completion of sentence, probation, parole, suspension of sentence, or discharge from a mental institution by a court of competent jurisdiction.

D. If a violation of this Section is committed during the commission of a crime of violence as defined in R.S. 14:2(B), and the defendant has a prior conviction of a crime of violence, then the violation of this Section shall be designated as a crime of violence.

E. For the purposes of this Section, "firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

Added by Acts 1975, No. 492, §2. Amended by Acts 1980, No. 279, §1; Acts 1985, No. 947, §1; Acts 1990, No. 328, §1; Acts 1992, No. 403, §1; Acts 1994, 3rd Ex. Sess., No. 28, §1; Acts 1995, No. 987, §1; Acts 2003, No. 674, §1; Acts 2009, No. 154, §1; Acts 2009, No. 160, §1; Acts 2010, No. 815, §1; Acts 2010, No. 942, §1; Acts 2017, No. 281, §1; Acts 2018, No. 532, §3; Acts 2022, No. 465, §1, eff. June 15, 2022; Acts 2022, No. 702, §1, eff. June 18, 2022.

§98.8. Operating a vehicle while under suspension for certain prior offenses

A. It is unlawful to operate a motor vehicle on a public highway where the operator's driving privileges have been suspended under the authority of R.S. 32:414(A)(1), (B)(1) or (2), (D)(1)(a), or R.S. 32:667. It shall not be a violation of the provisions of this Section when a person operates a motor vehicle to obtain emergency medical care for himself or any other person.

B. Whoever violates the provisions of this Section shall be imprisoned for not less than fifteen days nor more than six months without benefit of suspension of imposition or execution of sentence, except as provided in Subsection C of this Section.

C. In addition to other penalties imposed pursuant to this Title, when the operator's driving privileges were suspended for manslaughter, vehicular homicide, negligent homicide, first degree vehicular negligent injuring, or a third or subsequent violation of operating a vehicle while intoxicated, the offender shall be imprisoned for not less than ninety days nor more than one year without benefit of suspension of imposition or execution of sentence.

Acts 2014, No. 385, §1, eff. Jan. 1, 2015; Acts 2022, No. 673, §1.

§102.1. Cruelty to animals; simple and aggravated

A.(1) Any person who intentionally or with criminal negligence commits any of the following shall be guilty of simple cruelty to animals:

(a) Overdrives, overloads, drives when overloaded, or overworks a living animal.

(b) Torments, cruelly beats, or unjustifiably injures any living animal, whether belonging to himself or another.

(c) Having charge, custody, or possession of any animal, either as owner or otherwise, unjustifiably fails to provide it with proper food, proper drink, proper shelter, or proper veterinary care.

(d) Abandons any animal. A person shall not be considered to have abandoned an animal if he delivers to an animal control center an animal which he found running at large.

(e) Impounds or confines or causes to be impounded or confined in a pound or other place, a living animal and fails to supply it during such confinement with proper food, proper drink, and proper shelter.

(f) Carries, or causes to be carried, a living animal in or upon a vehicle or otherwise, in a cruel or inhumane manner.

(g) Unjustifiably administers any poisonous or noxious drug or substance to any domestic animal or unjustifiably exposes any such drug or substance, with intent that the same shall be taken or swallowed by any domestic animal.

(h) Injures any animal belonging to another person.

(i) Mistreats any living animal by any act or omission whereby unnecessary or unjustifiable physical pain, suffering or death is caused to or permitted upon the animal.

(j) Causes or procures to be done by any person any act enumerated in this Subsection.

(2)(a) Whoever commits the crime of simple cruelty to animals shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both. In addition, the court may order the offender to pay for any expenses incurred for the housing of the animal and for medical treatment of the animal, pursuant to Code of Criminal Procedure Article 883.2.

(b) Whoever commits a second or subsequent offense of simple cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both. In addition, the court shall issue an order prohibiting the defendant from owning or keeping animals for a period of time deemed appropriate by the court.

(c) In addition to any other penalty imposed, a person who commits the crime of cruelty to animals shall be ordered to perform five eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(d) In addition to any other penalty imposed, the court may order a psychological evaluation or anger management treatment for a first conviction of the crime of simple cruelty to animals. For a second or subsequent offense of the crime of simple cruelty to an animal, the court shall order a psychological evaluation or anger management treatment. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(3) For purposes of this Subsection, if more than one animal is subject to an act of cruel treatment by an offender, each act shall constitute a separate offense.

B.(1) Any person who intentionally or with criminal negligence tortures, maims, or mutilates any living animal, whether belonging to himself or another, shall be guilty of aggravated cruelty to animals.

(2) Any person who tampers with livestock at a public livestock exhibition or at a private sale shall also be guilty of aggravated cruelty to animals.

(3) Any person who causes or procures to be done by any person any act designated in this Subsection shall also be guilty of aggravated cruelty to animals.

(4) Any person who intentionally or with criminal negligence mistreats any living animal whether belonging to himself or another by any act or omission which causes or permits unnecessary or unjustifiable physical pain, suffering, or death to the animal shall also be guilty of aggravated cruelty to animals.

(5) In addition to any other penalty imposed for a violation of this Subsection, the offender shall be ordered to undergo a psychological evaluation and subsequently recommended psychological treatment and shall be banned by court order from owning or keeping animals for a period of time deemed appropriate by the court. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

(6) Whoever commits the crime of aggravated cruelty to animals shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both.

(7) For purposes of this Subsection, where more than one animal is tortured, maimed, mutilated, or maliciously killed1 or where more than one head of livestock is tampered with, each act comprises a separate offense.

C. This Section shall not apply to any of the following:

(1) The lawful hunting or trapping of wildlife as provided by law.

(2) Herding of domestic animals.

(3) Accepted veterinary practices.

(4) Activities carried on for scientific or medical research governed by accepted standards.

(5) Traditional rural Mardi Gras parades, processions, or runs involving chickens.

(6) Nothing in this Section shall prohibit the standard transportation and agricultural processing of agriculture products as defined in R.S. 3:3602(5) and (6).

D. Repealed by Acts 2007, No. 425, §2, eff. August 15, 2008.

Added by Acts 1982, No. 431, §1. Acts 1983, 1st Ex. Sess., No. 6, §1; Acts 1987, No. 336, §1; Acts 1995, No. 1165, §1; Acts 1995, No. 1246, §1, eff. June 29, 1995; Acts 1997, No. 461, §2; Acts 1997, No. 1212, §1; Acts 2006, No. 228, §1; Acts 2007, No. 425, §§1 and 2, eff. Aug. 15, 2008; Acts 2009, No. 106, §1; Acts 2009, No. 179, §1; Acts 2022, No. 629, §1.

1As appears in enrolled bill.

§107.2. Hate crimes

A. It shall be unlawful for any person to select the victim of the following offenses against person and property because of actual or perceived race, age, gender, religion, color, creed, disability, sexual orientation, national origin, or ancestry of that person or the owner or occupant of that property or because of actual or perceived membership or service in, or employment with, an organization, or because of actual or perceived employment as a law enforcement officer, firefighter, or emergency medical services personnel: first or second degree murder; manslaughter; battery; aggravated battery; second degree battery; aggravated assault with a firearm; terrorizing; menacing; mingling harmful substances; simple or third degree rape, forcible or second degree rape, or aggravated or first degree rape; sexual battery; second degree sexual battery; oral sexual battery; carnal knowledge of a juvenile; indecent behavior with juveniles; molestation of a juvenile or a person with a physical or mental disability; simple, second degree, or aggravated kidnapping; simple or aggravated arson; communicating of false information of planned arson; simple or aggravated criminal damage to property; contamination of water supplies; simple or aggravated burglary; criminal trespass; simple, first degree, or armed robbery; purse snatching; extortion; theft; desecration of graves; institutional vandalism; or assault by drive-by shooting.

B. If the underlying offense named in Subsection A of this Section is a misdemeanor, and the victim of the offense listed in Subsection A of this Section is selected in the manner proscribed by that Subsection, the offender may be fined not more than five hundred dollars or imprisoned for not more than six months, or both. This sentence shall run consecutively to the sentence for the underlying offense.

C. If the underlying offense named in Subsection A of this Section is a felony, and the victim of the offense listed in Subsection A of this Section is selected in the manner proscribed by that Subsection, the offender may be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than five years, or both. This sentence shall run consecutively to the sentence for the underlying offense.

D. "Organization", as used in this Section, means all of the following:

(1) Any lawful corporation, trust, company, partnership, association, foundation, or fund.

(2) Any lawful group of persons, whether or not incorporated, banded together for joint action on any subject or subjects.

(3) Any entity or unit of federal, state, or local government.

E. As used in this Section:

(1) "Emergency medical services personnel" shall have the same meaning ascribed to it by R.S. 40:1075.3.

(2) "Firefighter" means any firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state of Louisiana.

(3) "Law enforcement officer" means any active or retired city, parish, or state law enforcement officer, peace officer, sheriff, deputy sheriff, probation or parole officer, marshal, deputy, wildlife enforcement agent, state correctional officer, or commissioned agent of the

Department of Public Safety and Corrections, as well as any federal law enforcement officer or employee, whose permanent duties include making arrests, performing search and seizures, execution of criminal arrest warrants, execution of civil seizure warrants, any civil functions performed by sheriffs or deputy sheriffs, enforcement of penal or traffic laws, or the care, custody, control, or supervision of inmates.

Acts 1997, No. 1479, §2, eff. July 15, 1997; Acts 2001, No. 301, §1; Acts 2004, No. 676, §1; Acts 2011, No. 67, §3; Acts 2014, No. 791, §7; Acts 2015, No. 184, §1; Acts 2016, No. 184, §1; Acts 2022, No. 493, §1.

§108.2. Resisting a police officer with force or violence

A. Resisting a police officer with force or violence is any of the following when the offender has reasonable grounds to believe the victim is a police officer who is arresting, detaining, seizing property, serving process, or is otherwise acting in the performance of his official duty:

(1) Using threatening force or violence by one sought to be arrested or detained before the arresting officer can restrain him and after notice is given that he is under arrest or detention.

(2) Using threatening force or violence toward or any resistance or opposition using force or violence to the arresting officer after the arrested party is actually placed under arrest and before he is incarcerated in jail.

(3) Injuring or attempting to injure a police officer engaged in the performance of his duties as a police officer.

(4) Using or threatening force or violence toward a police officer performing any official duty.

B. For purposes of this Section, "police officer" shall include any commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, juvenile detention facility officer, constable, wildlife enforcement agent, state park warden, or probation and parole officer.

C. Whoever commits the crime of resisting an officer with force or violence shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not less than one year nor more than three years, or both.

Acts 2008, No. 491, §1; Acts 2022, No. 468, §1.

SUBPART F. OFFICIAL MISCONDUCT AND CORRUPT PRACTICES

§134. Malfeasance in office

A. Malfeasance in office is committed when any public officer or public employee shall:

(1) Intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; or

(2) Intentionally perform any such duty in an unlawful manner; or

(3) Knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him, or to perform any such duty in an unlawful manner; or

(4) Willfully and knowingly subject any person to the deprivation of any right, privilege, or immunity secured or protected by the United States Constitution and laws, if serious bodily injury or death results.

B. Any duty lawfully required of a public officer or public employee when delegated by him to a public officer or public employee shall be deemed to be a lawful duty of such public

officer or employee. The delegation of such lawful duty shall not relieve the public officer or employee of his lawful duty.

C.(1) Whoever commits the crime of malfeasance in office shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars, or both.

(2) In addition to the penalty provided for in Paragraph (1) of this Subsection, a person convicted of the provisions of this Section may be ordered to pay restitution to the state if the state suffered a loss as a result of the offense. Restitution shall include the payment of legal interest at the rate provided in R.S. 13:4202.

(3) If the individual convicted of the crime of malfeasance in office is a P.O.S.T. certified full-time, part-time, or reserve peace officer, the P.O.S.T certification of that peace officer shall be immediately revoked pursuant to R.S. 40:2405(J).

Amended by Acts 1980, No. 454, §1; Acts 2002, 1st Ex. Sess., No. 128, §6; Acts 2010, No. 811, §1, eff. Aug. 15, 2011; Acts 2016, No. 273, §1; Acts 2022, No. 668, §1, eff. June 18, 2022.

§134.1. Malfeasance in office; sexual conduct prohibited with persons in the custody and supervision of the Department of Public Safety and Corrections

A. It shall be unlawful and constitute malfeasance in office for any of the following persons to engage in sexual intercourse or any other sexual conduct with a person who is under their supervision and who is confined in a prison, jail, work release facility, or correctional institution, or who is under the supervision of the division of probation and parole, or who is detained or arrested:

(1) A law enforcement officer.

(2) An officer, employee, contract worker, or volunteer of the Department of Public Safety and Corrections or any prison, jail, work release facility, or correctional institution.

B. Whoever violates a provision of this Section shall be fined not more than ten thousand dollars or imprisoned at hard labor for not more than ten years, or both.

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

Added by Acts 1981, No. 509, §1; Acts 2008, No. 481, §1; Acts 2010, No. 915, §1; Acts 2022, No. 560, §1.

§230.1. Civil remedies

A. As used in this Section:

(1) "Commingled funds" means the combination of legitimate funds and proceeds derived from criminal activity.

(2) "Criminal activity" means any of the offenses listed in Subsection B of this Section, including conspiracy, principals, and attempts to commit any of the listed offenses that are classified as a felony under the laws of this state or of the United States.

(3) "Facilitating property" means any property used to commit the offense.

(4) "Proceeds" means funds acquired or derived directly or indirectly from or produced or realized through an act.

B. All facilitating property, proceeds, and commingled funds, without limitation to commingled funds of persons who knowingly or should have reasonably known of the foregoing criminal activity, shall be subject to seizure and forfeiture if involved in or derived from any of the following offenses:

(1) Identity theft (R.S. 14:67.16).

(2) Access device fraud (R.S. 14:70.4).

(3) Illegal transmission of monetary funds (R.S. 14:70.8).

(4) Bank fraud (R.S. 14:71.1).

(5) Monetary instrument abuse (R.S. 14:72.2).

(6) Computer fraud (R.S. 14:73.5).

(7) Money laundering; transactions involving proceeds derived from criminal activity (R.S. 14:230).

C.(1) Any facilitating property, proceeds, and commingled funds subject to forfeiture under this Section may be seized under process issued by any court of record having jurisdiction over the facilitating property, proceeds, and commingled funds except that seizure without such process may be made when either of the following exists:

(a) The seizure is incident to an arrest with probable cause or a search under a valid search warrant or with probable cause or an inspection under valid administrative inspection warrant.

(b) The facilitating property, proceeds, and commingled funds subject to seizure have been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this Section.

(2)(a) All forfeitures or dispositions under this Section shall be made with due provisions for the rights of factually innocent persons. No mortgage, lien, privilege, or other security interest recognized under the laws of Louisiana and no ownership interest in indivision shall be affected by a forfeiture if the owner of such mortgage, lien, privilege, or other security interest, or owner in indivision establishes that he is a factually innocent person. No forfeiture or disposition under this Section shall affect the rights of factually innocent persons.

(b) Notwithstanding any provision of law to the contrary, a mortgage, lien, or security interest held by a federally insured financial institution shall not be affected by the seizure and forfeiture provisions of this Section.

(c) Notice of pending forfeiture or disposition shall be provided by the district attorney in accordance with the requirements of R.S. 40:2608(3) or R.S. 14:90.1(B)(3).

D. In the event of a seizure under Subsection C of this Section, a forfeiture proceeding shall be instituted promptly. Any facilitating property, proceeds, and commingled funds taken or detained under this Section shall not be subject to sequestration or attachment but are deemed to be in the custody of the law enforcement officer making the seizure, subject only to the order of the court. When property is seized under this Section, pending forfeiture and final disposition, the law enforcement officer making the seizure may do any of the following:

(1) Place the property under seal.

(2) Remove the property to a place designated by the court.

(3) Request another agency authorized by law to take custody of the property and remove it to an appropriate location.

E. The district attorney may institute civil proceedings under this Section. In any action brought under this Section, the district court shall proceed as soon as practicable to the hearing and

determination following conviction or agreement between the parties. Pending final determination, the court may at any time enter such injunctions or restraining orders or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper.

F. A final judgment or decree rendered in favor of the state in any criminal proceeding shall preclude the defendant from denying the essential facts established in that proceeding in any subsequent civil action.

G. Notwithstanding any other provision of law, a criminal or civil action or proceeding under this Chapter may be commenced at any time within five years after the conduct in violation of a provision of this Chapter terminates or the cause of action accrues. If a criminal prosecution or civil action is brought under the provisions of this Chapter, the running of the period prescribed by this Section with respect to any cause of action arising under Subsection E of this Section which is based in whole or in part upon any matter complained of in any such prosecution or action shall be suspended during the pendency of such prosecution or action and for two years following its termination.

H. The application of one civil remedy under any provision of this Section shall not preclude the application of any other remedy, civil or criminal, under any other provision of law. Civil remedies under this Section are supplemental and not mutually exclusive.

I. The allocation of proceeds from forfeitures or dispositions under this Section shall be determined by the court in accordance with each law enforcement entity's participation in the investigation, seizure, and forfeiture process. Proceeds shall be distributed in the following order of priority:

(1) Satisfaction of any bona fide security interest or lien.

(2) Payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs.

(3) The remaining funds shall be allocated as follows:

(a) Sixty percent to the law enforcement agency or agencies making the seizure.

(b) Twenty percent to the criminal court fund.

(c) Twenty percent to the district attorney's office pursuing the forfeiture.

Acts 2022, No. 747, §1.

§403.10. Drug-related overdoses; medical assistance; immunity from prosecution

A.(1) A person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession or use of a controlled dangerous substance under the Uniform Controlled Dangerous Substances Law or of possession of drug paraphernalia as defined in R.S. 40:1021 if the evidence for such offenses was obtained as a result of the person's seeking medical assistance.

(2) Any such person shall also not be subject to the following, if related to seeking medical assistance:

(a) Sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole, related to the incident which required medical assistance as provided in Paragraph (1) of this Subsection.

(b) Civil forfeiture of property, related to the incident which required medical assistance as provided in Paragraph (1) of this Subsection.

B.(1) A person who experiences a drug-related overdose and is in need of medical assistance shall not be arrested, charged, prosecuted, or penalized for possession or use of a controlled dangerous substance under the Uniform Controlled Dangerous Substances Law or for possession of drug paraphernalia as defined in R.S. 40:1021 if the evidence for such offenses was obtained as a result of the overdose and the need for medical assistance.

(2) Any such person shall not be subject to the following, if related to seeking medical assistance:

(a) Sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole, related to the incident which required medical assistance as provided in Paragraph (1) of this Subsection.

(b) Civil forfeiture of property, related to the incident which required medical assistance as provided in Paragraph (1) of this Subsection.

C. Protection from prosecution in this Section may not be grounds for suppression of evidence in other criminal prosecutions.

D. The act of providing or seeking first aid or other medical assistance for someone who is experiencing a drug overdose may be used as a mitigating factor in a criminal prosecution for which immunity provided by Subsection B of this Section is not provided.

E. Nothing in this Section shall limit any seizure of evidence or contraband otherwise permitted by law.

F. Nothing in this Section shall limit or abridge the authority of a law enforcement officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in Subsections A and B of this Section.

G. Nothing in this Section shall limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regard to a defendant who does not qualify for the protections of Subsection A or B of this Section or with regard to other crimes committed by a person who otherwise qualifies for the protections of Subsection A or B of this Section.

Acts 2014, No. 392, §1; Acts 2022, No. 225, §1.

NOTE: NOT FOUND

Acts 2022, No. 545, §4.