Louisiana Criminal Code 2023
Title 14 of the Revised Statutes

About the Book

Formatted and compiled with the practitioners and law students in mind, this edition of the Louisiana Criminal Code has easy to read text on letter size pages that reads across the whole page (no dual columns) and a detailed table of contents that allows you to quickly access the provision you need. Contains all statutes of Title 14 as amended through the 2022 Legislative Sessions.

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CHAPTER 1. CRIMINAL CODE

PART I. GENERAL PROVISIONS

SUBPART A. PRELIMINARY PROVISIONS

§1. Method of citation

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

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

§2. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Solicitation for murder.
(2) First degree murder.
(3) Second degree murder.
(4) Manslaughter.
(5) Aggravated battery.
(6) Second degree battery.
(7) Aggravated assault.
(8) 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. 14:403.2, "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.

§3. Interpretation

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

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

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

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

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

§5. Lesser and included offenses

An offender who commits an offense which includes all the elements of other lesser offenses, may be prosecuted for and convicted of either the greater offense or one of the lesser and included offenses. In such case, where the offender is prosecuted for the greater offense, he may be convicted of any one of the lesser and included offense.

§6. Civil remedies not affected

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

SUBPART B. ELEMENTS OF CRIMES

§7. Crime defined

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

§8. Criminal conduct

Criminal conduct consists of:

(1) An act or a failure to act that produces criminal consequences, and which is combined with criminal intent; or

(2) A mere act or failure to act that produces criminal consequences, where there is no requirement of criminal intent; or

(3) Criminal negligence that produces criminal consequences.

§9. Criminal consequences

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

§10. Criminal intent

Criminal intent may be specific or general:

(1) Specific criminal intent is that state of mind which exists when the circumstances indicate that the offender actively desired the prescribed criminal consequences to follow his act or failure to act.

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

§11. Criminal intent; how expressed

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

§12. Criminal negligence

Criminal negligence exists when, although neither specific nor general criminal intent is present, there is such disregard of the interest of others that the offender's conduct amounts to a gross deviation below the standard of care expected to be maintained by a reasonably careful man under like circumstances.

SUBPART C. CULPABILITY

§13. Infancy

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

§14. Insanity

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

§15. Intoxication

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

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

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

§16. Mistake of fact

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

§17. Mistake of law

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

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

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

§18. Justification; general provisions

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

(1) When the offender's conduct is an apparently authorized and reasonable fulfillment of any duties of public office; or

(2) When the offender's conduct is a reasonable accomplishment of an arrest which is lawful under the Code of Criminal Procedure; or

(3) When for any reason the offender's conduct is authorized by law; or

(4) When the offender's conduct is reasonable discipline of minors by their parents, tutors or teachers; or

(5) When the crime consists of a failure to perform an affirmative duty and the failure to perform is caused by physical impossibility; or

(6) When any crime, except murder, is committed through the compulsion of threats by another of death or great bodily harm, and the offender reasonably believes the person making the threats is present and would immediately carry out the threats if the crime were not committed; or

(7) When the offender's conduct is in defense of persons or of property under any of the circumstances described in Articles 19 through 22.

§19. Use of force or violence in defense

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

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

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

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

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

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

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

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

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

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

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

§20. Justifiable homicide

A. A homicide is justifiable:

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

(2) When committed for the purpose of preventing a violent or forcible felony involving danger to life or of great bodily harm by one who reasonably believes that such an offense is about

to be committed and that such action is necessary for its prevention. The circumstances must be sufficient to excite the fear of a reasonable person that there would be serious danger to his own life or person if he attempted to prevent the felony without the killing.

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

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

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

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

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

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

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

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

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

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

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

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

§21. Aggressor cannot claim self defense

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

§22. Defense of others

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

SUBPART D. PARTIES

§23. Parties classified

The parties to crimes are classified as

(1) Principals; and

(2) Accessories after the fact.

§24. Principals

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

§25. Accessories after the fact

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

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

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

§26. Criminal conspiracy

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

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

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

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

Amended by Acts 1977, No. 538, §1; Acts 2013, No. 210, §4, eff. June 11, 2013.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§28. Inciting a felony

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

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

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

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

§28.1. Solicitation for murder

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

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

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

PART II. OFFENSES AGAINST THE PERSON

SUBPART A. HOMICIDE

§29. Homicide

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

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

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

§30. First degree murder

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§30.1. Second degree murder

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

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

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

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

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

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

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

§31. Manslaughter

A. Manslaughter is:

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

finds that the offender's blood had actually cooled, or that an average person's blood would have cooled, at the time the offense was committed; or

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

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

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

(3) When the offender commits or attempts to commit any crime of violence as defined by R.S. 14:2(B), which is part of a continuous sequence of events resulting in the death of a human being where it was foreseeable that the offender's conduct during the commission of the crime could result in death or great bodily harm to a human being, even if the offender has no intent to kill or to inflict great bodily harm. For purposes of this Paragraph, it shall be immaterial whether or not the person who performed the direct act resulting in the death was acting in concert with the offender.

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

Amended by Acts 1973, No. 127, §1; Acts 1991, No. 861, §1; Acts 1992, No. 306, §1; Acts 1994, 3rd Ex. Sess., No. 115, §1; Acts 2008, No. 21, §1; Acts 2020, No. 105, §1.

§32. Negligent homicide

A. Negligent homicide is either of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Any attack made by a dog lawfully inside a dwelling, a place of business, or a motor vehicle as defined in R.S. 32:1(40), against a person who is attempting to make an unlawful entry into the dwelling, place of business, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, or motor vehicle, and the dog is protecting that property.

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

E. For the purposes of this Section:

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

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

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

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

§32.1. Vehicular homicide

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

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

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

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

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

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

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

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

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

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

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

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

Added by Acts 1983, No. 635, §1. Acts 1984, No. 855, §1; Acts 1989, No. 584, §1; Acts 1993, No. 410, §1, eff. June 9, 1993; Acts 1993, No. 415, §1; Acts 1995, No. 1120, §1; Acts 1997,

No. 1019, §1, eff. July 11, 1997; Acts 1998, 1st Ex. Sess., No. 82, §1; Acts 1999, No. 1103, §1; Acts 2001, No. 781, §1, eff. Sept. 30, 2003; Acts 2001, No. 1163, §5; Acts 2003, No. 758, §1, eff. Sept. 30, 2003; Acts 2004, No. 381, §1; Acts 2004, No. 750, §1; Acts 2005, No. 32, §1; Acts 2006, No. 294, §1, eff. June 8, 2006; Acts 2008, No. 451, §2, eff. June 25, 2008; Acts 2012, No. 662, §1, eff. June 7, 2012; Acts 2014, No. 280, §1, eff. May 28, 2014; Acts 2014, No. 372, §1, eff. May 30, 2014.

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

SUBPART A-1. FETICIDE

§32.5. Feticide defined; exceptions

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

B. Criminal feticide is of three grades:

(1) First degree feticide.

(2) Second degree feticide.

(3) Third degree feticide.

Acts 1989, No. 777, §1.

§32.6. First degree feticide

A. First degree feticide is:

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

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

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

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

§32.7. Second degree feticide

A. Second degree feticide is:

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

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

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

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

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

Acts 1989, No. 777, §1.

§32.8. Third degree feticide

A. Third degree feticide is:

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

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

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

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

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

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

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

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

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

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

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

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

NOTE: Section 6 of Acts 2001, No. 781 provides that the provisions of the Act shall become null and of no effect if and when Section 351 of P.L. 104-346 regarding the withholding of federal highway funds for failure to enact a 0.08 percent blood alcohol level is repealed or invalidated for any reason.

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

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

§32.10. Partial birth abortion

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

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

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

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

(2) "Physician" means a natural person who is the holder of an allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college in good standing with the Louisiana State Board of Medical Examiners who holds a license, permit, certification, or registration issued by the Louisiana State Board of Medical Examiners to engage in the practice of medicine in this state. For the purposes of this Paragraph, "the practice of medicine" means the holding out of one's self to the public as being engaged in the business of, or the actual engagement in, the diagnosing, treating, curing, or relieving of any bodily or mental disease, condition, infirmity, deformity, defect, ailment, or injury in any human being, other than himself, whether by the use of any drug, instrument or force, whether physical or psychic, or of what other nature, or any other agency or means; or the examining, either gratuitously or for compensation, of any person or material from

any person for such purpose whether such drug, instrument, force, or other agency or means is applied to or used by the patient or by another person; or the attending of a woman in childbirth without the aid of a licensed physician or midwife.

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

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

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

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

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

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

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

§32.11. Partial birth abortion

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

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

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

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

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

(2) "Physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the state in which the doctor performs such activity, or any other

individual legally authorized by this state to perform abortions, provided, however, that any individual who is not a physician or not otherwise legally authorized by this state to perform abortions, but who nevertheless directly performs a partial birth abortion, shall be subject to the provisions of this Section.

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

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

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

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

SUBPART A-2. SUICIDE

§32.12. Criminal assistance to suicide

A. Criminal assistance to suicide is:

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

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

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

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

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

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

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

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

§73.8. Unauthorized use of a wireless router system; pornography involving juveniles; penalty

A. Unauthorized use of a wireless router system is the accessing or causing to be accessed of any computer, computer system, computer network, or any part thereof via any wireless router system for the purposes of uploading, downloading, or selling of pornography involving juveniles as defined in R.S. 14:81.1.

B. For purposes of this Section, "wireless router system" means a device in a wireless local area network that determines the next network point to which a unit of data is routed between an origin and a destination on the Internet.

C. Whoever commits the crime of unauthorized use of a wireless router system for the purpose of accessing pornography involving a juvenile shall be imprisoned at hard labor for not less than two years or more than ten years, and fined not more than ten thousand dollars. Imprisonment shall be without benefit of parole, probation, or suspension of sentence.

D. Whoever commits the crime of unauthorized use of a wireless routing system for the purpose of accessing pornography involving a juvenile when the victim is under the age of thirteen years and the offender is seventeen years of age or older, shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

Acts 2009, No. 193, §1.

§73.9. Criminal use of Internet, virtual, street-map; enhanced penalties

A. When an Internet, virtual, street-level map is used in the commission of a criminal offense against a person or against property, an additional sentence for a period of not less than one year shall be imposed. The additional penalty imposed pursuant to this Subsection shall be served consecutively with the sentence imposed for the underlying offense.

B. When an Internet, virtual, street-level map is used in the commission or attempted commission of an act of terrorism, as is defined in R.S. 14:100.12(1), an additional sentence for a period of not less than ten years shall be imposed without the benefit of parole, probation, or suspension of the sentence. The additional penalty imposed pursuant to this Subsection shall be served consecutively with the sentence imposed for the underlying offense.

Acts 2010, No. 62, §1.

§73.10. Online impersonation

A.(1) It shall be unlawful for any person, with the intent to harm, intimidate, threaten, or defraud, to intentionally impersonate another actual person, without the consent of that person, in order to engage in any of the following:

(a) Open an electronic mail account, any other type of account, or a profile on a social networking website or other Internet website.

(b) Post or send one or more messages on or through a social networking website or other Internet website.

(2) It shall be unlawful for any person, with the intent to harm, intimidate, threaten, or defraud, to send an electronic mail, instant message, text message, or other form of electronic communication that references a name, domain address, phone number, or other item of identifying information belonging to another actual person without the consent of that person and with the intent to cause the recipient of the communication to believe that the other person authorized or transmitted the communication.

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

(1) "Access software provider" means a provider of software, including client or server software, or enabling tools that do one or more of the following:

(a) Filter, screen, allow, or disallow content.

(b) Select, choose, analyze, or digest content.

(c) Transmit, receive, display, forward, cache, search, organize, reorganize, or translate content.

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

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

(4) "Social networking website" means an Internet website that has any of the following capabilities:

(a) Allows users to register and create web pages or profiles about themselves that are available to the general public or to any other users.

(b) Offers a mechanism for direct or real-time communication among users, such as a forum, chat room, electronic mail, or instant messaging.

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

C.(1) Except as provided in Paragraph (2) of this Subsection, whoever violates any provision of this Section shall be fined not less than two hundred fifty dollars nor more than one thousand dollars, imprisoned for not less than ten days nor more than six months, or both.

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

D. The provisions of this Section shall not apply to any of the following or to any person who is employed by any of the following when the actions of the employee are within the course and scope of his employment:

(1) A social networking website.

(2) An interactive computer service provider.

(3) A telecommunications service provider.

(4) A cable operator.

(5) An Internet service provider.

(6) Any law enforcement officer or agency.

Acts 2012, No. 375, §1; Acts 2019, No. 104, §2.

§73.11. Communication interference

A. It shall be unlawful for any person to willfully or maliciously injure, destroy, obstruct, hinder, delay the transmission of, or interfere with any of the following communications:

(1) A communication that is operated or controlled by the state, its contractors, or its political subdivisions.

(2) A communication that is used or intended to be used for military or civil defense functions of the state.

(3) A communication that is controlled by any domestic or foreign corporation, limited liability company, or other legal entity created for the purpose of or engaged in generating, transmitting, providing, and distributing utilities or utility services to the public.

B. For purposes of this Section:

(1) "Communication" includes any radio, telegraph, telephone, electronic, satellite, or cable communication.

(2) "Utilities" or "utility services" includes services such as electricity, water, natural gas, steam, cable, or electronic communication systems.

C. The provisions of this Section shall not apply to any of the following:

(1) Any lawful strike activity, or other lawful concerted activities for the purposes of collective bargaining or other mutual aid and protection which do not injure or destroy any line or system used or intended to be used for aid by the state, for military or civil defense functions of the state, or for any private entity as described in Subsection A of this Section.

(2) An entity the security issues of which are subject to approval, control, regulation, or supervision by the federal government or any agency thereof under any other federal statute; an entity whose business is subject to regulation by the Federal Communications Commission; or any entity conducting or carrying on its business or operations in two or more states when engaged in the course and scope of their business activities.

(3) Member-owned electric cooperatives, municipally owned electric service providers, privately owned utilities, or investor-owned utilities regulated by the Louisiana Public Service Commission or the city council of New Orleans when engaged in the course and scope of their business activities.

D.(1) Any person convicted of a first offense of Subsection A of this Section shall be subject to a fine of not more than ten thousand dollars, imprisonment with or without hard labor for not more than ten years, or both.

(2) Any person convicted of a second or subsequent offense of Subsection A of this Section shall be subject to a fine of not more than ten thousand dollars, imprisonment with or without hard labor for not more than fifteen years, or both.

Acts 2019, No. 88, §1.

PART IV. OFFENSES AFFECTING THE FAMILY

SUBPART A. CRIMINAL NEGLECT OF FAMILY

§74. Criminal neglect of family

A.(1) Criminal neglect of family is the desertion or intentional nonsupport:

(a) By a spouse of his or her spouse who is in destitute or necessitous circumstances; or

(b) By either parent of his minor child who is in necessitous circumstances, there being a duty established by this Section for either parent to support his child.

(2) Each parent shall have this duty without regard to the reasons and irrespective of the causes of his living separate from the other parent. The duty established by this Section shall apply retrospectively to all children born prior to the effective date of this Section.

(3) For purposes of this Subsection, the factors considered in determining whether "necessitous circumstances" exist are food, shelter, clothing, health and with regard to minor children only, adequate education, including but not limited to public, private, or home schooling, and comfort.

B.(1) Whenever a husband has left his wife or a wife has left her husband in destitute or necessitous circumstances and has not provided means of support within thirty days thereafter, his or her failure to so provide shall be only presumptive evidence for the purpose of determining the substantive elements of this offense that at the time of leaving he or she intended desertion and nonsupport. The receipt of assistance from the Family Independence Temporary Assistance Program (FITAP) shall constitute only presumptive evidence of necessitous circumstances for purposes of proving the substantive elements of this offense. Physical incapacity which prevents a person from seeking any type of employment constitutes a defense to the charge of criminal neglect of family.

(2) Whenever a parent has left his minor child in necessitous circumstances and has not provided means of support within thirty days thereafter, his failure to so provide shall be only presumptive evidence for the purpose of determining the substantive elements of this offense that at the time of leaving the parent intended desertion and nonsupport. The receipt of assistance from the Family Independence Temporary Assistance Program (FITAP) shall constitute only presumptive evidence of necessitous circumstances for the purpose of proving the substantive elements of this offense. Physical incapacity which prevents a person from seeking any type of employment constitutes a defense to the charge of criminal neglect of family.

C. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this Section. Husband and wife are competent witnesses to testify to any relevant matter.

D.(1) Whoever commits the offense of criminal neglect of family shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both, and may be placed on probation pursuant to R.S. 15:305.

(2) If a fine is imposed, the court shall direct it to be paid in whole or in part to the spouse or to the tutor or custodian of the child, to the court approved fiduciary of the spouse or child, or to the Louisiana Department of Children and Family Services in a FITAP or Family Independence Temporary Assistance Program case or in a non-FITAP or Family Independence Temporary

Assistance Program case in which the said department is rendering services, whichever is applicable; hereinafter, said payee shall be referred to as the "applicable payee." In addition, the court may issue a support order, after considering the circumstances and financial ability of the defendant, directing the defendant to pay a certain sum at such periods as the court may direct. This support shall be ordered payable to the applicable payee. The amount of support as set by the court may be increased or decreased by the court as the circumstances may require.

(3) The court may also require the defendant to enter into a recognizance, with or without surety, in order that the defendant shall make his or her personal appearance in court whenever required to do so and shall further comply with the terms of the order or of any subsequent modification thereof.

E. For the purposes of this Section, "spouse" shall mean a husband or wife.

Amended by Acts 1950, No. 164, §1; Acts 1952, No. 368, §1; Acts 1968, No. 233, §1; Acts 1968, No. 647, §1; Acts 1968, Ex.Sess., No. 14, §1; Acts 1975, No. 116, §1, eff. July 1, 1975; Acts 1976, No. 559, §1; Acts 1978, No. 443, §1; Acts 1979, No. 614, §1; Acts 1980, No. 764, §§4, 5; Acts 1981, No. 812, §3, eff. Aug. 2, 1981; Acts 1981, Ex.Sess., No. 34, §3, eff. Nov. 19, 1981; Acts 1984, No. 453, §§1 and 2; Acts 1997, No. 1402, §1.

§74.1. Right of action

The provisions of Art. 242 of the Louisiana Revised Civil Code of 1870 shall not apply to any proceeding brought under the provisions of R.S. 14:74.

Added by Acts 1954, No. 298, §1.

§75. Failure to pay child support obligation

A. This law may be cited as the "Deadbeat Parents Punishment Act of Louisiana".

B. It shall be unlawful for any obligor to intentionally fail to pay a support obligation for any child who resides in the state of Louisiana, if such obligation has remained unpaid for a period longer than six months or is greater than two thousand five hundred dollars.

C.(1) For a first offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than five hundred dollars or imprisonment for not more than six months, or both.

(2) For a second or subsequent offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than twenty-five hundred dollars or imprisonment with or without hard labor for not more than two years, or both.

(3) Upon a conviction under this statute, the court shall order restitution in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

(4) In any case in which restitution is made prior to the time of sentencing, except for a second or subsequent offense, the court may suspend all or any portion of the imposition or execution of the sentence otherwise required in this Subsection.

(5) The penalty for failure to pay a legal child support obligation when the amount of the arrearage is more than fifteen thousand dollars and the obligation has been outstanding for at least one year shall be a fine of not more than twenty-five hundred dollars, or imprisonment with or without hard labor for not more than two years, or both.

D. With respect to an offense under this Section, an action may be prosecuted in a judicial district court in this state in which any child who is the subject of the support obligation involved resided during a period during which an obligor failed to meet that support obligation; or the judicial district in which the obligor resided during a period described in Subsection B of this Section; or any other judicial district with jurisdiction otherwise provided for by law.

E. As used in this Section, the following terms mean:

(1) "Obligor" means any person who has been ordered to pay a support obligation in accordance with law.

(2) "Support obligation" means any amount determined by a court order or an order of an administrative process pursuant to the law of the state of Louisiana to be due from a person for the support and maintenance of a child or children.

F. It shall be an affirmative defense to any charge under this Section that the obligor was financially unable to pay the support obligation during and after the period that he failed to pay as ordered by the court.

Acts 2004, No. 801, §1; Acts 2008, No. 336, §1; Acts 2010, No. 689, §2, eff. June 29, 2010.

§75.1. REPEALED BY ACTS 1993, NO. 442, §4, EFF. JUNE 9, 1993.

§75.2. REPEALED BY ACTS 1993, NO. 442, §4, EFF. JUNE 9, 1993.

SUBPART B. SEX OFFENSES AFFECTING THE FAMILY

§76. Bigamy

A. Bigamy is the marriage of any person by a person already married and having a husband or wife living, or the habitual cohabitation, in this state, with such second husband or wife, regardless of the place where the marriage was celebrated.

B. The provisions of this Section shall not extend to any of the following:

(1) Any person whose former husband or wife has been absent, at the time of the second marriage, for five successive years without being known to such person, within that time, to be living.

(2) Any person whose former marriage has been annulled or dissolved at the time of the second marriage, by the judgment of a competent court.

(3) Any person who has, at the time of the second marriage, a reasonable and honest belief that his or her former husband or wife is dead, or that a valid divorce or annulment has been secured, or that his or her former marriage was invalid.

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

Acts 2014, No. 791, §7.

§77. Abetting in bigamy

A. Abetting in bigamy is the marriage of an unmarried person to the husband or wife of another, with knowledge of the fact that the party is married and without a reasonable and honest belief that such party is divorced or his marriage annulled, or that the party's husband or wife is dead.

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

Acts 2014, No. 791, §7.

§78. Repealed by Acts 2014, No. 177, §2 and Acts 2014, No. 602, §7, eff. June 12, 2014.

§78.1. Repealed by Acts 2014, No. 177, §2 and Acts 2014, No. 602, §7, eff. June 12, 2014.

SUBPART C. DOMESTIC VIOLENCE OFFENSES

§79. Violation of protective orders

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

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

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

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

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

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

(c) A condition of a parole release 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. 353, §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.

SUBPART D. CRIMINAL ABANDONMENT

§79.1. Criminal abandonment

A. Criminal abandonment is any of the following:

(1) The intentional physical abandonment of a minor child under the age of ten years by the child's parent or legal guardian by leaving the minor child unattended and to his own care when the evidence demonstrates that the child's parent or legal guardian did not intend to return to the minor child or provide for adult supervision of the minor child.

(2) The intentional physical abandonment of a person who is aged or person with a disability by a caregiver as defined in R.S. 14:93.3 who is compensated for providing care to such

person. For the purpose of this Paragraph a person who is aged shall mean any individual who is sixty years of age or older.

B. Whoever commits the crime of criminal abandonment shall be fined not more than one thousand dollars, or be imprisoned for not more than one year, or both.

Acts 1986, No. 368, §1; Acts 2008, No. 177, §1, eff. June 12, 2008; Acts 2014, No. 811, §6, eff. June 23, 2014.

§79.2. Repealed by Acts 1975, No. 638, §3

PART V. OFFENSES AFFECTING THE PUBLIC MORALS

SUBPART A. OFFENSES AFFECTING SEXUAL IMMORALITY

1. SEXUAL OFFENSES AFFECTING MINORS

§80. Felony carnal knowledge of a juvenile

A. Felony carnal knowledge of a juvenile is committed when:

(1) A person who is seventeen years of age or older has sexual intercourse, with consent, with a person who is thirteen years of age or older but less than seventeen years of age, when the victim is not the spouse of the offender and when the difference between the age of the victim and the age of the offender is four years or greater; or

(2) A person commits a second or subsequent offense of misdemeanor carnal knowledge of a juvenile, or a person who has been convicted one or more times of violating one or more crimes for which the offender is required to register as a sex offender under R.S. 15:542 commits a first offense of misdemeanor carnal knowledge of a juvenile.

B. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

C. Lack of knowledge of the juvenile's age shall not be a defense. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

D.(1) Whoever commits the crime of felony carnal knowledge of a juvenile shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not more than ten years, or both, provided that the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

(2) Repealed by Acts 2020, No. 52, §2.

Amended by Acts 1977, No. 569, §1; Acts 1978, No. 757, §1; Acts 1990, No. 590, §1; Acts 1995, No. 241, §1; Acts 2001, No. 736, §1; Acts 2006, No. 80, §1; Acts 2008, No. 331, §1; Acts 2010, No. 763, §1; Acts 2020, No. 52, §2.

§80.1. Misdemeanor carnal knowledge of a juvenile

A. Misdemeanor carnal knowledge of a juvenile is committed when a person who is seventeen years of age or older has sexual intercourse, with consent, with a person who is thirteen years of age or older but less than seventeen years of age, when the victim is not the spouse of the offender, and when the difference between the age of the victim and age of the offender is greater than two years, but less than four years.

B. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

C. Lack of knowledge of the juvenile's age shall not be a defense. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

D. Whoever commits the crime of misdemeanor carnal knowledge of a juvenile shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

E. The offender shall be eligible to have his conviction set aside and his prosecution dismissed in accordance with the appropriate provisions of the Code of Criminal Procedure.

F. The offender shall not be subject to any of the provisions of law which are applicable to sex offenders, including but not limited to the provisions which require registration of the offender and notice to the neighbors of the offender.

Acts 2001, No. 796, §1; Acts 2008, No. 331, §1.

§81. Indecent behavior with juveniles

A. Indecent behavior with juveniles is the commission of any of the following acts with the intention of arousing or gratifying the sexual desires of either person:

(1) Any lewd or lascivious act upon the person or in the presence of any child under the age of seventeen, where there is an age difference of greater than two years between the two persons. Lack of knowledge of the child's age shall not be a defense; or

(2) The transmission, delivery or utterance of any textual, visual, written, or oral communication depicting lewd or lascivious conduct, text, words, or images to any person reasonably believed to be under the age of seventeen and reasonably believed to be at least two years younger than the offender. It shall not be a defense that the person who actually receives the transmission is not under the age of seventeen.

B. The trial judge shall have the authority to issue any necessary orders to protect the safety of the child during the pendency of the criminal action and beyond its conclusion.

C. For purposes of this Section,"textual, visual, written, or oral communication" means any communication of any kind, whether electronic or otherwise, made through the use of the United States mail, any private carrier, personal courier, computer on-line service, Internet service, local bulletin board service, Internet chat room, electronic mail, online messaging service, or personal delivery or contact.

D. The provisions of this Section shall not apply to the transference of such images by a telephone company, cable television company, or any of its affiliates, free over-the-air television broadcast station, an Internet provider, a commercial on-line service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial on-line services.

E. An offense committed under this Section and based upon the transmission and receipt of textual, visual, written, or oral communication may be deemed to have been committed where the communication was originally sent, originally received, or originally viewed by any person.

F, G. Repealed by Acts 2020, No. 352, §2.

H.(1) Whoever commits the crime of indecent behavior with juveniles shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than seven years, or both, provided that the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

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

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

Amended by Acts 1956, No. 450, §1; Acts 1968, No. 647, §1; Acts 1977, No. 537, §1; Acts 1984, No. 423, §1; Acts 1986, No. 406, §1; Acts 1990, No. 590, §1; Acts 1997, No. 743, §1; Acts

2006, No. 103, §1; Acts 2006, No. 224, §1; Acts 2009, No. 198, §1; Acts 2010, No. 763, §1; Acts 2020, No. 352, §2.

§81.1. Pornography involving juveniles

A.(1) It shall be unlawful for a person to produce, promote, advertise, distribute, possess, or possess with the intent to distribute pornography involving juveniles.

(2) It shall also be a violation of the provision of this Section for a parent, legal guardian, or custodian of a child to consent to the participation of the child in pornography involving juveniles.

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

(1) "Access software provider" means a provider of software, including client or server software, or enabling tools that do any one or more of the following:

(a) Filter, screen, allow, or disallow content.

(b) Select, choose, analyze, or digest content.

(c) Transmit, receive, display, forward, cache, search, organize, reorganize, or translate content.

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

(3) "Coerce" shall include but not be limited to any of the following:

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

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

(c) Abduction or threatened abduction of an individual.

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

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

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

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

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

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

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

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

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

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

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

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

(5) "Distribute" means to issue, sell, give, provide, lend, mail, deliver, transfer, transmute, distribute, circulate, or disseminate by any means.

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

(7) "Labor or services" mean activity having economic value.

(8) "Pornography involving juveniles" is any photograph, videotape, film, or other reproduction, whether electronic or otherwise, of any sexual performance involving a child under the age of seventeen.

(9) "Produce" means to photograph, videotape, film, or otherwise reproduce pornography involving juveniles, or to solicit, promote, or coerce any child for the purpose of pornography involving juveniles.

(10) "Sexual performance" means any performance or part thereof that includes actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals or anus.

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

C.(1) Possession of three or more of the same photographs, images, films, videotapes, or other visual reproductions shall be prima facie evidence of intent to sell or distribute.

(2) Possession of three or more photographs, images, films, videotapes, or other visual reproductions and possession of any type of file sharing technology or software shall be prima facie evidence of intent to sell or distribute.

D.(1) Lack of knowledge of a juvenile's age shall not be a defense.

(2) It shall not be a defense to prosecution for a violation of this Section that the juvenile consented to participation in the activity prohibited by this Section.

E.(1)(a) Whoever intentionally possesses pornography involving juveniles shall be fined not more than fifty thousand dollars and shall be imprisoned at hard labor for not less than five years or more than twenty years, without benefit of parole, probation, or suspension of sentence.

(b) On a second or subsequent conviction for the intentional possession of pornography involving juveniles, the offender shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than ten years nor more than forty years, without benefit of parole, probation, or suspension of sentence.

(2)(a) Whoever distributes or possesses with the intent to distribute pornography involving juveniles shall be fined not more than fifty thousand dollars and shall be imprisoned at hard labor for not less than five years or more than twenty years, without benefit of parole, probation, or suspension of sentence.

(b) On a second or subsequent conviction for distributing or possessing with the intent to distribute pornography involving juveniles, the offender shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than ten years nor more than forty years, without benefit of parole, probation, or suspension of sentence.

(3) Any parent, legal guardian, or custodian of a child who consents to the participation of the child in pornography involving juveniles shall be fined not more than fifty thousand dollars

and imprisoned at hard labor for not less than five years nor more than twenty years, without benefit of probation, parole, or suspension of sentence.

(4)(a) Whoever engages in the promotion, advertisement, or production of pornography involving juveniles shall be fined not more than fifty thousand dollars and imprisoned at hard labor for not less than ten years nor more than twenty years, without benefit of probation, parole, or suspension of sentence.

(b) On a second or subsequent conviction for promotion, advertisement, or production of pornography involving juveniles, the offender shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than twenty years nor more than forty years, without benefit of parole, probation, or suspension of sentence.

(5)(a) Whoever commits the crime of pornography involving juveniles punishable by the provisions of Paragraph (1), (2), or (3) of this Subsection when the victim is under the age of thirteen years and the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than one-half the longest term nor more than twice the longest term of imprisonment provided in Paragraphs (1), (2), and (3) of this Subsection. The sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(b) Whoever commits the crime of pornography involving juveniles punishable by the provisions of Paragraph (4) of this Subsection when the victim is under the age of thirteen years, and the offender is seventeen years of age or older, shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

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

(e) Upon completion of the term of imprisonment imposed in accordance with Subparagraphs (5)(a) and (b) of this Subsection, the offender shall be monitored by the Department of Public Safety and Corrections through the use of electronic monitoring equipment for the remainder of his natural life.

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

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

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

F.(1) Repealed by Acts 2020, No. 352, §2.

(2) Upon the filing of any information or indictment by the prosecuting authority for a violation of this Section, the investigating law enforcement agency which seized the photographs, films, videotapes, or other visual reproductions of pornography involving juveniles shall provide

copies of those reproductions to the Internet crimes against children division within the attorney general's office.

(3) Upon receipt of the reproductions as provided in Paragraph (2) of this Subsection, the Internet crimes against children division shall:

(a) Provide those visual reproductions to the law enforcement agency representative assigned to the Child Victim Identification Program at the National Center for Missing and Exploited Children.

(b) Request the Child Victim Identification Program provide the law enforcement agency contact information for any visual reproductions recovered which contain an identified victim of pornography involving juveniles as defined in this Section.

(c) Provide case information to the Child Victim Identification Program, as requested by the National Center for Missing and Exploited Children guidelines, in any case where the Internet crimes against children division within the attorney general's office identifies a previously unidentified victim of pornography involving juveniles.

(4) The Internet crimes against children division shall submit to the designated prosecutor the law enforcement agency contact information provided by the Child Victim Identification Program at the National Center for Missing and Exploited Children for any visual reproductions involved in the case which contain the depiction of an identified victim of pornography involving juveniles as defined in this Section.

(5) In all cases in which the prosecuting authority has filed an indictment or information for a violation of this Section and the victim of pornography involving juveniles has been identified and is a resident of this state, the prosecuting agency shall submit all of the following information to the attorney general for entry into the Louisiana Attorney General's Exploited Children's Identification database maintained by that office:

(a) The parish, district, and docket number of the case.

(b) The name, race, sex, and date of birth of the defendant.

(c) The identity of the victim.

(d) The contact information for the law enforcement agency which identified a victim of pornography involving juveniles, including contact information maintained by the Child Victim Identification Program and provided to the Internet crimes against children division in accordance with this Section.

(6) No sentence, plea, conviction, or other final disposition shall be invalidated due to failure to comply with the provisions of this Subsection, and no person shall have a cause of action against the investigating law enforcement agency or any prosecuting authority, or officer or agent thereof for failure to comply with the provisions of this Subsection.

G. In prosecutions for violations of this Section, the trier of fact may determine, utilizing the following factors, whether or not the person displayed or depicted in any photograph, videotape, film, or other video reproduction introduced in evidence was under the age of seventeen years at the time of filming or recording:

(1) The general body growth, bone structure, and bone development of the person.

(2) The development of pubic or body hair on the person.

(3) The development of the person's sexual organs.

(4) The context in which the person is placed or the age attributed to the person in any accompanying video, printed, or text material.

(5) Available expert testimony and opinion as to the chronological age or degree of physical or mental maturity or development of the person.

(6) Such other information, factors, and evidence available to the trier of fact which the court determines is probative and reasonably reliable.

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

Added by Acts 1977, No. 97, §1. Amended by Acts 1981, No. 502, §1, eff. July 19, 1981, Acts 1983, No. 655, §1; Acts 1986, No. 777, §1; Acts 1992, No. 305, §1; Acts 2003, No. 1245, §1; Acts 2006, No. 103, §1; Acts 2008, No. 33, §1; Acts 2009, No. 382, §2; Acts 2010, No. 516, §1; Acts 2010, No. 763, §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017; Acts 2018, No. 682, §1; Acts 2020, No. 352, §2.

§81.1.1. "Sexting"; prohibited acts; penalties

A.(1) No person under the age of seventeen years shall knowingly and voluntarily use a computer or telecommunication device to transmit an indecent visual depiction of himself to another person.

(2) No person under the age of seventeen years shall knowingly possess or transmit an indecent visual depiction that was transmitted by another under the age of seventeen years in violation of the provisions of Paragraph (1) of this Subsection.

B. For purposes of this Section:

(1) "Indecent visual depiction" means any photograph, videotape, film, or other reproduction of a person under the age of seventeen years engaging in sexually explicit conduct, and includes data stored on any computer, telecommunication device, or other electronic storage media which is capable of conversion into a visual image.

(2) "Sexually explicit conduct" means masturbation or lewd exhibition of the genitals, pubic hair, anus, vulva, or female breast nipples of a person under the age of seventeen years.

(3) "Telecommunication device" means an analog or digital electronic device which processes data, telephonic, video, or sound transmission as part of any system involved in the sending or receiving of voice, sound, data, or video transmissions.

(4) "Transmit" means to give, distribute, transfer, transmute, circulate, or disseminate by use of a computer or telecommunication device.

C. Any offense committed by use of a computer or telecommunication device as set forth in this Section shall be deemed to have been committed at either the place from which the indecent visual depiction was transmitted or at the place where the indecent visual depiction was received.

D.(1) For a violation of the provisions of Paragraph (A)(1) of this Section, the offender's disposition shall be governed exclusively by the provisions of Title VII of the Louisiana Children's Code.

(2)(a) For a first offense in violation of Paragraph (A)(2) of this Section, the offender shall be fined not less than one hundred dollars nor more than two hundred fifty dollars, imprisoned for not more than ten days, or both. Imposition or execution of the sentence shall not be suspended unless the offender is placed on probation with a minimum condition that he perform two eight-hour days of court-approved community service.

(b) For a second offense in violation of Paragraph (A)(2) of this Section, the offender shall be fined not less than two hundred fifty dollars nor more than five hundred dollars, imprisoned for

not less than ten days nor more than thirty days, or both. Imposition or execution of the sentence shall not be suspended unless the offender is placed on probation with a minimum condition that he perform five eight-hour days of court-approved community service.

(c) For a third or any subsequent offense in violation of Paragraph (A)(2) of this Section, the offender shall be fined not less than five hundred dollars nor more than seven hundred fifty dollars, imprisoned for not less than thirty days nor more than six months, or both. Imposition or execution of the sentence shall not be suspended unless the offender is placed on probation with a minimum condition that he perform ten eight-hour days of court-approved community service.

Acts 2010, No. 993, §1; Acts 2014, No. 313, §1, eff. May 28, 2014.

§81.2. Molestation of a juvenile or a person with a physical or mental disability

A.(1) Molestation of a juvenile is the commission by anyone over the age of seventeen of any lewd or lascivious act upon the person or in the presence of any child under the age of seventeen, where there is an age difference of greater than two years between the two persons, with the intention of arousing or gratifying the sexual desires of either person, by the use of force, violence, duress, menace, psychological intimidation, threat of great bodily harm, or by the use of influence by virtue of a position of control or supervision over the juvenile. Lack of knowledge of the juvenile's age shall not be a defense.

(2) Molestation of a person with a physical or mental disability is the commission by anyone over the age of seventeen of any lewd or lascivious act upon the victim or in the presence of any victim with the intention of arousing or gratifying the sexual desires of either person, by the use of force, violence, duress, menace, psychological intimidation, threat of great bodily harm, or by the use of influence by virtue of a position of control or supervision over the victim, when any of the following conditions exist:

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

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

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

B.(1) Whoever commits the crime of molestation of a juvenile, when the victim is thirteen years of age or older but has not yet attained the age of seventeen, shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not less than five nor more than ten years, or both. The defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with the provisions of Code of Criminal Procedure Article 893.

(2) Whoever commits the crime of molestation of a juvenile, when the victim is thirteen years of age or older but has not yet attained the age of seventeen, and when the offender has control or supervision over the juvenile, shall be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than five nor more than twenty years, or both. The defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with Code of Criminal Procedure Article 893.

(3)(a) Whoever commits the crime of molestation of a juvenile, when the victim is thirteen years of age or older but has not yet attained the age of seventeen, and when the offender is an educator of the juvenile, shall be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than five nor more than forty years, or both. At least five years of

the sentence imposed shall be without the benefit of parole, probation, or suspension of sentence, and the defendant shall not be eligible to have his conviction set aside or his prosecution dismissed in accordance with Code of Criminal Procedure Article 893.

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

C.(1) Whoever commits the crime of molestation of a juvenile by violating the provisions of Paragraph (A)(1) of this Section, when the incidents of molestation recur during a period of more than one year, shall, on first conviction, be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not less than five nor more than forty years, or both. At least five years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence. After five years of the sentence have been served, the offender, who is otherwise eligible, may be eligible for parole if a licensed psychologist, medical psychologist, or a licensed clinical social worker or a board-certified psychiatrist, after psychological examination, including testing, approves.

(2) Conditions of parole shall include treatment in a qualified sex offender program for a minimum of five years, or until expiration of sentence, whichever comes first. The state shall be responsible for the cost of testing, but the offender shall be responsible for the cost of the treatment program. It shall also be a condition of parole that the offender be prohibited from being alone with a child without the supervision of another adult.

(3) For purposes of this Subsection, a "qualified sex offender program" means one which includes both group and individual therapy and arousal reconditioning. Group therapy shall be conducted by two therapists, one male and one female, at least one of whom is licensed as a psychologist or medical psychologist or is board certified as a psychiatrist or clinical social worker.

D.(1) Whoever commits the crime of molestation of a juvenile when the victim is under the age of thirteen years shall be imprisoned at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

(2) Whoever commits the crime of molestation of a person with a physical or mental disability shall be imprisoned at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

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

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

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

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

E. Repealed by Acts 2020, No. 352, §2.

Acts 1984, No. 220, §1; Acts 1990, No. 590, §1; Acts 1991, No. 925, §1; Acts 1999, No. 1309, §2, eff. Jan. 1, 2000; Acts 2006, No. 36, §§1, 2; Acts 2006, No. 103, §1; Acts 2006, No. 325, §2; Acts 2008, No. 33, §1; Acts 2008, No. 426, §1; Acts 2009, No. 192, §1, eff. June 30, 2009; Acts 2009, No. 251, §13, eff. Jan. 1, 2010; Acts 2010, No. 763, §1; Acts 2011, No. 67, §1; Acts 2020, No. 352, §2.

§81.3. Computer-aided solicitation of a minor

A.(1) Computer-aided solicitation of a minor is committed when a person seventeen years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen where there is an age difference of greater than two years, or a person reasonably believed to have not yet attained the age of seventeen and reasonably believed to be at least two years younger, for the purpose of or with the intent to persuade, induce, entice, or coerce the person to engage or participate in sexual conduct or a crime of violence as defined in R.S. 14:2(B), or with the intent to engage or participate in sexual conduct in the presence of the person who has not yet attained the age of seventeen, or person reasonably believed to have not yet attained the age of seventeen.

(2) It shall also be a violation of the provisions of this Section when a person seventeen years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen where there is an age difference of greater than two years, or a person reasonably believed to have not yet attained the age of seventeen and reasonably believed to be at least two years younger, for the purpose of or with the intent to arrange for any third party to engage in any of the conduct proscribed by the provisions of Paragraph (1) of this Subsection.

(3) It shall also be a violation of the provisions of this Section when a person seventeen years of age or older knowingly contacts or communicates, through the use of electronic textual communication, with a person who has not yet attained the age of seventeen, or a person reasonably believed to have not yet attained the age of seventeen, for the purpose of recruiting, enticing, or coercing the person to engage in commercial sexual activity.

(4) It shall also be a violation of the provisions of this Section when the contact or communication is initially made through the use of electronic textual communication and subsequent communication is made through the use of any other form of communication.

(5) It shall also be a violation of the provisions of this Section when a person seventeen years of age or older knowingly uses another individual who is seventeen years of age or older to contact or communicate with a person who has not yet attained the age of seventeen and there is an age difference of greater than two years between the person contacted and the offender or a person reasonably believed to have not yet attained the age of seventeen and reasonably believed to be at least two years younger than the offender, for the purpose of or with the intent to engage in any of the conduct proscribed by Paragraph (1) of this Subsection.

B.(1)(a) Whoever violates the provisions of this Section when the victim is thirteen years of age or more but has not attained the age of seventeen shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than five years nor more than ten years, without benefit of parole, probation, or suspension of sentence.

(b) Whoever violates the provisions of this Section when the victim is under thirteen years of age shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than ten years nor more than twenty years, without benefit of parole, probation, or suspension of sentence.

(c) Whoever violates the provisions of this Section, when the victim is a person reasonably believed to have not yet attained the age of seventeen, shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than two years nor more than ten years, without benefit of parole, probation, or suspension of sentence.

(d) If the computer-aided solicitation results in actual sexual conduct between the offender and victim and the difference between the age of the victim and the age of the offender is five years or greater, the offender shall be fined not more than ten thousand dollars and shall be imprisoned, with or without hard labor, for not less than seven years nor more than ten years.

(2) On a subsequent conviction, the offender shall be imprisoned for not less than ten years nor more than twenty years at hard labor without benefit of parole, probation, or suspension of sentence.

(3) In addition to the penalties imposed in either Paragraph (1) or (2) of this Subsection, the court may impose, as an additional penalty on the violator, the limitation or restriction of access to the Internet when the Internet was used in the commission of the crime.

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

C.(1) It shall not constitute a defense to a prosecution brought pursuant to this Section that the person reasonably believed to be under the age of seventeen is actually a law enforcement officer or peace officer acting in his official capacity.

(2) It shall not be a defense to prosecution for a violation of this Section that the juvenile consented to participation in the activity prohibited by this Section.

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

(1) "Coerce" shall include but not be limited to any of the following:

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

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

(c) Abduction or threatened abduction of an individual.

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

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

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

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

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

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

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

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

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

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

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

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

(3) "Electronic textual communication" means a textual communication made through the use of a computer on-line service, Internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or on-line messaging service.

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

(5) "Sexual conduct" means actual or simulated sexual intercourse, deviant sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, lewd exhibition of the genitals, or any lewd or lascivious act.

E. The provisions of this Section shall not apply to the transference of such images by a telephone company, cable television company, or any of its affiliates, an Internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial online services.

F. An offense committed under this Section may be deemed to have been committed where the electronic textual communication was originally sent, originally received, or originally viewed by any person, or where any other element of the offense was committed.

G, H. Repealed by Acts 2020, No. 352, §2.

I. A violation of the provisions of this Section shall be considered a sex offense as defined in R.S. 15:541. Whoever commits the crime of computer-aided solicitation of a minor shall be required to register as a sex offender as provided for in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

Acts 2005, No. 246, §1; Acts 2008, No. 25, §1, eff. May 30, 2008; Acts 2008, No. 461, §1, eff. June 25, 2008; Acts 2008, No. 646, §1, eff. July 1, 2008; Acts 2008, No. 672, §1; Acts 2009, No. 58, §1; Acts 2010, No. 517, §1; Acts 2010, No. 763, §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1; Acts 2020, No. 352, §2; Acts 2021, No. 186, §1.

NOTE: Acts 2008, No. 646, §3, superseded the provisions of Acts 2008, No. 25.

§81.4. Prohibited sexual conduct between educator and student

A. Prohibited sexual conduct between an educator and a student is committed when any of the following occur:

(1) An educator has sexual intercourse with a person who is seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, when the victim is not the spouse of the offender and is a student at the school where the educator is assigned, employed, or working at the time of the offense.

(2) An educator commits any lewd or lascivious act upon a student or in the virtual or physical presence of a student who is seventeen years of age or older, but less than twenty-one

years of age, where there is an age difference of greater than four years between the two persons, with the intention of gratifying the sexual desires of either person, when the victim is a student at the school in which the educator is assigned, employed, or working at the time of the offense.

(3) An educator intentionally engages in the touching of the anus or genitals of a student seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, using any instrumentality or any part of the body of the educator, or the touching of the anus or genitals of the educator by a person seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, when the victim is a student at the school in which the educator is assigned, employed, or working at the time of the offense using any instrumentality or any part of the body of the student.

B. As used in this Section:

(1) "Educator" means any administrator, coach, instructor, paraprofessional, student aide, teacher, or teacher aide at any public or private school, assigned, employed, or working at the school or school system where the victim is enrolled as a student on a full-time, part-time, or temporary basis.

(2) "School" means a public or nonpublic elementary or secondary school or learning institution which shall not include universities and colleges.

(3) "Sexual intercourse" means anal, oral, or vaginal sexual intercourse. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

(4) "Student" includes students enrolled in a school who are seventeen years of age or older, but less than twenty-one years of age.

(5) "Virtual" means carried out, accessed, or stored by means of a computer or the exchange of digital media over any network.

C. The consent of a student, whether or not that student is seventeen years of age or older, shall not be a defense to any violation of this Section.

D. Lack of knowledge of the student's age shall not be a defense.

E.(1) Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(2) For a second or subsequent offense, an offender may be fined not more than five thousand dollars and shall be imprisoned, with or without hard labor, for not less than one year nor more than five years.

F. Notwithstanding any claim of privileged communication, any educator having cause to believe that prohibited sexual conduct between an educator and student shall immediately report such conduct to a local or state law enforcement agency.

G. No cause of action shall exist against any person who in good faith makes a report, cooperates in any investigation arising as a result of such report, or participates in judicial proceedings arising out of such report, and such persons shall have immunity from civil or criminal liability that otherwise might be incurred or imposed. This immunity shall not be extended to any person who makes a report known to be false or with reckless disregard for the truth of the report.

H. In any action to establish damages against a defendant who has made a false report of prohibited sexual conduct between an educator and student, the plaintiff shall bear the burden of proving that the defendant who filed the false report knew the report was false or that the report was filed with reckless disregard for the truth of the report. A plaintiff who fails to meet the burden of proof set forth in this Subsection shall pay all court costs and attorney fees of the defendant.

Acts 2007, No. 363, §1; Acts 2009, No. 210, §1, eff. Sept. 1, 2009; Acts 2021, No. 186, §1.

§81.5. Unlawful possession of videotape of protected persons under R.S. 15:440.1 et seq.

A. It is unlawful for any person to knowingly and intentionally possess, sell, duplicate, distribute, transfer, or copy any films, recordings, videotapes, audio tapes, or other visual, audio, or written reproductions, of any recording of videotapes of protected persons provided in R.S. 15:440.1 through 440.6.

B. For purposes of this Section, "videotape" means the visual recording on a magnetic tape, film, videotape, compact disc, digital versatile disc, digital video disc, audio tape, written visual or audio reproduction or by other electronic means together with the associated oral record.

C. The provisions of this statute shall not apply to persons acting pursuant to a court order or exempted by R.S. 15:440.5 or by persons who in the course and scope of their employment are in possession of the videotape, including the office of community services, any law enforcement agency or its authorized agents and personnel, the office of the district attorney and its assistant district attorneys and authorized personnel, and the agency or organization producing the videotape, including Children Advocacy Centers.

D. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Acts 2008, No. 86, §1.

2. OFFENSES CONCERNING PROSTITUTION

§82. Prostitution; definition; penalties; enhancement

A. Prostitution is:

(1) The practice by a person of indiscriminate sexual intercourse with others for compensation.

(2) The solicitation by one person of another with the intent to engage in indiscriminate sexual intercourse with the latter for compensation.

B. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

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

(2) On a second conviction, the offender shall be fined not less than two hundred fifty dollars nor more than two thousand dollars or be imprisoned, with or without hard labor, for not more than two years, or both.

(3) On a third and subsequent conviction, the offender shall be imprisoned, with or without hard labor, for not more than four years and shall be fined not less than five hundred dollars nor more than four thousand dollars.

(4) Whoever commits the crime of prostitution with a person under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(5) Whoever commits the crime of prostitution with a person under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

D. Any offense under this Section committed more than five years prior to the commission of the offense with which the defendant is charged shall not be considered in the assessment of penalties under this Section.

E. If the offense occurred as a result of a solicitation by the offender while the offender was located on a public road or highway, or the sidewalk, walkway, or public servitude thereof, the court shall sentence the offender to imprisonment for a minimum of ninety days. If a portion of the sentence is suspended, the court may place the offender upon supervised probation if the offender agrees, as a condition of probation, to perform two hundred forty hours of community service work collecting or picking up litter and trash on the public roads, streets, and highways, under conditions specified by the court.

F. All persons who are convicted of the offense of prostitution shall be referred to the parish health unit for counseling concerning Acquired Immune Deficiency Syndrome. The counseling shall be provided by existing staff of the parish health unit whose duties include such counseling.

G.(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

Amended by Acts 1977, No. 49[illegible]; Acts 1987, No. 569, §1; Acts 1988, No. 666, §1; Acts 1999, No. 338, §1; Acts 2001, No. 401, §1, eff. June 15, 2001; Acts 2001, No. 944, §4; Acts 2008, No. 138, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 281, §1.

§82.1. Prostitution; persons under eighteen; additional offenses

A. It shall be unlawful:

(1) For any person over the age of seventeen to engage in sexual intercourse with any person under the age of eighteen who is practicing prostitution, and there is an age difference of greater than two years between the two persons.

(2) For any parent or tutor of any person under the age of eighteen knowingly to consent to the person's entrance or detention in the practice of prostitution.

B.(1) Lack of knowledge of the age of the person practicing prostitution shall not be a defense.

(2) It shall not be a defense to prosecution for a violation of this Section that the person practicing prostitution consented to the activity prohibited by this Section.

C. As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

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

(2) Whoever violates the provisions of Paragraph (A)(1) of this Section when the person practicing prostitution is under the age of fourteen shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty- five years nor more than fifty years, or both. Twenty-five years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence.

(3)(a) Whoever violates the provisions of Paragraph (A)(2) of this Section shall be required to serve at least five years of the sentence imposed in Paragraph (1) of this Subsection without benefit of parole, probation, or suspension of sentence.

(b) Whoever violates the provisions of Paragraph (A)(2) of this Section when the person practicing prostitution is under the age of fourteen shall be required to serve at least ten years of the sentence imposed in Paragraph (2) of this Subsection without benefit of parole, probation, or suspension of sentence.

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

E. It shall not be a defense to prosecution for a violation of this Section that the person practicing prostitution who is believed to be under the age of eighteen is actually a law enforcement officer or peace officer acting within the official scope of his duties.

F. Any person determined to be a victim of this offense shall be eligible for specialized services for sexually exploited children.

Acts 1985, No. 777, §1; Acts 2008, No. [illegible] §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017; Acts 2020, No. 352, §2.

§82.2. Purchase of commercial sexual activity; penalties

A. It shall be unlawful for any person to knowingly give, agree to give, or offer to give anything of value to another in order to engage in sexual intercourse with a person who receives or agrees to receive anything of value as compensation for such activity.

B. For purposes of this Section, "sexual intercourse" means anal, oral, or vaginal intercourse or any other sexual activity constituting a crime pursuant to the laws of this state.

C.(1) Whoever violates the provisions of this Section shall be fined not more than seven hundred fifty dollars or be imprisoned for not more than six months, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(2) On a second conviction, the offender shall be fined not less than one thousand five hundred dollars nor more than two thousand dollars or be imprisoned, with or without hard labor, for not more than two years, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(3) On a third and subsequent conviction, the offender shall be imprisoned, with or without hard labor, for not less than two nor more than four years and shall be fined not less than two thousand five hundred dollars nor more than four thousand dollars and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(4) Whoever violates the provisions of this Section with a person the offender knows to be under the age of eighteen years, or with a person the offender knows to be a victim of human trafficking as defined by R.S. 14:46.2 or trafficking of children for sexual purposes as defined by R.S. 14:46.3, shall be fined not less than three thousand nor more than fifty thousand dollars,

imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(5) Whoever violates the provisions of this Section with a person the offender knows to be under the age of fourteen years shall be fined not less than five thousand and not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

D. In addition to the penalties provided for in Subsection C of this Section, the court shall order the offender to complete the Buyer Beware Program, as provided for in R.S. 15:243, to educate the offender about the harms, exploitation, and negative effects of prostitution. The court shall impose additional court costs in the amount of two hundred dollars to defer the costs of the program.

E.(1) Any child under the age of eighteen determined to be a victim of this offense shall be eligible for specialized services for sexually exploited children.

(2) Any person, eighteen years of age or older, determined to be a victim of this offense shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

F. It shall not be a defense to prosecution for a violation of this Section that the person who receives or agrees to receive anything of value is actually a law enforcement officer or peace officer acting within the official scope of his duties.

Acts 2014, No. 564, §1; Acts 2018, No. 663, §

§83. Soliciting for prostitutes

A. Soliciting for prostitutes is the soliciting, inviting, inducing, directing, or transporting a person to any place with the intention of promoting prostitution.

B.(1)(a) Whoever commits the crime of soliciting for prostitutes shall be fined not more than seven hundred fifty dollars, imprisoned for not more than six months, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(b) Whoever commits a second or subsequent offense for the crime of soliciting for prostitutes shall be fined not less than one thousand five hundred dollars nor more than two thousand dollars, imprisoned for not more than one year, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(2) Whoever commits the crime of soliciting for prostitutes when the person being solicited is under the age of eighteen years shall be fined not less than three thousand dollars nor more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(3) Whoever commits the crime of soliciting for prostitutes when the person being solicited is under the age of fourteen years shall be fined not less than five thousand dollars nor more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

(4) In addition to the penalties provided for in this Subsection, the court shall order the offender to complete the Buyer Beware Program, as provided for in R.S. 15:243, to educate the offender about the harms, exploitation, and negative effects of prostitution. In furtherance of the administration of justice in the judicial district and to prevent future recidivism, the court shall

impose additional court costs in the amount of two hundred dollars to defer the costs of the program, with the proceeds of the fine being paid to the operator of the Buyer Beware Program as provided for in R.S. 15:243.

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

Amended by Acts 1980, No. 708, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017; Acts 2018, No. 663, §1; Acts 2020, No. 352, §2.

§83.1. Inciting prostitution

A. Inciting prostitution is the aiding, abetting, or assisting in an enterprise for profit in which:

(1) Customers are charged a fee for services which include prostitution, regardless of what portion of the fee is actually for the prostitution services,

(2) When the person knows or when a reasonable person in such a position should know that such aiding, abetting, or assisting is for prostitution, and

(3) When the proceeds or profits are to be in any way divided by the prostitute and the person aiding, abetting, or assisting the prostitute.

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

(2) Whoever commits the crime of inciting prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the crime of inciting prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

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

Acts 1984, No. 180, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017; Acts 2020, No. 352, §2.

§83.2. Promoting prostitution

A. Promoting prostitution is the knowing and willful control of, supervision of, or management of an enterprise for profit in which customers are charged a fee for services which include prostitution, regardless of what portion of the fee is actually for the prostitution services.

B.(1) Whoever commits the crime of promoting prostitution shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

(2) Whoever commits the crime of promoting prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the crime of promoting prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

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

Acts 1984, No. 580, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017; Acts 2020, No. 352, §2.

§83.3. Prostitution by massage

A. Prostitution by massage is the erotic stimulation of the genital organs of another by any masseur, masseuse, or any other person, whether resulting in orgasm or not, by instrumental manipulation, touching with the hands, or other bodily contact exclusive of sexual intercourse or unnatural carnal copulation, when done for money.

B. As used in this Section, the terms:

(1) "Masseur" means a male who practices massage or physiotherapy, or both.

(2) "Masseuse" means a female who practices massage or physiotherapy, or both.

C. Whoever commits the crime of prostitution by massage shall be fined not more than five hundred dollars or imprisoned not more than six months, or both.

D.(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

Acts 1984, No. 580, §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1.

§83.4. Massage; sexual conduct prohibited

A. It shall be unlawful for any masseur, masseuse, or any other person, while in a massage parlor or any other enterprise used as a massage parlor, by stimulation in an erotic manner, to:

(1) Expose, touch, caress or fondle the genitals, anus, or pubic hairs of any person or the nipples of the female breast; or

(2) To perform any acts of sadomasochistic abuse, flagellation, or torture in the context of sexual conduct.

B. Whoever violates this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

C.(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be

a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

Acts 1984, No. 580, §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1.

§84. Pandering

A. Pandering is any of the following intentional acts:

(1) Enticing, placing, persuading, encouraging, or causing the entrance of any person into the practice of prostitution, either by force, threats, promises, or by any other device or scheme.

(2) Maintaining a place where prostitution is habitually practiced.

(3) Detaining any person in any place of prostitution by force, threats, promises, or by any other device or scheme.

(4) Receiving or accepting by a person as a substantial part of support or maintenance anything of value which is known to be from the earnings of any person engaged in prostitution.

(5) Consenting, on the part of any parent or tutor of any person, to the person's entrance or detention in the practice of prostitution.

(6) Transporting any person from one place to another for the purpose of promoting the practice of prostitution.

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

(2) Whoever commits the crime of pandering involving the prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the crime of pandering involving the prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

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

Amended by Acts 1978, No. 259, §1; Acts 1980, No. 708, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017; Acts 2020, No. 352, §2.

§85. Letting premises for prostitution

A. Letting premises for prostitution is the granting of the right of use or the leasing of any premises, knowing that they are to be used for the practice of prostitution, or allowing the continued use of the premises with such knowledge.

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

(2) Whoever commits the crime of letting premises for prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the crime of letting premises for prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

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

Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017; Acts 2020, No. 352, §2.

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

§86. Enticing persons into prostitution

A. Enticing persons into prostitution is committed when any person over the age of seventeen entices, places, persuades, encourages, or causes the entrance of any other person under the age of twenty-one into the practice of prostitution, either by force, threats, promises, or by any other device or scheme. Lack of knowledge of the other person's age shall not be a defense.

B.(1)(a) Whoever commits the crime of enticing persons into prostitution shall be imprisoned, with or without hard labor, for not less than two years nor more than ten years.

(b) Whoever commits the crime of enticing persons into prostitution when the person being enticed into prostitution is under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(c) Whoever commits the crime of enticing persons into prostitution when the person being enticed into prostitution is under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

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

C.(1) It shall not be a defense to prosecution for a violation of this Section that the person being enticed is actually a law enforcement officer or police officer acting in his official capacity.

(2) It shall not be a defense to prosecution for a violation of this Section that the person being enticed consented to the activity.

Amended by Acts 1978, No. 434, §1; Acts 2010, No. 763, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017; Acts 2020, No. 352, §2.

D. ABORTION

§87. Abortion

A.(1) Abortion is the performance of any of the following acts, with the specific intent of terminating a pregnancy:

(a) Administering or prescribing any drug, potion, medicine or any other substance to a female; or

(b) Using any instrument or external force whatsoever on a female.

(2) This Section shall not apply to the female who has an abortion.

B. It shall not be unlawful for a physician to perform any of the acts described in Subsection A of this Section if performed under the following circumstances:

(1) The physician terminates the pregnancy in order to preserve the life or health of the unborn child or to remove a stillborn child.

(2) The physician terminates a pregnancy for the express purpose of saving the life, preventing the permanent impairment of a life sustaining organ or organs, or to prevent a substantial risk of death of the mother.

(3) The physician terminates a pregnancy by performing a medical procedure necessary in reasonable medical judgment to prevent the death or substantial risk of death due to a physical

condition, or to prevent the serious, permanent impairment of a life-sustaining organ of a pregnant woman.

C. As used in this Section, the following words and phrases are defined as follows:

(1) "Physician" means any person licensed to practice medicine in this state.

(2) "Unborn child" means the unborn offspring of human beings from the moment of fertilization until birth.

D.(1) As used in this Subsection:

(a) "Abortion" means the specific intent to kill an unborn child consistent with the provisions and exceptions of R.S. 40:1061.

(b) "Gestational age" means the age of an unborn child as calculated from the first day of the last menstrual period of the pregnant woman, as determined by the use of standard medical practices and techniques.

(2) It shall be unlawful for a physician to perform any of the acts described in Subsection A of this Section after fifteen weeks gestational age.

E.(1) Whoever commits the crime of abortion shall be imprisoned at hard labor for not less than one nor more than ten years and shall be fined not less than ten thousand dollars nor more than one hundred thousand dollars.

(2) This penalty shall not apply to the female who has an abortion.

F. The provisions of Subsection D of this Section shall become effective upon final decision of the United States Court of Appeals for the Fifth Circuit upholding the Act that originated as House Bill 1510 of the 2018 Regular Session of the Mississippi Legislature, which decision would thereby provide the authority for states within the jurisdiction of that court of appeals to restrict abortion past fifteen weeks gestational age.

G. The provisions of Subsection D of this Section are hereby repealed, in favor of the provisions of R.S. 40:1061, immediately upon and to the extent that the United States Supreme Court upholds the authority of the states to prohibit elective abortions on demand or by the adoption of an amendment to the Constitution of the United States of America that would restore to the state of Louisiana the authority to prohibit elective abortions.

Amended by Acts 1964, No. [illegible]; Acts 1991, No. 26, §2; Acts 2006, No. 467, §2; Acts 2018, No. 468, §1, eff. May 13, 2018.

§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.

§87.4. Abortion advertising

A. Abortion advertising is the placing or carrying of any advertisement of abortion services by the publicizing of the availability of abortion services.

B. Whoever commits the crime of abortion advertising shall be imprisoned, with or without hard labor, for not more than one year or fined not more than five thousand dollars, or both.

Added by Acts 1973, No. 76, §1; Acts 2014, No. 791, §7.

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

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.

§87.6. Coerced abortion

A. Coerced abortion is committed when any person intentionally engages in the use or threatened use of physical force against the person of a pregnant woman with the intent to compel the pregnant woman to undergo an abortion against her will, whether or not the abortion procedure has been attempted or completed.

B. Whoever commits the crime of coerced abortion shall be fined not more than five thousand dollars, or imprisoned for not more than five years, or both.

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

§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.

§88. Distribution of abortifacients

A. Distribution of abortifacients is the intentional:

(1) Distribution or advertisement for distribution of any drug, potion, instrument, or article for the purpose of procuring an abortion; or

(2) Publication of any advertisement or account of any secret drug or nostrum purporting to be exclusively for the use of females, for preventing conception or producing abortion or miscarriage.

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

Acts 2014, No. 791, §7.

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

4. CRIME AGAINST NATURE

§89. Crime against nature

A. Crime against nature is either of the following:

(1) The unnatural carnal copulation by a human being with another of the same sex or opposite sex, except that anal sexual intercourse between two human beings shall not be deemed as a crime against nature when done under any of the circumstances described in R.S. 14:41, 42, 42.1, or 43. Emission is not necessary; and, when committed by a human being with another, the use of the genital organ of one of the offenders of whatever sex is sufficient to constitute the crime.

(2) The marriage to, or sexual intercourse with, any ascendant or descendant, brother or sister, uncle or niece, aunt or nephew, with knowledge of their relationship. The relationship must be by consanguinity, but it is immaterial whether the parties to the act are related to one another by the whole or half blood. The provisions of this Paragraph shall not apply where one person, not a resident of this state at the time of the celebration of his marriage, contracted a marriage lawful at the place of celebration and thereafter removed to this state.

B.(1) Whoever commits the offense of crime against nature as defined by Paragraph (A)(1) of this Section shall be fined not more than two thousand dollars, imprisoned, with or without hard labor, for not more than five years, or both.

(2) Whoever commits the offense of crime against nature as defined by Paragraph (A)(1) of this Section with a person under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the offense of crime against nature as defined by Paragraph (A)(1) of this Section with a person under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4) Whoever commits the offense of crime against nature as defined by Paragraph (A)(2) of this Section, where the crime is between an ascendant and descendant, or between brother and sister, shall be imprisoned at hard labor for not more than fifteen years.

(5) Whoever commits the offense of crime against nature as defined by Paragraph (A)(2) of this Section, where the crime is between uncle and niece, or aunt and nephew, shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

C.(1) It shall be an affirmative defense to prosecution for a violation of Paragraph (A)(1) of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of Paragraph (A)(1) of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of

any treatment or specialized services for sexually exploited persons to the extent that such services are available.

D. The provisions of Act No. 177 of the 2014 Regular Session and the provisions of Act No. 602 of the 2014 Regular Session incorporate the elements of the crimes of incest (R.S. 14:78) and aggravated incest (R.S. 14:78.1), as they existed prior to their repeal by these Acts, into the provisions of the crimes of crime against nature (R.S. 14:89) and aggravated crime against nature (R.S. 14:89.1), respectively. For purposes of the provisions amended by Act No. 177 of the 2014 Regular Session and Act No. 602 of the 2014 Regular Session, a conviction for a violation of R.S. 14:89(A)(2) shall be the same as a conviction for the crime of incest (R.S. 14:78) and a conviction for a violation of R.S. 14:89.1(A)(2) shall be the same as a conviction for the crime of aggravated incest (R.S. 14:78.1). Neither Act shall be construed to alleviate any person convicted or adjudicated delinquent of incest (R.S. 14:78) or aggravated incest (R.S. 14:78.1) from any requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication including but not limited to any requirements regarding sex offender registration and notification, parental rights, probation, parole, sentencing, or any other requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication.

E. Nothing in Act No. 485 of the 2018 Regular Session of the Legislature shall be construed to alleviate any person convicted or adjudicated delinquent of crime against nature (R.S. 14:89) from any requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication including but not limited to any requirements regarding sex offender registration and notification, parental rights, probation, parole, sentencing, or any other requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication.

Amended by Acts 1975, No. 612, §1; Acts 1983, No. 703, §1; Acts 2010, No. 882, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 177, §1; Acts 2014, No. 564, §1; Acts 2014, No. 599, §1, eff. June 12, 2014, Acts 2014, No. 602, §4, eff. June 12, 2014; Acts 2018, No. 485, §1, eff. May 25, 2018.

§89.1. Aggravated crime against nature

A. Aggravated crime against nature is either of the following:

(1) An act as defined by R.S. 14:89(A)(1) committed under any one or more of the following circumstances:

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

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

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

(d) When as a result of an intellectual or mental disability, or any unsoundness of mind, either temporary or permanent, the victim is incapable of giving consent and the offender knew or should have known of such incapacity.

(e) When the victim is incapable of resisting or of understanding the nature of the act, by reason of stupor or abnormal condition of mind produced by a narcotic or anesthetic agent, administered by or with the privity of the offender; or when he has such incapacity, by reason of a stupor or abnormal condition of mind from any cause, and the offender knew or should have known of such incapacity.

(f) When the victim is under the age of seventeen years and the offender is at least three years older than the victim.

(2)(a) The engaging in any prohibited act enumerated in Subparagraph (b) of this Paragraph with a person who is under eighteen years of age and who is known to the offender to be related to the offender as any of the following biological, step, or adoptive relatives: child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew, or niece.

(b) The following are prohibited acts under this Paragraph:

(i) Sexual intercourse, sexual battery, second degree sexual battery, carnal knowledge of a juvenile, indecent behavior with juveniles, pornography involving juveniles, molestation of a juvenile or a person with a physical or mental disability, crime against nature, cruelty to juveniles, parent enticing a child into prostitution, or any other involvement of a child in sexual activity constituting a crime under the laws of this state.

(ii) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child, the offender, or both.

(c) Consent shall not be a defense to prosecution for a violation of the provisions of this Paragraph.

B. Whoever commits the crime of aggravated crime against nature as defined by Paragraph (A)(1) of this Section shall be imprisoned at hard labor for not less than three nor more than fifteen years, such prison sentence to be without benefit of suspension of sentence, probation or parole.

C.(1) Whoever commits the crime of aggravated crime against nature as defined by Paragraph (A)(2) of this Section shall be fined in an amount not to exceed fifty thousand dollars, or imprisoned, with or without hard labor, for a term not less than five years nor more than twenty years, or both.

(2) Whoever commits the crime of aggravated crime against nature as defined by Paragraph (A)(2) of this Section with a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

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

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

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

(6) The Department of Public Safety and Corrections shall develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act that provide for the payment of

such costs. Such rules shall contain specific guidelines which shall be used to determine the ability of the offender to pay the required costs and shall establish the reasonable costs to be charged. Such rules may provide for a sliding scale of payment so that an offender who is able to pay a portion, but not all, of such costs may be required to pay such portion.

D.(1) In addition to any sentence imposed under Subsection C of this Section, the court shall, after determining the financial resources and future ability of the offender to pay, require the offender, if able, to pay the victim's reasonable costs of counseling that result from the offense.

(2) The amount, method, and time of payment shall be determined by the court either by ordering that documentation of the offender's financial resources and future ability to pay restitution and of the victim's pecuniary loss submitted by the victim be included in the presentence investigation and report, or the court may receive evidence of the offender's ability to pay and the victim's loss at the time of sentencing.

(3) The court may provide for payment to a victim up to but not in excess of the pecuniary loss caused by the offense. The offender may assert any defense that he could raise in a civil action for the loss sought to be compensated by the restitution order.

E. The provisions of Act No. 177 of the 2014 Regular Session and the provisions of the Act that originated as Senate Bill No. 333 of the 2014 Regular Session incorporate the elements of the crimes of incest (R.S. 14:78) and aggravated incest (R.S. 14:78.1), as they existed prior to their repeal by these Acts, into the provisions of the crimes of crime against nature (R.S. 14:89) and aggravated crime against nature (R.S. 14:89.1), respectively. For purposes of the provisions amended by Act No. 177 of the 2014 Regular Session and the Act that originated as Senate Bill No. 333 of the 2014 Regular Session, a conviction for a violation of R.S. 14:89(A)(2) shall be the same as a conviction for the crime of incest (R.S. 14:78) and a conviction for a violation of R.S. 14:89.1(A)(2) shall be the same as a conviction for the crime of aggravated incest (R.S. 14:78.1). Neither Act shall be construed to alleviate any person convicted or adjudicated delinquent of incest (R.S. 14:78) or aggravated incest (R.S. 14:78.1) from any requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication including but not limited to any requirements regarding sex offender registration and notification, parental rights, probation, parole, sentencing, or any other requirement, obligation, or consequence imposed by law resulting from that conviction or adjudication.

Added by Acts 1962, No. 60, §1. Amended by Acts 1979, No. 125, §1; Acts 1984, No. 683, §1; Acts 2014, No. 177, §1; Acts 2014, No. 599, §1, eff. June 12, 2014; Acts 2014, No. 602, §4, eff. June 12, 2014; Acts 2014, No. 811, §6, eff. June 23, 2014.

§89.2. Crime against nature by solicitation

A. Crime against nature by solicitation is the solicitation by a human being of another with the intent to engage in any unnatural carnal copulation for compensation.

B.(1) Whoever violates the provisions of this Section, on a first conviction thereof, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Whoever violates the provisions of this Section, on a second or subsequent conviction thereof, shall be fined not less than two hundred fifty dollars and not more than two thousand dollars, imprisoned, with or without hard labor, for not more than two years, or both.

(3)(a) Whoever violates the provisions of this Section, when the person being solicited is under the age of eighteen years, shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(b) Whoever violates the provisions of this Section, when the person being solicited is under the age of fourteen years, shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both. Twenty-five years of the sentence imposed shall be without benefit of parole, probation, or suspension of sentence.

C. A violation of the provisions of Paragraph (B)(3) of this Section shall be considered a sex offense as defined in R.S. 15:541 and the offender shall be required to register as a sex offender as provided for in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

D.(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) Lack of knowledge of the age of the person being solicited shall not be a defense.

(3) It shall not be a defense to prosecution for a violation of Paragraph (B)(3) of this Section that the person being solicited consented to the activity prohibited by this Section.

(4) It shall not be a defense to prosecution for a violation of Paragraph (B)(3) of this Section that the person being solicited is actually a law enforcement officer or peace officer acting within the official scope of his duties.

(5) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

Acts 2010, No. 882, §1; Acts 2011, No. 223, §1; Acts 2012, No. 446, §1; Acts 2014, No. 564, §1.

§89.3. Sexual abuse of an animal

A. Sexual abuse of an animal is the knowing and intentional performance of any of the following:

(1) Engaging in sexual contact with an animal.

(2) Possessing, selling, transferring, purchasing, or otherwise obtaining an animal with the intent that it be subject to sexual contact.

(3) Organizing, promoting, conducting, aiding or abetting, or participating in as an observer, any act involving sexual contact with an animal.

(4) Causing, coercing, aiding, or abetting another person to engage in sexual contact with an animal.

(5) Permitting sexual contact with an animal to be conducted on any premises under his charge or control.

(6) Advertising, soliciting, offering, or accepting the offer of an animal with the intent that it be used for sexual contact.

(7) Filming, distributing, or possessing pornographic images of a person and an animal engaged in any of the activities described in Paragraphs (1) through (6) of this Subsection.

B. For purposes of this Section:

(1) "Animal" means any nonhuman creature, whether alive or dead.

(2) "Sexual contact" means:

(a) Any act committed for the purpose of sexual arousal or sexual gratification, abuse, or financial gain, between a person and an animal involving contact between the sex organs or anus of one and the mouth, sex organs, or anus of the other.

(b) The insertion, however slight, of any part of the body of a person or any object into the vaginal or anal opening of an animal, touching by a person of the sex organs or anus of an animal, or the insertion of any part of the animal's body into the vaginal or anal opening of the person.

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

(1) Accepted veterinary practices.

(2) Artificial insemination of an animal for reproductive purposes.

(3) Accepted animal husbandry practices, including grooming, raising, breeding, or assisting with the birthing process of animals or any other procedure that provides care for an animal.

(4) Generally accepted practices related to the judging of breed information.

D.(1)(a) Except as provided in Subparagraph (b) of this Paragraph, whoever commits the offense of sexual abuse of an animal shall be fined not more than two thousand dollars, imprisoned, with or without hard labor, for not more than five years, or both.

(b) Whoever commits a second or subsequent offense of sexual abuse of an animal, shall be fined not less than five thousand dollars nor more than twenty-five thousand dollars, or imprisoned, with or without hard labor, for not more than ten years, or both.

(2) In addition to any other penalty imposed, a person convicted of violating this Section shall be ordered to:

(a) Relinquish custody of all animals.

(b) Not harbor, own, possess or exercise control over any animal for any length of time deemed appropriate by the court but not less than five years.

(c) Not reside in any household where an animal is present; engage in an occupation, whether paid or unpaid, involving animals; or participate in a volunteer position at any establishment where animals are present, for any length of time deemed appropriate by the court, but not less than five years.

(d) Undergo a psychological evaluation for sex offenders and participate in any recommended psychological treatment. Any costs associated with any evaluation or treatment ordered by the court shall be paid by the defendant.

(e) If the convicted person is not the owner, reimburse the owner for any expenses incurred for medical treatment or rehabilitation of the victimized animal.

(3) If a person convicted of the offense of sexual abuse of an animal is released on parole, the committee on parole shall require the person, as a condition of parole, to participate in a sex offender program as defined by R.S. 15:828(A)(2)(b).

E.(1) Any law enforcement officer investigating a violation of this Section may lawfully take possession of an animal that he has reason to believe has been victimized under this Section in order to protect the health or safety of the animal or the health or safety of others, and to obtain evidence of the offense.

(2) Any animal seized pursuant to this Section shall be promptly taken to a shelter facility or veterinary clinic to be examined by a veterinarian for evidence of sexual contact.

(3) With respect to an animal so seized and impounded, all provisions of R.S. 14:102.2 and 102.3 shall apply to the seizure, impoundment, and disposition of the animal.

F. Prosecution under this Section shall not preclude prosecution under any other applicable provision of law.

Acts 2018, No. 485, §1, eff. May 25, 2018.

5. HUMAN-ANIMAL HYBRIDS

§89.6. Human-animal hybrids

A. It shall be unlawful for any person to knowingly:

(1) Create or attempt to create a human-animal hybrid.

(2) Transfer or attempt to transfer a human embryo into a nonhuman womb.

(3) Transfer or attempt to transfer a nonhuman embryo into a human womb.

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

C. Whoever violates this Section and derives pecuniary gain from the violation shall be subject to a civil fine of one million dollars or an amount equal to the amount of the gross gain multiplied by two.

D. As used in this Section, the following words and phrases shall have the following meaning:

(1) Human-animal hybrid means:

(a) A human embryo into which a nonhuman cell or cells or the component parts thereof have been introduced or a nonhuman embryo into which a human cell or cells or the component parts thereof have been introduced.

(b) A hybrid human-animal embryo produced by fertilizing a human egg with a nonhuman sperm.

(c) A hybrid human-animal embryo produced by fertilizing a nonhuman egg with human sperm.

(d) An embryo produced by introducing a nonhuman nucleus into a human egg.

(e) An embryo produced by introducing a human nucleus into a nonhuman egg.

(f) An embryo containing at least haploid sets of chromosomes from both a human and a nonhuman life form.

(g) A nonhuman life form engineered such that human gametes develop within the body of a nonhuman life form.

(h) A nonhuman life form engineered such that it contains a human brain or a brain derived wholly or predominately from human neural tissues.

(2) Human embryo means an organism of the species Homo sapiens during the earliest stages of development, from one cell up to eight weeks.

E. Nothing in this Subpart shall be interpreted as prohibiting either of the following if these do not violate the prohibitions of Subsection A or meet the definitions of Subsection D of this Section:

(1) Research involving the use of transgenic animal models containing human genes.

(2) Xenotransplantation of human organs, tissues or cells into recipient animals other than animal embryos.

Acts 2009, No. 108, §1.

SUBPART B. OFFENSES AFFECTING GENERAL MORALITY

1. GAMBLING

§90. Gambling

A.(1)(a) Gambling is the intentional conducting, or directly assisting in the conducting, as a business, of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit.

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

(2) Whoever conducts, finances, manages, supervises, directs, or owns all or part of an illegal gambling business shall be fined not more than twenty thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both when:

(a) R.S. 14:90 is violated.

(b) Five or more persons are involved who conduct, finance, manage, supervise, direct, or own all or part of an illegal gambling business.

(c) Such business has been in or remains in substantially continuous operation for a period of thirty days or more or, if the continuous operation is for less than thirty days, has a gross revenue of two thousand dollars in any single day.

B. The conducting, or directly assisting in the conducting, as a business, of any game, contest, lottery, or contrivance on board a commercial cruiseship used for the international carriage of passengers whereby a person risks the loss of anything of value in order to realize a profit is not gambling and shall not be suppressed by any law enforcement officer of the state of Louisiana or any of its political subdivisions. This Subsection shall apply only to commercial cruiseships for the carriage of passengers which are sailing from a port outside the continental limits of the United States to a port in any municipality of this state having a population of more than three hundred thousand or any such ship which is sailing from a port in such a municipality to a port outside the continental limits of the United States, provided that the ship is not docked or anchored but is navigating en route between such ports.

C. The conducting or assisting in the conducting of gaming activities or operations upon a riverboat at the official gaming establishment, by operating an electronic video draw poker device, by a charitable gaming licensee, or at a pari-mutuel wagering facility, conducting slot machine gaming at an eligible horse racing facility, or the operation of a state lottery which is licensed for operation and regulated under the provisions of Chapters 4 and 11 of Title 4, Chapters 4, 5, 7, and 8 of Title 27, or Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950, is not gambling for the purposes of this Section, so long as the wagering is conducted on the premises of the licensed establishment.

D. Except as provided in R.S. 27:305, participation in any fantasy sports contest as defined by R.S. 27:302 shall not be considered gambling for the purposes of this Section.

E. Sports wagering shall not be considered gambling for purposes of this Section so long as the wagering is conducted in compliance with Chapter 10 of Title 27 of the Louisiana Revised Statutes of 1950 or Chapter 10 of Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950.

Amended by Acts 1968, No. 647, §1; Acts 1979, No. 633, §1; Acts 1990, No. 1045, §2, eff. Nov. 7, 1990; Acts 1991, No. 158, §1; Acts 1991, No. 289, §6; Acts 1991, No. 753, §2, eff. July 18, 1991; Acts 1992, No. 384, §2, eff. June 18, 1992; Acts 2010, No. 518, §§1, 2; Acts 2011, 1st Ex. Sess., No. 17, §1; Acts 2012, No. 161, §1, eff. August 1, 2012; Acts 2018, No. 322, §3, see Act; Acts 2021, No. 80, §2, eff. July 1, 2021; Acts 2021, No. 440, §3, eff. July 1, 2021.

§90.1. Seizure and disposition of evidence, property and proceeds; gambling

A.(1) Upon conviction of a person for the crime of gambling, gambling by computer, or related offenses, the evidence, property, and paraphernalia seized as instruments of such crime shall, upon order of the court, be destroyed when it is no longer needed as evidence and all such evidence, property, and paraphernalia found to be in use in the conduct of such unlawful activity and having a value for lawful purposes, shall be sold under the orders of the court at public auction and the proceeds handled in accordance with Subsection B of this Section.

(2) Nothing shall prohibit the seizing or prosecutorial agency from petitioning the court to keep and maintain articles of evidence, property and paraphernalia for the purposes of training of investigators, historical display, or both.

B.(1) All property, immovable or movable, including money, used in the course of, intended for use in the course of, derived from, or realized through, conduct in violation of a provision of R.S. 14:90, 90.2, 90.3, or 90.6 notwithstanding whether a conviction has been procured, is subject to civil forfeiture to the state. The state shall dispose of all forfeited property as soon as commercially feasible.

(2)(a) All forfeitures or dispositions under this Subsection shall be made with due regard for the rights of factually innocent persons. No mortgage, lien, privilege, or other security interest recognized under the laws of Louisiana shall be affected by a forfeiture hereunder if the holder of such mortgage, lien, privilege, or other security interest establishes that he is a factually innocent person. No forfeiture or disposition under this Section shall affect the rights of factually innocent persons provided that following notice of pending forfeiture a written claim is filed with the seizing agency and the district attorney within thirty days of seizure.

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

(3) Notice of pending forfeiture or service shall be given in accordance with one of the following:

(a) If the owner's or interest holder's name and current address are known, either by personal service or by mailing a copy of the notice by certified mail to that address.

(b) If the owner's or interest holder's name and address are required by law to be recorded with the parish clerk of court, the office of motor vehicles of the Department of Public Safety and Corrections, or another state or federal agency to perfect an interest in the property, and the owner's or interest holder's current address is not known, by mailing a copy of the notice by certified mail, return receipt requested, to any address of record with any of such agencies.

(c) If the owner's or interest holder's address is not known and is not on record as provided in Subparagraph (b) of this Paragraph, or the owner's or interest holder's interest is not known, by publication in one issue of the official journal in the parish in which the seizure occurs.

(d) Notice is effective upon personal service, publication, or the mailing of a written notice, whichever is earlier, and shall include a description of the property, the date and place of seizure, the conduct giving rise to forfeiture or the violation of law alleged, and a summary of procedures and procedural rights applicable to the forfeiture action.

(e) The district attorney may file, without a filing fee, a lien for the forfeiture of property upon the initiation of any civil or criminal proceeding under this Chapter or upon seizure for forfeiture. The filing constitutes notice to any person claiming an interest in the seized property or in property owned by the named person.

(4)(a) Only an owner of or interest holder in property seized for forfeiture may file a claim, and shall do so in the manner provided in this Section. The claim shall be mailed to the seizing agency and to the district attorney by certified mail, return receipt requested, within thirty days after notice of pending forfeiture. No extension of time for the filing of a claim shall be granted.

(b) The claim shall be in affidavit form, signed by the claimant under oath, and sworn to by the affiant before one who has authority to administer the oath, under penalty of perjury or false swearing and shall set forth all of the following:

(i) The caption of the proceedings as set forth on the notice of pending forfeiture or petition and the name of the claimant.

(ii) The address where the claimant will accept mail.

(iii) The nature and extent of the claimant's interest in the property.

(iv) The date, identity of the transferor, and the circumstances of the claimant's acquisition of the interest in the property.

(v) The specific provision of this Chapter relied on in asserting that the property is not subject to forfeiture.

(vi) All essential facts supporting each assertion.

(vii) The specific relief sought.

(5) The allocation of proceeds from such forfeiture and disposition shall be determined by the court in accordance with each law enforcement entity's participation in the investigation, seizure, and forfeiture process.

(a) Proceeds are to be placed into a gambling forfeiture trust fund maintained by the appropriate local, state, or federal agency. Such proceeds are to be used exclusively in law enforcement. Permissible uses include, but are not limited to, reward programs established by such agencies, prosecution, continuing legal education, law enforcement training and equipment.

(b) Prior to such allocation, the costs of investigation shall be paid to the law enforcement agency conducting the investigation and twenty-five percent of the proceeds, including the costs of prosecution, shall be paid to the district attorney's gambling forfeiture trust fund, or in parishes where no such fund exists, to the district attorney's office.

(c) The court shall make an allocation of twenty-five percent of the proceeds based on participation of law enforcement agencies involved.

(d) The remainder of the proceeds shall be deposited into the State General Fund.

C.(1) In the event of a seizure under this Section, a forfeiture proceeding shall be instituted within a reasonable period of time. Property taken or detained under this Section shall not be subject to sequestration or attachment but is deemed to be in the custody of the law enforcement officer making the seizure, subject only to the order of the court. When property is seized under this Section, pending forfeiture and final disposition, the law enforcement officer making the seizure may either:

(a) Place the property under seal.

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

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

(2) In the case of currency, the currency shall be photographed and transferred in the form of a cashiers check to the district attorney for deposit into the gambling forfeiture trust fund pending adjudication.

D. The district attorney may institute civil proceedings under this Section. In any action brought under this Section, the district court shall proceed as soon as practicable to the hearing and determination. Pending final determination, the court may at any time enter such injunctions or restraining orders or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper.

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

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

G. A defendant who violates any provision of R.S. 14:90 or 90.3 shall be liable individually, and when two or more defendants have violated any provision of R.S. 14:90 or 90.3 they be liable in solido for all damages, costs of court, and other costs associated with the investigation and prosecution of such violations.

Added by Acts 1979, No. 317, §1, eff. July 10, 1979; Acts 2008, No. 673, §1, eff. July 1, 2008.

§90.2. Gambling in public

A. Gambling in public is the aiding or abetting or participation in any game, contest, lottery, or contrivance, in any location or place open to the view of the public or the people at large, such as streets, highways, vacant lots, neutral grounds, alleyway, sidewalk, park, beach, parking lot, or condemned structures whereby a person risks the loss of anything of value in order to realize a profit.

B. This Section shall not prohibit activities authorized under the Charitable Raffles, Bingo and Keno Licensing Law,1 nor shall it apply to bona fide fairs and festivals conducted for charitable purposes.

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

Added by Acts 1979, No. 754, §1, eff. July 20, 1979.

1R.S. 33:4861.1 et seq.

§90.3. Gambling by computer

A. The Legislature of Louisiana, desiring to protect individual rights, while at the same time affording opportunity for the fullest development of the individual and promoting the health, safety, education, and welfare of the people, including the children of this state who are our most precious and valuable resource, finds that the state has a compelling interest in protecting its citizens and children from certain activities and influences which can result in irreparable harm. The legislature has expressed its intent to develop a controlled well-regulated gaming industry. The legislature is also charged with the responsibility of protecting and assisting its citizens who suffer from compulsive or problem gaming behavior which can result from the increased availability of legalized gaming activities. The legislature recognizes the development of the Internet and the information super highway allowing communication and exchange of information from all parts of the world and freely encourages this exchange of information and ideas. The legislature recognizes and encourages the beneficial effects computers, computer programming, and use of the Internet resources have had on the children of the state of Louisiana by expanding their educational horizons. The legislature further recognizes that it has an obligation and responsibility to protect its citizens, and in particular its youngest citizens, from the pervasive nature of gambling which can occur via the Internet and the use of computers connected to the Internet. Gambling has long been recognized as a crime in the state of Louisiana and despite the enactment of many legalized gaming activities remains a crime. Gambling which occurs via the Internet embodies the very activity that the legislature seeks to prevent. The legislature further recognizes that the state constitution and that of the United States are declarations of rights which the drafters intended to withstand time and address the wrongs and injustices which arise in future years. The legislature hereby finds and declares that it has balanced its interest in protecting the citizens of this state with the protection afforded by the First Amendment, and the mandates of Article XII, Section 6 of the Constitution of Louisiana and that this Section is a product thereof.

B. Gambling by computer is the intentional conducting, or directly assisting in the conducting as a business of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit when accessing the Internet, World Wide Web, or any part thereof by way of any computer, computer system, computer network, computer software, or any server.

C. For purposes of this Section the following definitions apply:

(1) "Client" means anyone using a computer to access a computer server.

(2) "Computer" includes an electronic, magnetic, optical, or other high-speed data processing device or system performing logical, arithmetic, and storage functions, and includes any property, data storage facility, or communications facility directly related to or operating in conjunction with such device or system. "Computer" shall not include an automated typewriter or

typesetter, a machine designed solely for word processing, or a portable hand-held calculator, nor shall "computer" include any other device which might contain components similar to those in computers but in which the components have the sole function of controlling the device for the single purpose for which the device is intended.

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

(4) "Computer services" means providing access to or service or data from a computer, a computer system, or a computer network.

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

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

(7) "Home Page" means the index or location for each computer site on the World Wide Web.

(8) "Internet" means the global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions, is able to support communications using the Transmission Control Protocol/Internet Protocol suite or its subsequent extensions, and other Internet Protocol compatible protocols, and provides, uses or makes accessible, either publicly or privately, high level services layered on the communications and related infrastructure described herein.

(9) "Server" means a computer that listens for and services a client.

(10) "World Wide Web" means a server providing connections to mega lists of information on the Internet; it is made up of millions of individual web sites linked together.

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

E. Whoever designs, develops, manages, supervises, maintains, provides, or produces any computer services, computer system, computer network, computer software, or any server providing a Home Page, Web Site, or any other product accessing the Internet, World Wide Web, or any part thereof offering to any client for the primary purpose of the conducting as a business of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit shall be fined not more than twenty thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

F. The conducting or assisting in the conducting of gaming activities or operations upon a riverboat, at the official gaming establishment, by operating an electronic video draw poker device, by a charitable gaming licensee, or at a pari-mutuel wagering facility, conducting slot machine gaming at an eligible horse racing facility, or the operation of a state lottery which is licensed for operation and regulated under the provisions of Chapters 4 and 11 of Title 4, Chapters 4, 5, 6, and 7 of Title 27, or Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by computer for the purposes of this Section, so long as the wagering is done on the premises of the licensed establishment.

G. The conducting or assisting in the conducting of pari-mutuel wagering at licensed racing facilities under the provisions of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by computer for the purposes of this Section so long as the wagering is done on the premises of the licensed establishment.

H. Nothing in this Section shall prohibit, limit, or otherwise restrict the purchase, sale, exchange, or other transaction related to stocks, bonds, futures, options, commodities, or other similar instruments or transactions occurring on a stock or commodities exchange, brokerage house, or similar entity.

I. The providing of Internet or other on-line access, transmission, routing, storage, or other communication related services, or Web Site design, development, storage, maintenance, billing, advertising, hypertext linking, transaction processing, or other site related services, by telephone companies, Internet Service Providers, software developers, licensors, or other such parties providing such services to customers in the normal course of their business, shall not be considered gambling by computer even though the activities of such customers using such services to conduct a prohibited game, contest, lottery, or contrivance may constitute gambling by computer for the purposes of this Section. The provisions of this Subsection shall not exempt from criminal prosecution any telephone company, Internet Service Provider, software developer, licensor, or other such party if its primary purpose in providing such service is to conduct gambling as a business.

J. Except as provided in R.S. 27:305, participation in any fantasy sports contest as defined by R.S. 27:302 shall not be considered gambling by computer for the purposes of this Section.

K. Sports wagering shall not be considered gambling by computer for purposes of this Section so long as the wagering is conducted in compliance with Chapter 10 of Title 27 of the Louisiana Revised Statutes of 1950 or Chapter 10 of Subtitle X of Title 47 of the Louisiana Revised Statutes of 1950.

Acts 1997, No. 1467, §1; Acts 2010, No. 918, §1; Acts 2018, No. 322, §3, see Act; Acts 2021, No. 80, §2, eff. July 1, 2021; Acts 2021, No. 430, §3, eff. July 1, 2021.

§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.

§90.5. Unlawful playing of gaming devices by persons under the age of twenty-one; underage persons, penalty

A. It is unlawful for any person under twenty-one years of age to play casino games, gaming devices, or slot machines or to place a wager on a sports event.

B. No person under the age of twenty-one, except an emergency responder acting in his official capacity, shall enter, or be permitted to enter, the designated gaming area of a riverboat, the designated gaming area of the official gaming establishment, or the designated gaming area of a pari-mutuel wagering facility which offers live horse racing licensed for operation and regulated under the applicable provisions of Chapters 4, 5, and 7 of Title 27 of the Louisiana Revised Statutes of 1950.

C.(1) For purposes of this Section, "casino games, gaming devices, or slot machines" means a game or device, as defined in R.S. 27:44, 205, or 353 operated on a riverboat, at the official gaming establishment, or at a pari-mutuel wagering facility which offers live horse racing which is licensed for operation and regulated under the provisions of Chapters 4, 5, and 7 of Title 27 of the Louisiana Revised Statutes of 1950.

(2) For purposes of this Section, "place a wager on a sports event" shall apply to the following:

(a) Wagers attempted to be or actually placed in person, via a self-service sports wagering mechanism, or through a website or mobile application as those terms are defined in R.S. 27:602 and the operation of which is regulated under the provisions of Chapter 10 of Title 27 of the Louisiana Revised Statutes of 1950.

(b) Wagers attempted to be or actually placed via a self-service sports wagering mechanism, or via a mobile application as defined in R.S. 47:9002 and operations are regulated under the provisions of Chapter 10 of Subtitle X of Title 47 of the Louisiana Revised Statutes of 1950.

D. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars and may be imprisoned for not more than six months, or both.

Acts 2004, No. 828, §1; Acts 2014, No. 738, §1; Acts 2016, No. 488, §1; Acts 2021, No. 80, §2, eff. July 1, 2021; Acts 2021, No. 340, §3, eff. July 1, 2021.

§90.6. Gambling or wagering at cockfights

A. Gambling or wagering at a cockfight is the aiding or abetting or participation in any game, contest, lottery, or contrivance, in any location or place where a cockfight is being conducted and whereby a person risks the loss of anything of value in order to realize a profit.

B. Whoever commits the crime of gambling or wagering at a cockfight shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. Upon a second and subsequent violation of this Section, the penalty shall be a fine of one thousand dollars, or imprisonment for not more than one year, or both.

C. Whoever conducts, finances, manages, supervises, directs, leases, or owns all or part of a business or the premises when such person has knowledge that gambling or wagering at a cockfight occurs shall be fined not more than twenty thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

Acts 2007, No. 223, §1.

§90.7. Gambling by electronic sweepstakes device

A. The Louisiana Legislature finds that in recent years various companies have developed electronic machines and devices to enable gambling through pretextual sweepstakes relationships with Internet services, telephone cards, and other products, and that such electronic sweepstakes systems using electronic gambling machines, computer terminals, and other means of presented simulated gambling, are contrary to the public policy of this state.

B. Gambling by electronic sweepstakes device is the intentional conducting of, or directly assisting in the conducting of, as a business any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit, through the operation of an electronic gaming machine or device that does or purports to do either of the following:

(1) Conduct a sweepstakes through the use of a simulated gambling device, including the entry process or the revealing of a prize.

(2) Promote a sweepstakes that is conducted through the use of a simulated gambling device, including the entry process or the revealing of a prize.

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

(1) "Electronic gaming machine or device" means a mechanically, electrically, or electronically-operated machine or device that is intended to be used by a sweepstakes entrant and that displays the results of a game entry or game outcome to a participant on a screen or other mechanism at a business location, including a private club that is owned, leased, or otherwise possessed, in whole or in part, by any person conducting the sweepstakes or by that person's partners, affiliates, subsidiaries, agents, or contractors. The term includes an electronic gaming machine or device which includes any of the following characteristics:

(a) Uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.

(b) Uses software that simulates a game that influences or determines the winning or value of the prize.

(c) Selects prizes from a predetermined finite pool of entries.

(d) Uses a mechanism that reveals the content of a predetermined sweepstakes entry.

(e) Predetermines the prize results and restores those results for delivery at the time the sweepstakes entry is revealed.

(f) Uses software to create a game result.

(g) Requires a deposit of any money, coin or token, or the use of any credit card, debit card, prepaid card, or other method of payment to activate the electronic gaming machine or device.

(h) Requires direct payment into the electronic gaming machine or device or remote activation of the electronic gaming machine or device.

(i) Requires purchase of a related product and the related product has legitimate value.

(j) Reveals the prize incrementally even though it may not influence whether a prize is awarded or the value of any prize awarded.

(k) Determines and associates the prize with an entry or entries at the time the sweepstakes is entered.

(2) "Enter" or "entry" means the act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.

(3) "Prize" means any gift, award, gratuity, good, service, credit, or anything else of value which may be transferred to a person whether or not possession of the prize is actually transferred or placed on an account or other record as evidence of the intent to transfer the prize. "Prize" shall not include free or additional play or intangible or virtual prizes that cannot be converted into money or merchandise.

(4) "Simulated gambling device" means a mechanically or electronically operated machine, network, system, or device that is intended to be used by an entrant to a game promotion or sweepstakes and that displays a simulated gambling display on a screen or other mechanism at a business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by any person conducting the game or by that person's partners, affiliates, subsidiaries, agents, or contractors. The term shall include, but is not limited to:

(a) A video poker game or any other kind of video card game.

(b) A video bingo game.

(c) A video craps game.

(d) A video keno game.

(e) A video lotto game.

(f) Eight liner.

(g) Pot-of-gold.

(h) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols.

(i) A personal computer of any size or configuration that performs any of the functions of an electronic gaming machine or device as defined in this Section.

(j) A slot machine.

(5) "Sweepstakes" means any game, advertising scheme, plan, or other promotion that, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize.

D. Whoever commits the crime of gambling by electronic sweepstakes device shall be fined not more than twenty thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

E. The conducting or assisting in the conducting of gaming activities or operations upon a riverboat, at the official gaming establishment, by operating an electronic video draw poker device, by a charitable gaming licensee, or at a pari-mutuel wagering facility, conducting slot machine gaming at an eligible horse racing facility, or the operation of a state lottery which is licensed for operation and regulated under the provisions of Chapters 4 and 11 of Title 4, Chapters 4, 5, 7, and 8 of Title 27, or Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by electronic sweepstakes device for the purposes of this Section, provided that the wagering is done on the premises of the licensed establishment.

F. The conducting or assisting in the conducting of pari-mutuel wagering at licensed racing facilities under the provisions of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950 shall not be considered gambling by electronic sweepstakes device for the purposes of this Section provided that the wagering is done on the premises of the licensed establishment.

G. Nothing in this Section shall prohibit, limit, or otherwise restrict the purchase, sale, exchange, or other transaction related to stocks, bonds, futures, options, commodities, or other

similar instruments or transactions occurring on a stock or commodities exchange, brokerage house, or similar entity.

H. Nothing in this Section shall limit or alter in any way the application of the requirements for sweepstakes, contests, prizes, and similar activities under the provisions of Chapter 19-A of Title 51 of the Louisiana Revised Statutes of 1950.

I. The providing of Internet or other online access, transmission, routing, storage, or other communication-related services, or website design, development, storage, maintenance, billing, advertising, hypertext linking, transaction processing, or other site-related services, by telephone companies, Internet service providers, software developers, licensors, or other such parties providing such services to customers in the normal course of business, shall not be considered gambling by electronic sweepstakes device even though the activities of such customers using such services to conduct a prohibited game, contest, lottery, or contrivance may constitute gambling by computer for the purposes of this Section. The provisions of this Subsection shall not exempt from criminal prosecution any software developer, licensor, or other such party if its primary purpose in providing such service is to support the conduct of gambling as a business.

Acts 2014, No. 233, §1.

2. OFFENSES AFFECTING THE HEALTH AND MORALS OF MINORS

§91. Unlawful sales of weapons to minors

A. Unlawful sales of weapons to minors is the selling or otherwise delivering for value of any firearm or other instrumentality customarily used as a dangerous weapon to any person under the age of eighteen. Lack of knowledge of the minor's age shall not be a defense.

B. Whoever commits the crime of unlawful sales of weapons to minors shall be fined not more than three hundred dollars or imprisoned for not more than six months, or both.

Amended by Acts 1972, No. 704, §1; Acts 1972, No. 768, §5; Acts 1994, 3rd Ex. Sess., No. 84, §1; Acts 1995, No. 639, §1; Acts 1996, 1st Ex. Sess., No. 78, §1.

§91.1. Unlawful presence of a sexually violent predator

A. Unlawful presence of a sexually violent predator is any of the following:

(1) The physical presence of a sexually violent predator on the school property of any public or private, elementary or secondary school, or in any motor vehicle or other means of conveyance owned, leased, or contracted by such school to transport students to or from school or a school-related activity when persons under the age of eighteen years are present on the school property or in a school vehicle.

(2) The physical residing of a sexually violent predator within one thousand feet of any of the following:

(a) Public or private elementary or secondary school.

(b) Early learning center as defined by R.S. 17:407.33.

(c) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

(d) Residential home as defined by R.S. 46:1403.

(e) Playground.

(f) Public or private youth center.

(g) Public swimming pool.

(h) Free standing video arcade facility.

B. It shall not be a violation of Paragraph (A)(1) of this Section if the offender has permission to be present from the superintendent of the school board in the case of a public school or the principal or headmaster in the case of a private school.

C. If permission is granted to an offender to be present on public school property by the superintendent for that public school pursuant to Subsection B of this Section, then the superintendent shall notify the principal at least twenty-four hours in advance of the visit by the offender. This notification shall include the nature of the visit and the date and time in which the sex offender will be present in the school. The offender shall notify the office of the principal upon arrival on the school property and upon departing from the school. If the offender is to be present in the vicinity of children, the offender shall remain under the direct supervision of a school official.

D. For purposes of this Section:

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

(2) "Sexually violent predator" means a person defined as such in accordance with the provisions of Chapter 3-D of Title 15 of the Louisiana Revised Statutes of 1950.

E. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned for not more than six months, or both.

Acts 2001, No. 1044, §1; Acts 2004, No. 378, §1; Acts 2006, No. 186, §1, eff. June 2, 2006; Acts 2009, No. 210, §1, eff. Sept. 1, 2009; Acts 2018, No. 5, §1.

§91.2. Unlawful presence of a sex offender

A. The following acts when committed by a person convicted of a sex offense as defined in R.S. 15:541 when the victim is under the age of thirteen years shall constitute the crime of unlawful residence or presence of a sex offender:

(1) The physical presence of the offender in, on, or within one thousand feet of the school property of any public or private elementary or secondary school or the physical presence in any motor vehicle or other means of conveyance owned, leased, or contracted by such school to transport students to or from school or a school-related activity when persons under the age of eighteen years are present on the school property or in a school vehicle.

(2) The offender establishing a residence within one thousand feet of any of the following:

(a) Public or private elementary or secondary school.

(b) Early learning center as defined by R.S. 17:407.33.

(c) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

(d) Residential home as defined by R.S. 46:1403.

(3) The physical presence of the offender in, on, or within one thousand feet of any of the following:

(a) Public park or recreational facility.

(b) Early learning center as defined by R.S. 17:407.33.

(c) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

(d) Residential home as defined by R.S. 46:1403.

(4) The offender establishing a residence within one thousand feet of any public park or recreational facility.

(5) The physical presence of the offender in or on public library property.

(6) Loitering within one thousand feet of public library property.

B. The following acts, when committed by a person convicted of an aggravated offense as defined in R.S. 15:541 when the victim is under the age of thirteen years, shall constitute the crime of unlawful residence or presence of a sex offender:

(1) The physical presence of the offender in, on, or within one thousand feet of any of the following:

(a) Early learning center as defined by R.S. 17:407.33.

(b) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

(c) Residential home as defined by R.S. 46:1403.

(2) The establishment of a residence within one thousand feet of any of the following:

(a) Early learning center as defined by R.S. 17:407.33.

(b) Residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

(c) Residential home as defined by R.S. 46:1403.

(d) Playground.

(e) Public or private youth center.

(f) Public swimming pool.

(g) Free standing video arcade facility.

C.(1) It shall not be a violation of the provisions of this Section if the offender has permission to be present on school premises from the superintendent of the school board in the case of a public school or the principal or head master in the case of a private school.

(2) If permission is granted to an offender to be present on public school property by the superintendent for that public school pursuant to this Subsection, then the superintendent shall notify the principal at least twenty-four hours in advance of the visit by the offender. This notification shall include the nature of the visit and the date and time in which the sex offender will be present in the school. The offender shall notify the office of the principal upon arrival on the school property and upon departing from the school. If the offender is to be present in the vicinity of children, the offender shall remain under the direct supervision of a school official.

(3) Any superintendent, principal, or school master who acts in good faith in compliance with this Subsection shall be immune from civil or criminal liability for his actions in connection with any injury or claim arising from an offender being present on school property pursuant to permission granted by that superintendent, principal, or school master.

D.(1) It shall not be a violation of this Section if the offender has complied with all regulations of the governing board of the public library that restrict access of sex offenders to public library property.

(2) By January 1, 2013, each governing board of a public library shall develop and implement a plan to regulate access of sex offenders to the public library property under its jurisdiction.

(3) Each governing board of a public library shall tailor its regulations to reasonably restrict the time, place, and manner of access to public library property and shall narrowly tailor the

regulations to serve the significant governmental interest of protecting children from contact with sex offenders.

(4) The State Library of Louisiana shall provide technical assistance in the development of the regulations by the governing boards. Such assistance shall guide the governing boards to develop, to the extent practicable, regulations that are uniform and ensure fair and consistent application across jurisdictions.

(5) Any public servant, including any head librarian, member of a governing board of a public library, staff and volunteers of a public library, and the state of Louisiana, who acts in good faith in compliance with this Subsection shall be immune from civil and criminal liability for his actions in connection with any injury or claim arising from a sex offender being present on public library property.

(6) Nothing in this Subsection shall prevent a public library from adopting a total ban on a sex offender's access to public library property, provided that the governing board complies with the criteria set forth in Paragraph (3) of this Subsection.

(7) No provision of this Subsection shall apply when the sex offender is reporting to a police station or a court house which is within the distance specified herein from a library.

E. For purposes of this Section:

(1) "Governing board of the public library" means a library board of control or other public body responsible for the operations of a public library.

(2) "Loitering" means to linger, remain, or prowl in a public place or on the premises of another for a protracted period of time without lawful business or reason to be present.

(3) "Public library" means a parish or municipal library provided for by Chapter 3 of Title 25 of the Louisiana Revised Statutes of 1950.

(4) "Public library property" means immovable property that is open to the public and is used as a branch of a parish or municipal public library, including any courtyard or parking lot that is under the direct and exclusive control of the public library.

(5) "Public park or recreational facility" means any building or area owned by the state or by a political subdivision that is open to the public and used or operated as a park or recreational facility and shall include all parks and recreational areas administered by the office of state parks in the Department of Culture, Recreation and Tourism.

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

F. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

Acts 2006, No. 40, §1; Acts 2009, No. 210, §1, eff. Sept. 1, 2009; Acts 2012, No. 191, §1; Acts 2012, No. 693, §1, eff. Jan. 1, 2013; Acts 2018, No. 5, §1.

§91.3. Unlawful participation in a child-related business

A. No person who has been convicted of, or who has pled guilty or nolo contendere to, an offense listed in R.S. 15:587.1(C) shall own, operate, or in any way participate in the governance of any early learning center as defined by R.S. 17:407.33, residential home as defined by R.S. 46:1403, or residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

B. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

Acts 2009, No. 210, §1, eff. Sept. 1, 2009; Acts 2012, No. 223, §1; Acts 2018, No. 5, §1.

§91.4. Contributing to the endangerment of a minor

A. No person shall knowingly employ a person convicted of a sex offense as defined in R.S. 15:541, whose offense involved a minor child, to work in any early learning center as defined by R.S. 17:407.33, residential home as defined by R.S. 46:1403, or residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

B. No person shall knowingly permit a person convicted of a sex offense as defined in R.S. 15:541 physical access to any early learning center as defined by R.S. 17:407.33, residential home as defined by R.S. 46:1403, or residence in which child care services are provided by a family child care provider or in-home provider who is registered pursuant to R.S. 17:407.61 et seq.

C. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned for not more than six months, or both.

Acts 2009, No. 210, §1, eff. Sept. 1, 2009; Acts 2018, No. 5, §1.

§91.5. Unlawful use of a social networking website

A. The following shall constitute unlawful use of a social networking website:

(1) The intentional use of a social networking website by a person who is required to register as a sex offender and who was convicted of R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), or R.S. 14:283 (video voyeurism) or was convicted of a sex offense as defined in R.S. 15:541 in which the victim of the sex offense was a minor.

(2) The provisions of this Section shall also apply to any person convicted for an offense under the laws of another state, or military, territorial, foreign, tribal, or federal law which is equivalent to the offenses provided for in Paragraph (1) of this Subsection, unless the tribal court or foreign conviction was not obtained with sufficient safeguards for fundamental fairness and due process for the accused as provided by the federal guidelines adopted pursuant to the Adam Walsh Child Protection and Safety Act of 2006.

B. For purposes of this Section:

(1) "Minor" means a person under the age of eighteen years.

(2)(a) "Social networking website" means an Internet website, the primary purpose of which is facilitating social interaction with other users of the website and has all of the following capabilities:

(i) Allows users to create web pages or profiles about themselves that are available to the general public or to any other users.

(ii) Offers a mechanism for communication among users.

(b) "Social networking website" shall not include any of the following:

(i) An Internet website that provides only one of the following services: photo-sharing, electronic mail, or instant messenging.

(ii) An Internet website the primary purpose of which is the facilitation of commercial transactions involving goods or services between its members or visitors.

(iii) An Internet website the primary purpose of which is the dissemination of news.

(iv) An Internet website of a governmental entity.

(3) "Use" shall mean to create a profile on a social networking website or to contact or attempt to contact other users of the social networking website.

C.(1) Whoever commits the crime of unlawful use of a social networking website shall, upon a first conviction, be fined not more than ten thousand dollars and shall be imprisoned with hard labor for not more than ten years without benefit of parole, probation, or suspension of sentence.

(2) Whoever commits the crime of unlawful use of a social networking website, upon a second or subsequent conviction, shall be fined not more than twenty thousand dollars and shall be imprisoned with hard labor for not less than five years nor more than twenty years without benefit of parole, probation, or suspension of sentence.

Acts 2011, No. 26, §1; Acts 2012, No. 205, §1.

§91.6. Unlawful distribution of sample tobacco products, alternative nicotine products, or vapor products to persons under age eighteen; penalty

A. No person shall distribute or cause to be distributed to persons under twenty-one years of age a promotional sample of any tobacco product, alternative nicotine product, or vapor product.

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

(1) "Alternative nicotine product" means any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any of the following:

(a) Tobacco product.

(b) Vapor product.

(c) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).

(d) Device pursuant to 21 U.S.C. 321(h).

(e) Combination product described in 21 U.S.C. 353(g).

(2) "Cigar" means any roll of tobacco for smoking, irrespective of size or shape, and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredients, where such roll has a wrapper made chiefly of tobacco.

(3) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper, or any other material, except where such wrapper is wholly or in greater part made of tobacco.

(4) "Smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity.

(5) "Smoking tobacco" means granulated, plug cut, crimp cut, ready rubbed, and any other kind and form of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette.

(6) "Tobacco product" means any cigar, cigarette, smokeless tobacco, or smoking tobacco.

(7) "Vapor product" means any non-combustible product containing nicotine or other substances that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic

cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include any of the following:

(a) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).

(b) Device pursuant to 21 U.S.C. 321(h).

(c) Combination product described in 21 U.S.C. 353(g).

C. Whoever violates a provision of this Section shall be fined not less than one hundred dollars nor more than five hundred dollars upon conviction.

Acts 1988, No. 709, §1; Acts 2014, No. 278, §1, eff. May 28, 2014; Acts 2021, No. 403, §1.

§91.7. Unauthorized possession or consumption of alcoholic beverages on public school property

A. No person shall intentionally possess or consume alcoholic beverages upon public school property unless authorized by the principal or person in charge of the public school property at the time.

B. For purposes of this Section:

(1) "School" means any public elementary or secondary school.

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

C. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars and imprisoned not less than fifteen days nor more than six months.

Acts 1991, No. 866, §1; Acts 1994, 3rd Ex. Sess., No. 93, §1; Acts 2001, No. 403, §1, eff. June 15, 2001.

§91.8. Unlawful sale, purchase, or possession of tobacco, alternative nicotine product, or vapor product; signs required; penalties

A. This Section shall be known and may be cited as the "Prevention of Youth Access to Tobacco Law".

B. It is the intent of the legislature that enforcement of this Section shall be implemented in an equitable manner throughout the state. For the purpose of equitable and uniform implementation and application of state and local laws and regulations, the provisions of this Section shall supersede existing or subsequently adopted local ordinances or regulations which relate to the sale, promotion, and distribution of tobacco products, alternative nicotine product, or vapor product. It is the intent of the legislature that this Section shall be equitably enforced so as to ensure the eligibility for and receipt of any federal funds or grants the state now receives or may receive relating to the provisions of this Section.

C. It is unlawful for any manufacturer, distributor, retailer, or other person to sell or distribute any tobacco product, alternative nicotine product, or vapor product to a person under the age of twenty-one. However, it shall not be unlawful for a person under the age of twenty-one to accept receipt of a tobacco product, alternative nicotine product, or vapor product from an employer when required in the performance of such person's duties. At the point of sale, a sign, in not less than thirty-point type, shall be displayed in a manner conspicuous to both employees and consumers, within any location where tobacco products, alterative nicotine products, vapor

products, or vapor paraphernalia and devices are available for purchase, that reads "LOUISIANA LAW PROHIBITS THE SALE OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS, VAPOR PARAPHERNALIA AND DEVICES TO PERSONS UNDER AGE 21". The sign shall also include a notice that displays the telephone number for the Louisiana Tobacco Quitline (1-800-QUIT-NOW) and the website for the Louisiana Tobacco Quitline (www.quitwithusla.org), as determined by the Louisiana Department of Health.

D. It is unlawful for a vending machine operator to place in use a vending machine to vend any tobacco product, alternative nicotine product, or vapor product automatically, unless the machine displays a sign or sticker in not less than twenty-two-point type on the front of the machine stating, "LOUISIANA LAW PROHIBITS THE SALE OF TOBACCO PRODUCTS, ALTERNATIVE NICOTINE PRODUCTS, OR VAPOR PRODUCTS TO PERSONS UNDER AGE 21". The sign shall also include a notice that displays the telephone number for the Louisiana Tobacco Quitline (1-800-QUIT-NOW) and the website for the Louisiana Tobacco Quitline (www.quitwithusla.org), as determined by the Louisiana Department of Health.

E. It is unlawful for any person under the age of twenty-one to be sold any tobacco product, alternative nicotine product, or vapor product.

F.(1) It is unlawful for any person under the age of twenty-one to possess any tobacco product, alternative nicotine product, or vapor product.

(2) However, it shall not be unlawful for a person under the age of twenty-one to possess a tobacco product, alternative nicotine product, or vapor product under any of the following circumstances:

(a) When a person under eighteen years of age is accompanied by a parent, spouse, or legal guardian twenty-one years of age or older.

(b) In private residences.

(c) When the tobacco product, alternative nicotine product, or vapor product is handled during the course and scope of his employment and required in the performance of such person's duties.

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

(1) "Alternative nicotine product" means any non-combustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. "Alternative nicotine product" does not include any:

(a) Tobacco product.

(b) Vapor product.

(c) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).

(d) Device pursuant to 21 U.S.C. 321(h).

(e) Combination product described in 21 U.S.C. 353(g).

(2) "Cigar" means any roll of tobacco for smoking, irrespective of size or shape, and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredients, where such roll has a wrapper made chiefly of tobacco.

(3) "Cigarette" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper, or any other material, except where such wrapper is wholly or in greater part made of tobacco.

(4) "Smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity.

(5) "Smoking tobacco" means granulated, plug cut, crimp cut, ready rubbed, and any other kind and form of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette.

(6) "Tobacco product" means any cigar, cigarette, smokeless tobacco, or smoking tobacco.

(7) "Vapor product" means any non-combustible product containing nicotine or other substances that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. "Vapor product" does not include any of the following:

(a) Product that is a drug pursuant to 21 U.S.C. 321(g)(1).

(b) Device pursuant to 21 U.S.C. 321(h).

(c) Combination product described in 21 U.S.C. 353(g).

H.(1) A person who violates the provisions of this Section by selling or buying tobacco products, alternative nicotine products, or vapor products shall be fined not more than fifty dollars for the first violation. The penalties for subsequent violations shall be a fine of not more than one hundred dollars for the second violation, a fine of not more than two hundred fifty dollars for the third violation, and a fine of not more than four hundred dollars for any violation thereafter.

(2) A person who violates the provisions of this Section by possessing tobacco products, alternative nicotine products, or vapor products shall be fined not more than fifty dollars for each violation.

I. A violation of the signage requirement of Subsection C of this Section shall be deemed to be a violation by the owner of the establishment where the violation occurred. A violation of the signage requirement of Subsection D of this Section shall be deemed to be a violation by the owner of the vending machine. For the first such violation, the owner shall be fined not more than fifty dollars. The penalties for subsequent violations shall be a fine of not more than one hundred dollars for the second violation, a fine of not more than two hundred fifty dollars for the third violation, and a fine of not more than five hundred dollars for any violation thereafter.

J. The law enforcement agency issuing the citation or making the arrest or the clerk of the court in which a prosecution is initiated, as the case may be, shall notify the commissioner of the office of alcohol and tobacco control of the action and the final disposition of the matter.

Acts 1991, No. 919, §1; Acts 1994, 3rd Ex. Sess., No. 64, §1; Acts 1997, No. 1010, §1; Acts 2014, No. 278, §1, eff. May 28, 2014; Acts 2018, No. 188, §1, eff. Nov. 1, 2018; Acts 2021, No. 403, §1.

§91.9. Unlawful presence or contact of a sex offender relative to a former victim

A. It shall be unlawful for any person convicted of a sex offense as defined in R.S. 15:541 to do any of the following:

(1) Establish a residence or physically reside within three miles of the victim of the offense for which he was convicted.

(2) Knowingly be physically present within three hundred feet of the victim of the offense for which he was convicted.

(3) Communicate, either by electronic communication, in writing, or orally, with the victim of the offense for which he was convicted or an immediate family member of the victim, unless the victim consents to such communication in writing and the communication is made pursuant to the provisions of R.S. 46:1846.

B. For purposes of this Section, "immediate family member" means the spouse, mother, father, aunt, uncle, sibling, or child of the victim, whether related by blood, marriage, or adoption.

C.(1) Whoever violates the provisions of Paragraphs (A)(1) or (2) of this Section shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

(2) Whoever violates the provisions of Paragraph (A)(3) of this Section shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

D.(1)(a) It shall be an affirmative defense to prosecution for a violation of Paragraph (A)(1) of this Section if the property where the offender resides was occupied by the offender prior to the date on which the victim began residing within three miles of the residence of the offender.

(b) The affirmative defense provided in Subparagraph (a) of this Paragraph shall not be available to an offender who pleads guilty to or is convicted of a subsequent sex offense as defined in R.S. 15:541 against the same victim after the victim began residing within three miles of the residence of the offender.

(2)(a) It shall be an affirmative defense to prosecution for a violation of Paragraph (A)(1) of this Section if the property where the offender resides was occupied by the offender prior to August 1, 2012.

(b) The affirmative defense provided in Subparagraph (a) of this Paragraph shall not be available to an offender who pleads guilty to or is convicted of a subsequent sex offense as defined in R.S. 15:541 against the same victim after August 1, 2012.

Acts 2012, No. 42, §1.

§91.11. Sale, exhibition, or distribution of material harmful to minors

A.(1) The unlawful sale, exhibition, rental, leasing, or distribution of material harmful to minors is the intentional sale, allocation, distribution, advertisement, dissemination, exhibition, or display of material harmful to minors, by a person who is not the spouse, parent, or legal guardian of the minor to any unmarried person under the age of eighteen years, or the possession of material harmful to minors with the intent to sell, allocate, advertise, disseminate, exhibit, or display such material to any unmarried person under the age of eighteen years, by a person who is not the spouse, parent, or legal guardian of the minor at a newsstand or any other commercial establishment which is open to persons under the age of eighteen years.

(2) "Material harmful to minors" is defined as any paper, magazine, book, newspaper, periodical, pamphlet, composition, publication, photograph, drawing, picture, poster, motion picture film, video tape, video game, figure, phonograph record, album, cassette, compact disc, wire or tape recording, or other similar tangible work or thing which exploits, is devoted to or principally consists of, descriptions or depictions of illicit sex or sexual immorality for commercial gain, and when the trier of fact determines that each of the following applies:

(a) The material incites or appeals to or is designed to incite or appeal to the prurient, shameful, or morbid interest of minors.

(b) The material is offensive to the average adult applying contemporary community standards with respect to what is suitable for minors.

(c) The material taken as a whole lacks serious literary, artistic, political, or scientific value for minors.

(3) For the purpose of this Section "descriptions or depictions of illicit sex or sexual immorality" includes the depiction, display, description, exhibition or representation of:

(a) Ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being;

(b) Masturbation, excretory functions, or exhibition, actual, simulated, or animated, of the genitals, pubic hair, anus, vulva, or female breast nipples;

(c) Sadomasochistic abuse, meaning actual, simulated, or animated, flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained, on the part of one so clothed;

(d) Actual, simulated, or animated, touching, caressing, or fondling of, or other similar physical contact with, a pubic area, anus, female breast nipple, covered or exposed, whether alone or between human*, animals or a human and an animal, of the same or opposite sex, in an act of apparent sexual stimulation or gratification; or

(e) Actual, simulated, or animated, stimulation of the human genital organs by any device whether or not the device is designed, manufactured, and marketed for such purpose.

(4) "Minor" means any person under the age of eighteen years.

(5) "Video game" means an object or device that stores recorded data or instructions, receives data or instructions generated by a person who uses it, and, by processing the data or instructions, creates an interactive game capable of being played or viewed on or through a computer, gaming system, console, or other technology.

B.(1) It shall be unlawful for any person who is not the spouse, parent, or legal guardian of the minor to invite or permit any unmarried person under the age of eighteen years of age to be in any commercial establishment that exhibits or displays any item, material, work or thing of any kind that is described in Subsection A of this Section.

(2) Lack of knowledge of age shall not constitute a defense, unless the defendant shows that he had reasonable cause to believe that the minor involved was eighteen years of age or more and that the minor exhibited to the defendant a selective service card, driver's license, military identification card, birth certificate or other official or apparently official document purporting to establish that such a minor was eighteen years of age or more.

(3) For the purpose of Subsections A and B of this Section, "exhibition or display" means the exhibition or display of material harmful to minors as defined in Subsection A of this Section so that, as displayed, depictions and representations of illicit sex or sexual immorality are visible to minors.

(4) A commercial establishment shall not be in violation of this Section if the commercial establishment provides for a separate area for the exhibition or display of material harmful to minors and designates said area "NOT FOR MINORS" or similar words and the commercial establishment prohibits persons under the age of eighteen years from seeing or examining the contents of material harmful to minors.

C. This section does not preempt, nor shall anything in this section be construed to preempt, the regulation of obscenity by municipalities, parishes and consolidated city-parish governments; however, in order to promote uniform obscenity legislation throughout the state, the regulation of obscenity by municipalities, parishes and consolidated city-parish governments shall not exceed the scope of the regulatory prohibitions contained in the provisions of this section.

D. Prior to selling material harmful to minors as provided for by this Section, a commercial establishment shall require the individual purchasing the material harmful to minors to provide a driver's license, selective service card, military identification card, birth certificate, or other official form of identification which on its face establishes the age of the person as eighteen years or older.

E. Whoever is found guilty of violating the provisions of this Section shall be fined not less than one hundred dollars nor more than two thousand dollars or imprisoned for not more than one year, or both.

Added by Acts 1966, No. 127, §§1, 2. Amended by Acts 1968, No. 647, §1; Acts 1974, No. 275, §1; Acts 1988, No. 782, §1; Acts 1989, No. 384, §1; Acts 2006, No. 529, §1.

*AS APPEARS IN ENROLLED BILL.

§91.12. Sale, distribution or making available to minors publications encouraging, advocating, or facilitating the illegal use of controlled dangerous substances

A. No person shall sell, distribute or make available to a person under eighteen years of age any publication which has as its dominant theme articles or a substantial number of advertisements encouraging, advocating, or facilitating the illegal use of any substance classified as a controlled dangerous substance pursuant to Title 40 of the Louisiana Revised Statutes of 1950.

B. No employee acting within the course and scope of his employment and who has no proprietary interest in the business shall be guilty of a violation of this Section unless he has actual knowledge of the contents of the publication.

C. Whoever violates this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Added by Acts 1977, No. 324, §1; Acts 2014, No. 791, §7.

§91.13. Illegal use of controlled dangerous substances in the presence of persons under seventeen years of age

A. It shall be unlawful for any person over the age of seventeen, while in the presence of any person under the age of seventeen and when there is an age difference of greater than two years between the two persons, to use, consume, possess, or distribute any controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Act.

B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for more than six months, or both.

Acts 1988, No. 691, §1.

§91.14. Unlawful distribution of material harmful to minors through the Internet

A.(1) Any person or entity in Louisiana that publishes material harmful to minors on the Internet shall, prior to permitting access to the material, require any person attempting to access

the material to electronically acknowledge and attest that the person seeking to access the material is eighteen years of age or older.

(2) The failure to comply with the provisions of Paragraph (1) of this Subsection shall constitute the unlawful distribution of material harmful to minors through the Internet.

(3) If a person or entity in Louisiana publishes material harmful to minors on the Internet and complies with the provisions of Paragraph (1) of this Subsection, the person or entity shall not be held liable under the provisions of this Section if the person seeking to access the material is under the age of eighteen and falsely acknowledges and attests that he is eighteen years of age or older.

(4) No Internet service provider, interactive computer service provider as defined by 47 U.S.C. 230(f), or radio or television broadcast licensee of the Federal Communications Commission shall be deemed to be a publisher or distributor of material harmful to minors that is provided by another person.

(5) This Section shall not apply to any bona fide news or public interest broadcast, website, video, report, or event and shall not be construed to affect the rights of any news-gathering organization.

B. For purposes of this Section:

(1) "Descriptions or depictions of illicit sex or sexual immorality" includes the depiction, display, description, exhibition, or representation of any of the following:

(a) Ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being.

(b) Masturbation, excretory functions, or exhibition, actual, simulated, or animated, of the genitals, pubic hair, anus, vulva, or female breast nipples.

(c) Sadomasochistic abuse, meaning actual, simulated, or animated, flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained, on the part of one so clothed.

(d) Actual, simulated, or animated, touching, caressing, or fondling of, or other similar physical contact with, a pubic area, anus, female breast nipple, covered or exposed, whether alone or between human, animals, or a human and an animal, of the same or opposite sex, in an act of apparent sexual stimulation or gratification.

(e) Actual, simulated, or animated, stimulation of the human genital organs by any device whether or not the device is designed, manufactured, and marketed for that purpose.

(2) "Material harmful to minors" is defined as any digital image, photograph, or video which exploits, is devoted to or principally consists of, descriptions or depictions of illicit sex or sexual immorality for commercial gain, and when the trier of fact determines that each of the following applies:

(a) The material incites or appeals to or is designed to incite or appeal to the prurient, shameful, or morbid interest of minors.

(b) The material is offensive to the average adult applying contemporary community standards with respect to what is suitable for minors.

(c) The material taken as a whole lacks serious literary, artistic, political, or scientific value for minors.

(3) "News-gathering organization" means all of the following:

(a) A newspaper, or news publication, printed or electronic, of current news and intelligence of varied, broad, and general public interest, having been published for a minimum of one year and that can provide documentation of membership in a statewide or national press association, as represented by an employee thereof who can provide documentation of his employment with the newspaper, wire service, or news publication.

(b) A radio broadcast station, television broadcast station, cable television operator, or wire service as represented by an employee thereof who can provide documentation of his employment.

C. Whoever violates the provisions of this Section shall be fined up to ten thousand dollars.

Acts 2015, No. 187, §1.

§91.15. Unlawful operation of an unlicensed child day care center

A. It shall be unlawful for any person or other entity to do either of the following:

(1) Continue to operate a child day care center after notification by the Department of Education that the person or other entity operating the facility should seek a license as provided for in Part X-B of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:407.31 through 407.53.

(2) Continue to operate a child day care center after the Department of Education has revoked a license to operate a child day care center that was previously issued to the person or other entity as provided for in Part X-B of Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:407.31 through 407.53.

B. For the purposes of this Section, "child day care center" means any place or facility operated by any institution, political subdivision, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or legal custodian, on a regular basis for at least twelve and one-half hours in a continuous seven-day week. If a child day care center provides transportation or arranges for transportation to and from the center, either directly or by contract with third parties, all hours during which a child is being transported shall be included in calculating the hours of operation.

C. Whoever commits the crime of unlawful operation of an unlicensed child day care center shall be subject to the following penalties:

(1) For a first offense violation of this Section, the violator shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(2) For a second offense violation of this Section, the violator shall be fined not more than two thousand five hundred dollars or imprisoned for not more than six months, or both. Furthermore, the violator shall be ineligible to apply for a license to operate a child day care facility or operate a child day care facility for up to twenty-four months.

(3) For a third or subsequent offense violation of this Section, the violator shall be fined not more than five thousand dollars or imprisoned for not more than twelve months, or both. Furthermore, the violator shall be ineligible to apply for a license to operate a child day care facility or operate a child day care facility for up to forty-eight months.

D. In accordance with R.S. 17:407.31 et seq., the Department of Education shall be responsible for the investigation of any unlicensed day care center to determine if the center is

required by law to have a license issued by the department and to determine if the center is operating without a valid license issued by the department. After conducting any necessary investigation, the department shall make a determination with respect to licensing status, and collect any evidence necessary with respect to violations of the licensing laws. All evidence and findings by the department shall be submitted to a law enforcement agency for any arrest for a violation of the provisions of this Section.

Acts 2016, No. 411, §1.

§91.21. Sale of poisonous reptiles to minors; penalty

A. It shall be unlawful for any person to sell any type of poisonous reptile to a minor.

B. Any person violating the provision of this Section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one hundred dollars or imprisoned for not more than six months, or both, for each such offense.

Added by Acts 1970, No. 491, §1; Acts 2014, No. 791, §7.

§91.22. Repealed by Acts 1974, No. 276, §1

§92. Contributing to the delinquency of juveniles

A. Contributing to the delinquency of juveniles is the intentional enticing, aiding, soliciting, or permitting, by anyone over the age of seventeen, of any child under the age of seventeen, and no exception shall be made for a child who may be emancipated by marriage or otherwise, to:

(1) Beg, sing, sell any article or play any musical instrument in any public place for the purpose of receiving alms.

(2) Associate with any vicious or disreputable persons, or frequent places where the same may be found.

(3) Visit any place where beverages of either high or low alcoholic content are the principal commodity sold or given away.

(4) Visit any place where any gambling device is found, or where gambling habitually occurs.

(5) Habitually trespass where it is recognized he has no right to be.

(6) Use any vile, obscene or indecent language.

(7) Perform any sexually immoral act.

(8) Absent himself or remain away, without authority of his parents or tutor, from his home or place of abode.

(9) Violate any law of the state or ordinance of any parish or village, or town or city of the state.

(10) Visit any place where sexually indecent and obscene material, of any nature, is offered for sale, displayed or exhibited.

(11)(a) Become involved in the commission of a crime of violence as defined in R.S. 14:2(B) which is a felony or a violation of the Uniform Controlled Dangerous Substances Law which is a felony.

(b) Become involved in the commission of any other felony not enumerated in Subparagraph (a) of this Paragraph.

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

C. Whoever commits the crime of contributing to the delinquency of a juvenile shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

D. Whoever is charged and convicted of contributing to the delinquency of a juvenile under Paragraph (7) of Subsection A of this Section shall be fined not more than one thousand dollars, or imprisoned with or without hard labor for not more than two years, or both.

E.(1) Whoever is charged and convicted of contributing to the delinquency of a juvenile under Subparagraph (a) of Paragraph (11) of Subsection A of this Section shall be imprisoned at hard labor for not less than two years and for not more than ten years or imprisoned according to the sentence of imprisonment for the underlying felony, whichever is less.

(2) Whoever is charged and convicted of contributing to the delinquency of a juvenile under Subparagraph (b) of Paragraph (11) of Subsection A of this Section shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

(3) If a parent or legal guardian of a juvenile is charged and convicted of contributing to the delinquency of the juvenile under Paragraph (11) of Subsection A of this Section and sentenced pursuant to the provisions of Paragraph (1) of this Subsection, at least one year of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

(4) If a parent or legal guardian is sentenced to imprisonment pursuant to the provisions of Paragraph (2) of this Subsection, the following shall apply:

(a) If a parent or legal guardian is sentenced to imprisonment for six months or less, the sentence shall be without benefit of probation, parole, or suspension of sentence.

(b) If a parent or legal guardian's sentence to imprisonment for more than six months, at least six months shall be without probation, parole, or suspension of sentence.

Amended by Acts 1962, No. 194, §1; Acts 1966, No. 481, §1; Acts 1966, No. 532, §1; Acts 1968, No. 486, §1; Acts 1968, No. 647, §1; Acts 1976, No. 121, §§1, 2; Acts 1993, No. 526, §1; Acts 1994, 3rd Ex. Sess., No. 74, §1; Acts 1995, No. 1290, §1; Acts 2009, No. 261, §1.

§92.1. Encouraging or contributing to child delinquency, dependency, or neglect; penalty; suspension of sentence; definitions

A.(1) In all cases where any child shall be a delinquent, dependent, or neglected child, as defined in the statutes of this state or by this Section, irrespective of whether any former proceedings have been had to determine the status of such child, the parent or parents, legal guardian, or any person having the custody of such child, or any other person or persons who shall by any act encourage, cause, or contribute to the dependency or delinquency of such child, or who acts in conjunction with such child in the acts which cause such child to be dependent or delinquent, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment for not more than six months, or by both fine and imprisonment.

(2) The court in which the case is heard may suspend the sentence for violation of the provisions of this Section, and impose conditions upon the defendant as to his future conduct, and may make such suspension dependent upon the fulfillment by the defendant of such conditions.

In the case of the breach of such conditions or any part of them, the court may impose sentence as though there had been no such suspension.

(3) The court may also, as a condition of such suspension, require a bond in such sum as the court may designate, to be approved by the judge requiring it, to secure the performance by such person of the conditions placed by the courts on such suspension. The bond by its terms shall be made payable to the district judge of the parish in which the prosecution is pending, and any money received from a breach of any of the provisions of the bond shall be paid into the parish treasury. The provisions of law regulating forfeiture of appearance bonds shall govern so far as they are applicable.

(4) Exclusive jurisdiction of the offense defined in this Section is hereby conferred on juvenile courts, in accordance with the provisions of law establishing such courts.

B. By the term "delinquency", as used in this section, is meant any act which tends to debase or injure the morals, health or welfare of a child; drinking beverages of low alcoholic content or beverages of high alcoholic content; the use of narcotics, going into or remaining in any bawdy house, assignation house, disorderly house or road house, hotel, public dance hall, or other gathering place where prostitutes, gamblers or thieves are permitted to enter and ply their trade; or associating with thieves and immoral persons, or enticing a minor to leave home or to leave the custody of its parents, guardians or persons standing in lieu thereof, without first receiving the consent of the parent, guardian, or other person; or begging, singing, selling any article; or playing any musical instrument in any public place for the purpose of receiving alms; or habitually trespassing where it is recognized he has no right to be; or using any vile, obscene, or indecent language; or performing any sexually immoral act; or violating any law of the state ordinance of any village, town, city, or parish of the state.

The term "juvenile", as used in this section, refers to any child under the age of seventeen. Lack of knowledge of the juvenile's age shall not be a defense.

Added by Acts 1954, No. 324, §1. Amended by Acts 1960, No. 505, §1; Acts 1966, No. 480, §1; Acts 1968, No. 647, §1; Acts 1991, No. 667, §1.

§92.2. Improper supervision of a minor by parent or legal custodian; penalty

A. Improper supervision of a minor by a parent or legal custodian, who has care and control of the minor, includes any of the following:

(1) Through criminal negligence, or knowingly or willfully, permitting the minor to associate with a person known by the parent or custodian to be any of the following:

(a) A member of a known criminal street gang as defined in R.S. 15:1404(A).

(b) Convicted of a felony offense.

(c) A user or distributor of drugs in violation of the Uniform Controlled Dangerous Substances Law.

(d) A person who possesses or has access to an illegal firearm, weapon, or explosive.

(2) Through criminal negligence, or knowingly or willfully, permitting the minor to do any of the following:

(a) Enter premises known by the parent or custodian to be a place where sexually indecent activities or prostitution is practiced.

(b) Violate a local or municipal curfew ordinance.

(c) Habitually be absent or tardy from school pursuant to the provisions of R.S. 17:233 without valid excuse.

(d) Enter the premises known by the parent or legal custodian as a place of illegal drug use or distribution activity.

(e) Enter the premises known by the parent or legal custodian as a place of underage drinking or gambling.

(f) Enter the premises known by the parent or legal custodian as a place which stores or has a person present who possesses an illegal firearm, weapon, or explosive.

(3) Any violation by commission or omission of a court-ordered safety plan.

(4) Causing or permitting an unlicensed minor to drive a motor vehicle or power cycle upon any public road or highway in this state, in violation of R.S. 32:416 and 417, when the unlicensed minor is involved in a collision which results in the serious bodily injury or death of another person.

B.(1) Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than ninety days, or both. A minimum condition of probation shall be that the offender participate in forty hours of court-approved community service activities, or a combination of forty hours of court-approved community service and attendance at a court-approved family counseling program by both a parent or legal custodian and the minor.

(2) Whoever violates the provision of Paragraph (A)(3) of this Section shall be sentenced to imprisonment for not more than six months or a fine of five hundred dollars, or both. Whoever violates the provisions of Paragraph (A)(3), which results in injury to the child that requires medical attention or death of the child, shall be punished by imprisonment for two years with or without hard labor.

(3) Whoever violates the provisions of Paragraph (A)(4) of this Section shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, or imprisonment for up to six months, or both.

(4) Repealed by Acts 2019, No. 290, §3.

C. The provisions of Subparagraph (A)(1)(b) of this Section shall not apply to an immediate family member who lives in the household with the minor or other relative who is supervised by the parent or legal custodian when visiting with the minor.

D.(1) No parent or legal guardian shall be guilty of a violation of this Section if, upon acquiring knowledge that the minor has undertaken acts as described in Paragraphs (A)(1) and (2) of this Section, the parent or legal guardian seeks the assistance of local, parish, or state law enforcement officials, school officials, social services officials, or other appropriate authorities in either leading the child to modify his or her behavior, or in referring the child to appropriate treatment or corrective facilities.

(2) When imposing the sentence for a person convicted of this offense, the court shall consider the totality of the circumstances including the best interest of the minor.

Acts 1995, No. 702, §2; Acts 2001, No. 403, §1, eff. June 15, 2001; Acts 2005, No. 148, §2; Acts 2006, No. 650, §1; Acts 2009, No. 305, §1; Acts 2019, No. 2, §1; Acts 2019, No. 290, §§1, 3.

§92.3. Retaliation by a minor against a parent, legal custodian, witness, or complainant

A. Retaliation by a minor against a parent, legal custodian, witness, or complainant is the willful, malicious, and repeated threats of force against or harassment of a person or his property by a minor under the age of eighteen accompanied by an overt act on the part of the minor or by the apparent capability of the minor to carry out the threat or harassment, against a parent, legal custodian, person who filed a complaint against the minor, or a witness in a criminal case in which the minor is the defendant or charged with a delinquency and the minor intends to place that person in a reasonable fear of death, serious bodily injury, or damage to property.

B. The provisions of Subsection A do not apply if the conduct of the parent, legal custodian, person who filed a complaint against the minor, or a witness in a criminal case in which the minor is the defendant or charged with a delinquency is acting in violation of any criminal law.

C. A minor who violates the provisions of this Section shall be placed in the custody of the Department of Public Safety and Corrections for a period not to exceed six months. A minimum condition of probation shall be that the offender participate in forty hours of court-approved community service activities or a combination of forty hours of court-approved community service and attendance at a court-approved family counseling program by both a parent or legal custodian and the minor.

Acts 1995, No. 702, §2; Acts 2001, No. 403, §1, eff. June 25, 2001; Acts 2019, No. 104, §2.

§93. Cruelty to juveniles

A. Cruelty to juveniles is:

(1) The intentional or criminally negligent mistreatment or neglect by anyone seventeen years of age or older of any child under the age of seventeen whereby unjustifiable pain or suffering is caused to said child. Lack of knowledge of the child's age shall not be a defense; or

(2) The intentional or criminally negligent exposure by anyone seventeen years of age or older of any child under the age of seventeen to a clandestine laboratory operation as defined by R.S. 40:983 in a situation where it is foreseeable that the child may be physically harmed. Lack of knowledge of the child's age shall not be a defense.

(3) The intentional or criminally negligent allowing of any child under the age of seventeen years by any person over the age of seventeen years to be present during the manufacturing, distribution, or purchasing or attempted manufacturing, distribution, or purchasing of a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Law. Lack of knowledge of the child's age shall not be a defense.

B. The providing of treatment by a parent or tutor in accordance with the tenets of a well-recognized religious method of healing, in lieu of medical treatment, shall not for that reason alone be considered to be criminally negligent mistreatment or neglect of a child. The provisions of this Subsection shall be an affirmative defense to a prosecution under this Section. Nothing herein shall be construed to limit the provisions of R.S. 40:1299.36.1.

C. The trial judge shall have the authority to issue any necessary orders to protect the safety of the child during the pendency of the criminal action and beyond its conclusion.

D.(1) Whoever commits the crime of cruelty to juveniles shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than ten years, or both.

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, whoever commits the crime of cruelty to juveniles as defined in Paragraph (A)(1) of this Section when the victim is eight years old or younger shall be imprisoned at hard labor for not more than twenty years.

Acts 1985, No. 827, §1; Acts 2004, No. 143, §1; Acts 2008, No. 7, §1; Acts 2018, No. 479, §1.

NOTE: R.S. 40:1299.36.1, referenced in Subsection E, was terminated by Acts 1999, No. 788, §3.

§93.1. Model glue; use of; abuse of toxic vapors; unlawful sales to minors; penalties

A. Definitions:

(1) The term "model glue" shall mean any glue or cement of the type commonly used in the building of model airplanes, boats and automobiles and which contains one or more of the following volatile solvents: (a) toluol, (b) hexane, (c) trichlorethylene, (d) acetone, (e) toluene, (f) ethyl acetate, (g) methyl ethyl ketone, (h) trichlorochthane, (i) isopropanol, (j) methyl isobutyl ketone, (k) methyl cellosolve acetate, (l) cyclohexanone, or (m) any other solvent, material, substance, chemical or combination thereof having the property of releasing toxic vapors.

(2) "Abuse of toxic vapors" shall mean to smell or inhale the fumes of any solvent, material, substance, chemical or combinations thereof having the property of releasing toxic vapors for the purpose of causing a condition of or inducing a symptom included in Subsection B of this Section.

B. It shall be unlawful for any person to intentionally smell or inhale the fumes of any type of model glue or toxic vapors for the purpose of causing a condition of or inducing symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction or dulling of the senses or nervous system; or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual or mental processes. This Section shall not apply to the inhalation of any anesthesia for medical or dental purposes.

C. It shall be unlawful for any person to sell any type of model glue to a minor for any reason whatsoever.

D. It shall be unlawful for any person to sell or otherwise transfer possession of any type of model glue to any minor for any purpose whatsoever, unless the minor receiving possession of the model glue is the child or ward of and under the lawful custody of the vendor, donor or transferor of the glue.

E. Any person violating any provisions of this Section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned for not more than ninety days for each such offense or both.

Added by Acts 1966, No. 110, §1. Amended by Acts 1975, No. 215, §1; Acts 1997, No. 659, §1.

§93.2. Tattooing and body piercing of minors; prohibition

A. It is unlawful for any person to tattoo or body pierce any other person under the age of eighteen without the consent of an accompanying parent or tutor of such person.

B. It is unlawful for any business entity to pierce the body of any person under the age of eighteen without the consent of a parent or legal custodian of such person.

C. Whoever is found guilty of violating the provisions of this Section shall be fined not less than one hundred dollars nor more than five hundred dollars or be imprisoned for not less than thirty days nor more than one year, or both.

Added by Acts 1968, No. 94, §1; Acts 1997, No. 684, §1; Acts 1997, No. 743, §1.

§93.2.1. Child desertion

A. Child desertion is the intentional or criminally negligent exposure of a child under the age of ten years, by a person who has the care, custody, or control of the child, to a hazard or danger against which the child cannot reasonably be expected to protect himself, or the desertion or abandonment of such child, knowing or having reason to believe that the child could be exposed to such hazard or danger.

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

(2) On a second and subsequent conviction, the offender shall be fined not more than five hundred dollars and imprisoned for not less than thirty days nor more than six months, at least thirty days of which shall be without benefit of probation or suspension of sentence.

Acts 1986, No. 370, §1; Acts 2003, No. 168, §1.

§93.2.2. Unlawful placement of gold fillings, caps and crowns; minors

It is unlawful for any person to replace a tooth or part of a tooth or associated tissue by means of a filling, cap, or crown made of any gold substance on any person under the age of eighteen without the consent of the parent or guardian of such person. Whoever violates the provisions of this Section shall be fined not less than five hundred dollars nor more than five thousand dollars.

Acts 1995, No. 1101, §1.

§93.2.3. Second degree cruelty to juveniles

A.(1) Second degree cruelty to juveniles is the intentional or criminally negligent mistreatment or neglect by anyone over the age of seventeen to any child under the age of seventeen which causes serious bodily injury or neurological impairment to that child.

(2) Repealed by Acts 2019, No. 2, §3.

B. The providing of treatment by a parent or tutor in accordance with the tenets of a well-recognized religious method of healing, in lieu of medical treatment, shall not for that reason alone be considered to be intentional or criminally negligent mistreatment or neglect and shall be an affirmative defense to a prosecution under this Section.

C. Whoever commits the crime of second degree cruelty to juveniles shall be imprisoned at hard labor for not more than forty years.

Acts 1999, No. 191, §1; Acts 2019, No. 2, §3.

3. OFFENSES AFFECTING THE HEALTH AND SAFETY OF PERSONS WITH INFIRMITIES

§93.3. Cruelty to persons with infirmities

A. Cruelty to persons with infirmities is the intentional or criminally negligent mistreatment or neglect by any person, including a caregiver, whereby unjustifiable pain, malnourishment, or suffering is caused to a person with an infirmity, an adult with a disability, or a person who is aged, including but not limited to a person who is a resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential facility.

B. "Caregiver" is defined as any person or persons who temporarily or permanently is responsible for the care of a person with an infirmity; an adult with a physical or mental disability; or a person who is aged, whether such care is voluntarily assumed or is assigned. Caregiver includes but is not limited to adult children, parents, relatives, neighbors, daycare institutions and facilities, adult congregate living facilities, and nursing homes which or who have voluntarily assumed or been assigned the care of a person who is aged, a person with an infirmity, or an adult with a disability; or have assumed voluntary residence with a person who is aged, a person with an infirmity, or an adult with a disability.

C. For the purposes of this Section, a person who is aged is any individual sixty years of age or older.

D. The providing of treatment by a caregiver in accordance with a well-recognized spiritual method of healing, in lieu of medical treatment, shall not for that reason alone be considered the intentional or criminally negligent mistreatment or neglect of a person with an infirmity, an adult with a disability, or a person who is aged. The provisions of this Subsection shall be an affirmative defense to a prosecution under this Section.

E.(1) Whoever commits the crime of cruelty to any person with an infirmity, adult with a disability, or person who is aged shall be fined not more than ten thousand dollars or imprisoned with or without hard labor for not more than ten years, or both. At least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence when the act of cruelty to persons with infirmities was intentional and malicious.

(2) Upon a second or subsequent conviction, the offender shall be fined not more than ten thousand dollars and imprisoned at hard labor for not less than five years nor more than ten years. Five years of the sentence of imprisonment imposed shall be served without benefit of parole, probation, or suspension of sentence.

Added by Acts 1981, No. 850, §1; Acts 1987, No. 87, §1, eff. June 18, 1987; Acts 1994, 3rd Ex. Sess., No. 26, §1; Acts 1995, No. 841, §1; Acts 1995, No. 883, §1; Acts 2003, No. 434, §1; Acts 2010, No. 831, §1; Acts 2014, No. 811, §6, eff. June 23, 2014.

§93.4. Exploitation of persons with infirmities

A. Exploitation of persons with infirmities is:

(1) The intentional expenditure, diminution, or use by any person, including a caregiver, of the property or assets of a person with an infirmity, an adult with a disability, or a person who is aged, including but not limited to a resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential facility without the express voluntary consent of the resident or the consent of a legally authorized representative of an incompetent resident, or by means of fraudulent conduct, practices, or representations.

(2) The use of the power of attorney or guardianship of a person with an infirmity, a person who is aged, or an adult with a disability for one's own profit or advantage by means of fraudulent conduct, practices, or representations.

B. Whoever commits the crime of exploitation of persons with infirmities shall be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not more than ten years, or both.

C. Whoever is convicted, or who enters a plea agreement for exploitation of persons with infirmities shall be prohibited from having access to the assets or property of the victim or of any other person with a disability or person who is aged. The offender shall be prohibited from being appointed as a power of attorney or guardian for the victim or any other person with a disability or person who is aged. The provisions of this Subsection shall not be construed to prohibit the offender from inheriting from the victim with an infirmity.

Acts 1992, No. 309, §1; Acts 1994, 3rd Ex. Sess., No. 26, §1; Acts 1995, No. 883, §1; Acts 1999, No. 1044, §1; Acts 2014, No. 811, §6, eff. June 23, 2014.

§93.5. Sexual battery of persons with infirmities

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

4. UNLAWFUL SALE, PURCHASE, AND POSSESSION OF ALCOHOLIC BEVERAGES

§93.10. Definitions

For purposes of R.S. 14:93.10 through 93.14, the following definitions shall apply:

(1) "Alcoholic beverage" means beer, distilled spirits, and wine containing one-half of one percent or more of alcohol by volume. Beer includes but is not limited to ale, lager, porter, stout, sake, and other similar fermented beverages brewed or produced from malt wholly or in part or from any substitute therefor. Distilled spirits include alcohol, ethanol, or spirits or wine in any form, including all dilutions and mixtures thereof from whatever process produced.

(2) "Public possession" means the possession of any alcoholic beverage for any reason, including consumption, on any street, highway, or waterway or in any public place or any place open to the public, including a club which is de facto open to the public. "Public possession" does not include the following:

(a) The possession or consumption of any alcoholic beverage:

(i) For an established religious purpose.

(ii) When a person under twenty-one years of age is accompanied by a parent, spouse, or legal guardian twenty-one years of age or older.

(iii) For medical purposes when purchased as an over the counter medication, or when prescribed or administered by a licensed physician, pharmacist, dentist, nurse, hospital, or medical institution.

(iv) In a private residence, which shall include a residential dwelling and up to twenty contiguous acres, on which the dwelling is located, owned by the same person who owns the dwelling.

(b) The sale, handling, transport, or service in dispensing of any alcoholic beverage pursuant to lawful ownership of an establishment or to lawful employment of a person under twenty-one years of age by a duly licensed manufacturer, wholesaler, or retailer of beverage alcohol.

(3) "Purchase" means acquisition by the payment of money or other consideration. Purchase does not include such acquisition for medical purposes either when purchased as over the counter medication or when prescribed or administered by a licensed physician, pharmacist, dentist, nurse, hospital, or medical institution.

Acts 1995, No. 639, §1; Acts 1996, 1st Ex. Sess., No. 78, §1; Acts 2011, No. 264, §1; Acts 2015, No. 212, §1.

§93.11. Unlawful sales to persons under twenty-one

A. Unlawful sales to persons under twenty-one is the selling or otherwise delivering for value of any alcoholic beverage to any person under twenty-one years of age unless such person is the lawful owner or lawful employee of an establishment to which the sale is being made and is accepting such delivery pursuant to such ownership or employment. Lack of knowledge of the person's age shall not be a defense.

B. Whoever violates the provisions of this Section shall be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not less than thirty days nor more than six months, or both.

Acts 1995, No. 639, §1; Acts 1996, 1st Ex. Sess., No. 78, §1; Acts 2006, No. 570, §1.

§93.12. Purchase and public possession of alcoholic beverages; exceptions; penalties

A. It is unlawful for any person under twenty-one years of age to purchase or have public possession of any alcoholic beverage.

B.(1) Whoever violates the provisions of this Section shall be fined not more than one hundred dollars.

(2) Any person apprehended while violating the provisions of this Section shall be issued a citation by the apprehending law enforcement officer which shall be paid in the same manner as provided for the offenders of local traffic violations. A citation issued by a law enforcement officer for such violation shall not be included on the person's criminal history record.

(3) In addition to the penalties provided in Paragraph (1) of this Subsection, the driver's license of any person violating the provisions of this Section may be suspended upon conviction, plea of guilty, or nolo contendere for a period of one hundred eighty days. Upon conviction, plea of guilty, or nolo contendere, the court shall surrender the driver's license to the Department of Public Safety and Corrections for suspension in accordance with the provisions of this Section. Upon first conviction, the court may issue an order which authorizes the department to issue a restricted driver's license upon a demonstration to the court that a hardship would result from being unable to drive to school or work. Such restrictions shall be determined by the court.

Acts 1995, No. 639, §1; Acts 1996, 1st Ex. Sess., No. 78, §1; Acts 2005, No. 165, §1; Acts 2016, No. 354, §1.

§93.13. Unlawful purchase of alcoholic beverages by persons on behalf of persons under twenty-one

A. It is unlawful for any person, other than a parent, spouse, or legal guardian, as specified in R.S. 14:93.10(2)(a)(ii), to purchase on behalf of a person under twenty-one years of age any alcoholic beverage.

B.(1) Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.

(2) In addition to the penalties provided in Paragraph (1) of this Subsection, the driver's license of any person violating the provisions of this Section may be suspended upon conviction, plea of guilty, or nolo contendere for a period of one hundred eighty days. Upon conviction, plea of guilty, or nolo contendere, the court shall surrender the driver's license to the Department of

Public Safety and Corrections for suspension in accordance with the provisions of this Section. Upon first conviction, the court may issue an order which authorizes the department to issue a restricted driver's license upon a demonstration to the court that suspension of his driving privileges will deprive him or his family of the necessities of life or prevent him from earning a livelihood. Such restrictions shall be determined by the court.

Acts 1995, No. 639, §1; Acts 1996, 1st Ex. Sess., No. 78, §1; Acts 2005, No. 165, §1.

§93.14. Responsibilities of retail dealers not relieved

Nothing in R.S. 14:93.10 through 93.13 shall be construed as relieving any licensed retail dealer in alcoholic beverages any responsibilities imposed under the provisions of Title 26 of the Louisiana Revised Statutes of 1950.

Acts 1995, No. 639, §1; Acts 1996, 1st Ex. Sess., No. 78, §1.

§93.15. Alcoholic beverage vaporizer; prohibitions

A. It is unlawful for any person to sell, deliver, give away, purchase, possess, or use an alcoholic beverage vaporizer.

B. This Section shall not apply to any other vaporizer device used for purposes other than vaporizing alcoholic beverages.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Acts 2006, No. 147, §1.

§93.20. Repealed by Acts 1998, No. 71, §2, eff. June 25, 1998.

D. An ordinance adopted under the provisions of this Section shall incorporate the standards and elements of the comparable crime under state law and the penalty provided in the ordinance shall not exceed the penalty provided in the comparable crime under state law.

E. The provisions of this Section shall not repeal, supersede, or limit the provisions of R.S. 13:1894.1 or R.S. 40:966(D)(4).

Added by Acts 1983, No. 531, §1; Acts 2001, No. 944, §2; Acts 2003, No. 1038, §2; Acts 2006, No. 143, §1.

CHAPTER 2. MISCELLANEOUS CRIMES AND OFFENSES

PART I. OFFENSES AGAINST PROPERTY

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

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

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

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

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

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

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

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

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

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

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

§202. Contractors; misapplication of payments prohibited; penalty

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

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

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

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

Amended by Acts 1960, No. 554, §1; Acts 1964, No. 372, §1; Acts 1986, No. 1040, §1; Acts 1986, No. 625, §1; Acts 1990, No. 690, §1.

§202.1. Residential contractor fraud; penalties

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B.(1) When the aggregate amount of the tax credit claimed is one thousand dollars or less, whoever violates the provisions of this Section upon conviction may be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned for not more than six months.

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

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

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

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

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

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

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

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

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

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

A. No person shall offer to sell or cause to be sold or distributed, either retail or wholesale, new household appliances, such as radios, television sets, refrigerators, washing machines, ironers, dryers, gas or electric ranges, or air conditioners, without the appliance having the original factory serial number indicated thereon provided it is the custom of the manufacturer to place serial numbers on the appliances.

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

Acts 2014, No. 791, §7.

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

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

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

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

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

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

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

Acts 2014, No. 791, §7.

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

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

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

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

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

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

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

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

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

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

Acts 2010, No. 379, §1.

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

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

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

Acts 2014, No. 791, §7.

§206. Fire prevention interference; penalty

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

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

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

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

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

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

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

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

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

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

C.(1) Any person violating this Section shall be guilty of a misdemeanor and, upon conviction, shall be imprisoned for not more than ninety days, fined not more than five hundred dollars per day of the violation, or both.

(2) Notwithstanding any action taken by the office of state fire marshal, any person who does not possess a license as required by R.S. 40:1664.4, and who violates any provision of this Section and causes harm or damage to another in excess of five hundred dollars, upon conviction, shall be imprisoned for up to six months, fined not less than five hundred dollars nor more than five thousand dollars, or both.

(3) Notwithstanding the provisions of R.S. 15:571.11, any fine assessed and collected pursuant to this Subsection shall be remitted to the Louisiana Life Safety and Property Protection Trust Fund provided for in R.S. 40:1664.9(J).

Acts 2017, No. 170, §1.

§207. Motor vehicles, alteration or removal of identifying numbers prohibited; sale, etc., of motor vehicle with altered identifying numbers prohibited; penalty; application of Section

A. No person shall cover, remove, deface, alter, or destroy the manufacturer's number or any other distinguishing number or identification mark on any motor vehicle, motor vehicle part, semi-trailer, or trailer as defined by R.S. 32:1 for the purpose of concealing or misrepresenting its identity; nor shall any person buy, sell, receive, dispose of, conceal, or knowingly have in his possession any motor vehicle, motor vehicle part, semi-trailer, or trailer as defined by R.S. 32:1 from or on which the manufacturer's number or any other distinguishing number or identification mark has been covered, removed, defaced, altered, or destroyed for the purpose of concealing or misrepresenting its identity.

B.(1) Whoever violates this Section shall be fined not more than two thousand dollars, or imprisoned with or without hard labor for not more than twenty-four months, or both, and, in default of fine, imprisoned with or without hard labor for not more than twelve months additional.

(2) On conviction of a second offense, the offender shall be fined not more than four thousand dollars, or imprisoned with or without hard labor for not more than forty-eight months, or both.

(3) On conviction of a third or subsequent offense, the offender shall be fined five thousand dollars and imprisoned with or without hard labor for not less than thirty-six months nor more than sixty months.

C. This Section shall apply to all vehicles propelled otherwise than by muscular power, except motor vehicles running upon rails or tracks.

Acts 1989, No. 537, §1; Acts 2008, No. 148, §1; Acts 2010, No. 389, §1.

§208. Operas, performance or representation without consent of owner prohibited; penalty

A. No person or company shall take part in or cause to be publicly performed or represented for profit any unpublished or undedicated dramatic or musical composition known as an opera without the consent of its owner or proprietor, or knowing an opera is unpublished or undedicated, shall permit, aid, or take part in a public performance or representation without the consent of the owner or proprietor.

B. Whoever violates this Section shall, for every performance, be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not less than thirty days.

Acts 2014, No. 791, §7.

§209. Seals, breaking prohibited; penalty

A. No person shall, without legal authority, break any seal placed, in accordance with law, on the effects or any place or thing containing the effects or property of any deceased person.

B. Whoever violates this Section shall be fined not more than one thousand dollars and imprisoned with or without hard labor for not more than two years.

Acts 2014, No. 791, §7.

§210. Taxicabs, tampering with meter forbidden; penalty

A. No person shall, without the written consent of the owner, tamper with or alter in any manner or form the fare-registering device of any taxicab or automobile for hire.

B. Whoever violates this Section shall be fined not less than fifty dollars nor more than two hundred dollars, or imprisoned for not less than six months nor more than one year, or both.

Acts 2014, No. 791, §7.

§211. Repealed by Acts 2017, No. 241, §3.

§212. Forest products, false statement prohibited; penalty

A. No person, in the course of a sale, attempted sale, delivery, removal, or other completed or attempted transaction involving forest products, shall willfully or knowingly make a false statement or cause a false statement to be made with regard to ownership or ownership interest of the forest products, with regard to ownership or ownership interest or tract name of the land where the forest products were harvested, or with regard to location of the land and property description of the land where the forest products were harvested.

B. Whoever violates this Section shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

Acts 1997, No. 108, §1; Acts 2003, No. 107, §1.

§213. False packing of cotton bales and other agricultural products; penalty

A. The false packing of cotton bales or other agricultural products is the packing of a bale or bales of cotton or other agricultural products in such manner as is calculated to deceive persons

with regard to quantity, weight, or quality of the product therein contained, whether the false packing of cotton bales or other agricultural products be accomplished by the wetting of the product packed, or by concealing in the interior of the packed product another substance, or by plating the product by concealing in the interior thereof material inferior in grade or quality to that on the exterior thereof, or by any other means.

B. Whoever commits the crime of false packing of cotton bales or other agricultural products shall be punished, for the first offense, by a fine of five hundred dollars, or imprisoned for not less than sixty days nor more than six months, or both. For any offense beyond the first, the offender shall be punished by a fine of one thousand dollars, or imprisoned for not less than sixty days nor more than six months, or both.

Added by Acts 1954, No. 21, §1; Acts 2014, No. 791, §7.

§214. Fishing or hunting contest fraud

A. The crime of fishing or hunting contest fraud is the act of any person, who, with the intent to defraud, knowingly makes a false representation in an effort to win any prize awarded in any fishing or hunting contest.

B. When the most valuable prize offered in the contest amounts to a value of less than one hundred dollars, the offender shall be fined not more than one hundred dollars, imprisoned for not more than six months, or both.

C. When the most valuable prize offered in the contest amounts to a value of one hundred dollars or more, the offender shall be fined not more than three thousand dollars, imprisoned, with or without hard labor, for not more than one year, or both.

Acts 1985, No. 856, §1.

§215. §§215, 216 Repealed by Acts 1982, No. 310, §III (§3)

§217. Purchase or sale of seafoods prohibited under certain conditions; penalties

A. It shall be unlawful for any person:

(1) Who is engaged commercially in catching or taking fish, shrimp, oysters, or other seafood in a joint adventure or other undertaking whereby he receives a percentage of the proceeds of the sale of the catch, or a share of the catch itself, to sell or offer for sale any of such products, obtained in the joint adventure, except as provided for and in accordance with the terms and conditions of such joint adventure, without the express or implied consent of his co-adventurer or co-adventurers, or

(2) Who is employed on a salary or any other basis in the commercial catching or taking of fish, shrimp, oysters, or other seafood, to sell or offer for sale such products without the express or implied consent of his employer, or

(3) To purchase any fish, shrimp, oysters, or other seafood, knowing it is offered for sale in violation of Paragraph (1) or (2) of this Subsection.

B. Any person who violates any provision of this Section shall be, for the first offense, fined not less than one hundred dollars nor more than two hundred dollars and, for the second and subsequent offenses, shall be fined not less than five hundred dollars nor more than two thousand

dollars, or be sentenced to serve not less than five days nor more than six months in the parish jail, or shall be punished by both such fine and imprisonment.

Acts 1964, No. 82, §§1, 2.

§218. Seafood sales and purchases; commercial license required of seller; penalties

A. It shall be unlawful for any person, firm, or corporation to offer to sell or to sell any shrimp, oyster, fish, or other seafood without having first obtained a valid commercial fishing, retail, or wholesale license as provided in Subpart A of Part VII of Chapter 1 of Title 56 of the Louisiana Revised Statutes of 1950. It shall be unlawful for any person, firm, or corporation, including any restaurant or retail establishment, to purchase any shrimp, oyster, fish, or other seafood from any person who does not possess a valid commercial fishing, retail, or wholesale license lawfully issued in his name or his employer's name as provided in the above-referenced Subpart A. The commercial fishing license required herein shall be one which authorizes the bearer to sell his catch. Such license or a copy thereof shall be in the possession of the seller and conspicuously displayed at all times when transacting any sale.

B. The provisions of this Section shall be enforceable by all law enforcement agencies throughout the state, in addition to agents of the Department of Wildlife and Fisheries and including but not limited to law enforcement officers of local governmental subdivisions.

C.(1) The following penalties shall be imposed for violation of the provisions of Subsection A of this Section:

(a) For the first offense, the fine shall be not less than five hundred dollars nor more than seven hundred fifty dollars, or imprisonment for not more than one hundred twenty days, or both.

(b) For the second offense, the fine shall be not less than seven hundred fifty dollars nor more than three thousand dollars and imprisonment for not less than ninety days nor more than one hundred eighty days.

(c) For the third offense, the fine shall be not less than one thousand dollars nor more than five thousand dollars and imprisonment for not less than one hundred eighty days nor more than two years.

(2) The above penalties in all cases shall include forfeiture of anything seized in connection with the violation and may include revocation of any applicable fishing, retail, or wholesale license under which the violation occurred for the period for which it is issued.

Acts 1986, No. 660, §1.

§219. Removal of building or structure from immovable property subject to a conventional mortgage or vendor's privilege

Any person who wilfully or knowingly removes from any immovable property subject to a conventional mortgage or vendor's privilege affecting the immovable property, any building or other structure, or any part of a building or other structure, or any item which was so attached to or connected with any such building or structure as to become subject to a conventional mortgage or vendor's privilege affecting the immovable property at the time of the execution of the mortgage or act creating the vendor's privilege, with intent to defraud and without first obtaining the written consent of all holders of conventional mortgages or vendor's privileges affecting the immovable property shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than two

thousand dollars, or imprisoned for not more than one (1) year, or both, at the discretion of the Court.

Added by Acts 1964, No. 496, §1.

§220. Rented or leased motor vehicles; obtaining by false representation, etc.; failure to return; defenses; penalties

A. If any person rents or leases a motor vehicle and obtains or retains possession of the motor vehicle by means of any false or fraudulent representation including but not limited to a false representation as to his name, residence, employment, or operator's license, or by means of fraudulent concealment, or false pretense or personation, or trick, artifice, or device; or, if the person with fraudulent intent willfully refuses to return the leased vehicle to the lessor after the expiration of the lease term as stated in the lease contract, the person shall be guilty of a felony and upon conviction thereof shall be subject to the penalty provided for in Subsection B of this Section. Except as provided in Subsection D of this Section, the offender's failure to return or surrender the motor vehicle within seven calendar days after notice to make such return or surrender has been sent by certified mail to the offender's last known address, or has been delivered by commercial courier as defined in R.S. 13:3204(D), shall be presumptive evidence of his intent to defraud, and the lessor may report to any law enforcement agency that the rented or leased motor vehicle has been stolen.

B. Any person found guilty of violating the provisions of this Section shall be fined not more than five hundred dollars or imprisoned not more than five years with or without hard labor, or both.

C. It shall be a complete defense to any civil action arising out of or involving the arrest or detention of any person renting or leasing a motor vehicle that any representation made by him in obtaining or retaining possession of the vehicle is contrary to the fact.

D. It shall be a complete defense to any civil action arising out of or involving the arrest or detention of any person, upon whom such demand was personally made or personally served, that he failed to return the vehicle to the place specified in the rental agreement within such seventy-two hour period.

Acts 1964, No. 442, §§1 to 4. Amended by Acts 1975, No. 607, §1. Acts 1984, No. 146, §1; Acts 1997, No. 790, §1; Acts 2003, No. 596, §1.

§220.1. Leased movables; obtaining by false representation; failure to return or surrender; penalties; restitution

A. No person leasing a movable shall obtain or retain possession of the movable by:

(1) Making a false statement or false representation of a material fact, where such false statement or false representation is made with the intent to obtain or retain possession of the movable; or

(2) Intentionally failing to return or surrender the movable when obligated under the terms of the lease, or after the expiration or cancellation of the lease. The lessee's failure to return or surrender the movable within fifteen calendar days or the number of days for which the movable was leased, whichever is less, after the date written notice requesting return or surrender of the movable was delivered or tendered to the lessee's last known address shall be presumptive

evidence that the failure to return or surrender the movable was intentional. In order for the presumption to arise, the written notice must be sent by the lessor or the district attorney by means of registered or certified mail.

B.(1) Whoever violates the provisions of this Section when the value of the leased movable is less than one thousand dollars shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) Whoever violates the provisions of this Section when the value of the leased movable is one thousand dollars or more shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

C. When a defendant is convicted of violating Paragraph (A)(2) and the notice requirements of Paragraph (A)(2) are complied with, a court shall order, in addition to or in lieu of the penalty in Subsection B, upon proof established by a preponderance of the evidence, that defendant pay restitution to the victim for all acknowledged appropriate fees assessed for intentional failure to return or surrender the leased movable after the agreed rental period or lease term or in the amount of lost profit resulting from the defendant's failure to return or surrender the movable as stated under the terms of the lease, or after the expiration or cancellation of the lease. The court may permit the prosecuting attorney to present evidence of the amount of the victim's lost profits either at the trial of the matter or at the sentencing of the defendant.

D. The offender's failure to return or surrender a video cassette film or tape that has been rented from a facility which rents video cassette films or tapes within thirty calendar days after notice to make such return or surrender has been sent by certified mail to the offender's last known address shall be presumptive evidence of his intent to defraud and the lessor may report to any law enforcement agency that the rented video cassette film or tape has been stolen.

Acts 1984, No. 812, §1; Acts 1987, No. 771, §1; Acts 1992, No. 981, §1; Acts 1997, No. 790, §1; Acts 2006, No. 130, §1, eff. June 2, 2006.

§221. Avoiding payment for telecommunications services, cable television services, or multipoint distribution system service

A. Avoidance of payment for telecommunication, cable television, or multipoint distribution system services is the avoidance, attempt to avoid, or the causing of another person to avoid, the lawful charges, in whole or in part, for any telephone, telegraph, cable, or multipoint distribution system service utilized or for the transmission of a message, signal, or other communication over telephone, telegraph, cable facilities, or multipoint distribution system:

(1) By the use of a code, prearranged scheme, or other similar strategem or device whereby such person, in effect, sends or receives information; or

(2) By rearranging, tampering or interfering with, or making unauthorized connection with any facilities or equipment of a telephone or telegraph company, whether physically, inductively, acoustically, or otherwise; or

(3) By intercepting and decoding a transmission by a multipoint distribution system without the authorization of the provider of the service, the person intentionally or knowingly attaches to, causes to be attached to, or incorporates in a television set, video tape recorder, or other equipment designed to receive a television transmission a device that intercepts and decodes the transmission.

(4) By the use of any other fraudulent means, method, trick, or device.

B.(1) On a first conviction, the offender shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

(2) On a second conviction, the offender shall be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

C. Nothing herein shall prohibit the use of earth station receivers to receive satellite communications.

Added by Acts 1966, No. 305, §1. Amended by Acts 1981, No. 145, §1; Acts 1982, No. 751, §1.

§222. Possession, manufacture, sale or transfer of devices for avoidance of payment for telecommunications services or related offenses; seizure of devices

A. It shall be unlawful for any person to knowingly do either of the following:

(1) Make or possess any instrument, apparatus, equipment, or device designed, adapted, or which can be used for either of the following purposes:

(a) For commission of a crime in violation of R.S. 14:67.

(b) To conceal, or to assist another to conceal, from any supplier of telecommunications services or from any lawful authority the existence or place of origin or destination of any telecommunications.

(2) Sell, give, transport, or otherwise transfer to another, or offer or advertise to sell, give, or otherwise transfer, any instrument, apparatus, equipment, or device described in Paragraph (1) of this Subsection, or plans or instructions for making or assembling it, under circumstances evincing an intent to use or employ such instrument, apparatus, equipment, or device, or to allow it to be used or employed, for a purpose described in Subparagraph (1)(a) or (1)(b) of this Subsection, or knowing or having reason to believe that it is intended to be so used, or that the aforesaid plans or instructions are intended to be used for making or assembling such instrument, apparatus, equipment, or device.

B.(1) Whoever violates any provision of this Section shall, on first conviction, be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

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

C. Any such instrument, apparatus, equipment, or device, or plans or instructions therefor, may be seized by court order under a search warrant or incident to a lawful arrest, and upon the conviction of any person for a violation of any provision of this Section, or R.S. 14:67, 67.3, or 221, such instrument, apparatus, equipment, device, plans, or instructions shall either be destroyed as contraband by the sheriff of the parish in which such person was convicted or turned over to the telephone company in whose territory such instrument, apparatus, equipment, device, plans, or instructions were seized.

D. The provisions of this Section shall not apply to privately owned communications equipment which is not connected with, or does not use the equipment or facilities of a telecommunications supplier regulated by a duly constituted governmental authority; nor shall the provisions of this Section apply to privately owned communications equipment which is connected with or does use the equipment or facilities of such telecommunications supplier when such

connection or use is lawful and in accord with the tariffs of such supplier or is made with the consent of such supplier.

E. Nothing herein shall apply to public service and emergency communications performed by holders of valid Federal Communications Commission radio amateur licenses without charge on the part of such licensees; provided that nothing herein shall excuse any person from compliance with lawful tariffs or any telecommunications company.

F. Nothing herein shall apply to the sale of premises reception equipment by other than an operating cable company, so long as the equipment sold is not capable of descrambling cable signals.

G. Nothing herein shall be construed to allow, permit, or encourage the unauthorized interception of cable services.

Added by Acts 1966, No. 306, §§1 to 3. Acts 1988, No. 696, §1; Acts 2014, No. 791, §7.

*As it appears in Acts 1966, No. 306.

§222.1. Unauthorized interception, interference with, or retransmission of services offered over a cable television system

A. No person shall knowingly:

(1) Intercept, receive, retransmit, connect, attach, modify, alter, remove, or tamper with any equipment, device, or television or radio component for the purpose of intercepting, receiving, or retransmitting without the authorization of a cable television system any and all services provided by or through the facilities of that system; or

(2) Manufacture, sell, offer for sale, transfer, rent, or distribute any device, equipment, plans, schematics, instructions, kit, technology, software, electronic serial number, address, media access control address, Internet protocol address, account number, telephone number, credit number, code, personal identification number, dynamic host configuration protocol, counterfeit or clone device or component, tumbler microchip, cable television decoding device, or smart card, which is primarily designed, manufactured, sold, possessed, used, or offered for the purpose of violating this Section.

(3) Disrupt or interfere with the provision of services offered over a cable television system.

B. For the purposes of this Section the phrase "all services provided by or through the facilities of a cable television system" means for a charge or compensation to facilitate the programming, origination, transmission, projection, emission, or reception of signs, signals, data, audio, visual, writings, images, sounds, or intelligence of any nature including programming services, Internet access, and bandwidth.

C. For purposes of Subsections D and E of this Section, "second or subsequent offense" shall mean a violation of this Section, R.S. 14:67, 67.3, 222, 222.2, or 223 through 223.8 or any other law of this state prohibiting any of the actions set forth in Subsection A of this Section.

D. Whoever violates the provisions of Paragraph (A)(1) of this Section shall:

(1) On first offense, be fined not more than one thousand dollars; and

(2) On second or subsequent offense, be fined not more than twenty-five thousand dollars or imprisoned for not more than sixty days, or both.

E. Whoever violates the provisions of Paragraph (A)(2) of this Section shall:

(1)(a) On a first offense, when the offender is convicted of manufacturing, selling, transferring, renting, or selling five or less components enumerated in Paragraph (A)(2) of this Subsection, be fined not more than five thousand dollars or be imprisoned for not more than six months.

(b) On a first offense, when the offender is convicted of manufacturing, selling, transferring, renting, or selling six or more components enumerated in Paragraph (A)(2) of this Section, or for any violation of Paragraph (A)(3) of this Section, be fined not more than twenty-five thousand dollars or be imprisoned for not more than two years, or both.

(2) For the second and subsequent violations of Paragraph (A)(2) or Paragraph (A)(3) of this Subsection, the offender shall be punished by a fine not exceeding one hundred thousand dollars or by imprisonment for not more than two years, or both.

F. Any such equipment, or a kit for making such equipment herein, may be seized by court order under a search warrant or incident to lawful arrest; and upon the conviction of any person for a violation of this Section or R.S. 14:67, 67.3, 222, 222.2 or 223 through 223.8 inclusive, such equipment or kit shall either be destroyed as contraband by the parish in which such person was convicted or turned over to the cable television system in whose territory such equipment or kit was seized.

G. It shall not be a violation of this Section to manufacture, distribute, or sell any device used for legal purposes merely because the same device is capable of being used to commit a violation of this Section, if the manufacturer, distributor, or seller does not act with the intent that such device will be used for conduct violating this Section.

H. This Section shall not be construed to impose any criminal liability upon any state or local law enforcement agency, any state or local governmental agency, municipality, or any communications service provider, cable television company or multipoint distribution system, unless such entity knowingly and intentionally violates the provisions of this Section.

Added by Acts 1983, No. 471, §1; Acts 2004, No. 270, §1, eff. July 1, 2004.

§222.2. Cellular telephone counterfeiting

A. For purposes of this Section:

(1) "Cellular telephone" means a communication device containing a unique electronic serial number that is programmed into its computer chip by its manufacturer and the operation of which is dependent on the transmission of that electronic serial number along with a mobile identification number, which is assigned by the cellular telephone carrier, in the form of radio signals through cell sites and mobile switching stations.

(2) "Cloned cellular telephone" or "counterfeit cellular telephone" means a cellular telephone the electronic serial number of which has been altered from the electronic serial number that was programmed in the phone by the manufacturer.

(3) "Cloning paraphernalia" means materials that, when possessed in combination, are necessary for and capable of the creation of a cloned cellular telephone. These materials include scanners to intercept the electronic serial number and mobile identification number, cellular telephones, cables, EPROM chips, EPROM burners, software for programming the microchip of the cloned cellular telephone with a false electronic serial number and mobile identification

number combination, a computer containing such software, and lists of electronic serial number and mobile identification number combinations.

(4) "Electronic serial number" means the unique numerical algorithm that is programmed into the microchip of each cellular telephone by the manufacturer and is vital to the successful operation and billing of the telephone.

(5) "Intercept" means to electronically capture, record, reveal, or otherwise access the signals emitted or received during the operation of a cellular telephone without the consent of the sender or receiver thereof, by means of any instrument, device, or equipment.

(6) "Mobile identification number" means the cellular telephone number assigned to the cellular telephone by the cellular telephone carrier.

(7) "Possess" means to have physical possession of or otherwise to exercise dominion or control over tangible property.

B. It is unlawful for any person to knowingly possess a cloned cellular telephone. Any person found guilty of knowingly possessing a cloned cellular telephone shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

C. It is unlawful for any person to knowingly sell a cloned cellular telephone. Any person found guilty of knowingly selling a cloned cellular telephone shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not less than two years nor more than five years, or both.

D. It is unlawful for any person to knowingly possess an instrument capable of intercepting electronic serial number and mobile identification number combinations or other cloning paraphernalia under circumstances evidencing an intent to clone a cellular telephone. Any person violating this provision shall be fined not more than seven thousand five hundred dollars and imprisoned with or without hard labor for not less than five years nor more than seven years.

E. On a second and subsequent conviction of any of the offenses provided for in this Section, the offender shall be fined not less than ten thousand dollars nor more than fifteen thousand dollars and imprisoned with or without hard labor for not more than ten years.

F. Nothing herein shall make unlawful the possession or use of cloning paraphernalia, a cloned cellular telephone, or any intercept by a law enforcement officer or persons acting pursuant to a lawful court order in the course of a criminal investigation.

Acts 1997, No. 1014, §1.

§222.3. Unlawful use of a cellular tracking device; penalty

A. It shall be unlawful for any person to possess a cellular tracking device or to use a cellular tracking device for the purpose of collecting, intercepting, accessing, transferring, or forwarding the data transmitted or received by the communications device, or stored on the communications device of another without the consent of a party to the communication and by intentionally deceptive means.

B. For the purposes of this Section:

(1) "Cellular tracking device" means a device that transmits or receives radio waves to or from a communications device in a manner that interferes with the normal functioning of the

communications device or communications network and that can be used to intercept, collect, access, transfer, or forward the data transmitted or received by the communications device, or stored on the communications device; includes an international mobile subscriber identity (IMSI) catcher or other cell phone or telephone surveillance or eavesdropping device that mimics a cellular base station and transmits radio waves that cause cell phones or other communications devices in the area to transmit or receive radio waves, electronic data, location data, information used to calculate location, identifying information, communications content, or metadata, or otherwise obtains this information through passive means, such as through the use of a digital analyzer or other passive interception device; and does not include any device used or installed by an electric utility solely to the extent such device is used by that utility to measure electrical usage, to provide services to customers, or to operate the electric grid.

(2) "Telecommunications device" means any type of instrument, device, or machine that is capable of transmitting or receiving telephonic, electronic, radio, text, or data communications, including but not limited to a cellular telephone, a text-messaging device, a personal digital assistant, a computer, or any other similar wireless device that is designed to engage in a call or communicate text or data. It does not include citizens band radios, citizens band radio hybrids, commercial two-way radio communication devices, or electronic communication devices with a push-to-talk function.

C. The provisions of this Section shall not apply to any of the following:

(1) An investigative or law enforcement officer, judicial officer, probation or parole officer, or employee of the Department of Public Safety and Corrections using a cellular tracking device when that person is engaged in the lawful performance of official duties and in accordance with other state or federal law, including using a cellular tracking device in accordance with the Electronic Surveillance Act and pursuant to a court order as provided for in R.S. 15:1317 and 1318.

(2) An operator of a switchboard, or any officer, employee, or agent of any electronic communications carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is necessary to his service or to the protection of the rights or property of the carrier of such communication; however, such communications common carriers shall not utilize service observing or random monitoring, except for mechanical or service quality control checks.

(3) An officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of Chapter 5 of Title 47 of the United States Code.

(4) The owner of a motor vehicle, including the owner of a vehicle available for rent, who has consented to the use of the tracking device with respect to that vehicle.

(5) The lessor or lessee of a motor vehicle and the person operating the motor vehicle who have consented to the use of a tracking device with respect to that vehicle.

(6) An automobile manufacturer, its affiliates, subsidiaries, or a related telematics provider installing a feature that could be considered a tracking device with respect to that vehicle.

(7)(a) A parent or legal guardian of a minor child whose location or movements are being tracked by the parent or legal guardian.

(b) When the parents of the minor child are living separate and apart or are divorced from one another, this exception shall apply only if both parents consent to the tracking of the minor child's location and movements, unless one parent has been granted sole custody, in which case consent of the noncustodial parent shall not be required.

(8) The Department of Public Safety and Corrections tracking an offender who is under its custody or supervision.

(9) Any provider of a commercial mobile radio service (CMRS), such as a mobile telephone service or vehicle safety or security service, which allows the provider of CMRS to determine the location or movement of a device provided to a customer of such service.

(10) Any commercial motor carrier operation.

(11) A provider of a mobile application or similar technology that a consumer affirmatively chooses to download onto the consumer's wireless device, or any technology used in conjunction with the mobile application or similar technology.

(12) Any use of technology provided by an entity based upon the prior consent of a consumer for such use.

(13) A person acting in good faith on behalf of a business entity for a legitimate business purpose.

(14) A law enforcement agency conducting training or calibration and maintenance of tracking equipment on the cell phone of another law enforcement officer who has given consent for his phone to be tracked for training or calibration and maintenance purposes.

(15) Any person who has more than one cellular phone or similar wireless telecommunications device as part of a wireless service plan contract and who is ascertaining or attempting to ascertain the location of any telecommunications device that is part of that plan.

(16) Any person who has a cellular phone or similar wireless telecommunications device and wireless service plan contract, or a wireless service provider at the person's direction, who is ascertaining or attempting to ascertain the location of any telecommunications device that is part of that plan and that has been lost or stolen.

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

Acts 2016, No. 308, §1.

§223. Sound reproductions without consent prohibited

Any person who, for commercial gain, knowingly transfers or causes to be transferred, sells, distributes, circulates, or causes to be sold, distributed, or circulated, directly or indirectly, or possesses for such purposes, any sounds recorded on any article for a consideration without the consent of the owner within the state of Louisiana shall be guilty of a criminal offense and punished as provided in R.S. 14:223.3. This Section applies only to sound recordings and does not apply to motion pictures or other audiovisual works.

Acts 1972, No. 350, §1; Acts 1990, No. 122, §1; Acts 2007, No. 104, §1.

§223.1. Terms defined

The following terms have the meanings indicated:

(1) As used in R.S. 14:223 and 223.6*, "owner" means the person who owns the sounds fixed in the master phonograph record, master disc, master tape, master film, master audio or video cassette, or other device now known or later developed, used for reproducing recorded sounds or images on phonograph records, discs, tapes, films, video cassettes, or other articles or media on which sound is or may be recorded and from which the transferred recorded sounds are directly or indirectly derived. As used in R.S. 14:223.5, "owner" means the person who owns the sounds and images or the rights to authorize the recording of the sounds or images of any performance not fixed in a tangible medium of expression.

(2) "Person" means any individual, partnership, corporation, association, or any other legal entity.

(3) "Recording" and "article" mean any original phonograph record, disc, tape, audio or visual cassette, wire, film, or other medium known or later developed on which sounds or images are recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original.

(4) "Audiovisual work" means a series of related images intended to be shown through the use of mechanical or electronic devices, together with accompanying sounds, if any.

(5) "Motion picture" means an audiovisual work consisting of a series of images which, when shown in succession, impart an impression of motion together with accompanying sounds, if any.

(6) "Phonorecord" means a material object in which sounds other than those accompanying a motion picture or other audiovisual work are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated directly or with the aid of a machine or device. Phonorecord includes the material object in which the sound is first fixed.

(7) "Counterfeit label" means an identifying label or container that appears to be genuine but is not.

Acts 1972, No. 350, §2; Acts 1990, No. 122, §1.

*AS APPEARS IN ENROLLED BILL.

§223.2. Exceptions

R.S. 14:223 through 223.8 shall not apply to any person engaged in radio or television broadcasting who transfers or causes to be transferred any such sounds intended for or in connection with broadcast transmissions or related uses or for archival purposes.

Acts 1972, No. 350, §3; Acts 1990, No. 122, §1.

§223.3. Penalties

Any person, any member of a partnership, or any officer or employee of a corporation found guilty of violating any provision of R.S. 14:223 through 223.8 shall be punished as follows:

(1) For the first offense of a violation of R.S. 14:223, 223.5, or 223.6 involving fewer than one hundred phonorecords; a violation of R.S. 14:223.7 involving fewer than one hundred counterfeit labels affixed or designed to be affixed to phonorecords; a violation of R.S. 14:223.6

involving fewer than one hundred articles upon which motion pictures or other audiovisual works are recorded; or a violation of R.S. 14:223.7 involving fewer than one hundred counterfeit labels affixed or designed to be affixed to articles upon which motion pictures or other audiovisual works are or are to be recorded, the offender shall be punished by a fine of not more than five thousand dollars or by imprisonment not exceeding six months, or both.

(2) For the first offense of a violation of R.S. 14:223.8, the offender shall be punished by a fine not exceeding twenty-five thousand dollars, or by imprisonment for not more than two years with or without hard labor, or both.

(3) For any offense of a violation of R.S. 14:223, 223.5, or 223.6 involving one hundred or more phonorecords; a violation of R.S. 14:223.7 involving one hundred or more counterfeit labels affixed or designed to be affixed to phonorecords; a violation of R.S. 14:223.6 involving one hundred or more articles upon which motion pictures or other audiovisual works are recorded; or a violation of R.S. 14:223.7 involving one hundred or more counterfeit labels affixed or designed to be affixed to articles upon which motion pictures or other audiovisual works are or are to be recorded, the offender shall be punished by a fine not exceeding fifty thousand dollars or by imprisonment for not more than five years with or without hard labor, or both.

(4) For the second and subsequent violations of R.S. 14:223 through 223.8, the offender shall be punished by a fine not exceeding one hundred thousand dollars, or by imprisonment for not less than two years nor more than five years with or without hard labor, or both.

(5) Whenever any person is convicted of any violation of R.S. 14:223 through 223.8, the court in its judgment of conviction may, in addition to any other penalty, order the forfeiture and destruction or other disposition of all unlawful recordings, counterfeit labels, and all implements, devices, and equipment used or intended to be used in the manufacture of the unlawful recordings or counterfeit labels. The court may enter an order preserving such recordings, labels, implements, devices, or equipment as evidence for use in other cases or pending the final determination of an appeal.

Acts 1972, No. 350, §4; Acts 1990, No. 122, §1; Acts 2005, No. 13, §1.

§223.4. Civil remedies preserved

Nothing in R.S. 14:223 through 223.8 shall be construed to abrogate or modify any civil action for any of the acts referred to herein.

Acts 1972, No. 350, §5; Acts 1990, No. 122, §1.

§223.5. Recording of performances without consent prohibited

Any person who, without the consent of the owner and for commercial gain, knowingly transfers or causes to be transferred to any article, or sells, distributes, circulates, or causes to be sold, distributed, or circulated, directly or indirectly, or possesses for such purposes, a recording of any performance whether live before an audience or transmitted by wire or through the air by radio or television with intent to sell or cause to be sold or used to promote the sale of any article or product within the state of Louisiana shall be guilty of a criminal offense and punished as provided in R.S. 14:223.3.

Acts 1990, No. 122, §1.

§223.6. Rental or sale of improperly labeled articles prohibited

Any person who advertises, offers for rental, sale, resale, distribution, or circulation, or rents, sells, resells, distributes, or circulates, or causes to be sold, resold, distributed, or circulated, or possesses for such purposes, any recording the cover, label, or jacket of which fails to conspicuously display thereon in clearly readable print, the true name and address of the manufacturer and the name of any actual performer or group thereof shall be guilty of a criminal offense and punished as provided in R.S. 14:223.3.

Acts 1990, No. 122, §1.

§223.7. Counterfeiting or possessing counterfeit labels prohibited

Any person who has in his possession for any illegal purpose or who makes, sells, issues, distributes, circulates, or puts in circulation a counterfeit label affixed or designed to be affixed to a recording within the state of Louisiana shall be guilty of a criminal offense and punished as provided in R.S. 14:223.3.

Acts 1990, No. 122, §1.

§223.8. Possessing of tools and equipment used for manufacturing unauthorized sound recordings prohibited

Any person who, for any of the purposes mentioned in R.S. 14:223 through 223.7, possesses or controls any electronic, mechanical, or other device for manufacturing or reproducing recordings or counterfeit labels, or who possesses or controls any tool, implement, instrument, or thing, used, fitted, or intended to be used for such purposes within the state of Louisiana shall be guilty of a criminal offense and punished as provided in R.S. 14:223.3.

Acts 1990, No. 122, §1.

§223.9. Unlawful operation of a recording device

A. For the purposes of this Section:

(1) "Audiovisual recording function" means the capability of a device to record or transmit a motion picture or any part thereof, including the audio portion, by means of any technology now known or later developed.

(2) "Motion picture theater" means a movie theater, screening room, or other venue that is being utilized primarily for the exhibition of a motion picture at the time of the offense.

B. It is unlawful for any person to knowingly operate the audiovisual recording function of any device in a motion picture theater while a motion picture is being exhibited without the written consent of the motion picture theater owner.

C.(1) Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) On a second or subsequent conviction, the offender shall be fined not more than five thousand dollars or imprisoned, with or without hard labor, for not more than five years, or both.

(3) For the purposes of this Section, "conviction" also includes a conviction for a similar offense under the law of another state or the federal government.

D. The owner or lessee of a motion picture theater, or the authorized agent or employee of such owner or lessee, who alerts law enforcement authorities of an alleged violation of this Section shall not be liable in any civil action arising out of actions taken by such owner, lessee, agent, or employee in the course of subsequently detaining a person believed in good faith to have violated the provisions of this Section unless the plaintiff can show by clear and convincing evidence that such measures were manifestly unreasonable or the period of detention was for an unreasonable length of time.

E. This Section shall not prevent any lawfully authorized investigative, law enforcement protective, or intelligence gathering employee or agent of the local, state, or federal government, from operating any audiovisual recording device in a motion picture theater, as part of lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities.

F. Nothing in this Section shall be construed to prevent prosecution under any other provision of law providing for a greater penalty.

Acts 2005, No. 11, §1.

§224. Transportation of water from St. Tammany Parish prohibited; penalties

A. No person, firm, corporation, public body, quasi-public body or political subdivision shall transport underground water or surface water from the parish of St. Tammany to any person, firm, corporation, municipality or entity located outside of said parish; provided, however, that the provisions of this section shall not be construed to prohibit any person, firm or corporation engaged in the business of selling or furnishing to consumers bottled water from wells which are situated within the said parish.

B. Any violation of this law shall be punishable by a fine of not more than five thousand dollars or by a jail sentence of not more than six months, and each day of continued violation shall constitute a separate offense.

Acts 1968, No. 284, §§1, 2. Amended by Acts 1972, No. 42, §1.

§225. Institutional vandalism

A. A person commits the crime of institutional vandalism by knowingly vandalizing, defacing, or otherwise damaging the following:

(1) Any church, synagogue, or other building, structure, or place used for religious worship or other religious purpose.

(2) Any cemetery, mortuary, or other facility used for the purpose of burial or memorializing the dead.

(3) Any school, educational facility, or community center.

(4) The grounds adjacent to and owned or rented by any institution, facility, building, structure, or place described in Paragraphs (1), (2) or (3) above.

(5) Any personal property contained in any institution, facility, building, structure, or place described in Paragraphs (1), (2), or (3) above.

(6) Any building owned by the United States, state of Louisiana, or a political subdivision of this state.

B. Institutional vandalism is punishable as follows:

(1) When the damage is less than five hundred dollars, the offender shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

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

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

C. In determining the amount of damage to or loss of property, damage includes the cost of repair or replacement of the property that was damaged or lost.

Acts 1984, No. 583, §1.

§226. Protection of owners of crayfish farms; penalti

A. It shall be unlawful for any person, other than the owner thereof, to fish for or to take crayfish from any domestic crayfish farm, unless the express consent of the owner is first obtained.

B. A domestic crayfish farm for the purpose of this Section means an earthen reservoir constructed so as to prevent the free ingress and egress of crayfish from public waters and on which the owner of private property cultivates, grows, harvests and markets domesticated crayfish that are spawned, grown, cultivated, managed, harvested and marketed on an annual, biennial or short term basis in privately owned waters which do not form a part of natural streams or lakes.

C. Whoever violates Subsection A of this Section shall, upon conviction thereof, be imprisoned for not more than one year or be subject to a fine of not less than fifty dollars nor more than three hundred dollars, or both.

Acts 1970, No. 627, §§2 to 4; Acts 2014, No. 791, §7.

§227. Identification number, personal property, alteration or removal prohibited

A. No person shall cover, remove, deface, alter, or destroy the manufacturer's number or any other distinguishing number or identification mark on any pipeline or oil and gas equipment for the purpose of concealing or misrepresenting its identity; nor shall any person knowingly buy, sell, receive, dispose of, conceal, or knowingly have in his possession any pipeline or oil and gas equipment from or on which the manufacturer's number or any other distinguishing number or identification mark has been covered, removed, defaced, altered, or destroyed, for the purpose of concealing or misrepresenting its identity.

B. The following definitions shall apply for the purpose of this Section, unless the context clearly requires otherwise:

(1) "Pipeline equipment" means all pipe, fittings, pumps, telephone and telegraph lines, and all other material and equipment used or intended to be used as part of or incident to the

construction, maintenance, and operation of a pipeline for the transportation of oil, gas, water, or other liquid or gaseous substance.

(2) "Oil and gas equipment" means equipment and materials that are part of or incident to the development, maintenance, and operation of oil and gas properties, and includes equipment and materials that are part of or incident to the construction, maintenance, and operation of oil and gas wells, oil and gas leases, gasoline plants, and refineries.

C. Whoever violates this Section shall be fined not more than one thousand dollars or imprisoned for not more than twelve months, or both; and in default of fine, shall be imprisoned for not more than twelve additional months.

Added by Acts 1979, No. 251, §1.

§228. Interference with animal research facilities or animal management facilities

A. It shall be unlawful for any person:

(1) To intentionally release, steal, or otherwise cause the loss of any animal from an animal research facility or an animal management facility.

(2) To damage, vandalize, or steal any property from or on an animal research facility or an animal management facility.

(3) To obtain access to an animal research facility or animal management facility by false pretenses for the purpose of performing acts described in Paragraphs (1) and (2) of this Subsection.

(4) To break and enter into any animal research facility or animal management facility with the intent to destroy, alter, duplicate, or obtain unauthorized possession of records, data, materials, equipment, or animals.

(5) To enter or remain on an animal research facility or an animal management facility with the intent to commit an act prohibited in Paragraphs (1) and (2) of this Subsection.

(6) To knowingly obtain or exert unauthorized control, by theft or deception, over records, data, material, equipment, or animals of any animal research facility or animal management facility for the purpose of depriving the legal owner of an animal research facility or animal management facility of records, material, data, equipment, or animals or for the purpose of using, concealing, abandoning, or destroying such records, material, data, equipment, or animals.

(7) To possess or use records, material, data, equipment, or animals or in any way to copy or reproduce records or data of an animal research facility or animal management facility, knowing or reasonably believing such records, material, data, equipment, or animals to have been obtained by theft or deception or without authorization of that facility.

B.(1) "Animal research facility" as used herein means that portion of the premises of an accredited institution of higher learning located within the state that is engaged in legitimate scientific, medical, or veterinary medicine research involving the use of animals.

(2) "Animal management facility" as used herein means that portion of any vehicle, building, structure, or premises, where an animal is kept, handled, housed, exhibited, bred, or offered for sale, and any agricultural trade association properties. Animal management facility also means that portion of any vehicle, building, structure, premises, property, or equipment used in the conduction of authorized wildlife management practices, including but not limited to the control of animals that damage property, natural resources, or human health and safety.

C. Whoever violates any provision of this Section shall be fined not more than five thousand dollars or imprisoned, with or without hard labor, for not more than one year, or both.

Acts 1989, No. 644, §1; Acts 1990, No. 445, §1.

{{NOTE: SEE ALSO R.S. 14:102.9.}}

§228.1. Unauthorized release of certain animals, birds, or aquatic species

A. It shall be unlawful for any person to intentionally and without permission, release any animal, bird, or aquatic species which has been lawfully confined for agriculture, science, research, commerce, public propagation, protective custody, or education.

B. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned for not more than one year, or both.

Acts 1990, No. 205, §2.

§229. Illegal use of counterfeit trademark; penalties

A. No person shall knowingly sell, possess with the intent to sell, or otherwise transfer for compensation anything of value having a counterfeit trademark.

B. For the purposes of this Section:

(1) "Person" shall include an individual, corporation, partnership, association, or other body of persons, whether incorporated or not.

(2) "Counterfeit trademark" shall mean a false trademark that is identical to or substantially indistinguishable from:

(a) A genuine trademark registered on the principal register in the United States Patent and Trademark Office and used or intended for use on or in connection with goods or services; or

(b) A genuine trademark specifically protected by any state or federal statute.

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

D. In lieu of a fine otherwise authorized by law, any person convicted of engaging in conduct in violation of the provisions of this Section through which said person derived pecuniary value, or by which said person caused personal injury or property damage or other loss, may be sentenced to pay a fine that does not exceed three times the gross value gained or three times the gross loss caused, whichever is greater. The court shall hold a hearing to determine the amount of the fine authorized by this Subsection.

Acts 1984, No. 224, §1; Acts 2011, No. 73, §1.

{{NOTE: SEE ACTS 1984, NO. 224, §2.}}

§230. Money laundering; transactions involving proceeds of criminal activity

A. As used in this Section:

(1) "Criminal activity" means any offense, including conspiracy and attempt to commit the offense, that is classified as a felony under the laws of this state or the United States or that is punishable by confinement for more than one year under the laws of another state.

(2) "Funds" means any of the following:

(a) Coin or paper money of the United States or any other country that is designated as legal tender and that circulates and is customarily used and accepted as a medium of exchange in the country of issue.

(b) United States silver certificates, United States Treasury notes, and Federal Reserve System notes.

(c) Official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country and foreign bank drafts.

(d) Electronic or written checks, drafts, money orders, traveler's checks, or other electronic or written instruments or orders for the transmission or payment of money.

(e) Investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery.

(3) "Peace officer" has the same meaning as in R.S. 40:2402(1)(a).

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

B. It is unlawful for any person knowingly to do any of the following:

(1) Conduct, supervise, or facilitate a financial transaction involving proceeds known to be derived from criminal activity, when the transaction is designed in whole or in part to conceal or disguise the nature, location, source, ownership, or the control of proceeds known to be derived from such violation or to avoid a transaction reporting requirement under state or federal law.

(2) Give, sell, transfer, trade, invest, conceal, transport, maintain an interest in, or otherwise make available anything of value known to be for the purpose of committing or furthering the commission of any criminal activity.

(3) Direct, plan, organize, initiate, finance, manage, supervise, or facilitate the transportation or transfer of proceeds known to be derived from any violation of criminal activity.

(4) Receive or acquire proceeds derived from any violation of criminal activity, or knowingly or intentionally engage in any transaction that the person knows involves proceeds from any such violations.

(5) Acquire or maintain an interest in, receive, conceal, possess, transfer, or transport the proceeds of criminal activity.

(6) Invest, expend, or receive, or offer to invest, expend, or receive, the proceeds of criminal activity.

C. It is a defense to prosecution under this Section that the person acted with intent to facilitate the lawful seizure, forfeiture, or disposition of funds or other legitimate law enforcement purpose pursuant to the laws of this state or the United States.

D. It is a defense to prosecution under this Section that the transaction was necessary to preserve a person's right to representation as guaranteed by the Sixth Amendment of the Constitution of the United States and by Article I, Section 13 of the Constitution of Louisiana or that the funds were received as bona fide legal fees by a licensed attorney and, at the time of their receipt, the attorney did not have actual knowledge that the funds were derived from criminal activity.

E.(1) Whoever violates the provisions of this Section, if the value of the funds is less than three thousand dollars, may be imprisoned for not more than six months or fined not more than one thousand dollars, or both.

(2) Whoever violates the provisions of this Section, if the value of the funds is three thousand dollars or more but less than twenty thousand dollars, may be imprisoned with or without

hard labor for not less than two years nor more than ten years and may be fined not more than ten thousand dollars.

(3) Whoever violates the provisions of this Section, if the value of the funds is twenty thousand dollars or more but less than one hundred thousand dollars, shall be imprisoned at hard labor for not less than two years nor more than twenty years and may be fined not more than twenty thousand dollars.

(4) Whoever violates the provisions of this Section, if the value of the funds is one hundred thousand dollars or more, shall be imprisoned at hard labor for not less than two years nor more than fifty years and may be fined not more than fifty thousand dollars.

Acts 1994, 3rd Ex. Sess., No. 78, §1; Acts 2010, No. 608, §1; Acts 2017, No. 281, §1.

§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.

§231. Counterfeit and nonfunctional air bags prohibited; air bag fraud

A. No person shall knowingly install or reinstall in any motor vehicle a counterfeit or nonfunctional air bag or any other object intended to fulfill the function of an air bag that does not meet the definition of "air bag" set forth in Subsection D of this Section.

B. No person shall knowingly manufacture, import, sell, or offer for sale a counterfeit or nonfunctional air bag or any other object intended to fulfill the function of an air bag that does not meet the definition of "air bag" set forth in Subsection D of this Section.

C. No person shall knowingly sell, install, or reinstall a device in a motor vehicle that causes the diagnostic system of the vehicle to indicate inaccurately that the vehicle is equipped with a functional air bag.

D. For purposes of this Section:

(1) "Air bag" means an inflatable occupant restraint system, including all component parts, such as the cover, sensors, controllers, inflators, and wiring, designed to activate in a motor vehicle in the event of a crash to mitigate injury or ejection and that meets the federal motor vehicle safety standards set forth in 49 CFR 571.208 for the make, model, and model year of the motor vehicle.

(2) "Counterfeit air bag" means an air bag displaying a mark identically or substantially similar to the genuine mark of a motor vehicle manufacturer, without the authorization of the motor vehicle manufacturer.

(3) "Nonfunctional air bag" means any of the following:

(a) A replacement air bag that has been previously deployed or damaged.

(b) A replacement air bag that has an electrical fault that is detected by the air bag diagnostic system after the air bag is installed.

(c) A counterfeit air bag, air bag cover, or some other object that is installed in a motor vehicle in order to mislead or deceive an owner or operator of the motor vehicle into believing that a functional air bag has been installed.

(4) Repealed by Acts 2019, No. 2, §3.

E. Whoever violates the provisions of Subsection A or C of this Section shall:

(1) Upon first conviction, be fined not more than one thousand dollars, or imprisoned for not more than six months, or both, except as provided in Paragraph (2) of this Subsection.

(2) Upon a second and subsequent conviction, or if the violation results in the serious bodily injury or death of any person, be fined not more than two thousand five hundred dollars, or imprisoned, with or without hard labor, for not more than one year, or both.

F. Whoever violates the provisions of Subsection B of this Section shall:

(1) Upon conviction, be fined not more than two thousand five hundred dollars, or imprisoned, with or without hard labor, for not more than one year, or both, except as provided in Paragraphs (2) and (3) of this Subsection.

(2) Upon conviction, if the cumulative sales price of the air bags or objects involved in the violation is at least five thousand dollars but less than one hundred thousand dollars, or if the number of air bags or objects involved in the violation is at least one hundred but less than one thousand, be fined not more than five thousand dollars, or imprisoned, with or without hard labor, for not less than six months nor more than two years, or both.

(3) Upon conviction, if the cumulative sales price of the air bags or objects involved in the violation is one hundred thousand dollars or more, or if the number of air bags or objects involved in the violation is one thousand or more, be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both.

G. Each manufacture, importation, installation, reinstallation, sale, or offer for sale in violation of this Section shall constitute a separate and distinct violation.

Acts 2003, No. 654, §1; Acts 2014, No. 105, §1, eff. May 16, 2014; Acts 2019, No. 2, §3.

PART II. OFFENSES AFFECTING PUBLIC MORALS

§281. Disorderly place, maintaining of prohibited; penalty

No person shall maintain a place of public entertainment or public resort or any place, room, or part of a building open to the public in such a manner as to disturb the public peace and quiet of the neighborhood, or in which lewd dancing is permitted, or in which lewd pictures are accessible to view.

Whoever violates this Section shall be fined not less than twenty-five dollars nor more than one hundred dollars or imprisoned for not less than thirty days nor more than ninety days, or both.

§282. Operation of places of prostitution prohibited; penalty

A. No person shall maintain, operate, or knowingly own any place or any conveyance used for the purpose of lewdness, assignation, or prostitution, or shall rent or let any place or conveyance to any person with knowledge of or good reason to believe that the lessee intends to use the place or conveyance for the purpose of lewdness, assignation, or prostitution, or reside in, enter, or remain in any place for the purpose of lewdness, assignation, or prostitution.

B.(1) Whoever violates or aids, abets, or participates in the violation of this Section shall be fined not less than twenty-five dollars nor more than five hundred dollars, imprisoned for not less than thirty days nor more than six months, or both.

(2) Whoever violates any provision of this Section for the purpose of lewdness, assignation, or prostitution of persons under the age of eighteen shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever violates any provision of this Section for the purpose of lewdness, assignation, or prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

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

Amended by Acts 1980, No. 708, §1; Acts 2012, No. 446, §1; Acts 2013, No. 83, §1; Acts 2014, No. 564, §1; Acts 2017, No. 180, §1, eff. June 12, 2017; Acts 2020, No. 352, §2.

§283. Video voyeurism; penalties

A. Video voyeurism is any of the following:

(1) The use of any camera, videotape, photo-optical, photo-electric, or any other image recording device, or an unmanned aircraft system equipped with any camera, videotape, photo-optical, photo-electric, or any other image recording device, for the purpose of observing, viewing, photographing, filming, or videotaping a person where that person has not consented to the specific instance of observing, viewing, photographing, filming, or videotaping and either:

(a) It is for a lewd or lascivious purpose.

(b) The observing, viewing, photographing, filming, or videotaping is as described in Paragraph (B)(3) of this Section and occurs in a place where an identifiable person has a reasonable expectation of privacy.

(2) The transfer of an image obtained by activity described in Paragraph (1) of this Subsection by live or recorded telephone message, electronic mail, the Internet, or a commercial online service.

(3) The manipulation of a victim who has not yet attained the age of seventeen or who is reasonably believed to have not yet attained the age of seventeen to use any camera, videotape, photo-optical, photo-electric, or any other image recording device or an unmanned aircraft system equipped with any camera, videotape, photo-optical, photo-electric, or any other image recording device to photograph, film, or videotape oneself to send to the person manipulating the victim for a lewd or lascivious purpose.

B.(1) Except as provided in Paragraphs (3) and (4) of this Subsection, whoever commits the crime of video voyeurism shall, upon a first conviction thereof, be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not more than two years, or both.

(2) On a second or subsequent conviction, the offender shall be fined not more than two thousand dollars and imprisoned at hard labor for not less than six months nor more than three years without benefit of parole, probation, or suspension of sentence.

(3) Whoever commits the crime of video voyeurism when the observing, viewing, photographing, filming, or videotaping is of any vaginal or anal sexual intercourse, actual or simulated sexual intercourse, masturbation, any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals shall be fined not more than ten thousand dollars and be imprisoned at hard labor for not less than one year or more than five years, without benefit of parole, probation, or suspension of sentence.

(4) Whoever commits the crime of video voyeurism when the observing, viewing, photographing, filming, or videotaping is of any child under the age of seventeen with the intention of arousing or gratifying the sexual desires of the offender shall be fined not more than ten thousand dollars and be imprisoned at hard labor for not less than two years or more than ten years without benefit of parole, probation, or suspension of sentence.

C. The provisions of this Section shall not apply to the transference of such images by a telephone company, cable television company, or any of its affiliates, an Internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, cable television, Internet, or commercial online services.

D, E. Repealed by Acts 2020, No. 352, §2.

F. A violation of the provisions of this Section shall be considered a sex offense as defined in R.S. 15:541. Whoever commits the crime of video voyeurism shall be required to register as a sex offender as provided for in Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

G. For purposes of this Section, "unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

H. This Section shall not apply to any bona fide news or public interest broadcast, website, video, report, or event and shall not be construed to affect the rights of any news-gathering organization.

Acts 1999, No. 1240, §1; Acts 2003, No. 690, §1; Acts 2003, No. 1245, §1; Acts 2016, No. 635, §1; Acts 2018, No. 630, §1; Acts 2020, No. 352, §2; Acts 2021, No. 186, §1.

§283.1. Voyeurism; penalties

A. Voyeurism is the viewing, observing, spying upon, or invading the privacy of a person by looking or using an unmanned aircraft system to look through the doors, windows, or other openings of a private residence without the consent of the victim who has a reasonable expectation of privacy for the purpose of arousing or gratifying the sexual desires of the offender.

B.(1) Whoever commits the crime of voyeurism, upon a first conviction, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Upon a second or subsequent conviction, the offender shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

C. For purposes of this Section, "unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

Acts 2004, No. 888, §1; Acts 2016, No. 635, §1.

§283.2. Nonconsensual disclosure of a private image

A. A person commits the offense of nonconsensual disclosure of a private image when all of the following occur:

(1) The person intentionally discloses an image of another person who is seventeen years of age or older, who is identifiable from the image or information displayed in connection with the image, and whose intimate parts are exposed in whole or in part.

(2) The person who discloses the image obtained it under circumstances in which a reasonable person would know or understand that the image was to remain private.

(3) The person who discloses the image knew or should have known that the person in the image did not consent to the disclosure of the image.

(4) The person who discloses the image has the intent to harass or cause emotional distress to the person in the image, and the person who commits the offense knew or should have known that the disclosure could harass or cause emotional distress to the person in the image.

B. Disclosure of an image under any of the following circumstances does not constitute commission of the offense defined in Subsection A of this Section:

(1) When the disclosure is made by any criminal justice agency for the purpose of a criminal investigation that is otherwise lawful.

(2) When the disclosure is made for the purpose of, or in connection with, the reporting of unlawful conduct to law enforcement or a criminal justice agency.

(3) When the person depicted in the image voluntarily or knowingly exposed his or her intimate parts in a public setting.

(4) When the image is related to a matter of public interest, public concern, or related to a public figure who is intimately involved in the resolution of important public questions, or by reason of his fame shapes events in areas of concern to society.

C. For purposes of this Section:

(1) "Criminal justice agency" means any government agency or subunit thereof, or private agency that, through statutory authorization or a legal formal agreement with a governmental unit or agency, has the power of investigation, arrest, detention, prosecution, adjudication, treatment, supervision, rehabilitation, or release of persons suspected, charged, or convicted of a crime; or that collects, stores, processes, transmits, or disseminates criminal history records or crime information.

(2) "Disclosure" means to, electronically or otherwise, transfer, give, provide, distribute, mail, deliver, circulate, publish on the internet, or disseminate by any means.

(3) "Image" means any photograph, film, videotape, digital recording, or other depiction or portrayal of an object, including a human body.

(4) "Intimate parts" means the fully unclothed, partially unclothed, or transparently clothed genitals, pubic area, or anus. If the person depicted in the image is a female, "intimate parts" also means a partially or fully exposed nipple, including exposure through transparent clothing.

D. Nothing in this Section shall be construed to impose liability on the provider of an interactive computer service as defined by 47 U.S.C. 230(f)(2), an information service as defined by 47 U.S.C. 153(24), or a telecommunications service as defined by 47 U.S.C. 153(53), for content provided by another person.

E. Whoever commits the offense of nonconsensual disclosure of a private image shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not more than two years, or both.

Acts 2015, No. 291, §1.

§283.3. Abuse of persons with infirmities through electronic means

A. A person commits the crime of abuse of persons with infirmities through electronic means when all of the following occur:

(1) The person transfers an image that was obtained by any camera, videotape, photo-optical, photo-electric, unmanned aircraft system, or any other image recording device and that was obtained for the purpose of observing, viewing, photographing, filming, or videotaping any person with an infirmity.

(2) The person transfers the image by live or recorded telephone message, electronic mail, the internet, or a commercial online service.

(3) The person transfers the image with the malicious and willful intent to embarrass, shame, harass, coerce, abuse, torment, or intimidate, regardless of whether the victim has knowledge of the transfer.

B. For purposes of this Section:

(1) "Person with an infirmity" means a person who suffers from a mental or physical disability, including those associated with advanced age, which renders the person incapable of adequately providing for his personal care. A person with an infirmity may include but is not

limited to a person who is a resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential facility or recipients of home and community-based care.

(2) "Unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

C.(1) Whoever commits the crime of abuse of persons with infirmities through electronic means shall, upon a first conviction thereof, be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(2) On a second or subsequent conviction, the offender shall be fined not more than two thousand dollars and imprisoned at hard labor for not more than three years without benefit of parole, probation, or suspension of sentence.

D. The provisions of this Section shall not apply to the transference of such images by a telephone company, television broadcast licensee of the Federal Communications Commission, cable television company, or any of its affiliates, an internet provider, or commercial online service provider, or to the carrying, broadcasting, or performing of related activities in providing telephone, over-the-air television, cable television, internet, or commercial online services.

E. The provisions of this Section shall not apply to any healthcare provider through its use of any of its cameras, videotape, photo-optical, photo-electric, unmanned aircraft system, or any other image recording device within the facility.

F. Any evidence resulting from the commission of abuse of persons with infirmities through electronic means shall be contraband.

Acts 2018, No. 263, §1.

§284. Peeping Tom; penalties

A. No person shall perform such acts as will make him a "Peeping Tom" on or about the premises of another, or go upon the premises of another for the purpose of becoming a "Peeping Tom".

B. "Peeping Tom" as used in this Section means one who peeps through windows or doors, or other like places, situated on or about the premises of another or uses an unmanned aircraft system for the purpose of spying upon or invading the privacy of persons spied upon without the consent of the persons spied upon. It is not a necessary element of this offense that the "Peeping Tom" be upon the premises of the person being spied upon.

C.(1) Whoever violates this Section, upon a first conviction, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Upon a second conviction, the offender shall be fined not more than seven hundred fifty dollars, imprisoned for not more than six months, or both.

(3) Upon a third or subsequent conviction, the offender shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

D. For purposes of this Section, "unmanned aircraft system" means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

Acts 1950, No. 437, §§1 to 3; Acts 2014, No. 662, §1; Acts 2016, No. 635, §1.

§285. Unlawful communications; telephones and telecommunications devices;

improper language; harassment; penalty

A. No person shall:

(1) Engage in or institute a telephone call, telephone conversation, or telephone conference, with another person, or use any telecommunications device to send any text message or other message to another person directly, anonymously or otherwise, and therein use obscene, profane, vulgar, lewd, or lascivious language, or make any suggestion or proposal of an obscene nature or threaten any illegal or immoral act with the intent to coerce, intimidate, or harass any person.

(2) Make repeated telephone communications or send repeated text messages or other messages using any telecommunications device directly to a person anonymously or otherwise in a manner reasonably expected to abuse, torment, harass, embarrass, or offend another, whether or not conversation ensues.

(3) Make a telephone call and intentionally fail to hang up or disengage the connection.

(4) Engage in a telephone call, conference, or recorded communication by using obscene language or by making a graphic description of a sexual act, or use any telecommunications device to send any text message or other message containing obscene language or any obscene content, anonymously or otherwise, directly to another person, when the offender knows or reasonably should know that such obscene or graphic language is directed to, or will be heard by, a minor. Lack of knowledge of age shall not constitute a defense.

(5) Knowingly permit any telephone or any other telecommunications device under his control to be used for any purpose prohibited by this Section.

B. Any offense as set forth in this Section shall be deemed to have been committed at either the place where the communication originated or at the place where the communication was received.

C. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

D. Upon second or subsequent offenses, the offender shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than two years, or both.

E. For the purposes of this Section "telecommunications device" shall mean any type of instrument, device, or machine that is capable of transmitting or receiving telephonic, electronic, radio, text, or data communications, including but not limited to a cellular telephone, a text-messaging device, a personal digital assistant, a computer, or any other similar wireless device that is designed to engage in a call or communicate text or data.

Acts 1954, No. 435, §§1, 2. Amended by Acts 1958, No. 121, §§1, 2; Acts 1963, No. 54, §1; Acts 1966, No. 304, §1; Acts 1984, No. 477, §1; Acts 1999, No. 338, §1; Acts 2001, No. 944, §4; Acts 2018, No. 426, §1.

§286. Sale of minor children and other prohibited activities; penalties

A.(1) It shall be unlawful for any person to sell or surrender a minor child to another person for money or anything of value, or to receive a minor child for such payment of money or anything of value, except as specifically provided in Children's Code Articles 1200 and 1223.

(2) It shall be unlawful for any person to pay or receive anything of value for the procurement, attempted procurement, or assistance in the procurement of a party to an act of voluntary surrender of a child for adoption except as specifically provided in Children's Code Articles 1200 and 1223.

(3) It shall be unlawful for any petitioner, person acting on a petitioner's behalf, agency or attorney or other intermediary to make or agree to make any disbursements in connection with the adoptive placement, surrender, or adoption of a child except as specifically provided in Children's Code Articles 1200 and 1223.

(4) It shall be unlawful to make a false statement in any adoption disclosure affidavit with the intent to deceive and with knowledge that the statement is false.

B.(1) It shall be unlawful for any person to enter into, induce, arrange, procure, knowingly advertise for, or otherwise assist in a gestational carrier contract, whether written or unwritten, that is not in compliance with the requirements provided for in R.S. 9:2718 et seq.

(2) No person who is a party to, or acting on behalf of the parties to a gestational carrier contract shall make or agree to make any disbursements in connection with the gestational carrier contract other than the following:

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

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

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

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

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

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

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

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

CHAPTER 3. LOUISIANA FELONY CLASS SYSTEM TASK FORCE

§601. Louisiana Felony Class System Task Force

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

D. The task force shall prepare and submit a final report of its findings and recommendations, including but not limited to any specific and complete draft legislation, to the governor, the speaker of the House of Representatives, the president of the Senate, the chairman of the House Committee on Administration of Criminal Justice, the chairman of the Senate Committee on Judiciary C, and the chief justice of the Louisiana Supreme Court, no later than February 1, 2018. The report shall be made available to the public and the task force shall be abolished upon submission of the report.

E.(1) The task force may apply for, contract for, receive, and expend for purposes of this Chapter any appropriation or grant from the state, its political subdivisions, the federal government, or any other public or private source.

(2) The books and records of the task force shall be subject to audit by the legislative auditor pursuant to R.S. 24:513.

F. This Chapter shall become null and of no effect on February 2, 2018.

Acts 2017, No. 281, §1.