

2023 Updates to the Louisiana Criminal Code

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§2. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Solicitation for murder.

(2) First degree murder.

(3) Second degree murder.

(4) Manslaughter.

(5) Aggravated battery.

(6) Second degree battery.

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

- (52) First degree feticide.
- (53) Second degree feticide.
- (54) Third degree feticide.
- (55) Aggravated abortion by dismemberment.
- (56) Battery of emergency room personnel, emergency services personnel, or a healthcare professional.
- (57) Possession of a firearm or carrying of a concealed weapon by a person convicted of certain felonies in violation of R.S. 14:95.1(D).
- (58) Distribution of fentanyl or carfentanil punishable under R.S. 40:967(B)(4)(f).
- (59) Distribution of heroin punishable under R.S. 40:966(B)(3)(b).
- (60) Simple burglary of an inhabited dwelling when a person is present in the dwelling, house, apartment, or other structure.

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

Amended by Acts 1962, No. 68, §1; Acts 1976, No. 256, §1; Acts 1977, No. 128, §1; Acts 1989, No. 777, §1; Acts 1992, No. 1015, §1; Acts 1994, 3rd Ex. Sess., No. 73, §1; Acts 1995, No. 650, §1; Acts 1995, No. 1223, §1; Acts 2001, No. 301, §2; Acts 2002, 1st Ex. Sess., No. 128, §2; Acts 2003, No. 637, §1; Acts 2004, No. 651, §1; Acts 2004, No. 676, §1; Acts 2006, No. 72, §1; Acts 2008, No. 619, §1; Acts 2010, No. 387, §1; Acts 2010, No. 524, §1; Acts 2014, No. 194, §1; Acts 2014, No. 280, §1, eff. May 28, 2014; Acts 2014, No. 602, §7, eff. June 12, 2014; Acts 2015, No. 184, §1; Acts 2016, No. 225, §1; Acts 2017, No. 84, §1; Acts 2017, No. 281, §3; Acts 2018, No. 293, §1; Acts 2018, No. 674, §1, eff. June 1, 2018; Acts 2019, No. 2, §1; Acts 2020, No. 101, §1; Acts 2021, No. 484, §1; Acts 2022, No. 75, §1; Acts 2022, No. 129, §1; Acts 2022, No. 173, §1; Acts 2022, No. 465, §1, eff. June 15, 2022; Acts 2022, No. 671, §2; Acts 2022, No. 702, §1, eff. June 18, 2022; Acts 2023, No. 399, §2; Acts 2023, No. 419, §1.

§37.1. Assault by drive-by shooting

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

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

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

Acts 1993, No. 496, §1; Acts 2023, No. 243, §1.

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

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

B. For purposes of this Section:

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

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

(3) "Utility service employee" means any uniformed, readily identified employee, including any person employed under contract, of any utility service that provides electricity, gas, water, broadband, cable television, heat, steam, telecommunications services, or sewer services, whether privately, municipally, cooperatively, or investor-owned.

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

Acts 2006, No. 79, §1; Acts 2023, No. 65, §1.

§62. Simple burglary

A. Simple burglary is the unauthorized entering of any dwelling, vehicle, watercraft, or other structure, movable or immovable, or any cemetery, with the intent to commit a felony or any theft therein, other than as set forth in R.S. 14:60.

B.(1) Except as provided in Paragraphs (2) and (3) of this Subsection, whoever commits the crime of simple burglary shall be fined not more than two thousand dollars, imprisoned with or without hard labor for not more than twelve years, or both.

(2) If the offender, while committing the crime of simple burglary, is armed with a firearm or, after entering, arms himself with or possesses a firearm, the offender shall be imprisoned with or without hard labor for not less than three nor more than twelve years.

(3) If the offender commits multiple simple burglaries as a part of a continuous sequence of events, the offender shall be imprisoned with or without hard labor for not less than one nor more than twelve years. At least one year of the sentence of imprisonment shall be imposed without benefit of probation or suspension of sentence.

Amended by Acts 1972, No. 649, §1; Acts 1977, No. 133, §1; Acts 1980, No. 708, §1; Acts 2001, No. 241, §1; Acts 2020, No. 288, §1; Acts 2023, No. 417, §1.

§67.13. Theft or criminal access of an automated teller machine

A.(1) Theft of an automated teller machine is the misappropriation or taking of an automated teller machine which belongs to another without the consent of the other to the misappropriation or taking with the intent to deprive the owner permanently of the automated teller machine or its contents.

(2) Criminal access of an automated teller machine is the intentional destroying, damaging, impairing, tampering with, or otherwise rendering inoperable of an automated teller machine belonging to another with the intent to steal currency or personal financial information of another, regardless of the pecuniary loss.

B. For purposes of this Section, "automated teller machine" means an electronic information processing device located in this state which accepts or dispenses cash in connection with an account or credit card.

C. Whoever violates the provisions of this Section shall be imprisoned with or without hard labor for not less than five years nor more than ten years, and may, in addition, be required to pay a fine of not more than ten thousand dollars. Restitution shall be ordered pursuant to Code of Criminal Procedure Article 883.2.

Acts 2023, No. 218, §1.

§91.10. Unlawful sale or distribution of mitragynine speciosa to persons under age twenty-one; penalty.

A. No person shall sell or distribute or cause to be sold or distributed a product containing mitragynine speciosa to any person under the age of twenty-one.

B. For purposes of this Section, "mitragynine speciosa" means a product containing either or both of the following:

(1) Mitragynine.

(2) 7-Hydroxy-mitragynine.

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

Acts 2023, No. 416, §1.

§93.2.4. Unlawful swimming in certain waterways

A. It shall be unlawful for any parent or legal guardian who has care and control of a minor to permit a minor, either knowingly, wilfully, or through criminal negligence, to swim without wearing a Type I, Type II, Type III, or Type V personal flotation device approved by the United States Coast Guard in the portion of any river beginning from a water-controlled structure through which that river flows to a point seventy miles downstream when that structure creates a reservoir used to generate hydroelectric power. The distance provided for in this Subsection shall be measured from the structure along a line drawn downstream in the middle of the river bed.

B.(1) On a first conviction, the parent or legal guardian shall be issued a warning ticket, fined not more than twenty-five dollars, or both.

(2) On a second conviction, the parent or legal guardian shall be fined not more than fifty dollars, imprisoned for not more than seven days, or both.

(3) On a third or subsequent conviction, the parent or legal guardian shall be fined not more than seventy-five dollars nor more than two hundred fifty dollars, imprisoned for not more than thirty days, or both.

Acts 2023, No. 300, §1.

§95. Illegal carrying of weapons

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The provisions of this Section shall not apply to any law enforcement officer who is retired from full-time active law enforcement service with at least twelve years service upon retirement, nor shall it apply to any enforcement officer of the office of state parks in the Department of Culture, Recreation and Tourism who is retired from active duty as an enforcement officer, provided that:

(a) The retired officer has on his person valid identification as a retired law enforcement officer, which identification shall be provided by the entity that employed the officer prior to his public retirement. This exception shall not apply to an officer who is medically retired based upon any mental impairment.

(b) The retired officer was properly certified by the Council on Peace Officer Standards and Training at the time of retirement, in accordance with R.S. 40:1379.3(D)(1)(f).

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

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

(4) The provisions of this Section shall not apply to any retired elected head of a law enforcement department, provided that he was qualified in the use of firearms by the Council on Peace Officer Standards and Training at the time of retirement.

H.(1) Except as provided in Paragraph (A)(4) of this Section and in Paragraph (2) of this Subsection, the provisions of this Section shall not prohibit active justices or judges of the supreme court, courts of appeal, district courts, parish courts, juvenile courts, family courts, city courts, federal courts domiciled in the state of Louisiana, and traffic courts; members of either house of the legislature; officers of either house of the legislature; the legislative auditor; designated investigative auditors; constables; coroners; designated coroner investigators; district attorneys and designated assistant district attorneys; United States attorneys and assistant United States attorneys and investigators; the attorney general; designated assistant attorneys general; city prosecutors; designated assistant city prosecutors; a United States representative from Louisiana and his designated, employed congressional staffer; a United States senator from Louisiana and his designated, employed congressional staffer; and justices of the peace from possessing and

concealing a handgun on their person when such persons are qualified annually in the use of firearms by the Council on Peace Officer Standards and Training.

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

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

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

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

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

(3) For the purposes of this Subsection:

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

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

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

L. The provisions of Paragraph (A)(1) of this Section shall not apply to any person who is not prohibited from possessing a firearm pursuant to R.S. 14:95.1 or any other state or federal law and who is carrying a concealed firearm on or about his person while in the act of evacuating

during a mandatory evacuation order issued during a state of emergency or disaster declared pursuant to the Louisiana Homeland Security and Emergency Assistance and Disaster Act. For purposes of this Subsection, "in the act of evacuating" means the immediate and urgent movement of a person away from the evacuation area within forty-eight hours after a mandatory evacuation is ordered. The forty-eight-hour period may be extended by an order issued by the governor.

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

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

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

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

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

(i) A valid military identification card.

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

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

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

Amended by Acts 1956, No. 345, §1; Acts 1958, No. 21, §1; Acts 1958, No. 379, §§1, 3; Acts 1968, No. 647, §1; Acts 1975, No. 492, §1; Acts 1986, No. 38, §1; Acts 1992, No. 1017, §1; Acts 1993, No. 636, §1; Acts 1993, No. 844, §1; Acts 1994, 3rd Ex. Sess., No. 143, §1; Acts 1995, No. 636, §1; Acts 1995, No. 930, §1; Acts 1995, No. 1195, §1; Acts 1995, No. 1199, §1; Acts 1997, No. 508, §1; Acts 1997, No. 611, §1; Acts 1997, No. 1064, §1; Acts 1999, No. 738, §1; Acts 1999, No. 924, §1; Acts 1999, No. 953, §1; Acts 2003, No. 608, §1; Acts 2003, No. 766, §1; Acts 2006, No. 515, §1; Acts 2006, No. 589, §1; Acts 2008, No. 172, §1; Acts 2011, No. 159, §1; Acts 2012, No. 302, §1; Acts 2012, No. 383, §1; Acts 2014, No. 390, §2; Acts 2014, No. 776, §1, eff. June 19, 2014; Acts 2015, No. 176, §1; Acts 2015, No. 288, §1; Acts 2016, No. 541, §1; Acts 2016, No. 543, §1; Acts 2018, No. 341, §§1, 2; Acts 2018, No. 709, §1; Acts 2020, No. 322, §1; Acts 2021, No. 465, §1; Acts 2022, No. 126, §1, eff. May 26, 2022; Acts 2022, No. 433, §1; Acts 2022, No. 587, §§1, 2; Acts 2022, No. 602, §1; Acts 2022, No. 680, §1; Acts 2023, No. 257, §1.

§98.1. Operating while intoxicated; first offense; penalties

A.(1) Except as modified by the provisions of Paragraphs (2) and (3) of this Subsection, on a conviction of a first offense violation of R.S. 14:98, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars, and shall be imprisoned for not less than ten days nor more than six months. Imposition or execution of sentence under this Paragraph shall

not be suspended unless the offender is placed on probation with the minimum conditions that he complete all of the following:

(a) Serve forty-eight hours in jail, which shall not be suspended, or in lieu thereof, perform no less than thirty-two hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program.

(b) Participate in a court-approved substance abuse program, which may include an assessment by a licensed clinician to determine if the offender has a diagnosis of substance abuse disorder. Nothing herein shall prohibit the court from modifying the portions of the program as may be applicable and appropriate to an individual offender as shown by the assessment.

(c) Participate in a court-approved driver improvement program.

(d) Except as provided by Subparagraph (3)(c) of this Subsection, the court may order that the offender not operate a motor vehicle during the period of probation, or such shorter time as set by the court, unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C) and R.S. 32:378.2.

(2)(a) If the offender had a blood alcohol concentration of 0.15 percent or more but less than 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, at least forty-eight hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence, and is to be served in addition to any sentence of imprisonment imposed pursuant to Subparagraph (1)(a) of this Subsection, provided that the total period of imprisonment upon conviction of the offense, including imprisonment for default in payment of a fine or costs, shall not exceed six months.

(b) In addition to any penalties imposed under this Section and except as provided in R.S. 32:414(A)(1)(d) or 667(H)(1)(b), upon conviction of a first offense, if the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for two years.

(3)(a) If the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars and at least forty-eight hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence, and is to be served in addition to any sentence of imprisonment imposed pursuant to Subparagraph (1)(a) of this Subsection, provided that the total period of imprisonment upon conviction of the offense, including imprisonment for default in payment of a fine or costs, shall not exceed six months.

(b) In addition to any penalties imposed under this Section and except as provided in R.S. 32:414(A)(1)(d) or 667(H)(1)(b), upon conviction of a first offense, if the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for two years.

(c) The court shall require that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C) and R.S. 32:378.2. The ignition interlock device shall remain installed and operative on his vehicle during the first twelve-month period of suspension of his driver's license following the date of conviction.

B. Nothing in this Section shall prohibit a court from sentencing an offender to serve any portion of the sentence under home incarceration pursuant to R.S. 14:98.5, either in lieu of, or in addition to, a term of imprisonment if otherwise allowed under the provisions of Code of Criminal Procedure Article 894.2 and R.S. 14:98.5(B).

C. An offender may apply for a restricted driver's license to be in effect during the entire period of suspension upon proof to the Department of Public Safety and Corrections that his motor vehicle has been equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 32:378.2.

Acts 1997, No. 1296, §2, eff. July 15, 1997; Acts 2014, No. 385, §1, eff. Jan. 1, 2015; Acts 2023, No. 409, §1.

§98.2. Operating while intoxicated; second offense; penalties

A.(1) Except as modified by the provisions of Paragraphs (2), (3), and (4) of this Subsection, or as provided by Subsection D of this Section, on a conviction of a second offense violation of R.S. 14:98, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars, and shall be imprisoned for not less than thirty days nor more than six months. At least forty-eight hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of sentence shall not be suspended unless the offender is placed on probation with the minimum conditions that he complete all of the following:

(a) Serve at least fifteen days in jail, without benefit of parole, probation, or suspension of sentence, or in lieu thereof, perform two hundred forty hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program. If imprisonment is imposed under this Subparagraph, the sentence is to be served in addition to the sentence of imprisonment imposed pursuant to Paragraph (1) of this Subsection, provided that the total period of imprisonment upon conviction of the offense, including imprisonment for default in payment of a fine or costs, shall not exceed six months.

(b) Participate in a court-approved substance abuse program, which may include an assessment by a licensed clinician to determine if the offender has a diagnosis of substance abuse disorder. Nothing in this Section shall prohibit the court from modifying the portions of the program as may be applicable and appropriate to an individual offender as shown by the assessment.

(c) Participate in a court-approved driver improvement program.

(d) Except as the period of time may be increased in accordance with Subparagraph (3)(c) of this Subsection, the court shall order that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C), R.S. 15:306, and R.S. 32:378.2, which requirement shall remain in effect for a period of not less than six months from the date of conviction. In addition, the device shall remain installed and operative during any period that the offender's driver's license is suspended under law and for any additional period as determined by the court.

(2)(a) If the offender had a blood alcohol concentration of 0.15 percent or more but less than 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, at least ninety-six hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence.

(b) In addition to any penalties imposed under this Section, upon conviction of a second offense violation of R.S. 14:98, if the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for four years.

(3)(a) If the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the offender shall be fined one thousand dollars and at least ninety-six hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence.

(b) In addition to any penalties imposed under this Section, upon conviction of a second offense violation of R.S. 14:98, if the offender had a blood alcohol concentration of 0.15 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for four years.

(c) The court shall require that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C), R.S. 15:306, and R.S. 32:378.2. The ignition interlock device shall remain installed and operative on his vehicle during the first three years of the four-year period of the suspension of his driver's license.

(4) If the arrest for the second offense occurs within one year of the commission of the first offense, at least thirty days of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without benefit of parole, probation, or suspension of sentence. In addition, if the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, he shall be fined one thousand dollars and also be subject to the provisions of Subparagraphs (3)(b) and (c) of this Subsection.

B. Nothing in this Section shall prohibit a court from sentencing an offender to serve any portion of the sentence under home incarceration pursuant to R.S. 14:98.5, either in lieu of, or in addition to, a term of imprisonment if otherwise allowed under the provisions of Code of Criminal Procedure Article 894.2 and R.S. 14:98.5(B).

C. An offender may apply for a restricted driver's license to be in effect during the entire period of suspension upon proof to the Department of Public Safety and Corrections that his motor vehicle has been equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 32:378.2.

D. Notwithstanding any other provision of law to the contrary, on a conviction of a second offense violation of R.S. 14:98, and regardless of whether the second offense occurred before or after the first conviction, when the first offense was for the crime of vehicular homicide in violation of R.S. 14:32.1, third degree feticide in violation of R.S. 14:32.8, or first degree vehicular negligent injuring in violation of R.S. 14:39.2, the offender shall be fined two thousand dollars and imprisoned, with or without hard labor, for not less than one year nor more than five years. At least six months of the sentence of imprisonment imposed shall be without benefit of parole, probation, or suspension of sentence except in compliance with R.S. 14:98.5(B)(1), the mandatory minimum sentence cannot be served on home incarceration.

(1) Imposition or execution of the remainder of the sentence shall not be suspended unless the offender is placed on probation with the minimum conditions that he complete all of the following:

(a) Perform two hundred forty hours of court-approved community service activities, at least one-half of which shall consist of participation in a litter abatement or collection program.

(b) Participate in a court-approved substance abuse program, which may include an assessment by a licensed clinician to determine if the offender has a diagnosis of substance abuse disorder. Nothing in this Section shall prohibit the court from modifying the portions of the program as may be applicable and appropriate to an individual offender as shown by the assessment.

(c) Participate in a court-approved driver improvement program.

(2) In accordance with the provisions of R.S. 14:98.5(B), any offender placed on probation pursuant to the provisions of this Subsection shall be placed in a home incarceration program approved by the division of probation and parole for a period of time not less than six months and not more than the remainder of the sentence of imprisonment.

(3) Except as the period of time may be increased in accordance with Subparagraph (A)(3)(b) and (c) of this Section, in addition to any penalties imposed under this Section, the court shall order that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C), R.S. 15:306, and R.S. 32:378.2, which requirement shall remain in effect for a period of not less than six months from the date of conviction. In addition, the device shall remain installed and operative during any period that the offender's driver's license is suspended under law and for any additional period as determined by the court.

Acts 2003, No. 543, §1; Acts 2014, No. 385, §1, eff. Jan. 1, 2015; Acts 2023, No. 409, §1.

§107.3. Criminal blighting of property

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

(1) "Blighted property" means those commercial or residential premises, including lots, which have been declared vacant, uninhabitable, and hazardous by an administrative hearing officer acting pursuant to R.S. 13:2575 or 2576 or other applicable law. Such premises may include premises which, because of their physical condition, are considered hazardous to persons or property, have been declared or certified blighted, and have been declared to be a public nuisance by an administrative hearing officer acting pursuant to R.S. 13:2575 or 2576, or any other applicable law.

(2) "Housing violations" means only those conditions in privately owned structures which are determined to constitute a threat or danger to the public health, safety, and welfare or to the environment.

(3) "Public nuisance" means any garage, shed, barn, house, building, or structure, that by reason of the condition in which it is permitted to remain, may endanger the health, life, limb, or property of any person, or cause any hurt, harm, damages, injury, or loss to any person in any one or more of the following conditions:

(a) The property is dilapidated, decayed, unsafe, or unsanitary, is detrimental to health, morals, safety, public welfare, and the well-being of the community, endangers life or property, or is conducive to ill health, delinquency, and crime.

(b) The property is a fire hazard.

(c) The conditions present on the property and its surrounding grounds are not reasonably or adequately maintained, thereby causing deterioration and creating a blighting influence or condition on nearby properties and thereby depreciating the value, use, and enjoyment to such an

extent that it is harmful to the public health, welfare, morals, safety, and the economic stability of the area, community, or neighborhood in which such public nuisance is located.

B. Criminal blighting of property is the intentional or criminally negligent permitting of the existence of a condition of deterioration of property by the owner, which is deemed to have occurred when the property has been declared or certified as blighted after an administrative hearing, pursuant to R.S. 13:2575 or 2576.

C.(1) On a first conviction, the offender shall be fined not more than five hundred dollars per violation. Imposition of a fine may be suspended and in lieu thereof, the court may require the offender to correct all existing housing violations on the blighted property within a timely manner determined by the court.

(2) On a second conviction, or if the offender fails to correct violations after ordered to do so by the court, the offender shall be fined not more than one thousand dollars per violation and imprisoned for not more than six months. Additionally, the court shall require that the offender correct all existing housing violations on the blighted property.

(3) On any third or subsequent conviction, or if the offender fails to correct all violations after a second conviction, the offender shall be fined not more than two thousand dollars per violation and imprisoned for not more than one year, with or without hard labor.

(4) The penalty of imprisonment provided for in this Subsection shall not be imposed when the property is a single family residence occupied by the defendant at the time of the violation.

D. Repealed by Acts 2023, No. 85, §3.

E. Any offense committed more than five years prior to the commission of the crime for which the defendant is being tried shall not be considered in the assessment of penalties hereunder.

F. The satisfactory performance of correction of housing violations on the blighted property provided for in this Section shall include inspections by a municipal entity responsible for inspecting property and enforcing health, housing, fire, historic district, and environment codes, or any other entity designated by the local governing authority, whose representatives shall report to the court on the successful or otherwise, correction of housing violations on the blighted property.

G. Community service activities as used in this Section may include clearing properties that have been declared or certified as blighted or a public nuisance as set forth herein, of debris, cutting grass, performing repairs, and otherwise correcting any situations giving rise to housing violations. Correction of housing violations on the offender's own property will not be considered as fulfillment of the offender's community service hours requirement. All community service activities assessed under this Section will be under the direct supervision of a municipal entity responsible for inspecting property and enforcing health, housing, fire, historic district, and environmental codes, or any other entity designated by the local governing authority.

H. Prosecution pursuant to this Section may occur concurrently with review and appeal of declarations and certifications of blight.

Acts 1999, No. 1229, §1; Acts 2001, No. 232, §1; Acts 2023, No. 85, §§1, 3.

§110.2. Tampering with electronic monitoring equipment

A. Tampering with electronic monitoring equipment is the intentional alteration, destruction, removal, or disabling of electronic monitoring equipment being utilized in accordance with the provisions of R.S. 46:2143.

B.(1) Whoever commits the crime of tampering with electronic monitoring equipment shall be fined not more than five hundred dollars and shall be imprisoned for not more than six months.

(2) If the offender violates the provisions of this Section while he is involved in the commission of a felony, he shall be fined not more than one thousand dollars and shall be imprisoned at hard labor for not more than one year.

(3) If the offender violates the provisions of this Section after being released pursuant to a bail undertaking for a felony crime of violence enumerated or defined in R.S. 14:2(B), he shall be fined not more than one thousand dollars and shall be imprisoned at hard labor for not more than a year.

(4) At least seventy-two hours of the sentence shall be served without benefit of probation, parole, or suspension of sentence.

Acts 2003, No. 1024, §1; Acts 2023, No. 374, §1.

§402. Contraband defined; certain activities regarding contraband in correctional facilities prohibited; penalty; disposition of seized contraband

A. No person shall introduce or attempt to introduce contraband into or upon the grounds of any correctional facility.

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

C. No person shall send, or give or attempt to give, contraband to an inmate of any correctional facility.

D. "Contraband" as used in this Section means:

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

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

(3) Explosives or combustibles, unless authorized by the warden of the facility or his designee.

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

(5) An alcoholic beverage or other beverage which produces or may produce an intoxicating effect, unless authorized by the warden of the facility or his designee for employee residential housing areas. However, employee residential housing areas shall not include bachelor officer quarters located within the secure perimeter of the facility. A reasonably small amount of

sacramental wine may be permitted by the warden or his designee to be brought onto the grounds of a correctional facility for use by a clergy member only as part of a religious service.

(6) Stolen property.

(7) Any currency or coin, unless authorized by the warden of the facility or his designee.

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

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

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

(11) Any tobacco product as defined in R.S. 14:91.6, unless authorized by the warden of the facility or his designee.

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

(13) Any electronic device including but not limited to computers, telephoto equipment, and communications equipment, whether modified or not.

(14) Any hypodermic syringe, needle, or other object used or intended for use, or designed for use in injecting controlled dangerous substances into the human body.

E. Repealed by Acts 2023, No. 302, §3.

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

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

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

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

H. For purposes of this Section, "correctional facility" means any jail, prison, penitentiary, juvenile institution, temporary holding center, or detention facility.

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

2012; Acts 2013, No. 288, §1, eff. June 14, 2013; Acts 2018, No. 464, §1; Acts 2023, No. 302, §§1, 3.