SELECTED
LOUISIANA CRIMINAL LAWS

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LOUISIANA CRIMINAL LAW

LOUISIANA CRIMES

Selected Criminal Law from the Louisiana Criminal Code (The vast majority of crimes in the Louisiana Criminal Code) provided by New Orleans Criminal Lawyer Stephen Rue. Call (504)529-5000 for an appointment.

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.

§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) Mingling harmful substances
(9) Aggravated rape
(10) Forcible rape
(11) Simple 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) Extortion
(26) Assault by drive-by shooting
(27) Aggravated crime against nature
(28) Carjacking
(29) Illegal use of weapons or dangerous instrumentalities
(30) Terrorism
(31) Aggravated second degree battery

(32) Aggravated assault upon a peace officer with a firearm
(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) Aggravated incest
(41) Battery of a police officer
(42) Trafficking of children for sexual purposes
(43) Human trafficking
(44) Home invasion

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.

§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 offenses.

§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.

§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.

§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. The use of force or violence upon the person of another is justifiable 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, and that 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 held 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.

§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), 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 premises 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 premises or motor vehicle, 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.

§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.

§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.

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.

B. 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.

C. 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.

§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 three hundred dollars nor more than 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 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.

§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

§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 rape, forcible 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.

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.

(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.

C. Penalty provisions.

(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 C.Cr.P. Art 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 C.Cr.P. Art 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.

§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 rape, forcible 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.

*NOTE: R.S. 40:961 et seq.

§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.

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. 864, §1; Acts 1992, No. 306, §1; Acts 1994, 3rd Ex. Sess., No. 115, §1; Acts 2008, No. 10, §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 handicapped person, deaf person, hearing impaired person, or otherwise physically disabled person 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 used in the production of crops, animals, or plant or animal products for market. This definition includes but is not limited to cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; goats; sheep; swine; chickens, turkeys, and other poultry; domestic rabbits; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; fish, pet turtles, and other animals identified with aquaculture which are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; any commercial crawfish from any crawfish pond; and any hybrid, mixture, or mutation of any such animal.

(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.

§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.

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.

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.

§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. 40:1299.35.12. 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 rape, forcible 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.

§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. 106-346 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. Criminal abortion

A. Criminal abortion 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. As used in this Section:

(1) "Abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

(a) Save the life or preserve the health of an unborn child.

(b) Remove a dead unborn child or induce 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.

(c) Remove an ectopic pregnancy.

(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.

(3) "Unborn child" means the unborn offspring of human beings from the moment of conception through pregnancy and until live birth.

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. Statutory Construction. None of the following shall be construed to create the crime of criminal abortion:

(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.

§32.9.1. Aggravated criminal abortion by dismemberment

A. Aggravated criminal abortion by dismemberment is the commission of a criminal abortion, as defined in R.S. 14:32.9(A), 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. As used in this Section:

(1) "Abortion" means the act of using or prescribing any instrument, medicine, drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the unborn child. Such use, prescription, or means is not an abortion if done with the intent to:

(a) Save the life or preserve the health of an unborn child.

(b) Remove a dead unborn child or induce 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.

(c) Remove an ectopic pregnancy.

(2) "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.

(3) "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.

(4) "Unborn child" means the unborn offspring of human beings from the moment of conception through pregnancy and until live birth.

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. Exceptions. None of the following shall be construed to create the crime of criminal abortion:

(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.

§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.

§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. 40:1299.58.8.

(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.

SUBPART B. ASSAULT AND BATTERY
(WITH RELATED OFFENSES)

§33. Battery defined

Battery is the intentional use of force or violence upon the person of another; or the intentional administration of a poison or other noxious liquid or substance to another.

Acts 1978, No. 394, §1.

§34. Aggravated battery

A. Aggravated battery is a battery committed with a dangerous weapon.

B. Whoever commits an aggravated battery shall be fined not more than five thousand dollars, 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 if the offender knew or should have known that the victim is an active member of the United States Armed Forces or is a disabled veteran and the aggravated battery was committed because of that status.

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

(1) "Active member of the United States Armed Forces" shall mean an active member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Coast Guard, or the National Guard.

(2) "Disabled veteran" shall mean a veteran member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Coast Guard, or the National Guard who is disabled as determined by the United States Department of Veteran Affairs.

Acts 1978, No. 394, §1. Amended by Acts 1980, No. 708, §1; Acts 2012, No. 40, §1.

§34.1. Second degree battery

A. Second degree battery is a battery when the offender intentionally inflicts serious bodily injury; however, this provision shall not apply to a medical provider who has obtained the consent of a patient.

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

(1) "Active member of the United States Armed Forces" shall mean an active member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Coast Guard, or the National Guard.

(2) "Disabled veteran" shall mean a veteran member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Coast Guard, or the National Guard who is disabled as determined by the United States Department of Veteran Affairs.

(3) "Serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

C. Whoever commits the crime of second degree battery shall be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not more than five years, or both. At least one year of the sentence imposed shall be served without benefit of parole, probation, or

suspension of sentence if the offender knew or should have known that the victim is an active member of the United States Armed Forces or is a disabled veteran and the second degree battery was committed because of that status.

Acts 1978, No. 394, §1; Acts 2009, No. 264, §1; Acts 2012, No. 40, §1.

§34.2. Battery of a police officer

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

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

(3) For purposes of this Section, "battery of a police officer" includes the use of force or violence upon the person of the police officer by throwing feces, urine, blood, saliva, or any form of human waste by an offender while the offender is incarcerated by a court of law and is being detained in any jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility.

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

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

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

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

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

§34.3. Battery of a school teacher

A. Battery of a school teacher is a battery committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a school teacher acting in the performance of employment duties.

B. For purposes of this Section:

(1) "School teacher" shall include 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. For purposes of this Section, "school teacher" shall also include any teacher aide and paraprofessional, school bus driver, food service worker, and other clerical, custodial, or maintenance personnel employed by a city, parish, or other local public school board.

(2) "School" means any public or nonpublic elementary, secondary, high school, vocational-technical school, college, special, or postsecondary school or institution, or university in this state.

(3) "Student" means any person registered or enrolled at the school where the school teacher is employed.

C. Whoever commits the crime of battery of a school teacher shall be punished as follows:

(1) If the battery was committed by a student, upon conviction, the offender shall be fined not more than five thousand dollars or imprisoned not less than thirty days nor more than one year. At least seventy-two hours of the sentence imposed shall be imposed without benefit of suspension of sentence.

(2) If the battery was committed by someone who is not a student, the offender shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both.

(3) If the battery produces an injury that requires medical attention, the offender shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both.

Acts 1985, No. 871, §1; Acts 1994, 3rd Ex. Sess., No. 44, §1; Acts 1999, No. 936, §1; Acts 2008, No. 295, §1, eff. June 17, 2008; Acts 2009, No. 283, §1.

§34.4. Battery of a school or recreation athletic contest official

A.(1) Battery of a school or recreation athletic contest official is a battery committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a school athletic or recreation contest official.

(2) For purposes of this Section, "school athletic contest official" means any referee, umpire, coach, instructor, administrator, staff person, or school or school board employee of any public or private elementary and secondary school while actively engaged in the conducting, supervising, refereeing, or officiating of a school sanctioned interscholastic athletic contest.

(3) For purposes of this Section, "recreation athletic contest official" means any referee, umpire, coach, instructor, administrator, staff person, or recreation employee of any public or quasi public recreation program while actively engaged in the conducting, supervising, refereeing, or officiating of a sanctioned recreation athletic contest.

B.(1) Whoever commits the crime of battery of a school or recreation athletic contest official shall be fined not more than five hundred dollars and imprisoned not less than forty-eight hours nor more than six months without benefit of suspension of sentence, except as provided in Paragraph (2).

(2) The court, in its discretion, may suspend the imposition of the sentence and place the offender on probation with the condition that he shall perform five days of community service work. Failure to successfully complete the community service work, as determined by the supervisor of the program to which he is assigned, may result in revocation of probation.

Acts 1990, No. 675, §1; Acts 1999, No. 1046, §1.

§34.5. Battery of a correctional facility employee

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

(2) For purposes of this Section, "correctional facility employee" means any employee of any jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility.

(3) For purposes of this Section, "battery of a correctional facility employee" includes the use of force or violence upon the person of the employee by throwing feces, urine, blood, saliva, or any form of human waste by an offender while the offender is incarcerated and is being detained in any jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility.

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

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

Acts 1997, No. 486, §1; Acts 1999, No. 86, §1.

§34.5.1. Battery of a bus operator

A. Battery of a bus operator is a battery committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a bus operator.

B. For the purposes of this Section, a "bus operator" means any person employed by a public transit system who operates a bus, as defined in R.S. 32:1(5), or who operates an electronically operated cable car while that person is on duty in the course and scope

of his or her employment, regardless of whether the bus is in motion at the time of the offense. "Bus operator" shall not include any person who operates a school bus.

C. Whoever commits the crime of battery on a bus operator shall be fined not more than five hundred dollars and imprisoned for not less than forty-eight hours nor more than six months without benefit of probation, parole, or suspension of sentence.

Acts 2003, No. 1244, §1.

§34.6. Disarming of a peace officer

A. Disarming of a peace officer is committed when an offender, through use of force or threat of force, and without the consent of the peace officer, takes possession of any law enforcement equipment from the person of a peace officer or from an area within the peace officer's immediate control, when the offender has reasonable grounds to believe that the victim is a peace officer acting in the performance of his duty.

B. For purposes of this Section:

(1) "Law enforcement equipment" shall include any firearms, weapons, restraints, ballistics shields, forced entry tools, defense technology equipment, self-defense batons, self-defense sprays, chemical weapons, or electro shock weapons issued to a peace officer and used in the course and scope of his law enforcement duties.

(2) "Peace officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, park wardens, livestock brand inspectors, forestry officers, and probation and parole officers.

C. Whoever commits the crime of disarming of a peace officer shall be imprisoned at hard labor for not more than five years.

Acts 1997, No. 558, §1; Acts 2003, No. 697, §1; Acts 2010, No. 820, §1.

§34.7. Aggravated second degree battery

A. Aggravated second degree battery is a battery committed with a dangerous weapon when the offender intentionally inflicts serious bodily injury.

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

(1) "Active member of the United States Armed Forces" shall mean an active member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Coast Guard, or the National Guard.

(2) "Disabled veteran" shall mean a veteran member of the United States Army, the United States Marine Corps, the United States Navy, the United States Air Force, the United States Coast Guard, or the National Guard who is disabled as determined by the United States Department of Veteran Affairs.

(3) "Serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

C. Whoever commits the crime of aggravated second degree battery shall be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not more than fifteen years, or both. At least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence if the offender knew or should have known that

the victim is an active member of the United States Armed Forces or is a disabled veteran and the aggravated second degree battery was committed because of that status.

Acts 1997, No. 1318, §1, eff. July 15, 1997; Acts 2012, No. 40, §1.

§35. Simple battery

Simple battery is a battery committed without the consent of the victim.

Whoever commits a simple battery shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

Acts 1978, No. 394, §1; Acts 2006, No. 81, §1.

§35.1. Battery of a child welfare or adult protective service worker

A.(1) Battery of a child welfare or adult protective service worker is a battery committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a child welfare or adult protective service worker working in the performance of employment duties who has presented proper identification.

(2) For purposes of this Section, "child welfare worker" shall include any child protection investigator, family services worker, foster care worker, adoption worker, any supervisor of the above, or any person authorized to transport clients for the agency, or court appointed special advocate (CASA) program representative.

(3) For purposes of this Section, "adult protective service worker" shall include any adult protection specialist or adult protection specialist supervisor employed by the Department of Health and Hospitals or the Governor's Office of Elderly Affairs.

B. Whoever commits the crime of battery of a child welfare or adult protective service worker shall be fined not more than five hundred dollars and shall be imprisoned not less than fifteen days nor more than six months, or both. At least seventy-two hours of the sentence imposed shall be served without benefit of suspension of sentence. If the battery produces an injury which requires medical attention, the offender shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not less than one year nor more than five years, or both.

Acts 1987, No. 902, §1; Acts 2005, No. 59, §1, eff. June 16, 2005; Acts 2008, No. 43, §1.

§35.2. Simple battery of the infirm

A. Simple battery of the infirm is a battery committed against an infirm, disabled, or aged person who is incapable of consenting to the battery due to either of the following:

(1) Advanced age.

(2) Unsoundness of mind, stupor, abnormal condition of the mind, or other mental or developmental disability, regardless of the age of the victim.

B. For purposes of this Section, "infirm, disabled, or aged person" shall include but not be limited to any individual who is a resident of a nursing home, mental retardation facility, mental health facility, hospital, or other residential facility, or any individual who is sixty years of age or older. Lack of knowledge of the person's age shall not be a defense.

C. Whoever commits the crime of battery[1] of the infirm shall be fined not more than five hundred dollars and imprisoned not less than thirty days nor more than six months, or both.

Acts 1999, No. 1056, §1.

[1] As appears in enrolled bill.

§35.3. Domestic abuse battery

A. Domestic abuse battery is the intentional use of force or violence committed by one household member upon the person of another household member.

B. For purposes of this Section:

(1) "Community service activities" as used in this Section may include duty in any morgue, coroner's office, or emergency treatment room of a state-operated hospital or other state-operated emergency treatment facility, with the consent of the administrator of the morgue, coroner's office, hospital, or facility.

(2) "Household member" means any person of the opposite sex presently living in the same residence or living in the same residence within five years of the occurrence of the domestic abuse battery with the defendant as a spouse, whether married or not, or any child presently living in the same residence or living in the same residence within five years immediately prior to the occurrence of domestic abuse battery, or any child of the offender regardless of where the child resides.

(3) "Strangulation" means intentionally impeding the normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of the victim.

C. On a first conviction, notwithstanding any other provision of law to the contrary, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than thirty days nor more than six months. At least forty-eight hours of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occur:

(1) The offender is placed on probation with a minimum condition that he serve four days in jail and participate in a court-approved domestic abuse prevention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

(2) The offender is placed on probation with a minimum condition that he perform eight, eight-hour days of court-approved community service activities and participate in a court-approved domestic abuse prevention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

D. On a conviction of a second offense, notwithstanding any other provision of law to the contrary, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars and shall be imprisoned for not less than sixty days nor more than six months. At least fourteen days of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence, and the offender shall be required to participate in a court-approved domestic abuse prevention program. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occur:

(1) The offender is placed on probation with a minimum condition that he serve thirty days in jail and participate in a court-approved domestic abuse prevention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

(2) The offender is placed on probation with a minimum condition that he perform thirty eight-hour days of court-approved community service activities and participate in a court-approved domestic abuse prevention program, and the offender shall not own or possess a firearm throughout the entirety of the sentence.

E. On a conviction of a third offense, notwithstanding any other provision of law to the contrary and regardless of whether the offense occurred before or after an earlier conviction, the offender shall be imprisoned with or without hard labor for not less than one year nor more than five years and shall be fined two thousand dollars. The first year of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence.

F.(1) Except as otherwise provided in Paragraph (2) of this Subsection, on a conviction of a fourth or subsequent offense, notwithstanding any other provision of law to the contrary and regardless of whether the fourth offense occurred before or after an earlier conviction, the offender shall be imprisoned with hard labor for not less than ten years nor more than thirty years and shall be fined five thousand dollars. The first three years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence.

(2) If the offender has previously received the benefit of suspension of sentence, probation, or parole as a fourth or subsequent offender, no part of the sentence may be imposed with benefit of suspension of sentence, probation, or parole, and no portion of the sentence shall be imposed concurrently with the remaining balance of any sentence to be served for a prior conviction for any offense.

G.(1) For purposes of determining whether a defendant has a prior conviction for violation of this Section, a conviction under this Section, or a conviction under the laws of any state or an ordinance of a municipality, town, or similar political subdivision of another state which prohibits the intentional use of force or violence committed by one household member upon another household member of the opposite sex presently or formerly living in the same residence with the defendant as a spouse, whether married or not, shall constitute a prior conviction.

(2) For purposes of this Section, a prior conviction shall not include a conviction for an offense under this Section if the date of completion of sentence, probation, parole, or suspension of sentence is more than ten years prior to the commission of the crime with which the defendant is charged, and such conviction shall not be considered in the assessment of penalties hereunder. However, periods of time during which the offender was incarcerated in a penal institution in this or any other state shall be excluded in computing the ten-year period.

H. An offender ordered to participate in a domestic abuse prevention program required by the provisions of this Section shall pay the cost incurred in participation in the program. Failure to make such payment shall subject the offender to revocation of probation, unless the court determines that the offender is unable to pay.

I. This Subsection shall be cited as the "Domestic Abuse Child Endangerment Law". When the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child thirteen years of age or younger was present at the residence or any other scene at the time of the commission of the offense, of the sentence imposed by the court, the execution of the minimum mandatory sentence provided by Subsection C or D of this

Section, as appropriate, shall not be suspended, the minimum mandatory sentence imposed under Subsection E of this Section shall be two years without suspension of sentence, and the minimum mandatory sentence imposed under Subsection F of this Section shall be four years without suspension of sentence.

J. Any crime of violence, as defined in R.S. 14:2(B), against a person committed by one household member against another household member, shall be designated as an act of domestic violence.

K. If the victim of domestic abuse battery is pregnant and the offender knows that the victim is pregnant at the time of the commission of the offense, the offender, who is sentenced under the provisions of this Section, shall be required to serve a minimum of forty-five days without benefit of suspension of sentence for a first conviction, upon a second conviction shall serve a minimum of one year imprisonment without benefit of suspension of sentence, upon a third conviction shall serve a minimum of two years with or without hard labor without benefit of probation, parole, or suspension of sentence, and upon a fourth and subsequent offense shall serve a minimum of four years at hard labor without benefit of probation, parole, or suspension of sentence.

L. Notwithstanding any other provision of law to the contrary, if the domestic abuse battery involves strangulation, the offender shall be imprisoned at hard labor for not more than three years.

Acts 2003, No. 1038, §1; Acts 2004, No. 144, §1; Acts 2006, No. 559, §1; Acts 2007, No. 101, §1; Acts 2009, No. 90, §1; Acts 2009, No. 245, §1, eff. July 1, 2009; Acts 2010, No. 380, §1; Acts 2011, No. 284, §1; Acts 2012, No. 437, §1; Acts 2012, No. 535, §1, eff. June 5, 2012.

§36. Assault defined

Assault is an attempt to commit a battery, or the intentional placing of another in reasonable apprehension of receiving a battery.

Acts 1978, No. 394, §1.

§37. Aggravated assault

A. Aggravated assault is an assault committed with a dangerous weapon.

B. Whoever commits an aggravated assault shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

C. If the offense is committed upon a store's or merchant's employee while the offender is engaged in the perpetration or attempted perpetration of theft of goods, the offender shall be imprisoned for not less than one hundred twenty days without benefit of suspension of sentence nor more than six months and may be fined not more than one thousand dollars.

Acts 1978, No. 394, §1; Acts 1992, No. 985, §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 one year nor more than five 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 or highway with the intent either to kill, cause harm to, or frighten another person.

Acts 1993, No. 496, §1.

§37.2. Aggravated assault upon a peace officer with a firearm

A. Aggravated assault upon a peace officer with a firearm is an assault committed upon a peace officer who is acting in the course and scope of his duties with a firearm.

B. For purposes of this Section, "firearm" is defined as an instrument used in the propulsion of shot, shell, or bullets by the action of gunpowder exploded within it.

C. Whoever commits an aggravated assault upon a peace officer with a firearm shall be fined not more than five thousand dollars, or imprisoned for not less than one year nor more than ten years, with or without hard labor, or both.

Acts 1995, No. 881, §1; Acts 1997, No. 936, §1; Acts 2001, No. 309, §1; Acts 2003, No. 239, §1.

§37.3. Unlawful use of a laser on a police officer

A. Unlawful use of a laser on a police officer is the intentional projection of a laser on or at a police officer without consent of the officer when the offender has reasonable grounds to believe the officer is a police officer acting in the performance of his duty and that the officer will be injured, intimidated, or placed in fear of bodily harm.

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

(1) "Laser" means any device that projects a beam or point of light by means of light amplification by stimulated emission of radiation or any device that emits light which simulates the appearance of a laser.

(2) "Police officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, and probation and parole officers.

C. Whoever commits the crime of unlawful use of a laser on a police officer shall be fined not more than five hundred dollars or imprisoned not more than six months, or both.

Acts 1999, No. 1076, §1.

§37.4. Aggravated assault with a firearm

A. Aggravated assault with a firearm is an assault committed with a firearm.

B. For the purposes of this Section, "firearm" is defined as an instrument used in the propulsion of shot, shell, or bullets by the action of gunpowder exploded within it.

C. Whoever commits an aggravated assault with a firearm shall be fined not more than ten thousand dollars or imprisoned for not more than ten years, with or without hard labor, or both.

Acts 2001, No. 309, §1; Acts 2003, No. 239, §1; Acts 2012, No. 320, §1, eff. May 25, 2012.

§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, or telecommunications service.

(3) "Utility service employee" means any uniformed, readily identified employee of any utility service.

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.

§37.6. Aggravated assault with a motor vehicle upon a peace officer

A. Aggravated assault with a motor vehicle upon a peace officer is an assault committed with a motor vehicle upon a peace officer acting in the course and scope of his duties.

B. For the purposes of this Section:

(1) "Motor vehicle" shall include any motor vehicle, aircraft, watercraft, or other means of conveyance.

(2) "Peace officer" shall have the same meaning as defined in R.S. 40:2402.

C. Whoever commits the crime of aggravated assault with a motor vehicle upon a peace officer shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not less than one year nor more than ten years, or both.

Acts 2010, No. 507, §1

§37.7. Domestic abuse aggravated assault

A. Domestic abuse aggravated assault is an assault with a dangerous weapon committed by one household member upon another household member.

B. For purposes of this Section, "household member" means any person of the opposite sex presently living in the same residence, or living in the same residence within five years of the occurrence of the domestic abuse aggravated assault, with the defendant as a spouse, whether married or not, or any child presently living in the same residence or living in the same residence within five years immediately prior to the occurrence of the domestic abuse aggravated assault, or any child of the offender regardless of where the child resides.

C. Whoever commits the crime of domestic abuse aggravated assault shall be imprisoned at hard labor for not less than one year nor more than five years and fined not more than five thousand dollars.

D. This Subsection shall be cited as the "Domestic Abuse Aggravated Assault Child Endangerment Law". When the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child thirteen years of age or younger was present at the residence or any other scene at the time of the commission of the offense, the mandatory minimum sentence imposed by the court shall be two years imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

Acts 2012, No. 535, §1, eff. June 5, 2012.

§38. Simple assault

Simple assault is an assault committed without a dangerous weapon.

Whoever commits a simple assault shall be fined not more than two hundred dollars, or imprisoned for not more than ninety days, or both.

Acts 1978, No. 394, §1.

§38.1. Mingling harmful substances

Mingling harmful substances is the intentional mingling of any harmful substance or matter with any food, drink or medicine with intent that the same shall be taken by any human being to his injury.

Whoever commits the crime of mingling harmful substances shall be imprisoned, with or without hard labor, for not more than two years or fined not more than one thousand dollars, or both.

Acts 1978, No. 394, §1.

§38.2. Assault on a school teacher

A.(1) Assault on a school teacher is an assault committed when the offender has reasonable grounds to believe the victim is a school teacher acting in the performance of his duties.

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

(b) For the purposes of this Section, "assault" means an attempt to commit on a school teacher a battery or the intentional placing of a school teacher in reasonable apprehension of receiving a battery or making statements threatening physical harm to a school teacher.

(c) For the purposes of this Section, "school" means any public or nonpublic elementary, secondary, high school, vocational-technical school, college, special, or postsecondary school or institution, or university in this state.

(d) For the purposes of this Section, "student" means any person registered or enrolled at the school where the school teacher is employed.

B. Whoever commits the crime of assault on a school teacher shall be punished as follows:

(1) If the assault was committed by a student, upon conviction, the offender shall be fined not more than two thousand dollars or imprisoned not less than thirty days nor more than one hundred eighty days, or both.

(2) If the assault was committed by someone who is not a student, upon conviction, the offender shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not less than one year nor more than three years, or both.

Acts 1994, 3rd Ex. Sess., No. 44, §1; Acts 2006, No. 733, §1, eff. July 1, 2006; Acts 2008, No. 295, §1, eff. June 17, 2008; Acts 2009, No. 283, §1.

§38.3. Assault on a child welfare worker

A.(1) Assault on a child welfare worker is an assault committed when the offender has reasonable grounds to believe the victim is a child welfare worker acting in the performance of his duties.

(2) For purposes of this Section, "child welfare worker" shall include any child protection investigator, family services worker, foster care worker, adoption worker, any supervisor of the above, any person authorized to transport clients for the agency, or court appointed special advocate (CASA) program representative.

B. Whoever commits the crime of assault on a child welfare worker shall be fined not more than five hundred dollars or imprisoned not less than fifteen days nor more than ninety days, or both.

Acts 2005, No. 59, §1, eff. June 16, 2005.

§39. Negligent injuring

A. Negligent injuring is either of the following:

(1) The inflicting of any injury upon the person of another by criminal negligence.

(2) The inflicting of any injury upon the person of another by a dog or other animal when the owner of the dog or other animal 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. Whoever commits the crime of negligent injuring shall be fined not more than five hundred dollars, or imprisoned for not more than six months, 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 handicapped person, deaf person, hearing impaired person, or otherwise physically disabled person 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 used in the production of crops, animals, or plant or animal products for market. This definition includes but is not limited to cattle, buffalo, bison, oxen, and other bovine; horses, mules, donkeys, and other equine; goats; sheep; swine; chickens, turkeys, and other poultry; domestic rabbits; imported exotic deer and antelope, elk, farm-raised white-tailed deer, farm-raised ratites, and other farm-raised exotic animals; fish, pet turtles, and other animals identified with aquaculture which are located in artificial reservoirs or enclosures that are both on privately owned property and constructed so as to prevent, at all times, the ingress and egress of fish life from public waters; any commercial crawfish from any crawfish pond; and any hybrid, mixture, or mutation of any such animal.

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

Acts 1978, No. 394, §1; Acts 2009, No. 199, §1.

§39.1. Vehicular negligent injuring

A. Vehicular negligent injuring is the inflicting of any injury upon the person of a human being when 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 whenever any of the following conditions exists:

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

(2) 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.

(3) 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.

(4)(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.

(5) 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.

B. The violation of a statute or ordinance shall be considered only as presumptive evidence of negligence as set forth in Subsection A.

C. Whoever commits the crime of vehicular negligent injuring shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

Added by Acts 1983, No. 633, §1; Acts 1985, No. 747, §1; Acts 1988, No. 279, §1; Acts 1997, No. 1020, §1, eff. July 11, 1997; Acts 2001, No. 781, §1, eff. Sept. 30, 2003; Acts 2001, No. 1163, §5; Acts 2003, No. 758, §1, eff. Sept. 30, 2003.

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. 106-346 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.

§39.2. First degree vehicular negligent injuring

A. First degree vehicular negligent injuring is the inflicting of serious bodily injury upon the person of a human being when 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 whenever any of the following conditions exists:

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

(2) 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.

(3) 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, or any abused substance.

(4)(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.

(5) 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.

B. The violation of a statute or ordinance shall be considered only as presumptive evidence of negligence as set forth in Subsection A.

C. For purposes of this Section, "serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member or organ or a mental faculty, or a substantial risk of death.

D. Whoever commits the crime of first degree vehicular negligent injuring shall be fined not more than two thousand dollars or imprisoned with or without hard labor for not more than five years, or both.

Acts 1995, No. 403, §1, eff. June 17, 1995; Acts 1997, No. 1021, §1, eff. July 11, 1997; Acts 2001, No. 781, §1, eff. Sept. 30, 2003; Acts 2001, No. 1163, §5; Acts 2003, No. 758, §1, eff. Sept. 30, 2003.

§40. Intimidation by officers

Intimidation by officers is the intentional use, by any police officer or other person charged with the custody of parties accused of a crime or violation of a municipal ordinance, of threats, violence, or any means of inhuman treatment designed to secure a confession or incriminating statement from the person in custody.

Whoever commits the crime of intimidation by officers shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

Acts 1978, No. 394, §1.

§40.1. Terrorizing

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

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

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

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

§40.2. Stalking

A. Stalking is the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress. Stalking shall include but not be limited to the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal or behaviorally implied threats of death, bodily injury, sexual assault, kidnaping, or any other statutory criminal act to himself or any member of his family or any person with whom he is acquainted.

B.(1)(a) Notwithstanding any law to the contrary, on first conviction, whoever commits the crime of stalking shall be fined not less than five hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than thirty days nor more than one year. Notwithstanding any other sentencing provisions, any person convicted of stalking shall undergo a psychiatric evaluation. Imposition of the sentence shall not be suspended unless the offender is placed on probation and participates in a court-approved counseling which could include but shall not be limited to anger management, abusive behavior intervention groups, or any other type of counseling deemed appropriate by the courts.

(b) Whoever commits the crime of stalking against a victim under the age of eighteen when the provisions of Paragraph (6) of this Subsection are not applicable shall be imprisoned for not more than three years, with or without hard labor, and fined not more than two thousand dollars, or both.

(2)(a) Any person who commits the offense of stalking and who is found by the trier of fact, whether the jury at a jury trial, the judge in a bench trial, or the judge at a sentencing hearing following a jury trial, beyond a reasonable doubt to have placed the victim of the stalking in fear of death or bodily injury by the actual use of or the defendant's having in his possession during the instances which make up the crime of stalking a dangerous weapon or is found beyond a reasonable doubt to have placed the victim in reasonable fear of death or bodily injury, shall be imprisoned for not less than one year nor more than five years, with or without hard labor, without benefit of probation, parole, or suspension of sentence and may be fined one thousand dollars, or both. Whether or not the defendant's use of or his possession of the dangerous weapon is a crime or, if a crime, whether or not he is charged for that offense separately or in addition to the crime of stalking shall have no bearing or relevance as to the enhanced sentence under the provisions of this Paragraph.

(b) If the victim is under the age of eighteen, and when the provisions of Paragraph (6) of this Subsection are not applicable, the offender shall be imprisoned for not less than two years nor more than five years, with or without hard labor, without benefit of probation, parole, or suspension of sentence and may be fined not less than one thousand nor more than two thousand dollars, or both.

(3) Any person who commits the offense of stalking against a person for whose benefit a protective order, a temporary restraining order, or any lawful order prohibiting contact with the victim issued by a judge or magistrate is in effect in either a civil or criminal proceeding, protecting the victim of the stalking from acts by the offender which otherwise constitute the crime of stalking, shall be punished by imprisonment with or without hard labor for not less than ninety days and not more than two years or fined not more than five thousand dollars, or both.

(4) Upon a second conviction occurring within seven years of a prior conviction for stalking, the offender shall be imprisoned with or without hard labor for not less than five years

nor more than twenty years, without benefit of probation, parole, or suspension of sentence, and may be fined not more than five thousand dollars, or both.

(5) Upon a third or subsequent conviction, the offender shall be imprisoned with or without hard labor for not less that ten years and not more than forty years and may be fined not more than five thousand dollars, or both.

(6)(a) Any person thirteen years of age or older who commits the crime of stalking against a child twelve years of age or younger and who is found by the trier of fact, whether the jury at a jury trial, the judge in a bench trial, or the judge at a sentencing hearing following a jury trial, beyond a reasonable doubt to have placed the child in reasonable fear of death or bodily injury, or in reasonable fear of the death or bodily injury of a family member of the child shall be punished by imprisonment with or without hard labor for not less than one year and not more than three years and fined not less than fifteen hundred dollars and not more than five thousand dollars, or both.

(b) Lack of knowledge of the child's age shall not be a defense.

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

(1) "Harassing" means the repeated pattern of verbal communications or nonverbal behavior without invitation which includes but is not limited to making telephone calls, transmitting electronic mail, sending messages via a third party, or sending letters or pictures.

(2) "Pattern of conduct" means a series of acts over a period of time, however short, evidencing an intent to inflict a continuity of emotional distress upon the person. Constitutionally protected activity is not included within the meaning of pattern of conduct.

(3) Repealed by Acts 1993, No. 125, §2.

D. As used in this Section, when the victim of the stalking is a child twelve years old or younger:

(1) "Pattern of conduct" includes repeated acts of nonconsensual contact involving the victim or a family member.

(2) "Family member" includes:

(a) A child, parent, grandparent, sibling, uncle, aunt, nephew, or niece of the victim, whether related by blood, marriage, or adoption.

(b) A person who lives in the same household as the victim.

(3)(a) "Nonconsensual contact" means any contact with a child twelve years old or younger that is initiated or continued without that child's consent, that is beyond the scope of the consent provided by that child, or that is in disregard of that child's expressed desire that the contact be avoided or discontinued.

(b) "Nonconsensual contact" includes:

(i) Following or appearing within the sight of that child.

(ii) Approaching or confronting that child in a public place or on private property.

(iii) Appearing at the residence of that child.

(iv) Entering onto or remaining on property occupied by that child.

(v) Contacting that child by telephone.

(vi) Sending mail or electronic communications to that child.

(vii) Placing an object on, or delivering an object to, property occupied by that child.

(c) "Nonconsensual contact" does not include any otherwise lawful act by a parent, tutor, caretaker, mandatory reporter, or other person having legal custody of the child as those terms are defined in the Louisiana Children's Code.

(4) "Victim" means the child who is the target of the stalking.

E. Whenever it is deemed appropriate for the protection of the victim, the court may send written notice to any employer of a person convicted for a violation of the provisions of this Section describing the conduct on which the conviction was based.

F.(1) Upon motion of the district attorney or on the court's own motion, whenever it is deemed appropriate for the protection of the victim, the court may, in addition to any penalties imposed pursuant to the provisions of this Section, grant a protective order which directs the defendant to refrain from abusing, harassing, interfering with the victim or the employment of the victim, or being physically present within a certain distance of the victim.

(2) Any protective order granted pursuant to the provisions of this Subsection shall be served on the defendant at the time of sentencing.

(3)(a) The court shall order that the protective order be effective either for an indefinite period of time or for a fixed term which shall not exceed eighteen months.

(b) If the court grants the protective order for an indefinite period of time pursuant to Subparagraph (a) of this Paragraph, after a hearing, on the motion of any party and for good cause shown, the court may modify the indefinite effective period of the protective order to be effective for a fixed term, not to exceed eighteen months, or to terminate the effectiveness of the protective order. A motion to modify or terminate the effectiveness of the protective order may be granted only after a good faith effort has been made to provide reasonable notice of the hearing to the victim, the victim's designated agent, or the victim's counsel, and either of the following occur:

(i) The victim, the victim's designated agent, or the victim's counsel is present at the hearing or provides written waiver of such appearance.

(ii) After a good faith effort has been made to provide reasonable notice of the hearing, the victim could not be located.

(4)(a) Immediately upon granting a protective order, the court shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2, shall sign such order, and shall forward it to the clerk of court for filing, without delay.

(b) The clerk of the issuing court shall send a copy of the Uniform Abuse Prevention Order or any modification thereof to the chief law enforcement official of the parish where the victim resides. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer as provided in this Subparagraph until otherwise directed by the court.

(c) The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order, or any modification thereof, to the Louisiana Protective Order Registry pursuant to R.S. 46:2136.2, by facsimile transmission, mail, or direct electronic input, where available, as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court.

G. The provisions of this Section shall not apply to a private investigator licensed pursuant to the provisions of Chapter 56 of Title 37 of the Louisiana Revised Statutes of 1950, acting during the course and scope of his employment and performing his duties relative to the conducting of an investigation.

H. The provisions of this Section shall not apply to an investigator employed by an authorized insurer regulated pursuant to the provisions of Title 22 of the Louisiana Revised Statutes of 1950, acting during the course and scope of his employment and performing his duties relative to the conducting of an insurance investigation.

I. The provisions of this Section shall not apply to an investigator employed by an authorized self-insurance group or entity regulated pursuant to the provisions of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950, acting during the course and scope of his employment and performing his duties relative to the conducting of an insurance investigation.

J. A conviction for stalking shall not be subject to expungement as provided for by R.S. 44:9.

Acts 1992, No. 80, §1; Acts 1993, No. 125, §§1, 2; Acts 1994, 3rd Ex. Sess., No. 30, §1; Acts 1995, No. 416, §1; Acts 1995, No. 645, §1; Acts 1997, No. 1231, §1, eff. July 15, 1997; Acts 1999, No. 957, §1; Acts 1999, No. 963, §1; Acts 2001, No. 1141, §1; Acts 2003, No. 1089, §1; Acts 2005, No. 161, §1; Acts 2007, No. 62, §1; Acts 2007, No. 226, §1; Acts 2012, No. 197, §1.

§40.3. Cyberstalking

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

(1) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature, transmitted in whole or in part by wire, radio, computer, electromagnetic, photoelectric, or photo-optical system.

(2) "Electronic mail" means the transmission of information or communication by the use of the Internet, a computer, a facsimile machine, a pager, a cellular telephone, a video recorder, or other electronic means sent to a person identified by a unique address or address number and received by that person.

B. Cyberstalking is action of any person to accomplish any of the following:

(1) Use in electronic mail or electronic communication of any words or language threatening to inflict bodily harm to any person or to such person's child, sibling, spouse, or dependent, or physical injury to the property of any person, or for the purpose of extorting money or other things of value from any person.

(2) Electronically mail or electronically communicate to another repeatedly, whether or not conversation ensues, for the purpose of threatening, terrifying, or harassing any person.

(3) Electronically mail or electronically communicate to another and to knowingly make any false statement concerning death, injury, illness, disfigurement, indecent conduct, or criminal conduct of the person electronically mailed or of any member of the person's family or household with the intent to threaten, terrify, or harass.

(4) Knowingly permit an electronic communication device under the person's control to be used for the taking of an action in Paragraph (1), (2), or (3) of this Subsection.

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

(2) Upon a second conviction occurring within seven years of the prior conviction for cyberstalking, the offender shall be imprisoned for not less than one hundred and eighty days and not more than three years, and may be fined not more than five thousand dollars, or both.

(3) Upon a third or subsequent conviction occurring within seven years of a prior conviction for stalking, the offender shall be imprisoned for not less than two years and not more than five years and may be fined not more than five thousand dollars, or both.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

D. Any offense under this Section committed by the use of electronic mail or electronic communication may be deemed to have been committed where the electronic mail or electronic communication was originally sent, originally received, or originally viewed by any person.

E. This Section does not apply to any peaceable, nonviolent, or nonthreatening activity intended to express political views or to provide lawful information to others.

Acts 2001, No. 737, §1; Acts 2010, No. 763, §1.

§40.4. Burning cross on property of another or public place; intent to intimidate

A. It shall be unlawful for any person, with the intent of intimidating any person or group of persons to burn, or cause to be burned, a cross on the property of another, a highway, or other public place.

B. Whoever commits the crime of burning a cross with the intent of intimidating shall be fined not more than fifteen thousand dollars or imprisoned with or without hard labor for not more than fifteen years, or both.

Acts 2003, No. 843, §1.

§40.5. Public display of a noose on property of another or public place; intent to intimidate

A. It shall be unlawful for any person, with the intent to intimidate any person or group of persons, to etch, paint, draw, or otherwise place or display a hangman's noose on the property of another, a highway, or other public place.

B. As used in this Section, "noose" means a rope tied in a slip knot, which binds closer the more it is drawn, which historically has been used in execution by hanging, and which symbolizes racism and intimidation.

C. Whoever commits the crime of public display of a noose with the intent to intimidate 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 2008, No. 643, §1.

§40.6. Unlawful disruption of the operation of a school; penalties

A. Unlawful disruption of the operation of a school is the commission of any of the following acts by a person, who is not authorized to be on school premises, which would foreseeably cause any of the following:

(1) Intimidation or harassment of any student or teacher by threat of force or force.

(2) Placing teachers or students in sustained fear for their health, safety, or welfare.

(3) Disrupting, obstructing, or interfering with the operation of the school.

B. For the purposes of this Section:

(1) "Authorized to be present on school premises" means all of the following:

(a) Any student enrolled at the school.

(b) Any teacher employed at the school.

(c) Any person attending a school sponsored function.

(d) Any other person who has authorization to be present on the school premises from the principal of the school in the case of a public school, or the principal or headmaster in the case of a nonpublic school.

(2) "School" means any public or nonpublic elementary, secondary, high school, vocational-technical school, college, special, or postsecondary school or institution, or university in this state.

(3) "School premises" means any property used for school purposes, including but not limited to school buildings, playgrounds, and parking lots.

(4) "School-sponsored function" means the specific designated area of the function, including but not limited to athletic competitions, dances, parties, or any extracurricular activity.

(5) "Student" means any person registered or enrolled at a school as defined in this Section.

(6) "Teacher" shall include any teacher or instructor, administrator, staff person, teacher aide, paraprofessional, school bus driver, food service worker, and other clerical, custodial, or maintenance personnel employed by any public or nonpublic elementary, secondary, high school, vocational-technical school, college, special, or postsecondary school or institution, or university in this state.

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

D. Nothing herein shall be construed to prevent lawful assembly and orderly petition for the redress of grievances, including any labor dispute between any school or institution of higher learning and its employees, or contractor or subcontractor or any employees thereof. Nothing herein shall apply to a bona fide labor organization or its legal activities such as picketing, assembly, or concerted activities in the interest of its members for the purpose of securing better wages, hours, or working conditions.

Acts 2009, No. 302, §1.

§40.7. Cyberbullying

A. Cyberbullying is the transmission of any electronic textual, visual, written, or oral communication with the malicious and willful intent to coerce, abuse, torment, or intimidate a person under the age of eighteen.

B. For purposes of this Section:

(1) "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.

(2) "Electronic textual, visual, written, or oral communication" means any communication of any kind made through the use of a computer online service, Internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or online messaging service.

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

C. An offense committed pursuant to the provisions of this Section may be deemed to have been committed where the communication was originally sent, originally received, or originally viewed by any person.

D.(1) Except as provided in Paragraph (2) of this Subsection, whoever commits the crime of cyberbullying shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

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

E. 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.

F. The provisions of this Section shall not be construed to prohibit or restrict religious free speech pursuant to Article I, Section 8 of the Constitution of Louisiana.

Acts 2010, No. 989, §1.

SUBPART C. RAPE AND SEXUAL BATTERY

§41. Rape; defined

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

B. Emission is not necessary, and any sexual penetration, when the rape involves vaginal or anal intercourse, however slight, is sufficient to complete the crime.

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

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

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

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

§42. Aggravated rape

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

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

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

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

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

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

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

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

(1) Commit the act of rape.

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

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

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

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

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

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

(a) And if the district attorney seeks a capital verdict, the offender shall be punished by death or life imprisonment at hard labor without benefit of parole, probation, or suspension of

sentence, in accordance with the determination of the jury. The provisions of C.Cr.P. Art. 782 relative to cases in which punishment may be capital shall apply.

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

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

§42.1. Forcible rape

A. Forcible rape is rape committed when the anal, oral, or vaginal sexual intercourse is deemed to be without the lawful consent of the victim because it is committed under any one or more of the following circumstances:

(1) When the victim is prevented from resisting the act by force or threats of physical violence under circumstances where the victim reasonably believes that such resistance would not prevent the rape.

(2) When 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 a narcotic or anesthetic agent or other controlled dangerous substance administered by the offender and without the knowledge of the victim.

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

Acts 1978, No. 239, §1. Acts 1984, No. 569, §1; Acts 1997, No. 862, §1; Acts 2001, No. 301, §1.

§43. Simple rape

A. Simple rape is a rape committed when the anal, oral, or vaginal sexual intercourse is deemed to be without the lawful consent of a victim because it is committed under any one or more of the following circumstances:

(1) When the victim is incapable of resisting or of understanding the nature of the act by reason of a stupor or abnormal condition of mind produced by an intoxicating agent or any cause and the offender knew or should have known of the victim's incapacity.

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

(3) When the female victim submits under the belief that the person committing the act is her husband and such belief is intentionally induced by any artifice, pretense, or concealment practiced by the offender.

B. Whoever commits the crime of simple rape shall be imprisoned, with or without hard labor, without benefit of parole, probation, or suspension of sentence, for not more than twenty-five years.

Acts 1978, No. 239, §1; Acts 1990, No. 722, §1; Acts 1995, No. 946, §2; Acts 1997, No. 862, §1; Acts 2001, No. 131, §1; Acts 2001, No. 301, §1; Acts 2003, No. 232, §1; Acts 2003, No. 759, §1; Acts 2010, No. 359, §1.

§43.1. Sexual battery

A. Sexual battery is the intentional touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender, or 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, when any of the following occur:

(1) The offender acts without the consent of the victim.

(2) The act is consensual but the other person, who is not the spouse of the offender, has not yet attained fifteen years of age and is at least three years younger than the offender.

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

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

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

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

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

B. Lack of knowledge of the victim's age shall not be a defense. However, normal medical treatment or normal sanitary care shall not be construed as an offense under the provisions of this Section.

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

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

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

(4) Upon completion of the term of imprisonment imposed in accordance with Paragraphs (2) and (3) 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.

(5) 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.

(6) 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.

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

Acts 1978, No. 239, §1. Amended by Acts 1981, No. 624, §1, eff. July 20, 1981; Acts 1984, No. 924, §1; Acts 1991, No. 654, §1; Acts 1995, No. 946, §2; Acts 2003, No. 232, §1; Acts 2006, No. 103, §1; Acts 2008, No. 33, §1; Acts 2011, No. 67, §1.

§43.2. Second degree sexual battery

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

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

(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.

B. For the purposes of this Section, serious bodily injury means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

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

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

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

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

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

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

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

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

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

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

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

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

§43.3. Oral sexual battery

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§43.4. Female genital mutilation

A. A person is guilty of female genital mutilation when any of the following occur:

(1) The person knowingly circumcises, excises, or infibulates the whole or any part of the labia majora, labia minora, or clitoris of a female minor.

(2) The parent, guardian, or other person legally responsible or charged with the care or custody of a female minor allows the circumcision, excision, or infibulation, in whole or in part, of such minor's labia majora, labia minora, or clitoris.

(3) The person knowingly removes or causes or permits the removal of a female minor from this state for the purpose of circumcising, excising, or infibulating, in whole or in part, the labia majora, labia minora, or clitoris of such female.

B. It shall not be a defense to prosecution for a violation of this Section that the conduct described in Subsection A of this Section is required as a matter of custom, ritual, or religious practice, or that the minor on whom it is performed, or the minor's parent or legal guardian, consented to the procedure.

C. If the action described in Subsection A of this Section is performed by a licensed physician during a surgical procedure, it shall not be a violation of this Section if either of the following is true:

(1) The procedure is necessary to the physical health of the minor on whom it is performed.

(2) The procedure is performed on a minor who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth.

D. Whoever commits the crime of female genital mutilation shall be punished by imprisonment, with or without hard labor, for not more than fifteen years.

Acts 2012, No. 207, §1.

§43.5. Intentional exposure to AIDS virus

A. No person shall intentionally expose another to any acquired immunodeficiency syndrome (AIDS) virus through sexual contact without the knowing and lawful consent of the victim.

B. No person shall intentionally expose another to any acquired immunodeficiency syndrome (AIDS) virus through any means or contact without the knowing and lawful consent of the victim.

C. No person shall intentionally expose a police officer to any AIDS virus through any means or contact without the knowing and lawful consent of the police officer when the offender has reasonable grounds to believe the victim is a police officer acting in the performance of his duty.

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

(1) "Means or contact" is defined as spitting, biting, stabbing with an AIDS contaminated object, or throwing of blood or other bodily substances.

(2) "Police officer" includes a commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife enforcement agent, and probation and parole officer.

E.(1) Whoever commits the crime of intentional exposure to AIDS virus shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than ten years, or both.

(2) Whoever commits the crime of intentional exposure to AIDS virus against a police officer shall be fined not more than six thousand dollars, imprisoned with or without hard labor for not more than eleven years, or both.

Acts 1987, No. 663, §1; Acts 1993, No. 411, §1.

§43.6. Administration of medroxyprogesterone acetate (MPA) to certain sex offenders

A. Notwithstanding any other provision of law to the contrary, upon a first conviction of R.S. 14:42 (aggravated rape), R.S. 14:42.1 (forcible rape), R.S. 14:43.2 (second degree sexual battery), R.S. 14:78.1 (aggravated incest), R.S. 14:81.2(D)(1) (molestation of a juvenile when the victim is under the age of thirteen), and R.S. 14:89.1 (aggravated crime against nature), the court may sentence the offender to be treated with medroxyprogesterone acetate (MPA), according to a schedule of administration monitored by the Department of Public Safety and Corrections.

B.(1) Notwithstanding any other provision of law to the contrary, upon a second or subsequent conviction of R.S. 14:42 (aggravated rape), R.S. 14:42.1 (forcible rape), R.S. 14:43.2 (second degree sexual battery), R.S. 14:78.1 (aggravated incest), R.S. 14:81.2(D)(1) (molestation of a juvenile when the victim is under the age of thirteen), and R.S. 14:89.1 (aggravated crime against nature), the court shall sentence the offender to be treated with medroxyprogesterone acetate (MPA) according to a schedule of administration monitored by the Department of Public Safety and Corrections.

(2) If the court sentences a defendant to be treated with medroxyprogesterone acetate (MPA), this treatment may not be imposed in lieu of, or reduce, any other penalty prescribed by law. However, in lieu of treatment with medroxyprogesterone acetate (MPA), the court may order the defendant to undergo physical castration provided the defendant file a written motion with the court stating that he intelligently and knowingly, gives his voluntary consent to physical castration as an alternative to the treatment.

C.(1) An order of the court sentencing a defendant to medroxyprogesterone acetate (MPA) treatment under this Section, shall be contingent upon a determination by a court appointed medical expert, that the defendant is an appropriate candidate for treatment. This determination shall be made not later than sixty days from the imposition of sentence. An order of the court sentencing a defendant to medroxyprogesterone acetate (MPA) treatment shall specify the duration of treatment for a specific term of years, or in the discretion of the court, up to the life of the defendant.

(2) In all cases involving defendants sentenced to a period of incarceration or confinement in an institution, the administration of treatment with medroxyprogesterone acetate (MPA) shall commence not later than one week prior to the defendant's release from prison or such institution.

(3) The Department of Public Safety and Corrections shall provide the services necessary to administer medroxyprogesterone acetate (MPA) treatment. Nothing in this Section shall be construed to require the continued administration of medroxyprogesterone acetate (MPA) treatment when it is not medically appropriate.

(4) If a defendant whom the court has sentenced to be treated with medroxyprogesterone acetate (MPA) fails to appear as required by the Department of Public Safety and Corrections for purposes of administering the medroxyprogesterone acetate (MPA) or who refuses to allow the administration of medroxyprogesterone acetate (MPA), then the defendant shall be charged with a violation of the provisions of this Section. Upon conviction, the offender shall be imprisoned, with or without hard labor, for not less than three years nor more than five years without benefit of probation, parole, or suspension of sentence.

(5) If a defendant whom the court has sentenced to be treated with medroxyprogesterone acetate (MPA) or ordered to undergo physical castration takes any drug or other substance to reverse the effects of the treatment, he shall be held in contempt of court.

Acts 2008, No. 441, §1, eff. June 25, 2008; Acts 2011, No. 67, §1.

SUBPART D. KIDNAPPING AND FALSE IMPRISONMENT

§44. Aggravated kidnapping

Aggravated kidnapping is the doing of any of the following acts with the intent thereby to force the victim, or some other person, to give up anything of apparent present or prospective value, or to grant any advantage or immunity, in order to secure a release of the person under the offender's actual or apparent control:

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

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

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

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

Amended by Acts 1980, No. 679, §1.

§44.1. Second degree kidnapping

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

(1) Used as a shield or hostage;

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

(3) Physically injured or sexually abused;

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

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

B. For purposes of this Section, kidnapping is:

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

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

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

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

Acts 1989, No. 276, §1.

§44.2. Aggravated kidnapping of a child

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

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

(2) Notwithstanding the provisions of Paragraph (1) of this Subsection, if the child is returned not physically injured or sexually abused, then the offender shall be punished in accordance with the provisions of R.S. 14:44.1.

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

§45. Simple kidnapping

A. Simple kidnapping is:

(1) The intentional and forcible seizing and carrying of any person from one place to another without his consent.

(2) The intentional taking, enticing or decoying away, for an unlawful purpose, of any child not his own and under the age of fourteen years, without the consent of its parent or the person charged with its custody.

(3) The intentional taking, enticing or decoying away, without the consent of the proper authority, of any person who has been lawfully committed to any orphan, insane, feeble-minded or other similar institution.

(4) The intentional taking, enticing or decoying away and removing from the state, by any parent of his or her child, from the custody of any person to whom custody has been awarded by any court of competent jurisdiction of any state, without the consent of the legal custodian, with intent to defeat the jurisdiction of the said court over the custody of the child.

(5) The taking, enticing or decoying away and removing from the state, by any person, other than the parent, of a child temporarily placed in his custody by any court of competent jurisdiction in the state, with intent to defeat the jurisdiction of said court over the custody of the child.

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

Amended by Acts 1962, No. 344, §1; Acts 1966, No. 253, §1; Acts 1980, No. 708, §1.

§45.1. Interference with the custody of a child

A. Interference with the custody of a child is the intentional taking, enticing, or decoying away of a minor child by a parent not having a right of custody, with intent to detain or conceal such child from a parent having a right of custody pursuant to a court order or from a person entrusted with the care of the child by a parent having custody pursuant to a court order.

It shall be an affirmative defense that the offender reasonably believed his actions were necessary to protect the welfare of the child.

B. Whoever commits the crime of interference with the custody of a child shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both. Costs of returning a child to the jurisdiction of the court shall be assessed against any defendant convicted of a violation of this Section, as court costs as provided by the Louisiana Code of Criminal Procedure.

Added by Acts 1981, No. 725, §1.

§46. False imprisonment

False imprisonment is the intentional confinement or detention of another, without his consent and without proper legal authority.

Whoever commits the crime of false imprisonment shall be fined not more than two hundred dollars, or imprisoned for not more than six months, or both.

§46.1. False imprisonment; offender armed with dangerous weapon

A. False imprisonment while armed with a dangerous weapon is the unlawful intentional confinement or detention of another while the offender is armed with a dangerous weapon.

B. Whoever commits the crime of false imprisonment while armed with a dangerous weapon shall be imprisoned, with or without hard labor, for not more than ten years.

Added by Acts 1982, No. 752, §1.

§46.2. Human trafficking

A. It shall be unlawful:

(1) For any person to knowingly recruit, harbor, transport, provide, solicit, obtain, or maintain the use of another person through fraud, force, or coercion to provide services or labor.

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

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

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

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

(3) Whoever commits the crime of human trafficking when the trafficking involves a person under the age of eighteen shall be fined not more than twenty-five thousand dollars and

shall be imprisoned at hard labor for not less than five nor more than twenty-five years, five years of which shall be without the benefit of parole, probation, or suspension of sentence.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

C. For purposes of this Section:

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

(2) "Fraud, force, or coercion" means any of the following:

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

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

(c) Intentionally destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person; or

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

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

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

Acts 2005, No. 187, §1; Acts 2010, No. 382, §1; Acts 2010, No. 763, §1; Acts 2011, No. 64, §1; Acts 2012, No. 446, §1.

§46.3. Trafficking of children for sexual purposes

A. It shall be unlawful:

(1) For any person to knowingly recruit, harbor, transport, provide, sell, purchase, obtain, or maintain the use of a person under the age of eighteen years for the purpose of engaging in commercial sexual activity.

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

(3) For any parent, legal guardian, or person having custody of a person under the age of eighteen years to knowingly permit or consent to such minor entering into any activity prohibited by the provisions of this Section.

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

(5) For any person to knowingly advertise any of the activities prohibited by this Section.

(6) For any person to knowingly sell or offer to sell travel services that include or facilitate any of the activities prohibited by this Section.

B. For purposes of this Section, "commercial sexual activity" means any sexual act performed or conducted when any thing of value has been given, promised, or received by any person.

C.(1) Consent of the minor shall not be a defense to a prosecution pursuant to the provisions of this Section.

(2) Lack of knowledge of the victim's age shall not be a defense to a prosecution pursuant to the provisions of this Section.

(3) It shall not be a defense to prosecution for a violation of this Section that the person being recruited, harbored, transported, provided, sold, purchased, obtained, or maintained is actually a law enforcement officer or peace officer acting within the official scope of his duties.

D.(1)(a) Whoever violates the provisions of Paragraph (A)(1), (2), (4), (5), or (6) of this Section shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen, nor more than fifty years, or both.

(b) Whoever violates the provisions of Paragraph (A)(1), (2), (4), (5), or (6) of this Section when the victim is under the age of fourteen years shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than twenty-five years nor more than fifty years. At least twenty-five years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

(c) Any person who violates the provisions of Paragraph (A)(1), (2), (4), (5), or (6) of this Section, who was previously convicted of a sex offense as defined in R.S. 15:541 when the victim of the sex offense was under the age of eighteen years, shall be fined not more than one hundred thousand dollars and shall be imprisoned at hard labor for not less than fifty years or for life. At least fifty years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(2) Whoever violates the provisions of Paragraph (A)(3) of this Section shall be required to serve at least five years of the sentence provided for in Subparagraph (D)(1)(a) of this Section without benefit of probation, parole, or suspension of sentence. Whoever violates the provisions of Paragraph (A)(3) when the victim is under the age of fourteen years shall be required to serve at least ten years of the sentence provided for in Subparagraph (D)(1)(b) of this Section without benefit of probation, parole, or suspension of sentence.

(3)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

E. No victim of trafficking as defined by the provisions of this Section shall be prosecuted for unlawful acts committed as a direct result of being trafficked.

F. The provisions of Chapter 1 of Title V of the Louisiana Children's Code regarding the multidisciplinary team approach applicable to children who have been abused or neglected, to the extent practical, shall apply to the children who are victims of the provisions of this Section.

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

Acts 2009, No. 375, §1; Acts 2010, No. 763, §1; Acts 2011, No. 64, §1; Acts 2012, No. 446, §1.

SUBPART E. DEFAMATION

§47. Defamation

Defamation is the malicious publication or expression in any manner, to anyone other than the party defamed, of anything which tends:

(1) To expose any person to hatred, contempt, or ridicule, or to deprive him of the benefit of public confidence or social intercourse; or

(2) To expose the memory of one deceased to hatred, contempt, or ridicule; or

(3) To injure any person, corporation, or association of persons in his or their business or occupation.

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

Amended by Acts 1968, No. 647, §1.

§48. Presumption of malice

Where a non-privileged defamatory publication or expression is false it is presumed to be malicious unless a justifiable motive for making it is shown.

Where such a publication or expression is true, actual malice must be proved in order to convict the offender.

§49. Qualified privilege

A qualified privilege exists and actual malice must be proved, regardless of whether the publication is true or false, in the following situations:

(1) Where the publication or expression is a fair and true report of any judicial, legislative, or other public or official proceeding, or of any statement, speech, argument, or debate in the course of the same.

(2) Where the publication or expression is a comment made in the reasonable belief of its truth, upon,

(a) The conduct of a person in respect to public affairs; or

(b) A thing which the proprietor thereof offers or explains to the public.

(3) Where the publication or expression is made to a person interested in the communication, by one who is also interested or who stands in such a relation to the former as to afford a reasonable ground for supposing his motive innocent.

(4) Where the publication or expression is made by an attorney or party in a judicial proceeding.

§50. Absolute privilege

There shall be no prosecution for defamation in the following situations:

(1) When a statement is made by a legislator or judge in the course of his official duties.

(2) When a statement is made by a witness in a judicial proceeding, or in any other legal proceeding where testimony may be required by law, and such statement is reasonably believed by the witness to be relevant to the matter in controversy.

(3) Against the owner, licensee or operator of a visual or sound broadcasting station or network of stations or the agents or employees thereof, when a statement is made or uttered over such station or network of stations by one other than such owner, licensee, operator, agents or employees.

Amended by Acts 1950, No. 469, §1.

§50.2. Perpetration or attempted perpetration of certain crimes of violence against a victim sixty-five years of age or older

The court in its discretion may sentence, in addition to any other penalty provided by law, any person who is convicted of a crime of violence or of an attempt to commit any of the crimes as defined in R.S. 14:2(B) with the exception of first degree murder (R.S. 14:30), second degree murder (R.S. 14:30.1), aggravated assault (R.S. 14:37), aggravated rape (R.S. 14:42) and aggravated kidnapping (R.S. 14:44), to an additional three years' imprisonment when the victim of such crime is sixty-five years of age or older at the time the crime is committed.

Acts 2001, No. 648, §1.

PART III. OFFENSES AGAINST PROPERTY
SUBPART A. BY VIOLENCE TO BUILDINGS AND OTHER PROPERTY
1. ARSON AND USE OF EXPLOSIVES

§51. Aggravated arson

Aggravated arson is the intentional damaging by any explosive substance or the setting fire to any structure, watercraft, or movable whereby it is foreseeable that human life might be endangered.

Whoever commits the crime of aggravated arson shall be imprisoned at hard labor for not less than six nor more than twenty years, and shall be fined not more than twenty-five thousand dollars. Two years of such imprisonment at hard labor shall be without benefit of parole, probation, or suspension of sentence.

Amended by Acts 1964, No. 117, §1; Acts 1977, No. 53, §1; Acts 1981, No. 297, §1.

§51.1. Injury by arson

A. Injury by arson is the intentional damaging by any explosive substance or the setting fire to any structure, watercraft, or other movable belonging to another if either of the following occurs:

(1) Any person suffers great bodily harm, permanent disability, or disfigurement as a result of the fire or explosion.

(2) A firefighter, law enforcement officer or first responder who is present at the scene and acting in the line of duty is injured as a result of the fire or explosion.

B. Whoever commits the crime of injury by arson shall be imprisoned at hard labor for not less than six nor more than twenty years, and shall be fined not more than twenty-five thousand dollars. Two years of such imprisonment at hard labor shall be without benefit of parole, probation, or suspension of sentence.

Acts 2010, No. 972, §1.

§52. Simple arson

A. Simple arson is either of the following:

(1) The intentional damaging by any explosive substance or the setting fire to any property of another, without the consent of the owner and except as provided in R.S. 14:51.

(2) The starting of a fire or causing an explosion while the offender is engaged in the perpetration or attempted perpetration of another felony offense even though the offender does not have the intent to start a fire or cause an explosion.

B. Whoever commits the crime of simple arson, where the damage done amounts to five hundred dollars or more, shall be fined not more than fifteen thousand dollars and imprisoned at hard labor for not less than two years nor more than fifteen years.

C. Where the damage is less than five hundred dollars, the offender shall be fined not more than twenty-five hundred dollars or imprisoned with or without hard labor for not more than five years, or both.

Acts 1985, No. 300, §1; Acts 2010, No. 818, §1

§52.1. Simple arson of a religious building

A. Simple arson of a religious building is the intentional damaging, by any explosive substance or by setting fire, of any church, synagogue, mosque, or other building, structure, or place primarily used for religious worship or other religious purpose.

B. Whoever commits the crime of simple arson of a religious building shall be fined not more than fifteen thousand dollars and imprisoned at hard labor for not less than two nor more than fifteen years. At least two years of the sentence of imprisonment shall be imposed without benefit of parole, probation, or suspension of sentence.

Acts 1997, No. 404, §1; Acts 1997, No. 1362, §1.

§53. Arson with intent to defraud

Arson with intent to defraud is the setting fire to, or damaging by any explosive substance, any property, with intent to defraud.

Whoever commits the crime of arson with intent to defraud shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

Amended by Acts 1980, No. 708, §1.

§54.1. Communicating of false information of planned arson

A. Communicating of false information of arson or attempted arson is the intentional impartation or conveyance, or causing the impartation or conveyance by the use of the mail, telephone, telegraph, word of mouth, or other means of communication, of any threat or false information knowing the same to be false, including bomb threats or threats involving fake explosive devices, concerning an attempt or alleged attempt being made, or to be made, to commit either aggravated or simple arson.

B. Whoever commits the crime of communicating of false information of arson or attempted arson shall be imprisoned at hard labor for not more than twenty years.

Added by Acts 1970, No. 184, §1; Acts 1990, No. 321, §1.

§54.2. Manufacture and possession of delayed action incendiary devices; penalty

It shall be unlawful for any person, without proper license as required by R.S. 40:1471.1 et seq. to knowingly and intentionally possess or have under his control any instrument, device, chemical or explosive substance which is arranged, manufactured, mixed, or so made up as to be a device or substance which, when exposed to heat, humidity, air, or foreign elements, will after prolongation of time burst into flame, ignite, cause to be ignited, or explode.

This section shall not apply to fireworks possessed within the meaning and contemplation of R.S. 51:650 et seq.

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

Added by Acts 1970, No. 659, §1. Amended by Acts 1974, No. 374, §1; Acts 1979, No. 654, §1.

§54.3. Manufacture and possession of a bomb

A. It shall be unlawful for any person without proper license as required by R.S. 40:1471.1 et seq. knowingly and intentionally to manufacture, possess, or have under his control any bomb.

B. A "bomb", for the purposes of this Section, is defined as an explosive compound or mixture with a detonator or initiator, or both, but does not include small arms ammunition. The term "bomb", as used herein, shall also include any of the materials listed in Subsection C present in an unassembled state but which could, when assembled, be ignited in the same manner as described in Subsection C, when possessed with intent to manufacture or assemble a bomb.

C. As used herein the term "explosive" means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses (other than electric circuit breakers), detonators, and other detonating agents, smokeless powders, and any chemical compounds, mechanical mixture, or device that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities, or packing that ignition by fire, by friction, by concussion, by percussion, or by detonation of the compound, mixture, or device or any part thereof may cause an explosion.

D. This Section shall not apply to fireworks possessed within the meaning and contemplation of R.S. 51:650 et seq.

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

Added by Acts 1974, No. 375, §1. Amended by Acts 1979, No. 654, §1; Acts 1988, No. 369, §1.

§54.4. Forfeitures

A. The following contraband shall be subject to seizure and forfeiture and no property right shall exist therein:

(1) Any instrument, device, chemical or explosive substance which is arranged, manufactured, mixed or so made up as to be a device or substance which, when exposed to heat, humidity, air or foreign elements will after prolongation of time burst into flame, ignite, cause to be ignited or explode, or raw materials used or intended to be used in the manufacture of such instrument, device, chemical or explosive substance;

(2) Any bomb as proscribed and defined in R.S. 14:54.3;

(3) All property which is used, or intended for use as a container for property described in Paragraphs (1) and (2) of this Subsection;

(4) All conveyances including aircraft, vehicles, or vessels, which are used or intended for use, to transport, or in any manner to facilitate the transportation, possession, production, manufacture, dispensation or concealment of property described in Paragraphs (1) and (2) of this Subsection, except that:

(a) No conveyance used by any person as a common carrier in transaction of business as a common carrier shall be seized or forfeited under the provisions of this Section unless it shall appear that the owner or other person in charge of such conveyance was knowingly and intentionally a consenting party or privy to a violation of R.S. 14:54.2 and 54.3; and

(b) No vessel, vehicle or aircraft shall be seized or forfeited under the provisions of this Section by reason of any act or omission established by the owner thereof to have been committed or omitted, without the owner's knowledge, consent, or permission by any person other than such owner while such vessel, vehicle or aircraft was in the possession of such person.

B. Any property subject to forfeiture under this Section may be seized under process issued by any court of record having jurisdiction over the property except that seizure without such process may be made when:

(1) 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;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this Section.

C. After seizure, all conveyances taken or detained under this Section shall be immediately returned to the owner when the charges of violating R.S. 14:54.2 and 54.3 in which the conveyance was involved are dismissed by the district attorney or dismissed by the district court, on the basis of a preliminary hearing or other preliminary proceedings, or when the accused is acquitted following a trial in the district court of the parish in which the violation is alleged to have occurred. Vehicles seized under this Section shall be forfeited upon:

(1) A showing by the district attorney of a conviction for a violation under which seizure is authorized by this Section; and

(2) A showing by the district attorney that the seizure was made incident to an arrest with probable cause or a search under a valid search warrant or with probable cause or an inspection under a valid administrative inspection warrant; and

(3) A showing by the district attorney that the owner of the conveyance was knowingly and intentionally a consent party or privy to a violation of R.S. 14:54.2 or R.S. 14:54.3.

D. Property taken or detained under this Section shall not be repleviable, but shall be deemed to be in the custody of the law enforcement agency making the seizure subject only to the orders and decrees of the court of record having jurisdiction thereof. Whenever property is seized under the provisions of this Section, the law enforcement officer or employee making the seizure shall:

(1) Place the property under seal;

(2) Remove the property to a place designated by the valid warrant under which such property was seized; or

(3) Request that the Department of Public Safety take custody of the property and remove it to an appropriate location for disposition in accordance with law.

E. Whenever property is forfeited under this Section, the law enforcement agency making the seizure may:

(1) Retain the property for official use except the conveyances described in R.S. 14:54.4(A)(4); or

(2) Sell any forfeited property, which is not required to be destroyed by law and which is not harmful to the public, provided that the proceeds be used for payment of all costs of the proceedings for forfeiture and sale including expenses of seizure, maintenance of custody, advertising, and court costs; or

(3) Request that the Department of Public Safety take custody of the property and remove it for disposition in accordance with law.

F. Any law enforcement agency is empowered to authorize, or designate officers, agents, or other persons to carry out the seizure provisions of this Section.

G. The district attorney within whose jurisdiction the vessel, vehicle, or aircraft or other property has been seized because of its use, attempted use in violation of R.S. 14:54.2 or R.S. 14:54.3, shall proceed against the vessel, vehicle, or aircraft or other property as provided in Subsection C in the district court having jurisdiction over the offense and have it forfeited to the use of or the sale by the law enforcement agency making the seizure.

H. Where it appears by affidavit that the residence of the owner of the vessel, vehicle, aircraft or other property is out of state or is unknown to the district attorney, the court shall appoint an attorney at law to represent the absent owner, against whom the rule shall be tried contradictorily within ten days after its filing. This affidavit may be made by the district attorney or one of his assistants. The attorney so appointed may waive service and citation of the petition or rule but shall not waive time nor any legal defenses.

I. Whenever the head of the law enforcement agency effecting the forfeiture deems it necessary or expedient to sell the property forfeited, rather than retain it for the use of the law enforcement agency, he shall cause an advertisement to be inserted in the official journal of the parish where the seizure was made, and after ten days, shall dispose of said property at public auction to the highest bidder, for cash and without appraisal.

J. The proceeds of all funds collected from any such sale, except as provided in R.S. 14:54.4(E)(2), shall be paid into the state treasury.

K. The rights of any mortgage or lien holder or holder of a vendor's privilege on the property seized shall not be affected by the seizure.

Added by Acts 1979, No. 494, §1.

§54.5. Fake explosive device

A. It shall be unlawful for any person to manufacture, possess, have under his control, buy, sell, mail, send to another person, or transport a fake explosive device, if the offender knowingly and intentionally:

(1) Influences the official conduct or action of an official or any personnel of a public safety agency; or

(2) Threatens to use the fake explosive device while committing or attempting to commit any felony.

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

(1) A "fake explosive device" means any device or object that by its design, construction, content, or characteristics appears to be or to contain an explosive, an explosive compound or mixture with a detonator or initiator, or both, but is, in fact, an inoperative facsimile or imitation of such a destructive device, bomb, or explosive as defined in R.S. 14:54.3.

(2) A "public safety agency" means the Department of Public Safety and Corrections, a fire department, an emergency medical or rescue service, a law enforcement agency, or a volunteer agency organized to deal with emergencies.

C. Whoever violates the provisions of this Section shall be imprisoned at hard labor for not more than five years and shall be fined an amount equal to the costs of any law enforcement investigation or emergency response which results from the commission of the offense.

D. Provisions of this Section shall not apply to authorized military, police, and fire operations and training exercises.

Acts 1991, No. 832, §1, eff. July 23, 1991.

§54.6. Communicating of false information of planned bombing on school property, at a school-sponsored function, or in a firearm-free zone

A. The communicating of false information of a bombing threat on school property, at a school-sponsored function, or in a firearm-free zone whether or not such threat involves fake explosive devices is the intentional impartation or conveyance, or causing the impartation or conveyance by the use of the mail, telephone, telegraph, word of mouth, or other means of communication, of any such threat or false information knowing the same to be false.

B. Whoever commits the crime of communicating of false information of a planned bombing[1] on school property, at a school-sponsored function, or in a firearm-free zone as defined in R. S. 14:95.6(A) shall be imprisoned with or without hard labor for not more than twenty years. Upon commitment to the Department of Public Safety and Corrections after conviction for a crime committed on school property, at a school sponsored function or in a firearm-free zone, the department shall have the offender evaluated through appropriate examinations or tests conducted under the supervision of the department. Such evaluation shall be made within thirty days of the order of commitment.

C. For purposes of this Section, "at a school-sponsored function" means the specific designated area of the function, including but not limited to athletic competitions, dances, parties, or any extracurricular activity.

Acts 1999, No. 1236, §1.

[1]As appears in enrolled bill.

§55. Aggravated criminal damage to property

Aggravated criminal damage to property is the intentional damaging of any structure, watercraft, or movable, wherein it is foreseeable that human life might be endangered, by any means other than fire or explosion.

Whoever commits the crime of aggravated criminal damage to property shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not less than one nor more than fifteen years, or both.

Amended by Acts 1980, No. 708, §1

§56. Simple criminal damage to property

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

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

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

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

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

Amended by Acts 1981, No. 160, §1; Acts 2006, No. 84, §1; Acts 2008, No. 97, §1.

§56.1. Criminal damage to coin-operated devices

Criminal damage to a coin-operated device is the intentional damaging of any coin-operated device belonging to another.

Coin-operated device means any parking meter, pay telephone, vending machine, money-changing machine, or any other coin activated device designed to accept money for a privilege, service, or product.

For purposes of this Section, the value of damages shall be determined by the actual cost of repair, or replacement if necessary.

Whoever commits the crime of criminal damage to a coin-operated device, when the damage done amounts to one hundred dollars or more, shall be fined not more than two thousand dollars or imprisoned for not more than two years, or both.

Whoever commits the crime of criminal damage to a coin-operated device, when the damage amounts to a value of less than one hundred dollars shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Added by Acts 1980, No. 709, §1.

§56.2. Criminal damage of a pipeline facility

A. Criminal damage of a pipeline facility is the intentional damaging of a pipeline facility as defined in this Section.

B. For purposes of this Section, a pipeline facility shall include:

(1) Any pipeline, including but not limited to flow lines, transmission, distribution, or gathering lines regardless of size or length, which transmits or transports oil, gas, petrochemicals, minerals, or water in a solid, liquid, or gaseous state, and

(2) Any pipeline, flow line, transmission, distribution, or gathering line which meets the requirements of Paragraph (1) preceding and which is under construction or repair.

C. Whoever commits the crime of criminal damage of a pipeline facility may be imprisoned for not more than five years or fined not more than ten thousand dollars, or both.

D. Whoever commits the crime of criminal damage of a pipeline facility wherein it is foreseeable that human life might be threatened as a result of such conduct shall be imprisoned at hard labor for not less than two years nor more than ten years and shall be fined not more than ten thousand dollars.

Acts 1988, No. 3, §1, eff. May 20, 1988; Acts 2001, No. 403, §1, eff. June 15, 2001.

§56.3. Criminal damage to genetically engineered crops, genetically engineered crop facilities, or genetically engineered crop information

A. As used in this Section, the following words and phrases shall have the following meanings ascribed to them:

(1) "Crop" means any product which is grown for food or fiber, and includes food intended for human consumption, food intended for animal consumption, fiber intended for any purpose, and any other agricultural, silvicultural, or aquacultural crop.

(2) "Crop facility" means any greenhouse, enclosure, building, or other structure which is used in the production of crops.

(3) "Crop information" means any information about crops and includes records, documents, education materials, or other information concerning research on crops, testing of crops, and production of crops, whether the information is in handwritten, typewritten, printed, or in electronic form.

(4) "Genetically engineered crop" means any crop which has been altered genetically through selective breeding, interbreeding, crossbreeding, exposure to radiation, exposure to chemicals, introduction of genetic material, or by any other means or process.

B. Criminal damage to genetically engineered crops is the intentional damaging, by any means, of any genetically engineered crops which are owned by another person, without the consent of the owner.

C. Criminal damage to genetically engineered crop facilities is the intentional damaging, by any means of any facility used in the production, or storage, or analysis of any genetically engineered crops which are owned by another person, without the consent of the owner.

D. Criminal damage to genetically engineered crop information is the intentional damaging, by any means of any information concerning the production or analysis of any genetically engineered crops which are owned by another person, without the consent of the owner.

E. Whoever commits the crime of criminal damage to genetically engineered crops, or the crime of criminal damage to genetically engineered crop facilities, or the crime of criminal damage to genetically engineered crop information shall be fined not more than ten thousand dollars, or imprisoned, with or without hard labor, for not more than five years, or both. In addition, the court may order a convicted defendant to pay restitution to the victim.

Acts 2001, No. 1081, §1.

§56.4. Criminal damage to property by defacing with graffiti

A. It shall be unlawful for any person to intentionally deface with graffiti immovable or movable property, whether publicly or privately owned, without the consent of the owner.

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

(1) "Deface" or "defacing" is the damaging of immovable or movable property by means of painting, marking, scratching, drawing, or etching with graffiti.

(2) "Graffiti" includes but is not limited to any sign, inscription, design, drawing, diagram, etching, sketch, symbol, lettering, name, or marking placed upon immovable or movable property in such a manner and in such a location as to deface the property and be visible to the general public.

C. Whoever commits the crime of criminal damage to property by defacing with graffiti, where the damage is less than five hundred dollars, shall be fined not more than five hundred dollars or imprisoned for not more than six months in the parish jail, or both.

D. Where the damage is more than 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.

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

F.(1) The court, in addition to any punishment imposed under the provisions of this Section, may order the offender to clean up, repair, or replace any property damaged by the act or to pay restitution to the owner of the damaged property.

(2) The court may also order the offender to perform the following hours of community service:

(a) For a first conviction, not to exceed thirty-two hours over a period not to exceed one hundred eighty days.

(b) For a second or subsequent conviction, sixty-four hours over a period not to exceed one hundred eighty days.

G. If a minor is personally unable to pay a fine levied for acts prohibited by this Section or make restitution as may be ordered by the court, the parent or guardian of the minor shall be liable for payment of the fine or restitution. A court may waive payment of the fine or restitution, or any part thereof, by the parent or guardian of the minor upon a finding of good cause.

Acts 2008, No. 8, §1.

§56.5. Criminal damage to historic buildings or landmarks by defacing with graffiti

A. It shall be unlawful for any person to intentionally deface with graffiti any historic building or landmark, whether publicly or privately owned, without the consent of the owner.

B. As used in this Section, the following terms shall have the following meanings:

(1) "Deface" or "defacing" is the damaging of any historic building or landmark by means of painting, marking, scratching, drawing, or etching with graffiti.

(2) "Graffiti" includes but is not limited to any sign, inscription, design, drawing, diagram, etching, sketch, symbol, lettering, name, or marking placed upon any historic building or landmark in such a manner and in such a location as to deface the property and be visible to the general public.

(3) "Historic building or landmark" means any of the following:

(a) Any building or landmark specifically designated as historically significant by the state historic preservation office, historic preservation district commission, landmarks commission, the planning or zoning commission of a governing authority, or by official action of a local political subdivision.

(b) Any structure located within a National Register Historic District, a local historic district, a Main Street District, a cultural products district, or a downtown development district.

C.(1) Whoever commits the crime of criminal damage to historic buildings or landmarks by defacing with graffiti shall be fined up to one thousand dollars and may be imprisoned, with or without hard labor, for not more than two years.

(2) The court shall also order the offender to perform the following hours of community service as follows:

(a) For a first conviction, not to exceed thirty-two hours over a period not to exceed one hundred eighty days.

(b) For a second or subsequent conviction, sixty-four hours over a period not to exceed one hundred eighty days.

(3) The fine and community service imposed by the provisions of this Section shall not be suspended.

Acts 2010, No. 990, §1.

§57. Damage to property with intent to defraud

Damage to property with intent to defraud is the damaging of any property, by means other than fire or explosion, with intent to defraud.

Whoever commits the crime of damage to property with intent to defraud shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not more than four years, or both.

Amended by Acts 1980, No. 708, §1.

§58. Contaminating water supplies

Contaminating water supplies is the intentional performance of any act tending to contaminate any private or public water supply.

Whoever commits the crime of contaminating water supplies, when the act foreseeably endangers the life or health of human beings, shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than twenty years, or both.

Whoever commits the crime of contaminating water supplies, when the act does not foreseeably endanger the life or health of human beings, shall be fined not more than five hundred dollars, or imprisoned, with or without hard labor, for not more than five years, or both.

§59. Criminal mischief

A. Criminal mischief is the intentional performance of any of the following acts:

(1) Tampering with any property of another, without the consent of the owner, with the intent to interfere with the free enjoyment of any rights of anyone thereto, or with the intent to deprive anyone entitled thereto of the full use of the property.

(2) Giving of any false alarm of fire or notice which would reasonably result in emergency response.

(3) Driving of any tack, nail, spike or metal over one and one-half inch in length into any tree located on lands belonging to another, without the consent of the owner, or without the later removal of the object from the tree.

(4) The felling, topping, or pruning of trees or shrubs within the right-of-way of a state highway, without prior written approval of the chief engineer of the Department of Transportation and Development or his designated representative, provided prior written

approval is not required for agents or employees of public utility companies in situations of emergency where the person or property of others is endangered.

(5) Giving of any false report or complaint to a sheriff, or his deputies, or to any officer of the law relative to the commission of, or an attempt to commit, a crime.

(6) Throwing any stone or any other missile in any street, avenue, alley, road, highway, open space, public square, or enclosure, or throwing any stone, missile, or other object from any place into any street, avenue, road, highway, alley, open space, public square, enclosure, or at any train, railway car, or locomotive.

(7) Taking temporary possession of any part or parts of a place of business, or remaining in a place of business after the person in charge of such business or portion of such business has directed such person to leave the premises and to desist from the temporary possession of any part or parts of such business.

(8) The communication to any person for the purpose of disrupting any public utility water service, when the communication causes any officer, employee, or agent of the service reasonably to be placed in sustained fear for his or another person's safety, or causes the evacuation of a water service building, or causes any discontinuance of any water services.

(9) The discharging of any firearm at a train, locomotive, or railway car.

(10) Repealed by Acts 2008, No. 8, §2.

B. Whoever commits the crime of criminal mischief shall be fined not more than five hundred dollars, or be imprisoned for not more than six months in the parish jail, or both.

Amended by Acts 1956, No. 232, §1; Acts 1958, No. 174, §1; Acts 1960, No. 77, §1; Acts 1963, No. 97, §1; Acts 1968, No. 647, §1; Acts 1977, No. 126, §1; Acts 1983, No. 428, §1; Acts 1986, No. 164, §1; Acts 1994, 3rd Ex. Sess., No. 118, §1; Acts 1995, No. 882, §1; Acts 2006, No. 11, §1; Acts 2008, No. 8, §2.

3. BURGLARY

§60. Aggravated burglary

Aggravated burglary is the unauthorized entering of any inhabited dwelling, or of any structure, water craft, or movable where a person is present, with the intent to commit a felony or any theft therein, if the offender,

(1) Is armed with a dangerous weapon; or

(2) After entering arms himself with a dangerous weapon; or

(3) Commits a battery upon any person while in such place, or in entering or leaving such place.

Whoever commits the crime of aggravated burglary shall be imprisoned at hard labor for not less than one nor more than thirty years.

§61. Unauthorized entry of a critical infrastructure

A. Unauthorized entry of a critical infrastructure is the intentional entry by a person without authority into any structure or onto any premises, belonging to another, that constitutes in whole or in part a critical infrastructure that is completely enclosed by any type of physical barrier, including but not limited to: (1) chemical manufacturing facilities; (2) refineries; (3) electrical power generating facilities; (4) water intake structures and water treatment facilities; (5) natural gas transmission compressor stations; (6) LNG terminals and storage facilities; and (7) transportation facilities, such as ports, railroad switching yards, and trucking terminals.

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

C. Nothing in this Section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances, including but not limited to any labor dispute between any employer and its employee.

Acts 2004, No. 157, §1, eff. June 10, 2004.

§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. 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.

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

§62.1. Simple burglary of a pharmacy

A. Simple burglary of a pharmacy is the unauthorized entry of any building, warehouse, physician's office, hospital, pharmaceutical house, or other structure used in whole or in part for

the sale, storage and/or dispensing of controlled dangerous substances, as defined in R.S. 40:961(7), with the intent to commit the theft of any drug which is defined as a controlled dangerous substance in R.S. 40:961(7) other than set forth in R.S. 14:60.

B. Whoever commits the crime of burglary of a pharmacy shall be imprisoned at hard labor for not less than one nor more than ten years. At least one year of the sentence shall be imposed without benefit of parole, probation, or suspension of sentence.

C. On a second or subsequent conviction, the offender shall be imprisoned at hard labor for not less than two nor more than twelve years. At least two years of the sentence shall be imposed without benefit of parole, probation, or suspension of sentence.

Added by Acts 1974, No. 535, §1; Acts 2001, No. 403, §1, eff. June 15, 2001; Acts 2006, No. 177, §1.

§62.2. Simple burglary of an inhabited dwelling

Simple burglary of an inhabited home is the unauthorized entry of any inhabited dwelling, house, apartment or other structure used in whole or in part as a home or place of abode by a person or persons with the intent to commit a felony or any theft therein, other than as set forth in Article 60.

Whoever commits the crime of simple burglary of an inhabited dwelling shall be imprisoned at hard labor for not less than one year, without benefit of parole, probation or suspension of sentence, nor more than twelve years.

Added by Acts 1978, No. 745, §1.

§62.3. Unauthorized entry of an inhabited dwelling

A. Unauthorized entry of an inhabited dwelling is the intentional entry by a person without authorization into any inhabited dwelling or other structure belonging to another and used in whole or in part as a home or place of abode by a person.

B. Whoever commits the crime of unauthorized entry of an inhabited dwelling shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than six years, or both.

Added by Acts 1983, No. 285, §1.

§62.4. Unauthorized entry of a place of business

A. Unauthorized entry of a place of business is the intentional entry by a person without authority into any structure or onto any premises, belonging to another, that is completely enclosed by any type of physical barrier that is at least six feet in height and used in whole or in part as a place of business.

B. Whoever commits the crime of unauthorized entry of a place of business shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than six years, or both.

Acts 1986, No. 635, §1; Acts 1999, No. 803, §1.

§62.5. Looting

A. Looting is the intentional entry by a person without authorization into any dwelling or other structure belonging to another and used in whole or in part as a home or place of abode by a person, or any structure belonging to another and used in whole or in part as a place of business, or any vehicle, watercraft, building, plant, establishment, or other structure, movable or immovable, in which normal security of property is not present by virtue of a hurricane, flood, fire, act of God, or force majeure of any kind, or by virtue of a riot, mob, or other human agency, and the obtaining or exerting control over or damaging or removing property of the owner.

B. Whoever commits the crime of looting shall be fined not more than ten thousand dollars or imprisoned at hard labor for not more than fifteen years, or both.

C. Whoever commits the crime of looting during the existence of a state of emergency, which has been declared pursuant to law by the governor or the chief executive officer of any parish, may be fined not less than five thousand dollars nor more than ten thousand dollars and shall be imprisoned at hard labor for not less than three years nor more than fifteen years without benefit of probation, parole, or suspension of sentence.

Acts 1993, No. 667, §1; Acts 2005, No. 208, §1; Acts 2006, No. 165, §1.

§62.6. Simple burglary of a religious building

A. Simple burglary of a religious building is the unauthorized entering of any church, synagogue, mosque, or other building, structure, or place primarily used for religious worship or other religious purpose with the intent to commit a felony or any theft therein, other than as set forth in R.S. 14:60.

B. Whoever commits the crime of simple burglary of a religious building shall be fined not more than two thousand dollars and imprisoned with or without hard labor for not less than two years nor more than twelve years. At least two years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence.

Acts 1997, No. 405, §1.

§62.7. Unauthorized entry of a dwelling during an emergency or disaster

A.(1) Unauthorized entry of a dwelling during an emergency or disaster is the intentional entry by a person without authorization into any dwelling or other structure belonging to another and used in whole or in part as a home or place of abode by a person when the dwelling or other structure is located in a parish where the governor has declared a disaster or emergency pursuant to the provisions of the Louisiana Homeland Security and Emergency Assistance and Disaster Act (R.S. 29:721 et seq.).

(2) The provisions of this Section shall not apply to the following:

(a) Any law enforcement or rescue personnel providing rescue or emergency disaster services.

(b) Any person entering a dwelling for the purposes of survival or awaiting evacuation or rescue within seventy-two hours of the occurrence of the disaster or emergency which resulted in the declaration of disaster or emergency.

B. Whoever commits the crime of unauthorized entry of a dwelling during an emergency or disaster shall be fined not more than one thousand five hundred dollars or imprisoned with or without hard labor for not more than one year, or both.

Acts 2006, No. 199, §1.

§62.8. Home invasion

A. Home invasion is the unauthorized entering of any inhabited dwelling, or other structure belonging to another and used in whole or in part as a home or place of abode by a person, where a person is present, with the intent to use force or violence upon the person of another or to vandalize, deface, or damage the property of another.

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

(2) Whoever commits the crime of home invasion while armed with a dangerous weapon shall be fined not more than seven thousand dollars and shall be imprisoned at hard labor for not more than thirty years.

(3) Whoever commits the crime of home invasion when, at the time of the unauthorized entering, there is present in the dwelling or structure any person who is under the age of twelve years, is sixty-five years of age or older, or who has a developmental disability as defined in R.S. 28:451.2, shall be fined not more than ten thousand dollars and shall be imprisoned at hard labor for not less than ten nor more than twenty-five years. At least ten years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

Acts 2008, No. 6, §1; Acts 2010, No. 524, §1; Acts 2012, No. 370, §1.

§62.9. Simple burglary of a law enforcement or emergency vehicle

A. Simple burglary of a law enforcement or emergency vehicle is the unauthorized entering of any law enforcement or emergency vehicle with the intent to commit a felony or any theft therein.

B. For the purposes of this Section, "law enforcement or emergency vehicle" means a marked vehicle with fully visual and audible warning signals operated by a fire department, a state, parish, or municipal police department, a sheriff's office, or such ambulances and emergency medical response vehicles certified by the Department of Health and Hospitals that are operated by certified ambulance services, and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the secretary of the Department of Transportation and Development, or by the chief of police of any incorporated municipality.

C. Whoever commits the crime of simple burglary of a law enforcement or emergency vehicle shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not more than twenty years, or both.

Acts 2010, No. 972, §1.

4. CRIMINAL TRESPASS

§63. Criminal trespass

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§63.3. Entry on or remaining in places or on land after being forbidden

A. No person shall without authority go into or upon or remain in or upon or attempt to go into or upon or remain in or upon any structure, watercraft, or any other movable, or immovable property, which belongs to another, including public buildings and structures, ferries, and bridges, or any part, portion, or area thereof, after having been forbidden to do so, either orally or in writing, including by means of any sign hereinafter described, by any owner, lessee, or custodian of the property or by any other authorized person. For the purposes of this Section, the above mentioned sign means a sign or signs posted on or in the structure, watercraft, or any other movable, or immovable property, including public buildings and structures, ferries and bridges, or part, portion or area thereof, at a place or places where such sign or signs may be reasonably expected to be seen.

B. Whoever violates the provisions of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars or imprisoned in the parish jail for not more than six months, or both.

Added by Acts 1960, No. 78, §1. Amended by Acts 1963, No. 91, §1; Acts 1968, No. 647, §1; Acts 1977, No. 445, §1; Acts 1978, No. 694, §1.

§63.4. Aiding and abetting others to enter or remain on premises where forbidden

A. No person shall incite, solicit, urge, encourage, exhort, instigate, or procure any other person to go into or upon or to remain in or upon any structure, watercraft, or any other movable which belongs to another, including public buildings and structures, ferries, and bridges, or any part, portion, or area thereof, knowing that such other person has been forbidden to go or remain there, either orally or in writing, including by means of any sign hereinafter described, by the owner, lessee, or custodian of the property or by any other authorized person.

For the purposes of this Section, the above mentioned sign means a sign or signs posted on or in the structure, watercraft or any other movable, including public buildings and structures, ferries and bridges, or part, portion or area thereof, at a place or places where such sign or signs may be reasonably expected to be seen.

B. Any law enforcement officer investigating a complaint that the provisions of this Section are being or have been violated or any such officer making any arrest for violation of the provisions of this Section, is hereby vested with authority to require any person involved in such investigation or arrest to identify himself to such officer. Upon

demand of such officer, the person involved shall inform the officer of his true name and address.

C. Whoever violates the provisions of Sub-section A or Sub-section B above, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars or be imprisoned in the parish jail for not more than six months, or both.

Added by Acts 1960, No. 79, §1. Amended by Acts 1963, No. 99, §1; Acts 1968, No. 647, §1; Acts 1977, No. 445, §1.

SUBPART B. BY MISAPPROPRIATION WITH VIOLENCE TO THE PERSON

§64. Armed robbery

A. Armed robbery is the taking of anything of value belonging to another from the person of another or that is in the immediate control of another, by use of force or intimidation, while armed with a dangerous weapon.

B. Whoever commits the crime of armed robbery shall be imprisoned at hard labor for not less than ten years and for not more than ninety-nine years, without benefit of parole, probation, or suspension of sentence.

Amended by Acts 1958, No. 380, §1; Acts 1962, No. 475, §1; Acts 1966, Ex. Sess., No. 5, §1; Acts 1983, No. 70, §1; Acts 1999, No. 932, §1, eff. July 9, 1999.

§64.1. First degree robbery

A. First degree robbery is the taking of anything of value belonging to another from the person of another, or that is in the immediate control of another, by use of force or intimidation, when the offender leads the victim to reasonably believe he is armed with a dangerous weapon.

B. Whoever commits the crime of first degree robbery shall be imprisoned at hard labor for not less than three years and for not more than forty years, without benefit of parole, probation or suspension of imposition or execution of sentence.

Added by Acts 1983, No. 533, §1.

§64.2. Carjacking

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

B. Whoever commits the crime of carjacking shall be imprisoned at hard labor for not less than two years and for not more than twenty years, without benefit of parole, probation, or suspension of sentence.

Acts 1993, No. 488, §1.

§64.3. Armed robbery; attempted armed robbery; use of firearm; additional penalty

A. When the dangerous weapon used in the commission of the crime of armed robbery is a firearm, the offender shall be imprisoned at hard labor for an additional period of five years without benefit of parole, probation, or suspension of sentence. The additional penalty imposed pursuant to this Subsection shall be served consecutively to the sentence imposed under the provisions of R.S. 14:64.

B. When the dangerous weapon used in the commission of the crime of attempted armed robbery is a firearm, the offender shall be imprisoned at hard labor for an additional period of

five years without benefit of parole, probation, or suspension of sentence. The additional penalty imposed pursuant to this Subsection shall be served consecutively to the sentence imposed under the provisions of R.S. 14:27 and 64.

Acts 1999, No. 932, §1, eff. July 9, 1999; Acts 2003, No. 679, §1; Acts 2006, No. 208, §1.

§64.4. Second degree robbery

A.(1) Second degree robbery is the taking of anything of value belonging to another from the person of another or that is in the immediate control of another when the offender intentionally inflicts serious bodily injury.

(2) For purposes of this Section, "serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

B. Whoever commits the crime of second degree robbery shall be imprisoned at hard labor for not less than three years and for not more than forty years.

Acts 2001, No. 347, §1; Acts 2004, No. 651, §1.

§65. Simple robbery

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

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

Acts 1983, No. 70, §1.

§65.1. Purse snatching

A. Purse snatching is the theft of anything of value contained within a purse or wallet at the time of the theft, from the person of another or which is in the immediate control of another, by use of force, intimidation, or by snatching, but not armed with a dangerous weapon.

B. Whoever commits the crime of purse snatching shall be imprisoned, with or without hard labor, for not less than two years and for not more than twenty years.

Added by Acts 1979, No. 645, §1.

§66. Extortion

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

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

(2) A threat to accuse the individual threatened or any member of his family or any other person held dear to him of any crime.

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

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

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

(6) A threat to do any other harm.

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

Acts 2011, No. 243, §1.

SUBPART C. BY MISAPPROPRIATION WITHOUT VIOLENCE

§67. Theft

A. Theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of whatever may be the subject of the misappropriation or taking is essential.

B.(1) Whoever commits the crime of theft when the misappropriation or taking amounts to a value of one thousand five hundred dollars or more shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than three thousand dollars, or both.

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

(3) When the misappropriation or taking amounts to less than a value of five hundred dollars, the offender shall be imprisoned for not more than six months, or may be fined not more than one thousand dollars, or both. If the offender in such cases has been convicted of theft two or more times previously, upon any subsequent conviction he shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than two thousand dollars, or both.

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

D. Repealed by Acts 2001, No. 944, §4.

Acts 1990, No. 118, §1; Acts 1999, No. 338, §1; Acts 1999, No. 1251, §1; Acts 2001, No. 944, §4; Acts 2006, No. 82, §1; Acts 2010, No. 585, §1.

67.1. Theft of livestock

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

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

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

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

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

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

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

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

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

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

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

G. Whenever there is a prosecution under this Section as a second or third offense not more than one offense committed prior to the enactment of this Section may be used to establish the second or third offense as the case may be.

Added by Acts 1950, No. 173, §1. Amended by Acts 1956, No. 154, §1; Acts 1975, No. 611, §1; Acts 1978, No. 222, §1; Acts 1979, No. 184, §1; Acts 1981, No. 165, §1; Acts 2003, No. 115, §1, eff. May 28, 2003; Acts 2008, No. 920, §2, eff. July 14, 2008.

§67.2. Theft of animals

A. Theft of animals is the misappropriation, killing, or taking of any animal which belongs to another, either without consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of the animal or an intent to ransom it for the purpose of extorting money or favor is essential.

B.(1) Whoever commits the crime of theft of animals, when the misappropriation or taking amounts to a value of one thousand five hundred dollars or more, shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than three thousand dollars, or both.

(2) When the misappropriation or taking amounts to a value of five hundred dollars or more, but less than a value of one thousand five hundred dollars, the offender shall be

imprisoned, with or without hard labor, for not more than five years or may be fined not more than two thousand dollars, or both.

(3) When the misappropriation or taking amounts to less than a value of five hundred dollars, the offender shall be imprisoned for not more than six months or may be fined not more than five hundred dollars, or both. If the offender in such a case has been convicted of misdemeanor theft of an animal two or more times previously, upon any subsequent conviction he shall be imprisoned, with or without hard labor, for not more than two years or may be fined not more than one thousand dollars, or both.

(4) In addition to the foregoing penalties, a person convicted under this Section who killed an animal may be ordered to make full restitution to the owner of the animal. Restitution shall be in an amount not less than the value of the animal as determined by Subsection C of this Section. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

C. The value of the animal which was misappropriated, killed, or taken shall be decided by the court, or the jury in a jury trial, based upon the evidence establishing the value beyond a reasonable doub

t, including but not limited to the following:

(1) The amount of money which was acquired from the sale, use, or other disposal of the animal.

(2) Expert testimony as to the amount of money which may be acquired from the sale, use, or other disposal of the animal.

(3) In cases of a pet, testimony by the owner as to the strength of the bond between the owner and the animal and the emotional attachment between the animal and the owner or person with whom the animal is attached.

D. The provisions of Subsection C of this Section do not apply when the state proves beyond a reasonable doubt that the animal is a dog and a pet, and the theft of such animal shall be punishable as provided in Paragraph B(1) of this Section.

E. For the purposes of this Section, "animal" means any non-human living creature except for livestock as defined in R.S. 14:67.1.

Added by Acts 1962, No. 290, §1; Acts 1995, No. 1183, §1; Acts 2004, No. 749, §1; Acts 2006, No. 143, §1; Acts 2010, No. 585, §1.

67.3. Unauthorized use of "access card" as theft; definitions

A.(1) "Access card" shall mean and include any card, plate, account number, paper, book, or any other device, issued to a person which authorizes such person to obtain credit, money, goods, services, or anything of value, whether contemporaneously or not, by use of any credit or deferred payment plan with the issuer or by use of debiting or charging such person's demand deposit or savings or time account with the issuer or by debiting or charging any other funds such person has on deposit with the issuer.

(2) "Revoked Access Card" as used herein shall mean an Access Card which has been cancelled or terminated by the issuer of said Access Card.

(3) "Person" as used herein shall mean and include natural persons, or any organization, or other entity.

(4) "Issuer" as used herein shall be the depository and/or creditor issuing the Access Card, directly or through another entity.

(5) The aggregate amount or value of credit, money, goods, services or anything else of value obtained shall determine the value of the misappropriation or taking in determining the penalty under R.S. 14:67 when the offender has obtained the credit, money, goods, services or anything else of value from any one issuer or the offender has used an Access Card, or referred to a nonexistent Access Card on two or more occasions within any consecutive ninety day period.

B. Whoever, directly or indirectly, by agent or otherwise, with intent to defraud, (1) uses a forged Access Card, (2) makes reference by number or other description to a nonexistent Access Card, (3) steals or wrongfully appropriates an Access Card, or (4) uses an Access Card belonging to another person without authority of said person; thereby obtaining, whether contemporaneously or not, credit, money, goods, services or anything of value shall be guilty of theft and shall be subject to the penalties provided for the crime of theft in R.S. 14:67.

C. Whoever, directly or indirectly, by agent or otherwise, with intent to defraud, uses a revoked Access Card, thereby obtaining, whether contemporaneously or not, credit, money, goods, services or anything of value shall be guilty of theft and shall be subject to the penalties provided for the crime of theft in R.S. 14:67. For purposes of this Subsection, it shall be presumptive evidence that a person used a revoked Access Card with intent to defraud if the said person, directly or indirectly, by agent or otherwise, uses the said Access Card after actually receiving oral or written notice that the Access Card has been cancelled or terminated, or if said person, directly or indirectly, by agent or otherwise, uses the said Access Card at a time period more than five days after written notice of the termination or cancellation of said Access Card has been deposited by registered or certified mail in the United States mail system. Said notice shall be addressed to the person to whom such Access Card has been issued at the last known address for such person as shown on the records of the issuer.

D. Whoever, directly or indirectly, by agent or otherwise, with the intent to defraud, uses an Access Card to obtain, whether contemporaneously or not, money, goods, services or anything of value, and the final payment for said items is to be made by debiting or charging said person's demand deposit or savings or time account with issuer, or by debiting or charging any other funds said person has on deposit with issuer, and there are not sufficient funds on deposit to the credit of said person with the issuer to make payment in full of said items obtained, said person shall have committed the crime of theft in R.S. 14:67. Said person's failure to pay the amount due on said items obtained:

(1) Within ten days after written notice of said amount due has been deposited by certified or registered mail in the United States mail system addressed to the person to whom such Access Card has been issued at the last known address for such person as shown on the records of issuer; or

(2) Within ten days of delivery or personal tender of said written notice shall be presumptive evidence of said person's intent to defraud.

E. As used herein and in R.S. 14:67, the Access Card itself shall be a thing of value, with a value less than one hundred dollars.

F. In addition to any other fine or penalty imposed under this Section or under R.S. 14:67, the court may, at its discretion, order as a part of the sentence, restitution.

Acts 1964, No. 192, §1. Amended by Acts 1979, No. 167, §1; Acts 1986, No. 556, §1.

§67.3. Unauthorized use of "access card" as theft; definitions

A.(1) "Access card" shall mean and include any card, plate, account number, paper, book, or any other device, issued to a person which authorizes such person to obtain credit, money, goods, services, or anything of value, whether contemporaneously or not, by use of any credit or deferred payment plan with the issuer or by use of debiting or charging such person's demand deposit or savings or time account with the issuer or by debiting or charging any other funds such person has on deposit with the issuer.

(2) "Revoked Access Card" as used herein shall mean an Access Card which has been cancelled or terminated by the issuer of said Access Card.

(3) "Person" as used herein shall mean and include natural persons, or any organization, or other entity.

(4) "Issuer" as used herein shall be the depository and/or creditor issuing the Access Card, directly or through another entity.

(5) The aggregate amount or value of credit, money, goods, services or anything else of value obtained shall determine the value of the misappropriation or taking in determining the penalty under R.S. 14:67 when the offender has obtained the credit, money, goods, services or anything else of value from any one issuer or the offender has used an Access Card, or referred to a nonexistent Access Card on two or more occasions within any consecutive ninety day period.

B. Whoever, directly or indirectly, by agent or otherwise, with intent to defraud, (1) uses a forged Access Card, (2) makes reference by number or other description to a nonexistent Access Card, (3) steals or wrongfully appropriates an Access Card, or (4) uses an Access Card belonging to another person without authority of said person; thereby obtaining, whether contemporaneously or not, credit, money, goods, services or anything of value shall be guilty of theft and shall be subject to the penalties provided for the crime of theft in R.S. 14:67.

C. Whoever, directly or indirectly, by agent or otherwise, with intent to defraud, uses a revoked Access Card, thereby obtaining, whether contemporaneously or not, credit, money, goods, services or anything of value shall be guilty of theft and shall be subject to the penalties provided for the crime of theft in R.S. 14:67. For purposes of this Subsection, it shall be presumptive evidence that a person used a revoked Access Card with intent to defraud if the said person, directly or indirectly, by agent or otherwise, uses

the said Access Card after actually receiving oral or written notice that the Access Card has been cancelled or terminated, or if said person, directly or indirectly, by agent or otherwise, uses the said Access Card at a time period more than five days after written notice of the termination or cancellation of said Access Card has been deposited by registered or certified mail in the United States mail system. Said notice shall be addressed to the person to whom such Access Card has been issued at the last known address for such person as shown on the records of the issuer.

D. Whoever, directly or indirectly, by agent or otherwise, with the intent to defraud, uses an Access Card to obtain, whether contemporaneously or not, money, goods, services or anything of value, and the final payment for said items is to be made by debiting or charging said person's demand deposit or savings or time account with issuer, or by debiting or charging any other funds said person has on deposit with issuer, and there are not sufficient funds on deposit to the credit of said person with the issuer to make payment in full of said items obtained, said person shall have committed the crime of theft in R.S. 14:67. Said person's failure to pay the amount due on said items obtained:

(1) Within ten days after written notice of said amount due has been deposited by certified or registered mail in the United States mail system addressed to the person to whom such Access Card has been issued at the last known address for such person as shown on the records of issuer; or

(2) Within ten days of delivery or personal tender of said written notice shall be presumptive evidence of said person's intent to defraud.

E. As used herein and in R.S. 14:67, the Access Card itself shall be a thing of value, with a value less than one hundred dollars.

F. In addition to any other fine or penalty imposed under this Section or under R.S. 14:67, the court may, at its discretion, order as a part of the sentence, restitution.

Acts 1964, No. 192, §1. Amended by Acts 1979, No. 167, §1; Acts 1986, No. 556, §1.

§67.4. Anti-Skimming Act

A. This Section shall be known and may be cited as the "Anti-Skimming Act".

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

(1) "Authorized card user" means any person with permission to use any payment card to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.

(2) "Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator who receives from an authorized user of a payment card, or someone the merchant believes to be an authorized user, a payment card or information from a payment card, or what the merchant believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing or receiving goods, services, money, or anything else of value from the merchant.

(3) "Payment card" means a credit card, charge card, debit card, hotel key card, stored value card, or any other card that is issued to an authorized card user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.

(4) "Re-encoder" means an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card.

(5) "Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.

C. It shall be unlawful for any person to do either of the following:

(1) Use a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card and with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.

(2) Use a re-encoder to place information encoded on the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different card without the permission of the authorized user of the card from which the information is being re-encoded and with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.

D.(1) Whoever violates the provisions of Subsection C of this Section shall be imprisoned, with or without hard labor, for not more than five years, or fined not more than five thousand dollars, or both.

(2) Whoever, directly or indirectly, by agent or otherwise, uses a scanning device and a re-encoder in violation of Subsection C of this Section and with the intent to defraud shall be imprisoned, with or without hard labor, for not more than ten years, or fined not more than ten thousand dollars, or both.

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

E. In addition to the penalties provided in Subsection D of this Section, a person convicted under this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

Acts 2005, No. 297, §1; Acts 2008, No. 495, §1.

§67.5. Theft of crawfish; penalty

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

B.(1) Whoever commits the crime of theft of crawfish when the misappropriation or taking amounts to a value of one thousand five hundred dollars or more shall be imprisoned, with

or without hard labor, for not more than ten years or may be fined not more than three thousand dollars, or both.

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

(3) When the misappropriation or taking amounts to less than a value of five hundred dollars, the offender shall be imprisoned for not more than six months or may be fined not more than five hundred dollars, or both. If the offender in such cases has been convicted of theft of crawfish one or more times previously, upon any subsequent conviction he shall be imprisoned, with or without hard labor, for not more than ten years or may be fined not more than three thousand dollars, or both.

Acts 2005, No. 42, §1; Acts 2006, No. 143, §1; Acts 2010, No. 585, §1.

§67.6. Theft of utility service; inference of commission of theft; penalties

A. Theft of utility service is the misappropriation, taking, or use of any electricity, gas, water, or telecommunications which belongs to another, is held for sale by another, or is being distributed by another, without the consent of the owner, seller, or distributor or by means of fraudulent conduct, practices, or representations. A taking, misappropriation, or use includes the diversion by any means or device of any quantity of electricity, gas, water, or telecommunications from the wires, cables, pipes, mains, or other means of transmission of such person, or by directly or indirectly preventing a metering device from properly registering the quantity of electricity, gas, water, or telecommunications actually used, consumed, or transmitted.

B. The trier of fact may infer that there was a misappropriation, taking, or using without the consent of the owner, seller, or distributor, or that there was fraudulent conduct, practices, or representations when:

(1) There is on or about any wire, cable, pipe, main, or meter, or the equipment to which said wire, cable, pipe, main, or meter is affixed or attached, any device or any other means resulting in the diversion of electricity, gas, water, or telecommunications, or any device or any other means resulting in the prevention of the proper action or accurate registration of the meter or meters used to measure the quantity of electricity, gas, water, or telecommunications actually used, consumed, or transmitted, or interfering with the proper action or accurate registration of such meter or meters;

(2) The person charged had custody or control of the room, structure, or place where such device, other means, or such wire, cable, pipe, main, meter, or equipment affixed or attached thereto was located; and

(3) The person charged benefited from the misappropriation of such utility service; or

(4) The person charged intentionally supplied false information in applying for such utility service.

C.(1) On a first conviction, the offender shall be fined not less than one hundred dollars nor more than five hundred dollars or imprisoned for not more than six months, or both.

(2) On a second or subsequent conviction, regardless of whether the second or subsequent offense occurred before or after an earlier conviction, the offender shall be fined not less than one hundred dollars nor more than three thousand dollars or imprisoned, with or without hard labor, for not more than two years, or both.

D. The provisions of this Section shall not apply to the attachment on the customer's side of the customer's main electric disconnect of any device which lowers the quantity of utilities actually used and does not divert such utilities or prevent their proper registration.

Added by Acts 1977, No. 308, §1. Amended by Acts 1981, No. 108, §1; Acts 1986, No. 620, §1; Acts 1986, No. 261, §1; Acts 1987, No. 251, §1.

§67.7. Theft of petroleum products; penalties

Any person who shall unlawfully make or cause to be made any connection with or in any way tap or cause to be tapped, or drill or cause to be drilled a hole in any pipe or pipeline or tank laid or used for the conduct or storage of crude oil, naphtha, gas or casinghead gas, or any of the manufactured or natural products thereof, with intent to deprive the owner thereof of any of said crude oil, naphtha, gas, casinghead gas or any of the manufactured or natural products thereof, shall be guilty of a felony, and upon conviction shall be punished by forfeiture of the instrumentality of the crime and by a fine of not less than one hundred dollars and not more than fifty thousand dollars, or imprisoned, with or without hard labor, for a term of not less than one year nor more than ten years, or both.

Added by Acts 1982, No. 762, §1.

§67.8. Theft of oilfield geological survey, seismograph, and production maps; penalties

Any person who shall unlawfully take or misappropriate any oilfield geological survey, seismograph, production maps, or any similar or related items, with the intent to deprive the owner thereof of any of said maps or items, shall be guilty of a felony, and upon conviction shall be punished by a fine of not less than one hundred dollars nor more than fifty thousand dollars, or imprisonment, with or without hard labor, for a term of not less than one year nor more than ten years, or both.

Added by Acts 1982, No. 762, §1.

§67.9. Theft of oil and gas equipment; penalties

Any person who shall unlawfully take or misappropriate any machinery, drilling mud, welding equipment, pipe, fittings, pumps, or any other oil and gas equipment used in connection

with the drilling, production, or maintenance of oil or gas wells, with the intent to deprive the owner or lessee thereof of said items shall:

(1) When the misappropriation or taking amounts to a value of twenty-five thousand dollars or more, be fined not less than seventy thousand dollars or imprisoned for not less than five years or more than thirty years at hard labor, or both.

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

(3) When the misappropriation or taking amounts to a value of three hundred dollars or more, but less than five hundred dollars, be fined not more than two thousand dollars or be imprisoned, with or without hard labor, for not more than two years, or both.

(4) When the misappropriation or taking amounts to less than a value of three hundred dollars, be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

Added by Acts 1982, No. 762, §1; Acts 2006, No. 143, §1; Acts 2006, No. 222, §1.

§67.10. Theft of goods

A. Theft of goods is the misappropriation or taking of anything of value which is held for sale by a merchant, either without the consent of the merchant to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the merchant permanently of whatever may be the subject of the misappropriation or taking is essential and may be inferred when a person:

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

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

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

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

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

(6) Damages or consumes goods or property so as to render it unmerchantable.

B.(1) Whoever commits the crime of theft of goods when the misappropriation or taking amounts to a value of one thousand five hundred dollars or more shall be imprisoned, with or without hard labor, for not more than ten years or may be fined not more than three thousand dollars, or both.

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

(3) When the misappropriation or taking amounts to less than a value of five hundred dollars, the offender shall be imprisoned for not more than six months or may be fined not more than five hundred dollars, or both. If the offender in such cases has been convicted of theft or theft of goods two or more times previously, upon any subsequent conviction he shall be

imprisoned, with or without hard labor, for not more than two years or may be fined not more than one thousand dollars, or both.

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

C. Repealed by Acts 2001, No. 944, §4.

Acts 1987, No. 914, §1; Acts 1992, No. 701, §1; Acts 1999, No. 338, §1; Acts 2001, No. 944, §4; Acts 2006, No. 143, §1; Acts 2010, No. 585, §1.

§67.11. Credit card fraud by persons authorized to provide goods and services

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

(1) "Acquirer" means a business organization including without limitation a merchant, financial institution, or an agent of a business organization or financial institution that authorizes a merchant to accept payment by credit card for money, goods, services, or anything else of value.

(2) "Cardholder" means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

(3) "Credit card" means any instrument or device whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, debit card, or by any other name, including an account number, issued with or without fee by an issuer for the use of a cardholder in obtaining money, goods, services, or anything of value on credit or for use in an automated banking device to obtain any of the services offered through the device.

(4) "Issuer" means the business organization or financial institution, or its duly authorized agent, which issues a credit card.

(5) "Provider" means a person who is authorized by an issuer or an acquirer to furnish money, goods, services, or anything else of value upon presentation of a credit card by the cardholder, or any agent or employee of such person.

(6) "Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

B. No provider shall, with intent to defraud an issuer, an acquirer, or a cardholder, furnish money, goods, services, or anything else of value upon presentation of a credit card obtained or retained in violation of this Section, or a credit card which the provider knows is forged or revoked.

C. No provider shall, with intent to defraud an issuer, an acquirer, or a cardholder, fail to furnish money, goods, services, or anything else of value which the provider represents in writing, electronically or otherwise, to an issuer or an acquirer that such provider has furnished.

D. No provider shall, with intent to defraud an issuer, an acquirer, or a cardholder, present to an issuer or acquirer for payment a credit card transaction record which is not the result of an act between the cardholder and the provider.

E. No person shall employ, solicit, or otherwise cause a provider's employee or authorized agent or representative to remit to an acquirer a credit card transaction record of a sale that was not originated as a result of an act between the cardholder and such provider.

F. Any person who violates the provisions of this Section may be imprisoned, with or without hard labor, for not more than fifteen years, or fined not more than fifty thousand dollars, or both.

Acts 1990, No. 691, §1.

§67.12. Theft of timber; criminal penalties; information and investigations

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

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

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

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

Acts 1990, No. 118, §1; Acts 2008, No. 170, §1.

§67.13. Theft of an alligator

A. Theft of an alligator is the misappropriation or taking of an alligator, an alligator's skin, or a part of an alligator, whether dead or alive, belonging to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of the alligator, the alligator's skin, or a part of an alligator is essential.

B.(1) Whoever commits the crime of theft of an alligator when the misappropriation or taking amounts to a value of one thousand five hundred dollars or more shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than three thousand dollars, or both.

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

(3) When the misappropriation or taking amounts to less than a value of five hundred dollars, the offender shall be imprisoned for not more than six months or may be fined not more than five hundred dollars, or both. If the offender in such cases has been convicted of theft of an

alligator two or more times previously, upon any subsequent conviction he shall be imprisoned, with or without hard labor, for not more than two years or may be fined not more than one thousand dollars, or both.

Acts 1992, No. 410, §1; Acts 2006, No. 143, §1; Acts 2010, No. 585, §1.

§67.14. Fraudulent acquisition of a rental motor vehicle

A. Fraudulent acquisition of a rental motor vehicle is the lease or rental of a motor vehicle from a commercial lessor by the intentional giving or communicating payment information to the commercial lessor relating to how the lessee will pay the rental fee, or part thereof, when the lessee knows or reasonably should know that the payment information is or was false, fraudulent, insufficient, or incorrect. For purposes of this Section, incorrect payment information includes but is not limited to the presentation or tender of a credit card or check, when the credit card spending authorization or funds in the checking account are insufficient to cover the payment of the rental vehicle.

B. Whoever violates the provisions of this Section may be imprisoned for up to six months, or fined one thousand dollars, or both.

Acts 1992, No. 986, §1.

§67.15. Theft of a firearm

A. Theft of a firearm is the misappropriation or taking of a firearm which belongs to another, either without the consent of the other to the misappropriation or taking or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of the firearm is essential.

B. For purposes of this Section, "firearm" means a shotgun or rifle, or a pistol, revolver, or other handgun.

C.(1) For a first offense, the penalty for theft of a firearm shall be imprisonment with or without hard labor for not less than two years nor more than ten years, without the benefit of probation, parole, or suspension of sentence and a fine of one thousand dollars.

(2) For a second offense, the penalty for theft of a firearm shall be imprisonment with or without hard labor for not less than five years nor more than fifteen years, without the benefit of probation, parole, or suspension of sentence and a fine of two thousand dollars.

(3) For a third and subsequent offense, the penalty for theft of a firearm shall be imprisonment at hard labor for not less than fifteen years nor more than thirty years, without the benefit of probation, parole, or suspension of sentence and a fine of five thousand dollars.

Acts 1994, 3rd Ex. Sess., No. 122, §1; Acts 2000, 1st Ex. Sess., No. 116, §1.

§67.16. Identity theft

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

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

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

(3) "Personal identifying information" shall include but not be limited to an individual's:

(a) Social security number.

(b) Driver's license number.

(c) Checking account number.

(d) Savings account number.

(e) Credit card number.

(f) Debit card number.

(g) Electronic identification number.

(h) Digital signatures.

(i) Birth certificate.

(j) Date of birth.

(k) Mother's maiden name.

(l) Armed forces identification number.

(m) Government issued identification number.

(n) Financial institution account number.

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

C.(1)(a) Whoever commits the crime of identity theft when credit, money, goods, services, or any thing else of value is obtained, possessed, or transferred, which amounts to a value of one thousand dollars or more, shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than ten thousand dollars, or both.

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

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

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

(b) Whoever commits the crime of identity theft when the victim is sixty years of age or older or a disabled person when the credit, money, goods, services, or any thing else of value is

obtained which amounts to a value of five hundred dollars or more, but less than one thousand dollars, shall be imprisoned, with or without hard labor, for not less than two years and not more than five years, or may be fined not more than five thousand dollars, or both.

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

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

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

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

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

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

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

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

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

F. In addition to the foregoing penalties, a person convicted under this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense. If a person ordered to make restitution pursuant to this Section is

found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

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

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

(2) Any officer of any law enforcement agency who investigates an alleged violation in compliance with the provisions of this Subsection shall make a written report of the investigation that includes the name of the victim; the name of the suspect, if known; the type of personal identifying information obtained, possessed, transferred, or used in violation of this Section; and the results of the investigation. At the request of the victim who has requested the investigation, the law enforcement agency shall provide to such victim the report created under the provisions of this Paragraph. In providing the report, the agency shall eliminate any information that is included in the report other than the information required by this Paragraph.

Acts 1999, No. 1337, §1; Acts 2003, No. 844, §1; Acts 2006, No. 176, §1; Acts 2006, No. 241, §1; Acts 2007, No. 312, §1; Acts 2008, No. 95, §1; Acts 2008, No. 495, §1.

§67.17. Theft of motor vehicle fuel

A. No person shall dispense fuel, including gasoline and diesel, into the fuel tank of a motor vehicle at an establishment in which motor gasoline or diesel is offered for retail sale and leave the premises of the establishment unless the payment or authorized charge for the fuel has been made.

B.(1) Whoever violates the provisions of this Section shall be subject to a fine or imprisonment or both, in accordance with the penalties prescribed in R.S. 14:67.

(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 shall be suspended upon conviction or plea of guilty or nolo contendere. Upon a first conviction, the driver's license suspension shall be for a period not to exceed six months. Upon a second or subsequent conviction, the suspension shall be for a period not to exceed one year. Upon conviction or 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.

Acts 2001, No. 812, §1.

§67.18. Cheating and swindling

A. It shall be unlawful for any person who by any trick or sleight of hand performance, or by fraud or fraudulent scheme, cards, dice, or device, for himself or another, wins or attempts to win money or property or a combination thereof, or reduces a losing wager or attempts to reduce a losing wager, increases a winning wager or attempts to increase a winning wager in connection with gaming operations.

B.(1) Whoever violates the provisions of this Section when the value of such money or property or combination thereof or reduced or increased wager amounts to a value of one thousand five hundred dollars or more shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than three thousand dollars, or both.

(2) When the value of such money or property or combination thereof or reduced or increased wager amounts to a value of five hundred dollars or more, but less than a value of one thousand five hundred dollars, the offender shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than two thousand dollars, or both.

(3) When the value of such money or property or combination thereof or reduced or increased wager amounts to less than a value of five hundred dollars, the offender shall be imprisoned for not more than six months, or may be fined not more than five hundred dollars, or both. If the offender in such cases has been convicted of cheating and swindling two or more times previously, upon any subsequent conviction he shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than two thousand dollars, or both.

C. For purposes of this Section, "gaming operations" means 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 or the operation of a state lottery which is licensed for operation and regulated under the provisions of Chapter 4 of Title 4, Chapters 4, 5, 6, and 7 of Title 27, or Chapter 11 of Title 4 or Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950, or any other gaming operation authorized by law.

Acts 2001, No. 216, §1; Acts 2010, No. 585, §1.

§67.19. Theft of anhydrous ammonia

A. Theft of anhydrous ammonia is the misappropriation or taking of anhydrous ammonia 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, with the intent to permanently deprive.

B. For purposes of this Section, "anhydrous ammonia" is the compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the proportion of one part of nitrogen to three parts of hydrogen by volume and in the ratio of eighty-two percent nitrogen to eighteen percent hydrogen by weight.

C. Whoever commits the crime of theft of anhydrous ammonia shall be imprisoned with or without hard labor for not more than two years, or may be fined not more than two thousand dollars, or both.

Acts 2001, No. 286, §1

§67.19.1. Unauthorized possession of anhydrous ammonia

A. It shall be unlawful for any person to do any of the following:

(1) Use anhydrous ammonia to manufacture or attempt to manufacture any controlled dangerous substance.

(2) Possess any substance containing any detectable amount of anhydrous ammonia with the intent to use that substance to manufacture a controlled dangerous substance.

B. The unauthorized possession of anhydrous ammonia is defined as the possession of any amount of anhydrous ammonia in a container not authorized by and which does not have an inspection sticker from the Liquefied Petroleum Gas Commission as is required pursuant to R.S. 3:1355(B).

C. The possession of any amount of anhydrous ammonia in a container not authorized by the Liquefied Petroleum Gas Commission shall be prima facie evidence of intent to use anhydrous ammonia to manufacture a controlled dangerous substance.

D. Whoever commits the crime of unauthorized possession of anhydrous ammonia shall be imprisoned with or without hard labor for not more than two years, or may be fined not more than two thousand dollars, or both.

Acts 2005, No. 494, §2.

§67.20. Theft of a business record

A. Theft of a business record is the misappropriation or taking of a business record or the information contained therein belonging to another by any person either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of the business record or the information contained therein is essential and may be inferred when a person misappropriates, takes, or converts the business record for his own use or for the use of another for economic gain.

B. For purposes of this Section, "business record" means any record belonging to another, whether or not maintained or compiled by the person who misappropriates or takes the record, which complies with the following:

(1) Is material to the conduct of the business of the owner of the business record.

(2) Is not available to the public in accordance with state or federal law.

(3) Is susceptible to use by another, which if used, would have an adverse material effect upon the overall business of the owner of the business record.

(4) Is defined as a "trade secret" pursuant to R.S. 51:1431 or R.S. 9:3576.24.

(5) Is of such a nature that the replacement, reconstruction, or compilation of the information, or the loss of the record or the information contained therein, will have an adverse material effect upon the overall business of the owner of the business record.

C. Whoever commits the crime of theft of a business record shall be imprisoned, with or without hard labor, for not more than two years or fined not more than ten thousand dollars or the cost of replacement, reconstruction, or compilation of the business record, whichever is greater, or both.

Acts 2001, No. 914, §1.

§67.21. Theft of the assets of an aged person or disabled person

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

(1) "Aged person" is any person sixty years of age or older.

(2) "Disabled person" is a person eighteen years of age or older who has a mental, physical, or developmental disability that substantially impairs the person's ability to provide adequately for his own care or protection.

(3) "Health care" is any expense resulting from medical, personal, residential, or other care provided or assistance received from any home- and community-based service provider, adult foster home, adult congregate living facility, nursing home, or other institution or agency responsible for the care of any aged or disabled person.

B. Theft of the assets of an aged person or disabled person is any of the following:

(1) The intentional use, consumption, conversion, management, or appropriation of an aged person's or disabled person's funds, assets, or property without his authorization or consent for the profit, advantage, or benefit of a person other than the aged person or disabled person without his authorization or consent.

(2) The intentional misuse of an aged or disabled person's power of attorney to use, consume, convert, manage, or appropriate any funds, assets, or property of an aged person or disabled person for the profit, advantage, or benefit of a person other than the aged person or disabled person without his authorization or consent.

(3) The intentional use, consumption, conversion, management, or appropriation of an aged person's or disabled person's funds, assets, or property through the execution or attempted execution of a fraudulent or deceitful scheme designed to benefit a person other than the aged person or disabled person.

C.(1) Whoever commits the crime of theft of the assets of an aged person or disabled person when the value of the theft equals one thousand five hundred dollars or more may be imprisoned, with or without hard labor, for not more than ten years and shall be fined not more than three thousand dollars, or both.

(2) Whoever commits the crime of theft of the assets of an aged person or disabled person when the value of the theft equals five hundred dollars or more, but less than one thousand five hundred dollars may be imprisoned, with or without hard labor, for not more than five years and shall be fined not more than two thousand dollars, or both.

(3) Whoever commits the crime of theft of the assets of an aged person or disabled person when the value of the theft equals five hundred dollars or less may be imprisoned for not more than six months and shall be fined not more than five hundred dollars, or both.

(4) In any case in which an offender has been previously convicted of theft of the assets of an aged person or disabled person the offender shall be imprisoned, with or without hard labor, for not less than two years, and shall be fined not less than two thousand dollars, or both, regardless of the value of the instant theft.

D. When there have been a number of distinct acts of theft of the assets of an aged person or disabled person, the aggregate of the values of each act shall determine the grade of the offense.

E. In addition to all other penalties, a person convicted under this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense. If a person ordered to make restitution pursuant to this Section is found to

be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

F. Any charges made under this Section shall be reported as provided in R.S. 15:1504 and 1505.

Acts 2001, No. 1011, §1; Acts 2006, No. 172, §1; Acts 2006, No. 176, §1; Acts 2008, No. 839, §1, eff. July 8, 2008; Acts 2010, No. 585, §1; Acts 2010, No. 861, §6.

§67.22. Fraudulent acquisition of a credit card

A. As used in this Section, "credit card" shall mean any instrument or device whether known as a credit card, credit plate, bank service card, banking card, check guarantee card, debit card, or by any other name, including an account number, issued with or without a fee by an issuer for the use of a cardholder in obtaining money, goods, services, or anything of value on credit or for use in an automated banking device to obtain any of the services offered through the device.

B. No person shall make or cause to be made, either directly or indirectly, any false statement as to his identity or that of any other person, firm, or corporation, knowing it to be false and with the intent that it be relied on, for the purpose of procuring the issuance of a credit card.

C.(1) Whoever violates the provisions of this Section shall be guilty of fraudulent acquisition of a credit card and shall be punished by a fine of not more than three thousand dollars, or imprisoned, with or without hard labor for not more than ten years, or both.

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

D. In addition to the penalties provided in Subsection C of this Section, a person convicted of a violation of this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

Acts 2003, No. 231, §1; Acts 2008, No. 495, §1.

§67.23. Theft of a used building component; penalties

A. Theft of a used building component is the misappropriation or the taking of a used building component from immovable property belonging to another, either without the consent of the owner of the immovable property, or by means of fraudulent conduct, practices, or representations. An intent to deprive the owner of the immovable property permanently of the used building component is essential.

B. "Used building component" shall mean any object produced or shaped by human workmanship or tools that is an element of structural, architectural, archaeological, historical, ornamental, cultural, utilitarian, decorative, or sentimental significance or interest, which has been and may be used as an adjunct to or component or ornament of any building or structure, regardless of monetary worth, age, size, shape, or condition, that is immovable property or

fixture, including but not be limited to bricks, siding, gutters, downspouts, lightning rods, chimney roofs, lights, chandeliers, stoves, tubs, sinks, faucets, faucet handles, toilets, bidets, showers, fans, furnaces, air conditioners, water heaters, sprinkling systems, shelving, countertops, cabinets, built-in speakers, shutters, trim, rafters, roof tiles, roofing, studs, foundation, barge boards, paneling, stairs, risers, banisters, wiring, plumbing, hinges, door latches, door knobs, medallions, mantles, flooring, carpet, tiles, molding, wainscoting, pavers, doors, windows, sills, transoms, joists, mailboxes, signage, fountains, decking, gates, fences, planters, landscaping, plantings or portions thereof, or component parts of immovable property of any nature or kind whatsoever.

C.(1) Whoever commits the crime of theft of a used building component, when the theft or taking amounts to a value or replacement value, whichever is greater, of one thousand five hundred dollars or more shall be fined not more than three thousand dollars, imprisoned with or without hard labor for not more than ten years, or both.

(2) When the theft or taking amounts to a value or replacement value, whichever is greater, of five hundred dollars or more, but less than a value of one thousand five hundred dollars, the offender shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than two thousand dollars, or both.

(3)(a) When the theft or taking amounts to a value or replacement value, whichever is greater, of less than five hundred dollars, the offender shall be imprisoned, for not more than six months, or may be fined not more than five hundred dollars, or both.

(b) In a case provided for in Subparagraph (a) of this Paragraph, if the offender has been convicted two or more times previously of a theft or taking which, on each previous occasion, amounted to a value or replacement value, whichever is greater, of less than five hundred dollars, he shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than two thousand dollars, or both.

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

Acts 2003, No. 1190, §1, eff. July 3, 2003; Acts 2010, No. 585, §1.

§67.24. Theft of utility property

A. Theft of utility property valued in excess of one hundred dollars is the misappropriation or taking of any utility property belonging to another without the consent of the owner to the misappropriation or taking. An intent to deprive the owner permanently of whatever may have been the subject of the misappropriation or taking is an essential element of this offense.

B. As used in this Section:

(1) "Utility" means any person or entity providing to the public gas, electricity, water, sewer, telephone, telegraph, radio, radio common carrier, railway, railroad, cable and broadcast television, video, or Internet services.

(2) "Utility property" means any component which is reasonably necessary to provide utility services, including but not limited to any wire, pole, facility, machinery, tool, equipment, cable, insulator, switch, signal, duct, fiber optic cable, conduit, plant, work, system, substation, transmission and distribution structures, line, street lighting fixture, generating plant, equipment,

pipe, mains, transformer, underground line, gas compressor, meter, or any other building or structure or part of a structure that a utility uses in the production or use of its services.

C. Whoever commits the crime of theft of utility property shall be punished by a fine of not more than ten thousand dollars or imprisonment, with or without hard labor, for not less than two years nor more than ten years, or both.

Acts 2007, No. 73, §1, eff. June 22, 2007.

§67.25. Organized retail theft

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

(1) "Retail establishment" means any business, whether a sole proprietorship, corporation, partnership, or otherwise, which holds or stores articles, products, commodities, items, or components for sale to the public or to other retail establishments.

(2) "Retail property" means any article, product, commodity, item, or component intended to be sold to the public or to other retail establishments.

(3) "Retail property fence" means any person who knowingly and intentionally procures, receives, or conceals stolen retail property.

(4) "Stolen retail property" means either retail property which has been the subject of a theft from a retail establishment or retail property which the offender, procuring, receiving, or concealing that property knows or reasonably believes to be the subject of a theft.

(5) "Value" means the price of the retail property as stated, posted, or advertised by the affected retail establishment, including applicable sales taxes.

B. Organized retail theft is the intentional procuring, receiving, or concealing of stolen retail property with the intent to sell, deliver, or distribute that property.

C. It shall be presumptive evidence that the owner or operator of any retail establishment has violated Subsection B of this Section when:

(1) On more than one occasion within any one-hundred-eighty-day period the offender has intentionally possessed, procured, received, or concealed stolen retail property; and

(2) The stolen retail property was possessed, procured, received, or concealed from or on behalf of any person who:

(a) Did not have a proper business license; or

(b) Did not pay sales or use taxes to the state or the appropriate local government subdivision in the jurisdiction where the possessing, procuring, receiving, or concealing took place for the transfer of the items to the owner or operator of the retail establishment; or

(c) Accepted a cash payment for the stolen retail property and did not provide the owner or operator of the possessing, procuring, receiving, or concealing retail establishment an invoice for the sale.

D. Whoever commits the crime of organized retail theft when the aggregate amount of the misappropriation, taking, purchasing, possessing, procuring, receiving, or concealing in any one-hundred-eighty-day period amounts to a value less than five hundred dollars shall be imprisoned with or without hard labor for not more than two years, or may be fined not more than two thousand dollars, or both.

E. Whoever commits the crime of organized retail theft when the aggregate amount of the misappropriation, taking, purchasing, possessing, procuring, receiving, or concealing in any one-hundred-eighty-day period amounts to a value more than five hundred dollars 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.

Acts 2007, No. 395, §1.

§67.26. Theft of a motor vehicle

A. Theft of a motor vehicle is the intentional performance of any of the following acts:

(1) The taking of a motor vehicle, which belongs to another, either without the owner's consent or by means of fraudulent conduct, practices, or representations, with the intention to permanently deprive the owner of the motor vehicle; or

(2) The taking control of a motor vehicle that is lost or mis-delivered under circumstances which provide a means of inquiry as to the true owner, and the person in control of the motor vehicle does not make reasonable efforts to notify or locate the true owner; or

(3) The taking control of a motor vehicle when the person knows or should have known that the motor vehicle has been stolen.

B.(1) A person who alleges that there has been a theft of a motor vehicle shall attest to that fact by signing an affidavit provided by the law enforcement officer or agency which shall indicate that a person who falsely reports a theft of a motor vehicle may be subject to criminal penalties under Subsection E of this Section.

(2) If the affidavit is not taken in person by a law enforcement officer or agency, the person who alleges that the theft of a motor vehicle has occurred shall mail or deliver a signed and notarized affidavit to the appropriate law enforcement agency within seven days.

C.(1) Whoever commits the crime of theft of a motor vehicle when the misappropriation or taking amounts to a sum of one thousand five hundred dollars or more shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than three thousand dollars, or both.

(2) Whoever commits the crime of theft of a motor vehicle when the misappropriation or taking amounts to a sum of five hundred dollars or more but less than one thousand five hundred dollars shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than two thousand dollars, or both.

(3) Whoever commits the crime of theft of a motor vehicle when the misappropriation or taking amounts to a sum of less than five hundred dollars shall be imprisoned for not more than six months, or may be fined not more than one thousand dollars, or both.

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

E. Whoever commits the crime of filing a false affidavit to support an alleged theft of a motor vehicle shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars, or both.

Acts 2008, No. 633, §1; Acts 2010, No. 585, §1.

§67.27. Theft of copper from a religious building or cemetery or graveyard

A. Theft of copper from a religious building or cemetery or graveyard is the misappropriation or the taking of copper from any church, synagogue, mosque, or other building used primarily for religious worship or cemetery or graveyard without the consent of the owner or custodian of the religious building or cemetery or graveyard. The intent to permanently deprive is essential.

B. As used in this Section:

(1) "Copper" means any copper, copper wire, or copper alloy, including bronze or brass.

(2) "Religious building" means a church, synagogue, mosque, or other building or structure used primarily for religious worship.

C.(1) Whoever commits the crime of theft of copper from a religious building or cemetery or graveyard, when the misappropriation or taking amounts to a value of one thousand dollars or more, shall be imprisoned, with or without hard labor, for not less than five years and not more than ten years, or may be fined not more than five thousand dollars, or both.

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

(3) When the misappropriation or taking amounts to less than a value of five hundred dollars, the offender shall be imprisoned for not less than one year and not more than two years or may be fined not more than one thousand dollars, or both.

(4) Upon any subsequent conviction, the offender shall be imprisoned, with or without hard labor, for not more than ten years or may be fined not more than five thousand dollars, or both.

Acts 2008, No. 657, §1.

§67.28. Theft of copper or other metals; determination of value of copper or other metals taken

A. Theft of copper or other metals is the misappropriation or the taking of copper or other metals that belong to another, either without the consent of the owner or by means of fraudulent conduct, practices, or representations, with the intent to permanently deprive the owner of the copper or other metal.

B. As used in this Section:

(1) "Copper or other metals" means any copper, copper wire, copper alloy, bronze, brass, zinc, aluminum other than in the form of cans, stainless steel, or nickel alloys, whether in the form of bars, cable, ingots, rods, tubing, wire, wire scraps, clamps, connectors, or railroad track materials.

(2) "Railroad track materials" shall include steel in the form of railroad tracks or in the form of rail, switch components, spikes, angle bars, tie plates, or bolts of the type used in constructing railroads, or any combination of such materials.

C. In determining the appropriate penalty provisions as provided in Subsection D of this Section, the court shall calculate the value of the copper or other metals misappropriated or taken as the aggregate of the following:

(1) The fair market value of the copper or other metals.

(2) The cost of replacement of the copper or other metals.

(3) The cost of replacing and repairing property that was damaged as a result of the theft of copper or other metals.

D.(1) When the misappropriation or taking amounts to a value of one thousand dollars or more, the offender shall be fined not more than five thousand dollars, imprisoned, with or without hard labor, for not less than five years and not more than ten years, or both.

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

(3) When the misappropriation or taking amounts to a value of less than five hundred dollars, the offender shall be fined not more than one thousand dollars, and may be imprisoned for not less than one year and not more than two years, or both.

(4) Upon a second or subsequent conviction, the offender shall be fined not more than five thousand dollars, imprisoned, with or without hard labor, for not more than ten years, or both.

Acts 2012, No. 164, §1.

§68. Unauthorized use of a movable

A. Unauthorized use of a movable is the intentional taking or use of a movable which belongs to another, either without the other's consent, or by means of fraudulent conduct, practices, or representations, but without any intention to deprive the other of the movable permanently. The fact that the movable so taken or used may be classified as an immovable, according to the law pertaining to civil matters, is immaterial.

B. Whoever commits the crime of unauthorized use of a movable having a value of five hundred dollars or less shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both. Whoever commits the crime of unauthorized use of a movable having a value in excess of five hundred dollars shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

Amended by Acts 1980, No. 692, §1; Acts 1980, No. 708, §1; Acts 1981, No. 293, §1; Acts 1993, No. 419, §1; Acts 2010, No. 396, §1.

§68.1. Unauthorized removal of shopping cart, basket, or dairy case

A. It shall be a misdemeanor for any person to remove a shopping cart, basket, or dairy case belonging to another from the parking area or grounds of any store without authorization therefor.

B. Whoever commits the crime of unauthorized removal of a shopping cart, basket, or dairy case from the parking area or grounds of a store shall be fined not more than one hundred dollars, or imprisoned for not more than six months, or both.

Added by Acts 1968, No. 22, §1. Acts 1988, No. 255, §1.

§68.2. Unauthorized use of supplemental nutrition assistance program benefits or supplemental nutrition assistance program benefit access devices

A. As used in this Section and in R.S. 14:68.2.1, the following terms have the following meanings:

(1) "SNAP benefits" means any supplemental nutrition assistance program benefits issued pursuant to the provisions of the Federal Food Stamp Act, 7 USC §2011 et seq.

(2) "SNAP benefit access device" means any card, plate, code account access number, or other means of access that can be used, alone or in conjunction with another access device, to obtain payment, allotments, benefits, money, goods, or other things of value or that can be used to initiate a transfer of funds pursuant to the provisions of the Federal Food Stamp Act.

B. The unauthorized use of SNAP benefits or a SNAP benefit access device is:

(1) To knowingly use, transfer, acquire, alter, or possess SNAP benefits or a SNAP benefit access device contrary to the provisions of the Federal Food Stamp Act or the federal or state regulations issued pursuant thereto.

(2) To knowingly counterfeit, alter, transfer, acquire, or possess a counterfeited or altered SNAP benefit access device.

(3) To present or cause to be presented a SNAP benefit access device for payment or redemption, knowing it to have been counterfeited, altered, received, transferred, or used in any manner contrary to the provisions of the Federal Food Stamp Act or the federal or state regulations issued pursuant thereto.

(4) To knowingly appropriate SNAP benefits or a SNAP benefit access device with which a person has been entrusted or of which a person has gained possession by virtue of his position as a public employee.

C. Whoever commits the crime of unauthorized use of SNAP benefits or a SNAP benefit access device shall be fined not less than five thousand dollars nor more than one million dollars or imprisoned, with or without hard labor, for not less than six months nor more than ten years, or both.

D. In addition to the foregoing penalties, a person convicted under this Section shall be ordered to make restitution in the total amount found to be the value of the SNAP benefits that form the basis for the conviction. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

Acts 1991, No. 187, §1, eff. July 2, 1991; Acts 2006, No. 143, §1; Acts 2010, No. 585, §1; Acts 2012, No. 677, §1, eff. Jan. 1, 2013.

§68.2.1. Failure to report unauthorized use of supplemental nutrition assistance program benefits; penalties

A. Employees of the Department of Children and Family Services, owners, employees and operators of retailers that accept SNAP benefit access device transactions, and adult household members of SNAP recipients shall report each instance of known fraud or abuse of SNAP benefits, or any known unauthorized use of SNAP benefits or a SNAP benefit access device as defined in R.S. 14:68.2, to the fraud detection section, office of children and family services of the Department of Children and Family Services via the Public Assistance Fraud Hot-Line as provided for by R.S. 46:114.1.

B. Whoever violates the provisions of Subsection A of this Section shall be fined not less than two hundred fifty dollars nor more than five thousand dollars.

Acts 2012, No. 677, §1, eff. Jan. 1, 2013.

§68.3. Unauthorized removal of a motor vehicle; penalties

A. No one, except upon a court order, shall remove a motor vehicle from a garage, repair shop, or vehicle storage facility when there is a charge due such garage, repair shop, or vehicle storage facility for repair work, mechanical service, or storage rendered to such vehicle without paying the charge or making arrangements acceptable to the management of the garage, repair shop, or vehicle storage facility to pay the charge.

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

Acts 1991, No. 568, §1.

§68.4. Unauthorized use of a motor vehicle

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

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

Acts 1995, No. 904, §1.

§68.5. Unauthorized removal of property from governor's mansion and the state capitol complex

A. It shall be unlawful for any person to remove any property of the state from the grounds of the governor's mansion without the authorization of the property manager designated for the executive office of the governor, as provided for in R.S. 39:322, after consultation with the Louisiana Governor's Mansion Foundation.

B. It s

hall be unlawful for any person to remove any property of the Louisiana Governor's Mansion Foundation from the grounds of the governor's mansion without the authorization of the Louisiana Governor's Mansion Foundation.

C. It shall be unlawful for any person to remove any property of the state which has been catalogued pursuant to R.S. 24:43 from the state capitol complex without the authorization of the Legislative Budgetary Control Council.

D. Whoever commits the crime of unauthorized removal of property from the governor's mansion or from the state capitol complex as provided for in this Section shall, upon conviction, be subject to a fine or imprisonment or both, as provided for in

accordance with the penalties prescribed for violation of R.S. 14:67 based on the value of the property unlawfully removed.

Acts 1997, No. 1153, §1.

§68.6. Unauthorized ordering of goods or services

A. It is unlawful for any person to intentionally place an order for any goods or services to be supplied or delivered to another person when all of the following circumstances apply:

(1) The person receiving the goods or services has not previously authorized such an order, does not reside with the person who placed the order, and the goods or services are not being given as a gift to that person.

(2) The person receiving the goods or services is required to pay for such goods or services, either in advance or upon delivery and has not previously agreed to do so, or is required to return the items to the sender at his expense.

(3) The person placing the order for goods or services intends to harass or annoy the person receiving such goods or services.

B. Receipt and use of an item described in this Section by the receiver shall constitute an affirmative defense to prosecution under this Section.

C. If the person who places the order for the goods or services is told by the customer who receives the goods or services that the customer did not desire the goods or services, the customer is released from any obligation to pay for such goods or services and the providing person shall not be liable under this Section.

D. Whoever violates Subsection A shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

E. In addition to any other sentence imposed under this Section, the sentencing court, in its discretion, may require the offender to make restitution to the victim for any loss to the victim caused by the offense.

Acts 1999, No. 1060, §1.

§68.7. Receipts and universal product code labels; unlawful acts

A. Any person who, with intent to cheat or defraud a retailer, makes, alters, or counterfeits a retail sales receipt or a universal product code label, or possesses any such sales receipt or label, or possesses a device which has as its specific purpose the manufacture of fraudulent retail sales receipts or universal product code labels commits a violation of the provisions of this Section.

B.(1) Except as provided in Paragraphs (3) and (4) of this Subsection, whoever violates the provisions of this Section shall be subject to the following penalties:

(a) When the fair market value of the goods which are the subject of the falsified retail sales receipts or universal product code labels, as described in Subsection A of this Section, equals one thousand five hundred dollars or more, imprisonment, with or without hard labor, for not more than ten years, or a fine not to exceed three thousand dollars, or both.

(b) When the fair market value of the goods which are the subject of the falsified retail sales receipts or universal product code labels, as described in Subsection A of this Section, equals five hundred dollars or more but less than one thousand five hundred dollars, imprisonment, with or without hard labor, for not more than five years or a fine of not more than two thousand dollars, or both.

(c) When the fair market value of the goods which are the subject of the falsified retail sales receipts or universal product code labels, as described in Subsection A of this Section, is less than five hundred dollars, imprisonment for not more than six months, or a fine not to exceed five hundred dollars, or both. If a person is convicted of violating the provisions of this Section in a manner consistent with this Subparagraph two or more times previously, upon any subsequent conviction, he shall be imprisoned, with or without hard labor, for not more than two years, or may be fined not more than two thousand dollars, or both.

(2) When there has been a violation of this Section by a number of distinct acts of the offender, the aggregate amount of the goods taken shall determine the grade of the offense.

(3) Possessing more than one fraudulent retail sales receipt or universal product code label in violation of the provisions of this Section shall be punishable by imprisonment, with or without hard labor, for a period not to exceed ten years, or a fine not to exceed three thousand dollars, or both.

(4) Possessing a device which has as its specific purpose the manufacture of fraudulent retail sales receipts or universal product code labels in violation of the provisions of this Section shall be punishable by imprisonment, with or without hard labor, for a period not to exceed five years, or a fine not to exceed three thousand dollars, or both.

Acts 2001, No. 922, §1; Acts 2006, No. 143, §1; Acts 2010, No. 585, §1.

§69. Illegal possession of stolen things

A. Illegal possession of stolen things is the intentional possessing, procuring, receiving, or concealing of anything of value which has been the subject of any robbery or theft, under circumstances which indicate that the offender knew or had good reason to believe that the thing was the subject of one of these offenses.

B.(1) Whoever commits the crime of illegal possession of stolen things, when the value of the things is one thousand five hundred dollars or more, shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than three thousand dollars, or both.

(2) When the value of the stolen things is five hundred dollars or more, but less than one thousand five hundred dollars, the offender shall be imprisoned, with or without hard labor, for not more than five years, or may be fined not more than two thousand dollars, or both.

(3) When the value of the stolen things is less than five hundred dollars, the offender shall be imprisoned for not more than six months or may be fined not more than one thousand dollars, or both. If the offender in such cases has been convicted of receiving stolen things or illegal possession of stolen things two or more times previously, upon any subsequent conviction, he shall be imprisoned, with or without hard labor, for not more than two years or may be fined not more than two thousand dollars, or both.

(4) When the offender has committed the crime of illegal possession of stolen things by a number of distinct acts, the aggregate of the amount of the things so received shall determine the grade of the offense.

C. It shall be an affirmative defense to a violation of this Section committed by means of possessing, that the accused, within seventy-two hours of his acquiring knowledge or good reason to believe that a thing was the subject of robbery or theft, reports that fact or belief in writing to the district attorney in the parish of his domicile.

D. Repealed by Acts 2001, No. 944, §4.

Amended by Acts 1972, No. 654, §1; Acts 1982, No. 552, §1; Acts 1999, No. 338, §1; Acts 1999, No. 1251, §1; Acts 2001, No. 944, §4; Acts 2006, No. 83, §1; Acts 2010, No. 585, §1.

§69.1. Illegal possession of stolen firearms

A. Illegal possession of stolen firearms is the intentional possessing, procuring, receiving, or concealing of a firearm which has been the subject of any robbery or theft under circumstances which indicate that the offender knew or should have known that the firearm was the subject of a robbery or theft.

B. Whoever commits the crime of illegal possession of firearms shall be punished as follows:

(1) For a first offense, the penalty shall be imprisonment, with or without hard labor, for not less than one year nor more than five years.

(2) For second and subsequent offenses, the penalty shall be imprisonment, with or without hard labor, for not less than two years nor more than ten years.

Acts 2000, 1st Ex. Sess., No. 116, §1; Acts 2001, No. 403, §1, eff. June 15, 2001.

§70. False accounting

False accounting is the intentional rendering of a financial statement of account which is known by the offender to be false, by anyone who is obliged to render an accounting by the law pertaining to civil matters.

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

Amended by Acts 1968, No. 647, §1.

§70.1. Medicaid fraud

A. The crime of Medicaid fraud is the act of any person, who, with intent to defraud the state through any medical assistance program created under the federal Social Security Act and administered by the Department of Health and Hospitals:

(1) Presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise; or

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

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

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

Acts 1989, No. 300, §1, eff. July 1, 1989; Acts 1997, No. 1018, §1; Acts 2001, No. 403, §1, eff. June 15, 2001.

§70.2. Refund or access device application fraud

A. No person shall with the intent to defraud use a false or fictitious name or any other identifying information as his own or use the name or any other identifying information of any other person without that person's knowledge and consent for the purpose of:

(1) Obtaining or attempting to obtain a refund for merchandise returned to a business establishment or a refund on a ticket or other document that is evidence of services purchased from a business establishment; or

(2) Obtaining or attempting to obtain an access device.

B. For the purposes of this Section, "any other identifying information" shall include, but not be limited to, an address, telephone number, social security number, account number, or any other information through which the identity of a person may be ascertained. "Access device" means any card, plate, code, account number, or other means of account access that can be used to obtain anything of value, whether contemporaneously or not.

C.(1) Whoever commits the crime of refund fraud 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 access device application fraud when the misappropriation or taking amounts to a value of one thousand five hundred dollars or more shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than three thousand dollars, or both.

(3) When the misappropriation or taking amounts to a value of five hundred dollars or more, but less than a value of one thousand five hundred dollars, the offender shall be imprisoned, with or without hard labor, for not more than five years or may be fined not more than two thousand dollars, or both.

(4) When the misappropriation or taking amounts to less than a value of five hundred dollars, the offender shall be imprisoned for not more than six months or may be fined not more than five hundred dollars, or both. If the offender in such cases has been convicted of theft two or more times previously, upon any subsequent conviction he shall be imprisoned, with or without hard labor, for not more than two years or may be fined not more than one thousand dollars, or both.

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

Added by Acts 1983, No. 420, §1. Acts 1986, No. 871, §1; Acts 1997, No. 1255, §1; Acts 2006, No. 143, §1; Acts 2010, No. 585, §1.

§70.3. Fraud in selling agricultural equipment

A. As used in this Section, the term "security device" means any legal act which confers an interest in property to secure the payment of an obligation and includes liens, pawns, privileges, mortgages, and chattel mortgages.

B. The crime of fraud in selling agricultural equipment is the sale of any piece of agricultural equipment which is subject to a security device without informing the purchaser of the existence of the security device that is known to the vendor at the time of the sale.

C. Each person who sells farm equipment which is subject to a security device and who does not inform the purchaser of the existence of the security device shall have an affirmative defense to any prosecution under this Section if he satisfies the obligation secured by the security device within ten days of demand for payment by the purchaser.

D. Whoever commits the crime of fraud in selling agricultural equipment shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Acts 1984, No. 813, §1.

§70.4. Access device fraud

A. No person shall without authorization and with the intent to defraud transfer an access device to another person.

B. No person shall without authorization and with the intent to defraud possess an access device issued to another person.

C. No person shall with the intent to defraud use, possess, or transfer device-making equipment or a counterfeit access device.

D. As used herein:

(1) "Access device" means a person's social security number, driver's license number, birth date, mother's maiden name, checking account numbers, savings account numbers, personal identification numbers, electronic identification numbers, digital signatures, or other means of account access that can be used to obtain anything of value, whether contemporaneously or not.

(2) "Counterfeit access device" means an access device that is fictitious, altered, or forged.

(3) "Device-making equipment" means any instrumentality, mechanism, or impression designed or primarily used for making an access device or counterfeit access device.

(4) "Transfer" means sell, give, provide, or transmit.

E.(1) A person who commits the crime of access device fraud when the misappropriation or taking amounts to a value of one thousand five hundred dollars or more shall be imprisoned, with or without hard labor, for not more than ten years, or fined not more than five thousand dollars, or both.

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

(3) When the misappropriation or taking amounts to a value of less than five hundred dollars, the offender shall be imprisoned for not more than six months or fined not more than five hundred dollars, or both.

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

F. In addition to any other penalty imposed under this Section, the court shall order restitution as a part of the sentence. Restitution may include payment for any cost incurred by the victim, including attorney fees, costs associated in clearing the credit history or credit ratings of the victim, or costs incurred in connection with any civil or administrative proceedings to satisfy any debt, lien, or other obligation of the victim arising as a result of the actions of the defendant.

G. When there has been a misappropriation or taking by a number of distinct acts of the offender, the aggregate amount of the misappropriation or taking shall determine the grade of the offense. For purposes of this Subsection, distinctive acts of the offender do not have to involve the same victim.

Acts 1986, No. 555, §1; Acts 1999, No. 947, §1, eff. July 9, 1999; Acts 2006, No. 143, §1; Acts 2008, No. 495, §1; Acts 2010, No. 585, §1.

§70.5. Fraudulent remuneration

A. Fraudulent remuneration is the intentional solicitation, receipt, offer, or payment of any remuneration, including but not limited to bribes, rebates, or bed hold payments, directly or indirectly, overtly or covertly, in cash or in kind, to or from a third party for the following:

(1) In return for the referral of an individual to a health care provider for the purpose of providing any good, service, or supply, billed to the Louisiana medical assistance program.

(2) In return for purchasing, leasing, or ordering, or for arranging or recommending for the purchasing, leasing, or ordering, of any good, supply, service, or facility billed to the Louisiana medical assistance program.

(3) For the recruitment of new patients for the purpose of providing any good, supply, service, or facility billed to the Louisiana medical assistance program.

(4) To any recipient or his representative, for goods, services, supplies, or facilities furnished to the recipient and billed to the Louisiana medical assistance program.

B. Normal business practices which fall within the "safe harbor" exemptions of R.S. 46:438.2 shall not be construed as an offense under the provisions of this Section.

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

Acts 1999, No. 450, §1.

§70.6. Unlawful distribution, possession, or use of theft alarm deactivation devices

A.(1) For the purposes of this Section, a theft alarm deactivation device is any device which is designed or intended to remove or deactivate any electronic or magnetic device which is placed on or attached to merchandise and which is intended to cause an alarm to be activated if the merchandise is moved from an authorized to an unauthorized area without either payment for the merchandise having been made or permission having been obtained from the owner of the merchandise for the movement.

(2) As used in this Section, the meaning of "owner" shall include an agent or employee of the owner authorized by the owner.

B. Unlawful distribution of theft alarm deactivation devices is the sale, offer for sale, exchange, offer for exchange, donation, or offer for donation of any theft alarm deactivation device with the knowledge or intention that the device will be used to remove or deactivate any theft alarm device for the purpose of moving merchandise from an authorized area to an unauthorized area without either paying for the merchandise or obtaining the permission of the owner of the merchandise.

C. Unlawful possession of theft alarm deactivation devices is the possession of any theft alarm deactivation device with the knowledge or intention that the device will be used to remove or deactivate any theft alarm device for the purpose of moving merchandise from an authorized area to an unauthorized area without either paying for the merchandise or obtaining the permission of the owner of the merchandise.

D. Unlawful use of theft alarm deactivation devices is the use of any theft alarm deactivation device to remove or deactivate any theft alarm device for the purpose of moving merchandise from an authorized area to an unauthorized area without either paying for the merchandise or obtaining the permission of the owner of the merchandise.

E. 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 2001, No. 909, §1.

§70.7. Unlawful production, manufacturing, distribution, or possession of fraudulent documents for identification purposes

A. It shall be unlawful for any person to knowingly or intentionally produce, manufacture, distribute, or possess fraudulent documents for identification purposes.

B. For purposes of this Section:

(1) "Distribute fraudulent documents for identification purposes" means to sell, give, transport, issue, provide, lend, deliver, transfer, transmit, distribute, or disseminate fraudulent documents for identification purposes.

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

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

(a) Social security card.

(b) Driver's license.

(c) Credit card.

(d) Debit card.

(e) Electronic identification number.

(f) Birth certificate.

(g) Voter registration card.

(h) Any proof of residency, including utility bills, bank statements, or other government document showing the name and address of a person.

(i) State-issued identification card.

(j) Armed forces identification card.

(k) Government-issued identification card.

(l) Financial institution account card.

(m) Visa or passport.

(n) Student identification card.

(4) "Possess fraudulent documents for identification purposes" means to possess fraudulent documents for identification purposes.

(5) "Produce or manufacture fraudulent documents for identification purposes" means to develop, prepare, design, create, or process fraudulent documents for identification purposes.

C.(1) Whoever violates the provisions of this Section by possessing a fraudulent document for identification purposes 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 by distributing, manufacturing, or producing a fraudulent document for identification purposes shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than three years, or both.

Acts 2008, No. 253, §1

§70.8. Illegal transmission of monetary funds

A. Whoever with intent to defraud either transmits, attempts to transmit, causes to be transmitted, solicits a transmission, or receives a transmission, by wire or radio signal, any stolen or fraudulently obtained monetary funds shall be imprisoned, with or without hard labor, for not more than ten years, or fined not more than one hundred thousand dollars, or both.

B. In addition to the penalties provided for in Subsection A of this Section, a person convicted under the provisions of this Section shall be ordered to make full restitution to the victim and to any other person who has suffered a financial loss as a result of the offense. If a person ordered to make restitution according to this Subsection is found to be indigent and therefore unable to make restitution in full at the time of conviction, then the court shall order a periodic payment plan consistent with the person's financial ability.

C. For purposes of this Section:

(1) "Radio signal" means any text, email, or any other wireless transmission from cellular phones, portable wireless electronic tablets or computers, or any other wireless device used to transmit or receive monetary transactions.

(2) "Wire" means any wired electronic device that provides access to the Internet or to any other access point and allows monetary transactions to be transmitted or received by email, financial institution-to-financial institution transfer, or money transfer facility.

Acts 2012, No. 540, §1, eff. June 5, 2012.

§71. Issuing worthless checks

A.(1)(a) Issuing worthless checks is the issuing, in exchange for anything of value, whether the exchange is contemporaneous or not, with intent to defraud, of any check, draft, or order for the payment of money upon any bank or other depository, knowing at the time of the issuing that the offender has not sufficient credit with the bank, or other depository for the payment of such check, draft, or order in full upon its presentation.

(b) This Section shall apply to a check, draft, or order tendered for satisfaction, in whole or in part, of payments due on installment contracts, open accounts, or any other obligation for which the creditor has authorized periodic payments or the extension of time in which to pay.

(c) This provision shall apply to a check, draft, or order for the payment of money given for a motor vehicle when such payment is conditioned upon delivery of documents necessary for transfer of a valid title to the purchaser.

(d) For purposes of this Section, an open account shall include accounts where checks are tendered as payment:

(i) In advance of receipt, in whole or in part, for telecommunication facilities or services.

(ii) For deposits, prepayments, or payments for the lease or rent of a rental motor vehicle, pursuant to a lease or rental agreement.

(e) This Section shall apply to a check, draft, or order tendered for satisfaction, in whole or in part, of a state tax obligation. For purposes of this Section, "state tax obligation" means a state tax, interest, penalty, or fee, or any contract, installment agreement, or other obligation arising out of such obligation.

(f) For purposes of this Section, any check, draft, or order tendered for payment of any tax, fee, fine, penalty, or other obligation to the state or any of its political subdivisions shall be considered issuing a check, draft, or order in exchange for anything of value.

(2) The offender's failure to pay a check, draft, or order, issued for value, within ten days after notice of its nonpayment upon presentation has been deposited by certified mail in the United States mail system addressed to the issuer thereof either at the address shown on the instrument or the last known address for such person shown on the records of the bank upon which such instrument is drawn or within ten days after delivery or personal tender of the written notice to said issuer by the payee or his agent, shall be presumptive evidence of his intent to defraud.

B. Issuing worthless checks is also the issuing, in exchange for anything of value, whether the exchange is contemporaneous or not, with intent to defraud, of any check, draft, or order for the payment of money or the issuing of such an instrument for the payment of a state tax obligation, when the offender knows at the time of the issuing that the account designated on the check, draft, or order has been closed, or is nonexistent or fictitious, or is one in which the offender has no interest or on which he has no authority to issue such check, draft, or order.

C. Whoever commits the crime of issuing worthless checks, when the amount of the check or checks is one thousand five hundred dollars or more, shall be imprisoned, with or

without hard labor, for not more than ten years, or may be fined not more than three thousand dollars, or both.

D. When the amount of the check or checks is five hundred dollars or more, but less than one thousand five hundred dollars, the offender shall be imprisoned, with or without hard labor, for not more than five years or may be fined not more than two thousand dollars, or both.

E. When the amount of the check or checks is less than five hundred dollars, the offender shall be imprisoned for not more than six months or may be fined not more than five hundred dollars, or both. If the offender in such cases has been convicted of issuing worthless checks two or more times previously, upon any subsequent conviction he shall be imprisoned, with or without hard labor, for not more than two years or be fined not more than one thousand dollars, or both.

F. When the offender has issued more than one worthless check within a one hundred eighty-day period, the amount of several or all worthless checks issued during that one hundred eighty-day period may be aggregated to determine the grade of the offense.

G. In addition to any other fine or penalty imposed under this Section, the court shall order as part of the sentence restitution in the amount of the check or checks, plus a fifteen dollar per check service charge payable to the person or entity that initially honored the worthless check or checks, an authorized collection agency, or justice of the peace. In the event the fifteen dollar per check service charge is paid to a person or entity other than one who initially honored the worthless check or checks, the court shall also order as part of the sentence restitution equal to the amount that the bank or other depository charged the person or entity who initially honored the worthless check, plus the actual cost of notifying the offender of nonpayment as required in Paragraph A(2).

H. In any prosecution for a violation of this Section, the prosecution may enter as evidence of a violation of this Section any check, draft, or order for the payment of money upon any bank or other depository which the bank or other depository has refused to honor because the person who issued the check, draft, or order did not have sufficient credit with the bank or other depository for the payment of that check, draft, or order in full upon its presentation.

I. In addition to the provisions of Subsection H, in any prosecution for a violation of this Section, the prosecution may enter as evidence of a violation of this Section any tangible copy, facsimile, or other reproduction of the check, draft, or order, or any electronic reproduction of the check, draft, or order, or any other form of the record of the check, draft, or order, provided that the tangible copy, facsimile, or other reproduction, or the electronic reproduction, or the other form of the record of the check, draft, or order has been made, recorded, stored, and reproduced in accordance with the requirements of the Louisiana Office of Financial Institutions, or in accordance with the requirements of the federal agency which regulates the bank or other depository, and provided that the appropriate officer of the bank or other depository has certified that the tangible copy, facsimile, or other reproduction, or the electronic copy, or the other form of the record of the check, draft, or order for the payment of money has been made, stored, and reproduced in accordance with the requirements of the Louisiana Office of Financial Institutions, or in accordance with the requirements of the federal agency which regulates the bank or other depository, and is a true and correct record of the transaction involving the check, draft, or order upon which the prosecution is based.

Amended by Acts 1952, No. 433, §1; Acts 1954, No. 442, §1; Acts 1956, No. 156, §1; Acts 1972, No. 197, §1; Acts 1972, No. 655, §1; Acts 1975, No. 601, §1; Acts 1976, No. 651,

§1; Acts 1977, No. 367, §1; Acts 1980, No. 386, §1; Acts 1983, No. 376, §1; Acts 1988, No. 439, §1, eff. July 9, 1988; Acts 1990, No. 1003, §1; Acts 1991, No. 135, §1; Acts 1991, No. 171, §1; Acts 1993, No. 670, §1; Acts 1994, 3rd Ex. Sess., No. 125, §1; Acts 1999, No. 338, §1; Acts 2001, No. 141, §1, eff. May 25, 2001; Acts 2001, No. 944, §4; Acts 2001, No. 1022, §1, eff. July 1, 2001; Acts 2003, No. 675, §1; Acts 2006, No. 143, §1; Acts 2010, No. 585, §1.

§71.1. Bank fraud

A. Whoever knowingly executes, or attempts to execute, a scheme or artifice to do any of the following shall be imprisoned, with or without hard labor, for not more than ten years, or may be fined not more than one hundred thousand dollars, or both:

(1) To defraud a financial institution.

(2) To obtain any of the monies, funds, credits, assets, securities, or other property owned by or under the custody or control of a financial institution by means of false or fraudulent pretenses, practices, transactions, representations, or promises.

B. In addition to the penalties provided in Subsection A of this Section, a person convicted under the provisions of this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

C. As used in this Section, the term "financial institution" has the same meaning as in R.S. 6:2(8).

Acts 1992, No. 104, §1, eff. Sept. 1, 1992; Acts 2008, No. 495, §1.

§72.1. Use of forged academic records

A. A "forged academic record" shall mean a transcript, diploma, grade report, or similar document which is presented as being a bona fide record of an institution of secondary or higher education, but which is, in fact, false, forged, altered, or counterfeit.

B. "Use of a forged academic record" shall mean the knowing and intentional offering, presentation, or other use of a forged academic record to a public or private institution of higher education in the state for the purpose of seeking admission to that institution, or one of its colleges or other academic branches, or for the purposes of securing a scholarship or other form of financial assistance from the institution itself or from other public or private sources of financial assistance for educational purposes including, without limitation, loans, grants, fellowships, assistantships, or other forms of financial aid.

C. Whoever commits the crime of the use of forged academic records may be fined not in excess of five thousand dollars or imprisoned for not in excess of six months, or both.

Acts 1989, No. 681, §1.

§72.1.1. Forgery of a certificate of insurance or insurance identification card; penalties

A. Forgery of a certificate of insurance or insurance identification card is either of the following:

(1) The knowing or intentional production, manufacture, or distribution of any fraudulent document intended as a certificate of insurance or as proof of insurance.

(2) The knowing or intentional possession of any fraudulent document intended as a certificate of insurance or as proof of insurance.

B.(1) Whoever commits the crime of forgery of a certificate of insurance or insurance card by violating the provisions of Paragraph (A)(1) of this Section shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than five years, or both.

(2) Whoever commits the crime of forgery of a certificate of insurance or insurance card by violating the provisions of Paragraph (A)(2) 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. 628, §1.

§72.2. Monetary instrument abuse

A. Whoever makes, issues, possesses, sells, or otherwise transfers a counterfeit or forged monetary instrument of the United States, a state, or a political subdivision thereof, or of an organization, with intent to deceive another person, shall be fined not more than one million dollars but not less than five thousand dollars or imprisoned, with or without hard labor, for not more than ten years but not less than six months, or both.

B. Whoever makes, issues, possesses, sells, or otherwise transfers an implement designed for or particularly suited for making a counterfeit or forged monetary instrument with the intent to deceive a person shall be fined not more than one million dollars but not less than five thousand dollars, or imprisoned, with or without hard labor, for not more than ten years but not less than six months, or both.

C. For purposes of this Section:

(1) "Counterfeit" means a document or writing that purports to be genuine but is not, because it has been falsely made, manufactured, or composed.

(2) "Forged" means the false making or altering, with intent to defraud, of any signature to, or any part of, any writing purporting to have legal efficacy.

(3) "Monetary instrument" means:

(a) A note, stock certificate, treasury stock certificate, bond, treasury bond, debenture, certificate of deposit, interest coupon, warrant, debit or credit instrument, access device or means of electronic fund transfer, United States currency, money order, bank check, teller's check, cashier's check, traveler's check, letter of credit, warehouse receipt, negotiable bill of lading, certificate of interest in or participation in any profit-sharing agreement, collateral-trust certificate, pre-organization certificate of subscription, transferable share, investment contract, voting trust certificate, or certificate of interest in tangible or intangible property.

(b) An instrument evidencing ownership of goods, wares, or merchandise.

(c) Any other written instrument commonly known as a security.

(d) A certificate of interest in, certificate of participation in, certificate for, receipt for, or warrant or option or other right to subscribe to or purchase, any of the foregoing.

(e) A blank form of any of the foregoing.

(4) "Organization" means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, company, association, firm, partnership,

joint stock company, foundation, institution, society, union, or any other association of persons which operates in or the activities of which affect intrastate, interstate, or foreign commerce.

(5) "State" includes a state of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory or possession of the United States.

D. In addition to the penalties provided in Subsections A and B of this Section, a person convicted under the provisions of this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

Acts 1997, No. 674, §1; Acts 2008, No. 495, §1; Acts 2012, No. 735, §1, eff. June 11, 2012.

§72.3. Identification of alleged offender

A. When an alleged offender has been arrested and charged by a law enforcement agency with a violation of any crime enumerated in Subsection B of this Section, and which involves the use of the identity or personal information of another person, the person whose identity or personal information was used in the commission of the offense may request in writing that the arresting law enforcement agency release the identity of the alleged offender to that person. The request shall be signed by the person on a form provided by the arresting law enforcement agency. Upon receipt of the completed request form, the arresting law enforcement agency shall release the identity of the alleged offender to the person whose identity or personal information was used in the commission of the offense.

B. The provisions of this Section shall apply to alleged offenders who have been arrested and charged by a law enforcement agency with a violation of R.S. 14:67.3 (unauthorized use of "access card"), or a violation of R.S. 14:67.16 (identity theft), or a violation of R.S. 14:70.4 (access device fraud), or a violation of any other crime which involves the unlawful use of the identity or personal information of another person.

Acts 2003, No. 310, §1.

§72.4. Disposal of property with fraudulent or malicious intent

A. It is unlawful for any person, who having executed a security agreement under Chapter 9 of the Louisiana Commercial Laws (R.S.10:9 through 101 et seq.) on movable property, to sell, assign, exchange, injure, destroy, conceal, or otherwise dispose of all or any part of the encumbered property with fraudulent or malicious intent to defeat the mortgage or security interest, or remove the encumbered property from the location designated in the security agreement, if any, or from the parish where it was located at the time of the granting of the security interest without written consent of the secured party, with fraudulent or malicious intent to defeat the security interest.

B.(1) When the value of the encumbered property is one thousand dollars or less, the offender shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) When the value of the encumbered property exceeds one thousand dollars, 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.

Acts 2005, No. 175, §1; Acts 2009, No. 152, §1.

§72.5. Unlawful production, manufacture, distribution or possession of fraudulent postsecondary education degree

A. No person shall knowingly or intentionally buy, sell, produce, manufacture, or distribute for any purpose a fraudulent postsecondary education degree or other document purporting to confer any degree or certify the completion in whole or in part of any course of study.

B. For purposes of this Section:

(1) "Distribute a fraudulent postsecondary education degree" means to sell, give, transport, issue, provide, lend, deliver, transfer, transmit, distribute, or disseminate a fraudulent postsecondary education degree for any purpose.

(2) "Fraudulent postsecondary education degree" means a credential presented as a degree which provides information that is false, forged, altered, or counterfeit and signifies the satisfactory completion of the requirements of a postsecondary education program.

(3) "Produce or manufacture fraudulent postsecondary education degree" means to develop, prepare, design, create, or process a fraudulent postsecondary education degree for any purpose.

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 2010, No. 206, §1, eff. June 17, 2010.

§73. Commercial bribery

Commercial bribery is the giving or offering to give, directly or indirectly, anything of apparent present or prospective value to any private agent, employee, or fiduciary, without the knowledge and consent of the principal or employer, with the intent to influence such agent's, employee's, or fiduciary's action in relation to the principal's or employer's affairs.

The agent's, employee's or fiduciary's acceptance of or offer to accept, directly or indirectly, anything of apparent present or prospective value under such circumstances shall also constitute commercial bribery.

The offender under this article who states the facts, under oath, to the district attorney charged with prosecution of the offense, and who gives evidence tending to convict any other offender under this article, may, in the discretion of the district attorney, be granted full immunity from prosecution for commercial bribery, in respect to the particular offense reported.

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

Amended by Acts 1968, No. 647, §1.

SUBPART D. COMPUTER RELATED CRIME

§73.1. Definitions

As used in this Subpart unless the context clearly indicates otherwise:

(1) "Access" means to program, to execute programs on, to communicate with, store data in, retrieve data from, or otherwise make use of any resources, including data or programs, of a computer, computer system, or computer network.

(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 program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.

(5) "Computer services" means providing access to or service or data from a computer, a computer system, or a computer network, and also includes but is not limited to data processing services, Internet services, electronic mail services, electronic message services, or information or data stored in connection therewith.

(6) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with operation of a computer system.

(7) "Computer system" means a set of functionally related, connected or unconnected, computer equipment, devices, or computer software.

(8) "Electronic mail service provider" means any person who both:

(a) Is an intermediary in sending or receiving electronic mail.

(b) Provides to end-users of electronic mail services the ability to send or receive electronic mail.

(9) "Financial instrument" means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, access card as defined in R.S. 14:67.3, or marketable security.

(10) "Intellectual property" includes data, computer programs, computer software, trade secrets as defined in R.S. 51:1431(4), copyrighted materials, and confidential or proprietary information, in any form or medium, when such is stored in, produced by, or intended for use or storage with or in a computer, a computer system, or a computer network.

(11) "Internet, virtual, street-level map" means any map or image that contains the picture or pictures of homes, buildings, or people that are taken and dispensed, electronically, over the Internet or by a computer network, where the picture can be accessed by entering the address of the home, building, or person.

(12) "Proper means" includes:

(a) Discovery by independent invention.

(b) Discovery by "reverse engineering", that is by starting with the known product and working backward to find the method by which it was developed. The acquisition of the known product must be by lawful means.

(c) Discovery under license or authority of the owner.

(d) Observation of the property in public use or on public display.

(e) Discovery in published literature.

(13) "Property" means property as defined in R.S. 14:2(8) and shall specifically include but not be limited to financial instruments, electronically stored or produced data, and computer programs, whether in machine readable or human readable form.

(14) "Unsolicited bulk electronic mail" means any electronic message which is developed and distributed in an effort to sell or lease consumer goods or services and is sent in the same or substantially similar form to more than one thousand recipients.

Acts 1984, No. 711, §1; Acts 1999, No. 1180, §1; Acts 2010, No. 62, §1.

§73.2. Offenses against intellectual property

A. An offense against intellectual property is the intentional:

(1) Destruction, insertion, or modification, without consent, of intellectual property; or

(2) Disclosure, use, copying, taking, or accessing, without consent, of intellectual property.

B. (1) Whoever commits an offense against intellectual property shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both, for commission of the offense.

(2) However, when the damage or loss amounts to a value of five hundred dollars or more, the offender may be fined not more than ten thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

C. The provisions of this Section shall not apply to disclosure, use, copying, taking, or accessing by proper means as defined in this Subpart.

Acts 1984, No. 711, §1.

§73.3. Offenses against computer equipment or supplies

A. An offense against computer equipment or supplies is the intentional modification or destruction, without consent, of computer equipment or supplies used or intended to be used in a computer, computer system, or computer network.

B. (1) Whoever commits an offense against computer equipment or supplies shall be fined not more than five hundred dollars, or be imprisoned for not more than six months, or both.

(2) However, when the damage or loss amounts to a value of five hundred dollars or more, the offender may be fined not more than ten thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

Acts 1984, No. 711, §1.

§73.4. Offenses against computer users

A. An offense against computer users is the intentional denial to an authorized user, without consent, of the full and effective use of or access to a computer, a computer system, a computer network, or computer services.

B. (1) Whoever commits an offense against computer users shall be fined not more than five hundred dollars, or be imprisoned for not more than six months, or both, for commission of the offense.

(2) However, when the damage or loss amounts to a value of five hundred dollars or more, the offender may be fined not more than ten thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

Acts 1984, No. 711, §1.

§73.5. Computer fraud

A. Computer fraud is the accessing or causing to be accessed of any computer, computer system, computer network, or any part thereof with the intent to:

(1) Defraud; or

(2) Obtain money, property, or services by means of false or fraudulent conduct, practices, or representations, or through the fraudulent alteration, deletion, or insertion of programs or data.

B. Whoever commits computer fraud shall be fined not more than ten thousand dollars, or imprisoned with or without hard labor for not more than five years, or both.

Acts 1984, No. 711, §1; Acts 1988, No. 184, §1, eff. July 1, 1988.

§73.6. Offenses against electronic mail service provider

A. It shall be unlawful for any person to use a computer, a computer network, or the computer services of an electronic mail service provider to transmit unsolicited bulk electronic mail in contravention of the authority granted by or in violation of the policies set by the electronic mail service provider. Transmission of electronic mail from an organization to its members or noncommercial electronic mail transmissions shall not be deemed to be unsolicited bulk electronic mail.

B. It is unlawful for any person to use a computer or computer network without authority with the intent to falsify or forge electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers. It is also unlawful for any person knowingly to sell, give, or otherwise distribute or possess with the intent to sell, give, or distribute software which is any of the following:

(1) Primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail transmission information or other routing information.

(2) Has only limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information.

(3) Marketed by that person or another acting in concert with that person with that person's knowledge for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.

C. Whoever violates the provisions of this Section shall be fined not more than five thousand dollars.

D. Nothing in this Section shall be construed to interfere with or prohibit terms or conditions in a contract or license related to computers, computer data, computer networks, computer operations, computer programs, computer services, or computer software, or to create any liability by reason of terms or conditions adopted by, or technical measures implemented by, an electronic mail service provider to prevent the transmission of unsolicited electronic mail in violation of this Section.

Acts 1999, No. 1180, §1.

§73.7. Computer tampering

A. Computer tampering is the intentional commission of any of the actions enumerated in this Subsection when that action is taken knowingly and without the authorization of the owner of a computer:

(1) Accessing or causing to be accessed a computer or any part of a computer or any program or data contained within a computer.

(2) Copying or otherwise obtaining any program or data contained within a computer.

(3) Damaging or destroying a computer, or altering, deleting, or removing any program or data contained within a computer, or eliminating or reducing the ability of the owner of the computer to access or utilize the computer or any program or data contained within the computer.

(4) Introducing or attempting to introduce any electronic information of any kind and in any form into one or more computers, either directly or indirectly, and either simultaneously or sequentially, with the intention of damaging or destroying a computer, or altering, deleting, or removing any program or data contained within a computer, or eliminating or reducing the ability of the owner of the computer to access or utilize the computer or any program or data contained within the computer.

B. For purposes of this Section:

(1) Actions which are taken without authorization include actions which intentionally exceed the limits of authorization.

(2) If an owner of a computer has established a confidential or proprietary code which is required in order to access a computer, and that code has not been issued to a person, and that person uses that code to access that computer or to cause that computer

to be accessed, that action creates a rebuttable presumption that the action was taken without authorization or intentionally exceeded the limits of authorization.

(3) The vital services or operations of the state, or of any parish, municipality, or other local governing authority, or of any utility company are the services or operations which are necessary to protect the public health, safety, and welfare, and include but are not limited to: law enforcement; fire protection; emergency services; health care; transportation; communications; drainage; sewerage; and utilities, including water, electricity, and natural gas and other forms of energy.

C. Whoever commits the crime of computer tampering as defined in Paragraphs (A)(1) and (2) of this Section shall be fined not more than five hundred dollars or imprisoned for not more that six months, or both.

D. Whoever commits the crime of computer tampering as defined in Paragraphs (A)(3) and (4) of this Section shall be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not more that five years, or both.

E. Whoever violates the crime of computer tampering as defined in Paragraphs (A)(3) and (4) of this Section with the intention of disrupting the vital services or operations of the state, or of any parish, municipality, or other local governing authority, or of any utility company, or with the intention of causing death or great bodily harm to one or more persons, shall be fined not more than ten thousand dollars or imprisoned at hard labor for not more that fifteen years, or both.

Acts 2001, No. 829, §1.

§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 seventeen 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.

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. 36, §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.

SUBPART B. SEX OFFENSES AFFECTING THE FAMILY

§76. Bigamy

Bigamy is the marriage to another 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.

The provisions of this article shall not extend:

(1) To 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; or

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

(3) To 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.

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.

77. Abetting in bigamy

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.

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.

§78. Incest

A. Incest is 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.

B. 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.

C. This Section shall not apply where one, not a resident of this state at the time of the celebration of his marriage, shall have contracted a marriage lawful at the place of celebration and shall thereafter have removed to this state.

D.(1) Whoever commits incest, 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.

(2) Whoever commits incest, 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.

Acts 1985, No. 706, §1; Acts 2004, No. 26, §8.

§78.1. Aggravated incest

A. Aggravated incest is the engaging in any prohibited act enumerated in Subsection B 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 Section:

(1) 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.

(2) 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 is not a defense under this Section.

D.(1) A person convicted of aggravated incest shall be fined 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 incest on a victim under the age of thirteen years when the offender is seventeen years of age or older shall be punished by imprisonment at hard labor for not less than twenty-five years nor more than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(3) 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.

E.(1) In addition to any sentence imposed under Subsection D, 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.

Acts 1993, No. 525, §1, eff. June 10, 1993; Acts 2004, No. 648, §1; Acts 2004, No. 676, §1; Acts 2006, No. 325, §2; Acts 2008, No. 33, §1; Acts 2011, No. 67, §3.

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, Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles, 327.1, 335.1 and 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, criminal stay-away orders as provided for in Code of Criminal Procedure Articles 327.1, and 335.1, 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 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.

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

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

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

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

(c) A condition of a parole release which requires that the parolee stay away from any specific person.

B.(1) On a first conviction for violation of protective orders which does not involve a battery to the person protected by the protective order, the offender shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) On a second conviction for violation of protective orders which does not involve a battery to the person protected by the protective order, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not more than one thousand dollars and imprisoned for not less than forty-eight hours nor more than six months. At least forty-eight hours 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-approved domestic abuse counseling program.

(3) On a third or subsequent conviction for violation of protective orders which does not involve a battery to the person protected by the protective order, regardless of whether the current offense occurred before or after the earlier convictions, the offender shall be fined not more than one thousand dollars and imprisoned for not less than fourteen days nor more than six months. 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-approved domestic abuse counseling program, unless the offender has previously been required to participate in such program and, in the discretion of the judge, the offender would not benefit from such counseling.

C.(1) Whoever is convicted of the offense of violation of protective orders where the violation involves a battery to the person protected by the protective order, and who has not been convicted of violating a protective order or of an assault or battery upon the person protected by the protective order within the five years prior to commission of the instant offense, shall be fined not more than five hundred dollars and imprisoned for not less than fourteen days nor more than six months. 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-approved domestic abuse counseling program as part of that probation.

(2) Whoever is convicted of the offense of violation of protective orders where the violation involves a battery to the person for whose benefit the protective order is in effect, and who has been convicted not more than one time of violating a protective order or of an assault or battery upon the person for whose benefit the protective order is in effect within the five-year period prior to commission of the instant offense, regardless of whether the instant offense occurred before or after the earlier convictions, shall be fined not more than one thousand dollars and imprisoned for not less than three months nor more than six months. 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-approved domestic abuse counseling program, unless the offender has previously been required to participate in such program and, in the discretion of the court, the offender would not benefit from such counseling.

(3) Whoever is convicted of the offense of violation of protective orders where the violation involves a battery to the person for whose benefit the protective order is in effect, and who has more than one 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. 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, Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 327.1, 335.1 and 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, Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 327.1 and 335.1 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.

F. This Section shall not be construed to 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 domestic abuse counseling 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.

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 an aged or disabled person 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 an aged person 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.

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)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

Amended by Acts 1977, No. 539, §1; Acts 1978, No. 757, §1; Acts 1990, No. 590, §1; Acts 1995, No. 241, §1; Acts 2001, No. 796, §1; Acts 2006, No. 80, §1; Acts 2008, No. 331, §1; Acts 2010, No. 763, §1.

§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 online 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, or 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. After the institution of prosecution, access to and the disposition of any material seized as evidence of this offense shall be in accordance with R.S. 46:1845.

G. Any evidence resulting from the commission of a crime under this Section shall constitute contraband.

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)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

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.

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

(4) "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.

(5) "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.

(6) "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.

(7) "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.

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

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

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

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

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

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

(b) On a second or subsequent conviction for the intentional possession of pornography involving juveniles, the offender shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not 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 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 ten thousand dollars and be imprisoned at hard labor for not less than five years or more than twenty years, without benefit of probation, parole, or suspension of sentence.

(4) Whoever engages in the promotion, advertisement, or production of pornography involving juveniles shall be fined not more than fifteen thousand dollars and be imprisoned at hard labor for not less than ten years or more than twenty years, without benefit of probation, parole, or suspension of sentence.

(5)(a) Whoever commits the crime of pornography involving juveniles punishable by the provisions of Paragraphs (1), (2), or (3) of this Subsection when the victim is under the age of thirteen years and the offender is seventeen years of age or older shall be punished by

imprisonment at hard labor for not less than one-half the longest term nor more than twice the longest term of imprisonment provided in Paragraphs (1), (2), and (3) of this Subsection. The sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

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

(c) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(d) The personal property made subject to seizure and sale pursuant to Subparagraph (c) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

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

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

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

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

F.(1) Any evidence of pornography involving a child under the age of seventeen shall be contraband. Such contraband shall be seized in accordance with law and shall be disposed of in accordance with R.S. 46:1845.

(2) Upon the filing of any information or indictment by the prosecuting authority for a violation of this Section, the investigating law enforcement agency which seized the photographs, films, videotapes, or other visual reproductions of pornography involving juveniles shall provide copies of those reproductions to the Internet crimes against children division within the attorney general's office.

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

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

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

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

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

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

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

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

(c) The identity of the victim.

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

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

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

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

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

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

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

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

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

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

Added by Acts 1977, No. 97, §1. Amended by Acts 1981, No. 502, §1, eff. July 19, 1981, Acts 1983, No. 655, §1; Acts 1986, No. 777, §1; Acts 1992, No. 305, §1; Acts 2003, No. 1245, §1; Acts 2006, No. 103, §1; Acts 2008, No. 33, §1; Acts 2009, No. 382, §2; Acts 2010, No. 516, §1; Acts 2010, No. 763, §1; Acts 2012, No. 446, §1.

§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.(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.

§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.(1) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(2) The personal property made subject to seizure and sale pursuant to Paragraph (1) of this Subsection may include but shall not be limited to, electronic communication devices, computers, computer-related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

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.

§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 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.

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)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

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) "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.

(2) "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. After the institution of prosecution, access to and the disposition of any material seized as evidence of this offense shall be in accordance with R.S. 46:1845.

H. Any evidence resulting from the commission of computer-aided solicitation of a minor shall constitute contraband.

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.
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 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.

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.

§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 less than two nor 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 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 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. 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).

Amended by Acts 1977, No. 49, §1; Acts 1987, No. 569, §1; Acts 1988, No. 666, §1; Acts 1999, No. 338, §1; Acts 2001, No. 403, §1, eff. June 15, 2001; Acts 2001, No. 944, §4; Acts 2008, No. 138, §1; Acts 2012, No. 446, §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.

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.

Acts 1985, No. 777, §1; Acts 2008, No. 138, §1; Acts 2012, No. 446, §1.

§83. Soliciting for prostitutes

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

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

(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 more than fifty thousand dollars, imprisoned for not less than fifteen years nor more than fifty years, or both.

(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 more than seventy-five thousand dollars, imprisoned for not less than twenty-five years nor more than fifty years, or both.

Amended by Acts 1980, No. 708, §1; Acts 2012, No. 446, §1.

§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 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 for not less than twenty-five years nor more than fifty years, or both.

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

§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 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 for not less than twenty-five years nor more than fifty years, or both.

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

§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. 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).

Acts 1984, No. 580, §1; Acts 2012, No. 446, §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. 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).

Acts 1984, No. 580, §1; Acts 2012, No. 446, §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 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 for not less than twenty-five years nor more than fifty years, or both.

Amended by Acts 1978, No. 219, §1; Acts 1980, No. 708, §1; Acts 2012, No. 446, §1.

§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 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 for not less than twenty-five years nor more than fifty years, or both.

Acts 2012, No. 446, §1.

§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 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 for not less than twenty-five years nor more than fifty years, or both.

(2) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(3) The personal property made subject to seizure and sale pursuant to Paragraph (2) of this Subsection may include, but shall not be limited to, electronic communication devices, computers, computer related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

C. 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 peace officer acting in his official capacity.

Amended by Acts 1978, No. 434, §1; Acts 2010, No. 763, §1; Acts 2012, No. 446, §1.

§87.1. Killing a child during delivery

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.

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

Added by Acts 1973, No. 74, §1.

§87.2. Human experimentation

Human experimentation is the use of any live born human being, without consent of that live born human being, as hereinafter defined, for any scientific or laboratory research or any other kind of experimentation or study except to protect or preserve the life and health of said 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 said human embryo or fetus.

A human being is live born, or there is a live birth, whenever there is the complete expulsion or extraction from its mother of a human embryo or fetus, irrespective of the duration of pregnancy, which after such separation, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

Whoever commits the crime of human experimentation 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.

§87.4. Abortion advertising

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

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.

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

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. For purposes of this Section, "viable" means that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supporting systems. 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.

§88. Distribution of abortifacients

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.

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.

4. CRIME AGAINST NATURE

§89. Crime against nature

A. Crime against nature is the unnatural carnal copulation by a human being with another of the same sex or opposite sex or with an animal, 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, 14:42, 14:42.1 or 14:43. 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.

B.(1) Whoever violates the provisions of this Section shall be fined not more than two thousand dollars, imprisoned, with or without hard labor, for not more than five years, or both.

(2) Whoever violates the provisions of this Section with a person under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned for not less than fifteen years nor more than fifty years, or both.

(3) Whoever violates the provisions of this Section with a person under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned for not less than twenty-five years nor more than fifty years, or both.

C. 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).

Amended by Acts 1975, No. 612, §1; Acts 1982, No. 703, §1; Acts 2010, No. 882, §1; Acts 2012, No. 446, §1.

§89.1. Aggravated crime against nature

A. Aggravated crime against nature is crime against nature committed under any one or more of the following circumstances:

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

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

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

(4) When through idiocy, imbecility, 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;

(5) 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; or

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

B. Whoever commits the crime of aggravated crime against nature 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.

Added by Acts 1962, No. 60, §1. Amended by Acts 1979, No. 125, §1; Acts 1984, No. 683, §1

§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).

(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.

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

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, E. Repealed by Acts 2010, No. 518, §2.

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.

§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.

[1]R.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's constitution and that of the United States are declarations of rights which the drafters intended to withstand time and address the wrongs and injustices which arise in future years. The legislature hereby finds and declares that it has balanced its interest in protecting the citizens of this state with the protection afforded by the First Amendment, and the mandates of Article XII, Section 6 of the Constitution of Louisiana and that this Section is a product thereof.

B. Gambling by computer is the intentional conducting, or directly assisting in the conducting as a business of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit when accessing the Internet, World Wide Web, or any part thereof by way of any computer, computer system, computer network, computer software, or any server.

C. For purposes of this Section the following definitions apply:

(1) "Client" means anyone using a computer to access a computer server.

(2) "Computer" includes an electronic, magnetic, optical, or other high-speed data processing device or system performing logical, arithmetic, and storage functions, and includes any property, data storage facility, or communications facility directly related to or operating in conjunction with such device or system. "Computer" shall not include an automated typewriter or typesetter, a machine designed solely for word processing, or a portable hand-held calculator, nor shall "computer" include any other device which might contain components similar to those in computers but in which the components have the sole function of controlling the device for the single purpose for which the device is intended.

(3) "Computer network" means a set of related, remotely connected devices and communication facilities including at least one computer system with capability to transmit data through communication facilities.

(4) "Computer services" means providing access to or service or data from a computer, a computer system, or a computer network.

(5) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with operation of a computer system.

(6) "Computer system" means a set of functionally related, connected or unconnected, computer equipment, devices, or computer software.

(7) "Home Page" means the index or location for each computer site on the World Wide Web.

(8) "Internet" means the global information system that is logically linked together by a globally unique address space based on the Internet Protocol or its subsequent extensions, is able to support communications using the Transmission Control Protocol/Internet Protocol suite or its

subsequent extensions, and other Internet Protocol compatible protocols, and provides, uses or makes accessible, either publicly or privately, high level services layered on the communications and related infrastructure described herein.

(9) "Server" means a computer that listens for and services a client.

(10) "World Wide Web" means a server providing connections to mega lists of information on the Internet; it is made up of millions of individual web sites linked together.

D. Whoever commits the crime of gambling by computer shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

E. Whoever designs, develops, manages, supervises, maintains, provides, or produces any computer services, computer system, computer network, computer software, or any server providing a Home Page, Web Site, or any other product accessing the Internet, World Wide Web, or any part thereof offering to any client for the primary purpose of the conducting as a business of any game, contest, lottery, or contrivance whereby a person risks the loss of anything of value in order to realize a profit shall be fined not more than twenty thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

F. The conducting or assisting in the conducting of gaming activities or operations upon a riverboat, at the official gaming establishment, by operating an electronic video draw poker device, by a charitable gaming licensee, or at a pari-mutuel wagering facility, conducting slot machine gaming at an eligible horse racing facility, or the operation of a state lottery which is licensed for operation and regulated under the provisions of Chapters 4 and 11 of Title 4, Chapters 4, 5, 6, and 7 of Title 27, or Subtitle XI of Title 47 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by computer for the purposes of this Section, so long as the wagering is done on the premises of the licensed establishment.

G. The conducting or assisting in the conducting of pari-mutuel wagering at licensed racing facilities under the provisions of Chapter 4 of Title 4 of the Louisiana Revised Statutes of 1950, shall not be considered gambling by computer for the purposes of this Section so long as the wagering is done on the premises of the licensed establishment.

H. Nothing in this Section shall prohibit, limit, or otherwise restrict the purchase, sale, exchange, or other transaction related to stocks, bonds, futures, options, commodities, or other similar instruments or transactions occurring on a stock or commodities exchange, brokerage house, or similar entity.

I. The providing of Internet or other on-line access, transmission, routing, storage, or other communication related services, or Web Site design, development, storage, maintenance, billing, advertising, hypertext linking, transaction processing, or other site related services, by telephone companies, Internet Service Providers, software developers, licensors, or other such parties providing such services to customers in the normal course of their business, shall not be considered gambling by computer even though the activities of such customers using such services to conduct a prohibited game, contest, lottery, or contrivance may constitute gambling by computer for the purposes of this Section. The provisions of this Subsection shall not exempt from criminal prosecution any telephone company, Internet Service Provider, software developer, licensor, or other such party if its primary purpose in providing such service is to conduct gambling as a business.

Acts 1997, No. 1467, §1; Acts 2010, No. 518, §1.

§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. 27:301(B)(15), placed in an establishment licensed for operation and regulated under the applicable provisions of Chapter 6 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

§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.

B. No person under the age of twenty-one shall enter, or be permitted to enter, the designated gaming area of a riverboat, the official gaming establishment, or the designated slot machine 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. For purposes of this Section, "casino games, gaming devices, or slot machines" means a game or device, as defined in R.S. 27:44(10) or (12), 205(12) or (13), or 353(14) 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.

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.

§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.

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:

(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; or

(2) The physical residing of a sexually violent predator within one thousand feet of any public or private elementary or secondary school, a day care center, group home, residential home, or child care facility as defined in R.S. 46:1403, a family child day care home as defined in R.S. 46:1441.1, playground, public or private youth center, public swimming pool, or free standing video arcade facility.

B. It shall not be a violation of Paragraph (A)(1) of this Section if the offender has permission to be present from the superintendent of the school board in the case of a public school or the principal or headmaster in the case of a private school.

C. If permission is granted to an offender to be present on public school property by the superintendent for that public school pursuant to Subsection B of this Section, then the superintendent shall notify the principal at least twenty-four hours in advance of the visit by the offender. This notification shall include the nature of the visit and the date and time in which the sex offender will be present in the school. The offender shall notify the office of the principal upon arrival on the school property and upon departing from the school. If the offender is to be present in the vicinity of children, the offender shall remain under the direct supervision of a school official.

D. For purposes of this Section:

(1) "School property" means any property used for school purposes, including but not limited to school buildings, playgrounds, and parking lots.

(2) "Sexually violent predator" means a person defined as such in accordance with the provisions of Chapter 3-D of Title 15 of the Louisiana Revised Statutes of 1950.

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

Acts 2001, No. 1044, §1; Acts 2004, No. 178, §1; Acts 2006, No. 186, §1, eff. June 2, 2006; Acts 2009, No. 210, §1, eff. Sept. 1, 2009.

§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 public or private elementary or secondary school or child care facility as defined in R.S. 46:1403.

(3) The physical presence of the offender in, on, or within one thousand feet of a public park, recreational facility, or child care facility as defined in 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(2) 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 a group home, residential home, child care facility as defined in R.S. 46:1403, or a family child day care home as defined in R.S. 46:1441.1.

(2) The establishment of a residence within one thousand feet of any group home, residential home, child care facility as defined in R.S. 46:1403, a family child day care home as defined in R.S. 46:1441.1, playground, public or private youth center, public swimming pool, or free standing video arcade facility.

C.(1) It shall not be a violation of the provisions of this Section if the offender has permission to be present on school premises from the superintendent of the school board in the case of a public school or the principal or headmaster in the case of a private school.

(2) If permission is granted to an offender to be present on public school property by the superintendent for that public school pursuant to this Subsection, then the superintendent shall notify the principal at least twenty-four hours in advance of the visit by the offender. This notification shall include the nature of the visit and the date and time in which the sex offender will be present in the school. The offender shall notify the office of the principal upon arrival on the school property and upon departing from the school. If the offender is to be present in the vicinity of children, the offender shall remain under the direct supervision of a school official.

(3) Any superintendent, principal, or school master who acts in good faith in compliance with this Subsection shall be immune from civil or criminal liability for his actions in connection with any injury or claim arising from an offender being present on school property pursuant to permission granted by that superintendent, principal, or school master.

D.(1) It shall not be a violation of this Section if the offender has complied with all regulations of the governing board of the public library that restrict access of sex offenders to public library property.

(2) By January 1, 2013, each governing board of a public library shall develop and implement a plan to regulate access of sex offenders to the public library property under its jurisdiction.

(3) Each governing board of a public library shall tailor its regulations to reasonably restrict the time, place, and manner of access to public library property and shall narrowly tailor the regulations to serve the significant governmental interest of protecting children from contact with sex offenders.

(4) The State Library of Louisiana shall provide technical assistance in the development of the regulations by the governing boards. Such assistance shall guide the governing boards to develop, to the extent practicable, regulations that are uniform and ensure fair and consistent application across jurisdictions.

(5) Any public servant, including any head librarian, member of a governing board of a public library, staff and volunteers of a public library, and the state of Louisiana, who acts in good faith in compliance with this Subsection shall be immune from civil and criminal liability for his actions in connection with any injury or claim arising from a sex offender being present on public library property.

(6) Nothing in this Subsection shall prevent a public library from adopting a total ban on a sex offender's access to public library property, provided that the governing board complies with the criteria set forth in Paragraph (3) of this Subsection.

(7) No provision of this Subsection shall apply when the sex offender is reporting to a police station or a court house which is within the distance specified herein from a library.

E. For purposes of this Section:

(1) "Governing board of the public library" means a library board of control or other public body responsible for the operations of a public library.

(2) "Loitering" means to linger, remain, or prowl in a public place or on the premises of another for a protracted period of time without lawful business or reason to be present.

(3) "Public library" means a parish or municipal library provided for by Chapter 3 of Title 25 of the Louisiana Revised Statutes of 1950.

(4) "Public library property" means immovable property that is open to the public and is used as a branch of a parish or municipal public library, including any courtyard or parking lot that is under the direct and exclusive control of the public library.

(5) "Public park or recreational facility" means any building or area owned by the state or by a political subdivision that is open to the public and used or operated as a park or recreational facility and shall include all parks and recreational areas administered by the office of state parks in the Department of Culture, Recreation and Tourism.

(6) "School property" means any property used for school purposes, including but not limited to school buildings, playgrounds, and parking lots.

F. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

Acts 2006, No. 40, §1; Acts 2009, No. 210, §1, eff. Sept. 1, 2009; Acts 2012, No. 191, §1; Acts 2012, No. 693, §1, eff. Jan. 1, 2013.

§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 those child care facilities as enumerated in R.S. 46:1403, or own, operate, or in any way participate in the governance of, or reside in, family child day care homes as defined in R.S. 46:1441.1.

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.

§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 of the following facilities:

(1) A day care center, residential home, community home, or group home or child care facility as defined in R.S. 46:1403; or

(2) A family child day care home as defined in R.S. 46:1441.1.

B. No person shall knowingly permit a person convicted of a sex offense as defined in R.S. 15:541 physical access to any of the following facilities:

(1) A day care center, residential home, community home, group home, or child care facility as defined in R.S. 46:1403; or

(2) A family child day care home as defined in R.S. 46:1441.1.

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.

§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 to persons under age eighteen; penalty

A. No person shall distribute or cause to be distributed to persons under eighteen years of age a promotional sample of any tobacco product.

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

(1) "Tobacco product" means any cigar, cigarette, smokeless tobacco, or smoking tobacco.

(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.

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.

§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; 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. It is the intent of the legislature that this Section shall be equitably enforced so as to ensure the eligibility for and receipt of any federal funds or grants the state now receives or may receive relating to the provisions of this Section.

C. It is unlawful for any manufacturer, distributor, retailer, or other person knowingly to sell or distribute any tobacco product to a person under the age of eighteen. However, it shall not be unlawful for a person under the age of eighteen to accept receipt of a tobacco product from an employer when required in the performance of such person's duties. At the point of purchase, a sign in type not less than 30-point type shall be displayed that reads "LOUISIANA LAW PROHIBITS THE SALE OF TOBACCO TO PERSONS UNDER AGE 18".

D. It is unlawful for a vending machine operator to place in use a vending machine to vend any tobacco product automatically, unless the machine displays a sign or sticker in not less than 22-point type on the front of the machine stating, "LOUISIANA LAW PROHIBITS THE SALE OF TOBACCO TO PERSONS UNDER AGE 18", or words of similar meaning.

E. It is unlawful for any person under the age of eighteen to buy any tobacco product.

F.(1) It is unlawful for any person under the age of eighteen to possess any tobacco product.

(2) However, it shall not be unlawful for a person under the age of eighteen to possess a tobacco 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 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) "Tobacco product" means any cigar, cigarette, smokeless tobacco, or smoking tobacco.

(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.

H.(1) A person who violates the provisions of this Section by selling or buying tobacco 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 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.

§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 a 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

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.

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.

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. 594, §1.

§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.

§91.21. Sale of poisonous reptiles to minors; penalty

It shall be unlawful for any person to sell any type of poisonous reptile to a minor.

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.

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 is 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. 394, §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. 624, §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 activities:

(1) Through criminal negligence, the permitting of the minor to associate with a person known by the parent or custodian:

(a) To be a member of a known criminal street gang as defined in R.S. 15:1404(A).

(b) To have been convicted of a felony offense.

(c) To be a known user or distributor of drugs in violation of the Uniform Controlled Dangerous Substances Law.

(d) To be a person who possesses or has access to an illegal firearm, weapon, or explosive.

(2) Through criminal negligence, the permitting of the minor:

(a) To enter premises known by the parent or custodian to be a place where sexually indecent activities or prostitution is practiced.

(b) To violate a local or municipal curfew ordinance.

(c) To habitually be absent or tardy from school pursuant to the provisions of R.S. 17:233 without valid excuse.

(d) To enter the premises known by the parent or legal custodian as a place of illegal drug use or distribution activity.

(e) To enter the premises known by the parent or legal custodian as a place of underage drinking or gambling.

(f) To 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. For purposes of this Paragraph, "serious bodily injury" means a bodily injury which involves unconsciousness, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

B.(1) Whoever violates the provisions of this Section shall be fined not less than twenty-five dollars and not more than two hundred fifty dollars for each offense, or imprisoned for not more than thirty 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) Whoever violates the provisions of Subparagraph (A)(2)(c) of this Section, shall be fined not less than twenty-five dollars and not more than two hundred fifty dollars for each offense, or imprisoned for not more than thirty days, or both. The court shall impose a minimum condition of probation which may include that the parent or legal custodian participate in forty hours of school or community service activities, or a combination of forty hours of school or community service and attendance in parenting classes or family counseling sessions or programs approved by the court having jurisdiction, as applicable, or the suspension of any state-issued recreational license.

C. The provisions of Subparagraph (A)(1)(b) 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. 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 (1) and (2) of Subsection A, 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.

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.

§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 seventeen 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 15, 2001.

§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. 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.

Acts 1985, No. 827, §1; Acts 2004, No. 143, §1; Acts 2008, No. 7, §1.

§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 parents 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) For purposes of this Section, "serious bodily injury" means bodily injury involving protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or substantial risk of death.

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.

3. OFFENSES AFFECTING THE HEALTH AND SAFETY OF THE INFIRM

§93.3. Cruelty to the infirmed

A. Cruelty to the infirmed is the intentional or criminally negligent mistreatment or neglect by any person, including a caregiver, whereby unjustifiable pain, malnourishment, or suffering is caused to the infirmed, a disabled adult, or an aged person, including but not limited to a person who is a resident of a nursing home, mental retardation facility, 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 the infirmed, physically or mentally disabled adult, or aged person, 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 an aged or infirmed person or disabled adult, or have assumed voluntary residence with an aged or infirmed person or disabled adult.

C. For the purposes of this Section, an aged person 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 an infirmed, a disabled adult, or an aged person. 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 infirmed person, disabled adult, or aged person 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 the infirmed 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.

§93.4. Exploitation of the infirmed

A. Exploitation of the infirmed is:

(1) The intentional expenditure, diminution, or use by any person, including a caregiver, of the property or assets of the infirmed, a disabled adult, or an aged person, including but not limited to a resident of a nursing home, mental retardation facility, 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 an infirmed person's, or aged person's, or disabled adult's power of attorney or guardianship for one's own profit or advantage by means of fraudulent conduct, practices, or representations.

B. Whoever commits the crime of exploitation of the infirmed 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 the infirmed shall be prohibited from having access to the victim's or any other disabled or aged person's assets or property. The offender shall be prohibited from being appointed as a power of attorney[1] or guardian for the victim or any other disabled or aged person. The provisions of this Subsection shall not be construed to prohibit the offender from inheriting from the infirmed victim.

Acts 1992, No. 309, §1; Acts 1994, 3rd Ex. Sess., No. 26, §1; Acts 1995, No. 883, §1; Acts 1999, No. 1044, §1.

[1]As appears in enrolled bill.

§93.5. Sexual battery of the infirm

A. Sexual battery of the infirm is the intentional engaging in any of the sexual acts listed in Subsection B with another person, who is not the spouse of the offender, when:

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

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

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

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

B. For purposes of this Section, "sexual acts" mean 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; or

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

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

D. Whoever commits the crime of sexual battery of the infirm shall be punished by imprisonment, with or without hard labor, for not more than ten years.

Acts 1992, No. 617, §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 or imprisoned for not more than six months, or both.

(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.

(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.

§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.

PART VI. OFFENSES AFFECTING THE PUBLIC GENERALLY

SUBPART A. OFFENSES AFFECTING THE PUBLIC SAFETY

1. ILLEGAL CARRYING AND DISCHARGE OF WEAPONS

§94. Illegal use of weapons or dangerous instrumentalities

A. Illegal use of weapons or dangerous instrumentalities is the intentional or criminally negligent discharging of any firearm, or the throwing, placing, or other use of any article, liquid, or substance, where it is foreseeable that it may result in death or great bodily harm to a human being.

B. Except as provided in Subsection E, whoever commits the crime of illegal use of weapons or dangerous instrumentalities 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. Except as provided in Subsection E, on a second or subsequent conviction, the offender shall be imprisoned at hard labor for not less than five years nor more than seven years, without benefit of probation or suspension of sentence.

D. The enhanced penalty upon second and subsequent convictions provided for in Subsection C of this Section 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.

E. Whoever commits the crime of illegal use of weapons or dangerous instrumentalities by discharging a firearm from a motor vehicle located upon a public street or highway, where the intent is to injure, harm, or frighten another human being, shall be imprisoned at hard labor for not less than five nor more than ten years without benefit of probation or suspension of sentence.

F. Whoever commits the crime of illegal use of weapons or dangerous instrumentalities by discharging a firearm while committing, attempting to commit, conspiring to commit, or soliciting, coercing, or intimidating another person to commit a crime of violence or violation of the Uniform Controlled Dangerous Substances Law, shall be imprisoned at hard labor for not less then ten years nor more than twenty years, without benefit of parole, probation, or suspension of sentence. If the firearm used in violation of this Subsection is a machine gun or is equipped with a firearm silencer or muffler, as defined by R.S. 40:1751 and R.S. 40:1781, respectively, the offender shall be sentenced to imprisonment for not less than twenty years nor more than thirty years, without benefit of parole, probation, or suspension of sentence. Upon a second or subsequent conviction, under this Subsection, such offender shall be sentenced to imprisonment for not less than twenty years. If the violation of this Subsection, upon second or subsequent conviction, involves the use of a machine gun or a firearm equipped with a firearm silencer or muffler, such offender shall be sentenced to imprisonment for life without benefit of parole, probation, or suspension of sentence.

Amended by Acts 1958, No. 379, §§1, 3; Acts 1960, No. 550, §1; Acts 1966, No. 58, §1; Acts 1968, No. 647, §1; Acts 1972, No. 650, §1; Acts 1991, No. 904, §1; Acts 1992, No. 1015, §1; Acts 1995, No. 748, §1.

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

A. It is unlawful for any person who has been convicted of a crime of violence as defined in R.S. 14:2(B) which is a felony or simple burglary, burglary of a pharmacy, burglary of an inhabited dwelling, unauthorized entry of an inhabited dwelling, felony illegal use of weapons or dangerous instrumentalities, manufacture or possession of a delayed action incendiary device, manufacture or possession of a bomb, or possession of a firearm while in the possession of or during the sale or distribution of a controlled dangerous substance, or any violation of the Uniform Controlled Dangerous Substances Law which is a felony, or any crime which is defined as a sex offense in R.S. 15:541, or any crime defined as an attempt to commit one of the above-enumerated offenses under the laws of this state, or who has been convicted under the laws of any other state or of the United States or of any foreign government or country of a crime which, if committed in this state, would be one of the above-enumerated crimes, to possess a firearm or carry a concealed weapon.

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

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

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

Added by Acts 1975, No. 492, §2. Amended by Acts 1980, No. 279, §1; Acts 1985, No. 947, §1; Acts 1990, No. 328, §1; Acts 1992, No. 403, §1; Acts 1994, 3rd Ex. Sess., No. 28, §1; Acts 1995, No. 987, §1; Acts 2003, No. 674, §1; Acts 2009, No. 154, §1; Acts 2009, No. 160, §1; Acts 2010, No. 815, §1; Acts 2010, No. 942, §1.

§95.1.2. Illegally supplying a felon with ammunition

A. Illegally supplying a felon with ammunition is the intentional giving, selling, donating, providing, lending, delivering, or otherwise transferring ammunition to any person known by the offender to be a person convicted of a felony and prohibited from possessing a firearm as provided for in R.S. 14:95.1.

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

(1) "Ammunition" means any projectiles with their fuses, propelling charges, or primers fired from any firearm.

(2) "Firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, or assault rifle, which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

C. Whoever commits the crime of illegally supplying a felon with ammunition shall be imprisoned for not more than five years and may be fined not less than one thousand dollars nor more than five thousand dollars.

Acts 2008, No. 622, §1.

§95.1.3. Fraudulent firearm and ammunition purchase

A. It is unlawful for any person:

(1) To knowingly solicit, persuade, encourage, or entice a licensed dealer or private seller of firearms or ammunition to sell a firearm or ammunition under circumstances which the person knows would violate the laws of this state or of the United States.

(2) To provide to a licensed dealer or private seller of firearms or ammunition what the person knows to be materially false information with intent to deceive the dealer or seller about the legality of a sale of a firearm or ammunition.

(3) To willfully procure another person to engage in conduct prohibited by this Section.

B. For purposes of this Section:

(1) "Ammunition" means any cartridge, shell, or projectile designed for use in a firearm.

(2) "Licensed dealer" means a person who is licensed pursuant to 18 U.S.C. §923 to engage in the business of dealing in firearms or ammunition.

(3) "Materially false information" means information that portrays an illegal transaction as legal or a legal transaction as illegal.

(4) "Private seller" means a person who sells or offers for sale any firearm or ammunition.

C. The provisions of this Section shall not apply to a law enforcement officer acting in his official capacity or to a person acting at the direction of such law enforcement officer.

D. Whoever violates the provisions of this Section shall be fined not less than one thousand dollars or more than five thousand dollars, or imprisoned, with or without hard labor, for not less than one year or more than five years, or both. At least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

Acts 2012, No. 335, §1.

§95.2. Carrying a firearm, or dangerous weapon, by a student or nonstudent on school property, at school-sponsored functions or firearm-free zone

A. Carrying a firearm, or dangerous weapon as defined in R.S. 14:2, by a student or nonstudent on school property, at a school sponsored function, or in a firearm-free zone is unlawful and shall be defined as possession of any firearm or dangerous weapon, on one's person, at any time while on a school campus, on school transportation, or at any school sponsored function in a specific designated area including but not limited to athletic competitions, dances, parties, or any extracurricular activities, or within one thousand feet of any school campus.

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

(1) "School" means any elementary, secondary, high school, vocational-technical school, college, or university in this state.

(2) "Campus" means all facilities and property within the boundary of the school property.

(3) "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

(4) "Nonstudent" means any person not registered and enrolled in that school or a suspended student who does not have permission to be on the school campus.

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

(1) A federal, state, or local law enforcement officer in the performance of his official duties.

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

(3) Any person having the written permission of the principal.

(4) The possession of a firearm occurring within one thousand feet of school property and entirely on private property, or entirely within a private residence, or in accordance with a concealed handgun permit issued pursuant to R.S. 40:1379.1 or R.S. 40:1379.3.

(5) Any constitutionally protected activity which cannot be regulated by the state, such as a firearm contained entirely within a motor vehicle.

(6) Any student carrying a firearm to or from a class, in which he is duly enrolled, that requires the use of the firearm in the class.

(7) A student enrolled or participating in an activity requiring the use of a firearm including but not limited to any ROTC function under the authorization of a university.

(8) A student who possesses a firearm in his dormitory room or while going to or from his vehicle or any other person with permission of the administration.

D.(1) Whoever commits the crime of carrying a firearm, or a dangerous weapon as defined in R.S. 14:2, by a student or nonstudent on school property, at a school-sponsored function, or in a firearm-free zone shall be imprisoned at hard labor for not more than five years.

(2) Whoever commits the crime of carrying a firearm, or a dangerous weapon as defined in R.S. 14:2, on school property or in a firearm-free zone with the firearm or dangerous weapon being used in the commission of a crime of violence as defined in R.S. 14:2(B) on school property or in a firearm-free zone, shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both. Any sentence issued pursuant to the provisions of this Paragraph and any sentence issued pursuant to a violation of a crime of violence as defined in R.S. 14:2(B) shall be served consecutively. Upon commitment to the Department of Public Safety and Corrections after conviction for a crime committed on school property, at a school-sponsored function or in a firearm-free zone, the department shall have the offender evaluated through appropriate examinations or tests conducted under the supervision of the department. Such evaluation shall be made within thirty days of the order of commitment.

E. Lack of knowledge that the prohibited act occurred on or within one thousand feet of school property shall not be a defense.

F.(1) School officials shall notify all students and parents of the impact of this legislation and shall post notices of the impact of this Section at each major point of entry to the school. These notices shall be maintained as permanent notices.

(2)(a) If a student is detained by the principal or other school official for violation of this Section or the school principal or other school official confiscates or seizes a firearm or concealed weapon from a student while upon school property, at a school function, or on a school bus, the principal or other school official in charge at the time of the detention or seizure shall immediately report the detention or seizure to the police department or sheriff's department where the school is located and shall deliver any firearm or weapon seized to that agency.

(b) The confiscated weapon shall be disposed of or destroyed as provided by law.

(3) If a student is detained pursuant to Paragraph (2) of this Subsection for carrying a concealed weapon on campus, the principal shall immediately notify the student's parents.

(4) If a person is arrested for carrying a concealed weapon on campus by a university or college police officer, the weapon shall be given to the sheriff, chief of police, or other officer to whom custody of the arrested person is transferred as provided by R.S. 17:1805(B).

G. Any principal or school official in charge who fails to report the detention of a student or the seizure of a firearm or concealed weapon to a law enforcement agency as required by Paragraph (F)(2) of this Section within seventy-two hours of notice of the detention or seizure may be issued a misdemeanor summons for a violation hereof and may be fined not more than five hundred dollars or sentenced to not more than forty hours of community service, or both. Upon successful completion of the community service or payment of the fine, or both, the arrest and conviction shall be set aside as provided for in Code of Criminal Procedure Article 894(B).

Acts 1991, No. 833, §1; Acts 1992, No. 197, §1; Acts 1993, No. 844, §1; Acts 1993, No. 1031, §1; Acts 1994, 3rd Ex. Sess., No. 25, §1; Acts 1994, 3rd Ex. Sess., No. 38, §1; Acts 1994, 3rd Ex. Sess., No. 107, §1; Acts 1999, No. 1236, §1; Acts 2010, No. 925, §1.

§95.2.1. Illegal carrying of a firearm at a parade with any firearm used in the commission of a crime of violence

A. Whoever commits the crime of illegal carrying of weapons pursuant to R.S. 14:95 with any firearm used in the commission of a crime of violence as defined in R.S. 14:2(B), within one thousand feet of any parade or demonstration for which a permit is issued by a governmental entity, shall be fined not more than two thousand dollars, or imprisoned, with or without hard labor, for not less than one year nor more than five years, or both. Any sentence issued pursuant to the provisions of this Subsection 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.

B. As used in this Section, the following words mean:

(1) "Firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, or assault rifle, which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

(2) "Parade" for the purposes of this Section shall be defined as any celebration of Mardi Gras or directly related pre-Lenten or carnival related festivities, school parades, parish parades, state parades or municipal parades, or any demonstration for which a permit is issued by a governmental entity.

(3) "Parade route" means any public sidewalk, street, highway, bridge, alley, road, or other public passageway upon which a parade travels.

C. Lack of knowledge that the prohibited act occurred on or within one thousand feet of the parade route shall not be a defense.

Acts 2004, No. 661, §1.

§95.2.2. Reckless discharge of a firearm at a parade or demonstration

A. Reckless discharge of a firearm at a parade or demonstration is the reckless or criminally negligent discharge of a firearm within one thousand feet of any parade, demonstration, or gathering for which a permit is issued by a governmental entity.

B. For the purposes of this Section:

(1) "Firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, excluding black powder weapons, or assault rifle which is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

(2) "Parade" for the purposes of this Section shall be defined as any celebration of Mardi Gras or directly related pre-Lenten or carnival-related festivities, school parades, parish parades, state parades, or municipal parades, or any demonstration or gathering for which a permit is issued by a governmental entity.

(3) "Reckless or criminally negligent" means that 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.

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

(1) A federal, state, or local law enforcement officer in the performance of his official duties.

(2) The possession of a firearm occurring within one thousand feet of a public gathering entirely within a private residence or in accordance with a concealed handgun permit issued pursuant to R.S. 40:1379.1.

(3) The possession or discharge of a firearm by a person who holds a valid certificate as a living historian in the use, storage, and handling of black powder issued by the Louisiana office of state parks for the purpose of historic reenactments if the firearm is a black powder weapon which is an antique firearm as defined in 18 U.S.C. 921(a)(16), or an antique device exempted from the term "destructive device" in 18 U.S.C. 921(a)(4).

(4) The discharge of a firearm by a person engaged in any lawful hunting or sport shooting activity on public or private property.

D. Whoever commits the crime of reckless or negligent discharge of a firearm at a parade or demonstration shall be sentenced to imprisonment at hard labor for not less than five nor more than fifteen years, at least three years of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence and shall be fined not more than five thousand dollars.

E. The provisions of this Section shall not apply to the discharge of any firearm which has been authorized as part of the parade itself.

Acts 2009, No. 150, §1; Acts 2012, No. 382, §1.

§95.3. Unlawful use or possession of body armor

A.(1) It is unlawful for any person to possess body armor who has been convicted of any of the following:

(a) A crime of violence as defined in R.S. 14:2(B) which is a felony.

(b) Simple burglary, burglary of a pharmacy, or burglary of an inhabited dwelling.

(c) Unauthorized entry of an inhabited dwelling.

(d) Felony illegal use of weapons or dangerous instrumentalities.

(e) Manufacture or possession of a delayed action incendiary device.

(f) Manufacture or possession of a bomb.

(g) Any violation of the Uniform Controlled Dangerous Substances Law.

(h) Any crime defined as an attempt to commit one of the offenses enumerated in Subparagraphs (a) through (g) of this Paragraph.

(i) Any law of any other state or of the United States or of any foreign government or country of a crime which, if committed in this state, would be one of the crimes enumerated in Subparagraphs (a) through (h) of this Paragraph.

(2) The prohibition in Paragraph (1) of this Subsection shall not apply to any person who is participating in a witness protection program.

B. No person shall use or wear body armor while committing any of the crimes enumerated in Subparagraphs (A)(1)(a) through (i) of this Section.

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

D. For the purposes of this Section, "body armor" shall mean bullet resistant metal or other material intended to provide protection from weapons or bodily injury.

Added by Acts 1983, No. 286, §1; Acts 2003, No. 1140, §1.

§95.4. Consent to search; alcoholic beverage outlet

A. Any person entering an alcoholic beverage outlet as defined herein, by the fact of such entering, shall be deemed to have consented to a reasonable search of his person for any firearm by a law enforcement officer or other person vested with police power, without the necessity of a warrant.

B. For purposes of this Section, "alcoholic beverage outlet" means any commercial establishment in which alcoholic beverages of either high or low alcoholic content are sold in individual servings for consumption on the premises, whether or not such sales are the primary purpose or are an incidental purpose of the business of the establishment.

C. An "alcoholic beverage outlet" licensed to sell firearms or containing an indoor shooting gallery shall be exempt from the provisions of this Section in those areas designated for the sale of firearms or the shooting gallery.

D. An "alcoholic beverage outlet" shall not include a restaurant if a majority of its gross receipts are from sales of food and non-alcoholic beverages.

E. The owner of the alcoholic beverage outlet shall post a sign, at or near the entrance, that states that by the fact of entering these premises a person shall be deemed to have consented to a reasonable search of his person for any firearm by a law enforcement officer or other person vested with police power, without the necessity of a warrant.

Added by Acts 1983, No. 524, §1.

§95.5. Possession of firearm on premises of alcoholic beverage outlet

A. No person shall intentionally possess a firearm while on the premises of an alcoholic beverage outlet.

B. "Alcoholic beverage outlet" as used herein means any commercial establishment in which alcoholic beverages of either high or low alcoholic content are sold in individual servings for consumption on the premises, whether or not such sales are a primary or incidental purpose of the business of the establishment.

C. The provisions of this Section shall not apply to the owner or lessee of an alcoholic beverage outlet, or to an employee of such owner or lessee, or to a law enforcement officer or other person vested with law enforcement authority acting in the performance of his official duties.

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 1985, No. 765, §1.

§95.6. Firearm-free zone; notice; signs; crime; penalties

A. A "firearm-free zone" is an area inclusive of any school campus and within one thousand feet of any such school campus, and within a school bus.

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

(1) A federal, state, or local law enforcement building.

(2) A military base.

(3) A commercial establishment which is permitted by law to have firearms or armed security.

(4) Private premises where a firearm is kept pursuant to law.

(5) Any constitutionally protected activity within the firearm-free zone, such as a firearm contained entirely within a motor vehicle.

C. For purposes of this Section:

(1) "School" means any public or private elementary, secondary, high school, or vocational-technical school, college, or university in this state.

(2) "School campus" means all facilities and property within the boundary of the school property.

(3) "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

D. The local governing authority which has jurisdiction over zoning matters in which each firearm-free zone is located shall publish a map clearly indicating the boundaries of each firearm-free zone in accordance with the specifications in Subsection A. The firearm-free zone map shall be made an official public document and placed with the clerk of court for the parish or parishes in which the firearm-free zone is located.

E. The state superintendent of education, with the approval of the State Board of Elementary and Secondary Education, and the commissioner of higher education, with the approval of the Board of Regents, shall develop a method by which to mark firearm-

free zones, including the use of signs or other markings suitable to the situation. Signs or other markings shall be located in a visible manner on or near each school and on and in each school bus indicating that such area is a firearm-free zone and that such zone extends to one thousand feet from the boundary of school property. The state Department of Education shall assist each approved school with the posting of notice as required in this Subsection.

F.(1) It is unlawful for any person to cover, remove, deface, alter, or destroy any sign or other marking identifying a firearm-free zone as provided in this Section.

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

Acts 1992, No. 197, §1; Acts 1993, No. 844, §1; Acts 1993, No. 1031, §1.

§95.7. Possession of or dealing in firearms with obliterated numbers or marks

A. No person shall intentionally receive, possess, carry, conceal, buy, sell, or transport any firearm from which the serial number or mark of identification has been obliterated.

B. This Section shall not apply to any firearm which is an antique or war relic and is inoperable or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade, or which was originally manufactured without such a number.

C. Whoever violates the provisions of this Section shall be fined not more than one thousand dollars and imprisoned as follows:

(1) For a first offense, the penalty shall be imprisonment, with or without hard labor, for not less than one year nor more than five years.

(2) For a second or subsequent offense, the penalty shall be imprisonment, with or without hard labor, for not less than two years nor more than ten years.

Acts 1993, No. 85, §1; Acts 2012, No. 478, §1.

§95.8. Illegal possession of a handgun by a juvenile

A. It is unlawful for any person who has not attained the age of seventeen years knowingly to possess any handgun on his person. Any person possessing any handgun in violation of this Section commits the offense of illegal possession of a handgun by a juvenile.

B.(1) On a first conviction, the offender shall be fined not more than one hundred dollars and imprisoned for not less than ninety days and not more than six months.

(2) On a second conviction, the offender shall be fined not more than five hundred dollars and imprisoned with or without hard labor for not more than two years.

(3) On a third or subsequent conviction, the offender shall be fined not more than one thousand dollars and imprisoned at hard labor for not more than five years.

(4) A juvenile adjudicated delinquent under this Section, having been previously found guilty or adjudicated delinquent for any crime of violence as defined by R.S. 14:2(B), or attempt or conspiracy to commit any such offense, shall upon a first or subsequent conviction be fined not less than five hundred dollars and not more than one thousand dollars and shall be imprisoned with or without hard labor for not less than six

months and not more than five years. At least ninety days shall be served without benefit of probation, parole, or suspension of sentence.

C. The provisions of this Section shall not apply to any person under the age of seventeen years who is:

(1) Attending a hunter's safety course or a firearms safety course.

(2) Engaging in practice in the use of a firearm or target shooting at an established range.

(3) Hunting or trapping pursuant to a valid license issued to him pursuant to the laws of this state.

(4) Traveling to or from any activity described in Paragraph (1), (2), or (3) of this Subsection while in possession of an unloaded gun.

(5) On real property with the permission of his parent or legal guardian and with the permission of the owner or lessee of the property.

(6) At such person's residence and who, with the permission of such person's parent or legal guardian, possesses a handgun.

(7) Possessing a handgun with the written permission of such person's parent or legal guardian; provided that such person carries on his person a copy of such written permission.

D. For the purposes of this Section "handgun" means a firearm as defined in R.S. 14:37.2, provided however, that the barrel length shall not exceed twelve inches.

Acts 1999, No. 1218, §1.

§95.9. Wearing or possessing body armor, by a student or nonstudent on school property, at school-sponsored functions, or in firearm-free zones

A. Wearing or possessing body armor, by a student or nonstudent on school property, at a school-sponsored function, or in a firearm-free zone is unlawful and shall be defined as wearing or possessing of body armor, on one's person, at any time while on a school campus, on school transportation, or at any school-sponsored function in a specific designated area including but not limited to athletic competitions, dances, parties, or any extracurricular activities, or within one thousand feet of any school campus.

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

(1) "Body armor" shall mean bullet-resistant metal or other material intended to provide protection from weapons or bodily injury.

(2) "Campus" means all facilities and property within the boundary of the school property.

(3) "Nonstudent" means any person not registered and enrolled in that school or a suspended student who does not have permission to be on the school campus.

(4) "School" means any elementary, secondary, high school, vocational-technical school, college, or university in this state.

(5) "School bus" means any motor bus being used to transport children to and from school or in connection with school activities.

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

(1) A federal, state, or local law enforcement officer in the performance of his official duties.

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

(3) A person who has notified the school principal or chancellor in writing at least twenty-four hours prior to wearing body armor.

(4) The wearing or possessing of body armor occurring within one thousand feet of school property and entirely on private property, or entirely within a private residence, or in accordance with a concealed handgun permit issued pursuant to R.S. 40:1379.1.

(5) Any constitutionally protected activity which cannot be regulated by the state, such as body armor contained entirely within a motor vehicle.

(6) Any student wearing or possessing body armor to or from a class, in which he is duly enrolled, that requires the use of the body armor in the class.

(7) A student enrolled or participating in an activity requiring the use of body armor.

D. Whoever commits the crime of wearing or possessing body armor by a student or nonstudent on school property, at a school-sponsored function, or in a firearm-free zone shall be fined not more than one thousand dollars, or imprisoned, without hard labor, for not less than six months nor more than one year, or both.

E. Lack of knowledge that the prohibited act occurred on or within one thousand feet of school property shall not be a defense.

F.(1) School officials shall notify all students and parents of the impact of this legislation and shall post notices of the impact of this Section at each major point of entry to the school. These notices shall be maintained as permanent notices.

(2) If a student is detained by the principal or other school official for violation of this Section or the school principal or other school official confiscates or seizes body armor from a student while upon school property, at a school function, or on a school bus, the principal or other school official in charge at the time of the detention or seizure shall immediately report the detention or seizure to the police department or sheriff's department where the school is located and shall deliver any body armor seized to that agency.

(3) If a student is detained pursuant to Paragraph (2) of this Subsection for wearing or possessing body armor on campus, the principal shall immediately notify the student's parents.

G. Any principal or school official in charge who fails to report the detention of a student or the seizure of body armor to a law enforcement agency as required by Paragraph (F)(2) of this Section within seventy-two hours of notice of the detention or seizure may be issued a misdemeanor summons for a violation of this Section and may be fined not more than five hundred dollars or sentenced to not more than forty hours of community service, or both. Upon successful completion of the community service or payment of the fine, or both, the arrest and conviction shall be set aside as provided for in Code of Criminal Procedure Article 894(B).

Acts 2008, No. 747, §1.

2. OBSTRUCTING HIGHWAYS OF COMMERCE

§96. Aggravated obstruction of a highway of commerce

Aggravated obstruction of a highway of commerce is the intentional or criminally negligent placing of anything, or performance of any act, on any railway, railroad, navigable waterway, road, highway, thoroughfare, or runway of an airport, wherein it is foreseeable that human life might be endangered.

Whoever commits the crime of aggravated obstruction of a highway of commerce shall be imprisoned, with or without hard labor, for not more than fifteen years.

Amended by Acts 1977, No. 173, §1.

§97. Simple obstruction of a highway of commerce

Simple obstruction of a highway of commerce is the intentional or criminally negligent placing of anything or performance of any act on any railway, railroad, navigable waterway, road, highway, thoroughfare, or runway of an airport, which will render movement thereon more difficult.

Whoever commits the crime of simple obstruction of a highway of commerce shall be fined not more than two hundred dollars, or imprisoned for not more than six months, or both.

§97.1. Solicitation on an interstate highway

A. Solicitation on an interstate highway is the intentional act of soliciting, begging, panhandling or otherwise requesting anything of value on any interstate highway, or on any entrance or exit ramp of an interstate highway.

B. Whoever commits the crime of solicitation on an interstate highway shall be fined not more than two hundred dollars, or imprisoned for not more than six months, or both.

Acts 1997, No. 1099, §1.

§98. Operating a vehicle while intoxicated

A.(1) The crime of operating a vehicle while intoxicated is the operating of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance when:

(a) The operator is under the influence of alcoholic beverages; or

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

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

(d)(i) 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.

(ii) It shall be an affirmative defense to any charge under this Subparagraph 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.

(e)(i) 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.

(ii) It shall be an affirmative defense to any charge under this Subparagraph pursuant to this Section that the operator did not knowingly consume 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.

(2) A valid driver's license shall not be an element of the offense, and the lack thereof shall not be a defense to a prosecution for operating a vehicle while intoxicated.

B.(1) On a first conviction, notwithstanding any other provision of law to the contrary, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars, and shall be imprisoned for not less than ten days nor more than six months. Imposition or execution of sentence shall not be suspended unless:

(a) The offender is placed on probation with a minimum condition that he serve two days in jail and participate in a court-approved substance abuse program and participate in a court-approved driver improvement program; or

(b) The offender is placed on probation with a minimum condition that he perform four eight-hour days of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program, participate in a court-approved substance abuse program, and participate in a court-approved driver improvement program. An offender, who participates in a litter abatement or collection program pursuant to this Subparagraph, shall have no cause of action for damages against the entity conducting the program or supervising his participation therein, including a municipality, parish, sheriff, or other entity, nor against any official, employee, or agent of such entity, for any injury or loss suffered by him during or arising out of his participation in the program, if such injury or loss is a direct result of the lack of supervision or act or omission of the supervisor, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the entity or its official, employee, or agent.

(2)(a) 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, at least forty-eight hours of the sentence imposed pursuant to Paragraph (B)(1) of this Subsection shall be served without

the benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless the offender complies with Subparagraph (B)(1)(a) or (b) of this Subsection.

(b) 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 (B)(1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless the offender complies with Subparagraph (B)(1)(a) or (b) of this Subsection.

C.(1) On a conviction of a second offense, notwithstanding any other provision of law to the contrary except as provided in Paragraphs (3) and (4) of this Subsection, 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. Nothing herein shall prohibit a court from sentencing a defendant to home incarceration, if otherwise allowed under the provisions of Article 894.2 of the Code of Criminal Procedure. Imposition or execution of the remainder of the sentence shall not be suspended unless:

(a) The offender is placed on probation with a minimum condition that he serve fifteen days in jail and participate in a court-approved substance abuse program and participate in a court-approved driver improvement program; or

(b) The offender is placed on probation with a minimum condition that he perform thirty eight-hour days of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program, and participate in a court-approved substance abuse program, and participate in a court-approved driver improvement program. An offender, who participates in a litter abatement or collection program pursuant to this Subparagraph, shall have no cause of action for damages against the entity conducting the program or supervising his participation therein, including a municipality, parish, sheriff, or other entity, nor against any official, employee, or agent of such entity, for any injury or loss suffered by him during or arising out of his participation therein, if such injury or loss is a direct result of the lack of supervision or act or omission of the supervisor, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the entity or its official, employee, or agent.

(2)(a) 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, 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. Imposition or execution of the remainder of the sentence shall not be suspended unless the offender complies with Subparagraph (1)(a) or (b) of this Subsection.

(b) 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. Imposition or execution of the remainder of the sentence shall not be suspended unless the offender complies with Subparagraph (1)(a) or (b) of this Subsection.

(3) Notwithstanding the provisions of Paragraph (1) of this Subsection, on a conviction of a second offense when the first offense was for the crime of vehicular homicide in violation of R.S. 14:32.1, or first degree vehicular negligent injuring in violation of R.S. 14:39.2, the offender shall be imprisoned with or without hard labor for not less than one year nor more than five years, and shall be fined two thousand dollars. At least six months of the sentence of imprisonment imposed shall be without benefit of probation, parole, or suspension of sentence. Imposition or execution of the remainder of the sentence shall not be suspended unless the provisions of Subparagraph (1)(a) or (b) of this Subsection are complied with.

(4) Notwithstanding the provisions of Paragraph (1) of this Subsection, on a conviction of a second offense when the arrest for the second offense occurs within one year of the commission of the first offense, the offender shall be imprisoned for thirty days without benefit of parole, probation, or suspension of sentence and shall participate in a court-approved substance abuse program and in a court-approved driver improvement program.

D.(1)(a) On a conviction of a third offense, notwithstanding any other provision of law to the contrary and regardless of whether the offense occurred before or after an earlier conviction, the offender shall be imprisoned with or without hard labor for not less than one year nor more than five years and shall be fined two thousand dollars. One year of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence. The court, in its discretion, may suspend all or any part of the remainder of the sentence of imprisonment. If any portion of the sentence is suspended, the offender shall be placed on supervised probation with the Department of Public Safety and Corrections, division of probation and parole, for a period of time equal to the remainder of the sentence of imprisonment, which probation shall commence on the day after the offender's release from custody.

(b) Any offender placed on probation pursuant to the provisions of this Subsection shall be required as a condition of probation to participate in thirty eight-hour days of court-approved community service activities and to submit to and complete either of the following requirements:

(i) To immediately undergo an evaluation by the Department of Health and Hospitals, office of behavioral health to determine the nature and extent of the offender's substance abuse disorder and to participate in any treatment plan recommended by the office of behavioral health, including treatment in an inpatient facility approved by the office for a period of not less than four weeks followed by outpatient treatment services for a period not to exceed twelve months.

(ii) To participate in substance abuse treatment in an alcohol and drug abuse program provided by a drug division subject to the applicable provisions of R.S. 13:5301 et seq. if the offender is otherwise eligible to participate in such program.

(c) In addition to the requirements set forth in Subparagraph (b) of this Paragraph, any offender placed on probation pursuant to the provisions of Subsection D of this Section 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.

(d) If any offender placed on probation pursuant to the provisions of Subsection D of this Section fails to complete the substance abuse treatment required by the provisions of this Paragraph or violates any other condition of probation, including conditions of home

incarceration, his probation may be revoked, and he may be ordered to serve the balance of the sentence of imprisonment, without credit for time served under home incarceration.

(2)(a) In addition, the court shall order, subject to the discretion of the prosecuting district attorney, that the vehicle being driven by the offender at the time of the offense shall be seized and impounded, and sold at auction in the same manner and under the same conditions as executions of writ of seizures and sale as provided in Book V, Title II, Chapter 4 of the Code of Civil Procedure. If the district attorney elects to forfeit the vehicle, he shall file a written motion at least five days prior to sentencing stating his intention to forfeit the vehicle. When the district attorney elects to forfeit the vehicle, the court shall order it forfeited.

(b) The vehicle shall be exempt from sale if it was stolen, or if the driver of the vehicle at the time of the violation was not the owner and the owner did not know that the driver was operating the vehicle while intoxicated. If this exemption is applicable, the vehicle shall not be released from impoundment until such time as towing and storage fees have been paid.

(c) In addition, the vehicle shall be exempt from sale if all towing and storage fees are paid by a valid lienholder.

(d) The proceeds of the sale shall first be used to pay court costs and towing and storage costs, and the remainder shall be allocated as follows: sixty percent of the funds shall go to the arresting agency, twenty percent to the prosecuting district attorney, and twenty percent to the Louisiana Property and Casualty Insurance Commission for its use in studying other ways to reduce drunk driving and insurance rates.

(3)(a) An offender sentenced to home incarceration during probation shall be subject to special conditions to be determined by the court, which shall include but not be limited to the following:

(i) Electronic monitoring.

(ii) Curfew restrictions.

(iii) Home visitation at least once per month by the Department of Public Safety and Corrections for the first six months. After the first six months, the level of supervision will be determined by the department based upon a risk assessment instrument.

(b) The court shall also require the offender to obtain employment and to participate in a court-approved driver improvement program at his expense. The activities of the offender outside of his home shall be limited to traveling to and from work, church services, Alcoholics Anonymous meetings, or a court-approved driver improvement program.

(c) Offenders sentenced to home incarceration required under the provisions of this Section shall be subject to all other applicable provisions of Code of Criminal Procedure Article 894.2.

E.(1)(a) Except as otherwise provided in Subparagraph (4)(b) of this Subsection, on a conviction of a fourth or subsequent offense, notwithstanding any other provision of law to the contrary and regardless of whether the fourth offense occurred before or after an earlier conviction, the offender shall be imprisoned with or without hard labor for not less than ten years nor more than thirty years and shall be fined five thousand dollars. Two years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence. The court, in its discretion, may suspend all or any part of the remainder of the sentence of imprisonment. If any portion of the sentence is suspended, the offender shall be placed on supervised probation with the Department of Public Safety and Corrections, division of

probation and parole, for a period of time not to exceed five years, which probation shall commence on the day after the offender's release from custody.

(b) Any offender placed on probation pursuant to the provisions of this Subsection shall be required, as a condition of probation, to participate in forty eight-hour days of court-approved community service activities and to submit to and complete either of the following requirements:

(i) To immediately undergo an evaluation by the Department of Health and Hospitals, office of behavioral health to determine the nature and extent of the offender's substance abuse disorder and to participate in any treatment plan recommended by the office of behavioral health, including treatment in an inpatient facility approved by the office for a period of not less than four weeks followed by outpatient treatment services for a period not to exceed twelve months.

(ii) To participate in substance abuse treatment in an alcohol and drug abuse program provided by a drug division subject to the applicable provisions of R.S. 13:5301 et seq. if the offender is otherwise eligible to participate in such program.

(c) In addition to the requirements set forth in Subparagraph (b) of this Paragraph, any offender placed on probation pursuant to the provisions of Subsection E of this Section shall be placed in a home incarceration program approved by the division of probation and parole for a period of time not less than one year nor more than the remainder of the term of supervised probation.

(d) If any offender placed on probation pursuant to the provisions of Subsection E of this Section fails to complete the substance abuse treatment required by the provisions of this Paragraph or violates any other condition of probation, including conditions of home incarceration, his probation may be revoked, and he may be ordered to serve the balance of the sentence of imprisonment, without credit for time served under home incarceration.

(2)(a) In addition, the court shall order, subject to the discretion of the prosecuting district attorney, that the vehicle being driven by the offender at the time of the offense be seized and impounded, and be sold at auction in the same manner and under the same conditions as executions of writ of seizure and sale as provided in Book V, Title II, Chapter 4 of the Code of Civil Procedure. If the district attorney elects to forfeit the vehicle, he shall file a written motion at least five days prior to sentencing stating his intention to forfeit the vehicle.

(b) The vehicle shall be exempt from sale if it was stolen, or if the driver of the vehicle at the time of the violation was not the owner and the owner did not know that the driver was operating the vehicle while intoxicated. If this exemption is applicable, the vehicle shall not be released from impoundment until such time as towing and storage fees have been paid.

(c) In addition, the vehicle shall be exempt from sale if all towing and storage fees are paid by a valid lienholder.

(d) The proceeds of the sale shall first be used to pay court costs and towing and storage costs, and the remainder shall be allocated as follows: sixty percent of the funds shall go to the arresting agency, twenty percent to the prosecuting district attorney, and twenty percent to the Louisiana Property and Casualty Insurance Commission for its use in studying other ways to reduce drunk driving and insurance rates.

(3)(a) An offender sentenced to home incarceration during probation shall be subject to special conditions to be determined by the court, which shall include but not be limited to the following:

(i) Electronic monitoring.

(ii) Curfew restrictions.

(iii) Home visitation at least once per month by the Department of Public Safety and Corrections for the first six months. After the first six months, the level of supervision will be determined by the department based upon a risk assessment instrument.

(b) The court shall also require the offender to obtain employment and to participate in a court-approved driver improvement program at his expense. The activities of the offender outside of his home shall be limited to traveling to and from work, church services, Alcoholics Anonymous meetings, or a court-approved driver improvement program.

(c) Offenders sentenced to home incarceration required under the provisions of this Section shall be subject to all other applicable provisions of Code of Criminal Procedure Article 894.2.

(4)(a) If the offender has previously been required to participate in substance abuse treatment and home incarceration pursuant to Subsection D of this Section, the offender shall not be sentenced to substance abuse treatment and home incarceration for a fourth or subsequent offense, but shall be imprisoned at hard labor for not less than ten nor more than thirty years, and at least three years of the sentence shall be imposed without benefit of suspension of sentence, probation, or parole.

(b) If the offender has previously received the benefit of suspension of sentence, probation, or parole as a fourth offender, after serving the mandatory sentence required by Subparagraph (E)(1)(a), no part of the remainder of the sentence may be imposed with benefit of suspension of sentence, probation, or parole, and no portion of the sentence shall be imposed concurrently with the remaining balance of any sentence to be served for a prior conviction for any offense.

F.(1) For purposes of determining whether a defendant has a prior conviction for violation of this Section, a conviction under either R.S. 14:32.1, vehicular homicide, R.S. 14:39.1, vehicular negligent injuring, or R.S. 14:39.2, first degree vehicular negligent injuring, or a conviction under the laws of any state or an ordinance of a municipality, town, or similar political subdivision of another state, which prohibits the operation of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance while intoxicated, while impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance shall constitute a prior conviction. This determination shall be made by the court as a matter of law.

(2) For purposes of this Section, a prior conviction shall not include a conviction for an offense under this Section, under R.S. 14:32.1, R.S. 14:39.1, or R.S. 14:39.2, or under a comparable statute or ordinance of another jurisdiction, as described in Paragraph (1) of this Subsection, if committed more than ten years prior to the commission of the crime for which the defendant is being tried and such conviction shall not be considered in the assessment of penalties hereunder. However, periods of time during which the offender was awaiting trial, on probation or parole for an offense described in Paragraph (1) of this Subsection, under an order of attachment for failure to appear, or incarcerated in a penal institution in this or any other state shall be excluded in computing the ten-year period.

G. The legislature hereby finds and declares that conviction of a third or subsequent DWI offense is presumptive evidence of the existence of a substance abuse disorder in the offender posing a serious threat to the health and safety of the public. Further, the legislature finds that there are successful treatment methods available for treatment of addictive disorders. Court-approved substance abuse programs provided for in Subsections B, C, and D of this Section shall

include a screening procedure to determine the portions of the program which may be applicable and appropriate for individual offenders and shall assess the offender's degree of alcohol abuse.

H. "Community service activities" as used in this Section may include duty in any morgue, coroner's office, or emergency treatment room of a state-operated hospital or other state-operated emergency treatment facility, with the consent of the administrator of the morgue, coroner's office, hospital, or facility.

I. An offender ordered to participate in a substance abuse program in accordance with the provisions of this Section shall pay the cost incurred in participating in the program. Failure to make such payment shall subject the offender to revocation of probation, unless the court determines that the offender is unable to pay. If the court determines that the offender is unable to pay, the state shall pay for the cost of the substance abuse treatment. An offender sentenced to home incarceration and to participate in a driver improvement program shall pay the cost incurred in participating in home incarceration and a driver improvement program unless the court determines that the offender is unable to pay. However, if the court determines that an offender is unable to pay the costs incurred for participating in a substance abuse treatment program, driver improvement program, or home incarceration, the court may, upon completion of such program or home incarceration, require that the offender reimburse the state for all or a portion of such costs pursuant to a payment schedule determined by the court.

J. This Subsection shall be cited as the "Child Endangerment Law". When the state proves in addition to the elements of the crime as set forth in Subsection A of this Section that a minor child twelve years of age or younger was a passenger in the motor vehicle, aircraft, watercraft, vessel, or other means of motorized conveyance at the time of the commission of the offense, of the sentence imposed by the court, the execution of the minimum mandatory sentence provided by Subsection B or C of this Section, as appropriate, shall not be suspended. If imprisonment is imposed pursuant to the provisions of Subsection D, the execution of the minimum mandatory sentence shall not be suspended. If imprisonment is imposed pursuant to the provisions of Subsection E, at least two years of the sentence shall be imposed without benefit of suspension of sentence.

K.(1) In addition to any penalties imposed under this Section, upon conviction of a first offense 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 driver's license of the offender shall be suspended for two years. Such offender may apply for a restricted 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. 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.

(2)(a) In addition to any penalties imposed under this Section, upon conviction of a second offense, any vehicle, while being operated by the offender, shall be equipped with a functioning ignition interlock device in accordance with the provisions of R.S. 15:306. This requirement shall remain in effect for a period of not less than six months. In addition, the device shall remain installed and operative during any period that the offender's operator's license is suspended under law and for any additional period as determined by the court.

(b) In addition to any penalties imposed under this Section and notwithstanding the provisions of Subparagraph (2)(a) of this Subsection, upon conviction of a second offense 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 driver's license of the offender shall be suspended for four years. The offender may apply for a restricted license to be in effect during the 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. 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.

(3)(a) Notwithstanding the provisions of Paragraph (1) of this Subsection and R.S. 32:414(D)(1)(b), upon conviction of a third or subsequent offense of the provisions of this Section, any motor vehicle, while being operated by the offender, shall be equipped with a functioning ignition interlock device in accordance with the provisions of R.S. 15:306. The ignition interlock device shall remain installed and operative until the offender has completed the requirements of substance abuse treatment and home incarceration under the provisions of Subsections D and E of this Section.

(b) Any offender convicted of a third or subsequent offense of the provisions of this Section shall, after one year of the suspension required by R.S. 32:414(D)(1)(a), upon proof of the Department of Public Safety and Corrections that the motor vehicles being operated by the offender are equipped with functioning interlock devices, be issued a restricted driver's license. The restricted license shall be effective for the period of time that the offender's driver's license is suspended. The restricted license shall entitle the offender to operate the vehicles equipped with a functioning interlock device in order to earn a livelihood and to travel to and from the places designated in Paragraphs (D)(3) and (E)(3) of this Section.

(4) The provisions of this Subsection shall not require installation of an ignition interlock device in any vehicle described in R.S. 32:378.2(I).

Amended by Acts 1991, No. 83, §1; Acts 1991, No. 454, §1; Acts 1992, No. 69, §1; Acts 1992, No. 679, §1; Acts 1992, No. 697, §1; Acts 1993, No. 247, §1, eff. June 2, 1993; Acts 1993, No. 403, §1; Acts 1993, No. 669, §1, eff. June 21, 1993; Acts 1994, 3rd Ex. Sess., No. 20, §1; Acts 1995, No. 316, §1, eff. June 16, 1995; Acts 1995, No. 520, §1; Acts 1997, No. 1296, §2, eff. July 15, 1997; Acts 1998, 1st Ex. Sess., No. 4, §1; Acts 1999, No. 1292, §1; Acts 2000, 1st Ex. Sess., No. 81, §1, eff. April 17, 2000; Acts 2000, 1st Ex. Sess., No. 139, §1; Acts 2001, No. 781, §1, eff. Sept. 30, 2003; Acts 2001, No. 1163, §2; Acts 2003, No. 535, §1; Acts 2003, No. 752, §1, eff. Sept. 30, 2003; Acts 2004, No. 762, §1; Acts 2005, No. 497, §1; Acts 2007, No. 227, §1; Acts 2008, No. 161, §1; Acts 2008, No. 451, §2, eff. June 25, 2008; Acts 2008, No. 640, §1; Acts 2010, No. 801, §1, eff. June 30, 2010; Acts 2012, No. 547, §1, eff. June 5, 2012; Acts 2012, No. 571, §1.

§98.1. Underage driving under the influence

A. The crime of underage operating a vehicle while intoxicated is the operating of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance when the operator's blood alcohol concentration is 0.02 percent or more by weight if the operator is under the age of twenty-one based on grams of alcohol per one hundred cubic centimeters of blood.

B. Any underage person whose blood alcohol concentration is found to be in violation of R.S. 14:98(A)(1)(b) shall be charged under its provisions rather than under this Section.

C. On a first conviction, the offender shall be fined not less than one hundred nor more than two hundred fifty dollars, and participate in a court-approved substance abuse and driver improvement program.

D. On a second or subsequent conviction, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than one hundred fifty dollars nor more than five hundred dollars, and imprisoned for not less than ten days nor more than three months. Imposition or execution of sentence shall not be suspended unless:

(1) The offender is placed on probation with a minimum condition that he serve forty-eight hours in jail and participate in a court-approved substance abuse and driver improvement program; or

(2) The offender is placed on probation with a minimum condition that he perform ten eight-hour days of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program and participate in a court-approved substance and driver improvement program.

E. Court programs regarding substance abuse provided for in Subsections C and D shall include a screening procedure to determine the portions of the program which may be applicable and appropriate for individual offenders.

F. An offender ordered to participate in a substance abuse program shall pay the cost incurred in participating in the program. Failure to make such payment shall subject the offender to revocation of probation, unless the court determines that the offender is unable to pay.

Acts 1997, No. 1296, §2, eff. July 15, 1997.

§98.2. Unlawful refusal to submit to chemical tests; arrests for driving while intoxicated

A. No person under arrest for a violation of R.S. 14:98, 98.1, or any other law or ordinance which prohibits operating a vehicle while intoxicated may refuse to submit to a chemical test when requested to do so by a law enforcement officer if he has refused to submit to such test on two previous and separate occasions of any previous such violation.

B.(1) Whoever violates the provisions of this Section 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.

(2) Imposition or execution of sentence shall not be suspended unless one of the following circumstances occurs:

(a) The offender is placed on probation with a minimum condition that he serve two days in jail and participate in a court-approved substance abuse program and participate in a court-approved driver improvement program.

(b) The offender is placed on probation with a minimum condition that he perform four eight-hour days of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program, participate in a court-

approved substance abuse program, and participate in a court-approved driver improvement program. An offender who participates in a litter abatement or collection program pursuant to this Subparagraph shall have no cause of action for damages against the entity conducting the program or supervising his participation therein, including a municipality, parish, sheriff, or other entity, nor against any official, employee, or agent of such entity, for any injury or loss suffered by him during or arising out of his participation in the program, if such injury or loss is a direct result of the lack of supervision or act or omission of the supervisor, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the entity or its official, employee, or agent.

Acts 2003, No. 543, §1.

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

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

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

C. When the operator's driving privileges were suspended for manslaughter, vehicular homicide, or negligent homicide, the offender shall be imprisoned for not less than sixty days nor more than six months without benefit of suspension of imposition or execution of sentence.

Acts 2009, No. 236, §1, eff. July 1, 2009.

§99. Reckless operation of a vehicle

Reckless operation of a vehicle is the operation of any motor vehicle, aircraft, vessel, or other means of conveyance in a criminally negligent or reckless manner.

Whoever commits the crime of reckless operation of a vehicle shall be fined not more than two hundred dollars, or imprisoned for not more than ninety days, or both.

On a second or subsequent conviction the offender shall be fined not less than twenty-five nor more than five hundred dollars, or imprisoned for not less than ten days nor more than six months, or both.

§99.1. Hit and run damaging of a potable waterline by operation of a watercraft or vessel

A. Hit and run damaging of a potable waterline by operation of a watercraft or vessel is the intentional failure of the driver of a watercraft or vessel involved in or causing any accident resulting in damage to a potable waterline to stop such vehicle at the scene of the accident to give his identity.

B. For the purpose of this Section:

(1) "Accident resulting in damage to a potable waterline" means an incident or event resulting in damage to a potable waterline or other device used for transporting potable water across marshlands or inland waterways or barrier islands.

(2) "To give his identity" means that the driver of any vehicle involved in any accident shall give his name, address, and the license number of his vessel or watercraft to the

enforcement authorities at the scene or shall report the accident to the police if there are no enforcement authorities at the scene.

(3) "Potable waterline" means a potable waterline that is marked as such every two thousand feet with a sign giving notice of the crime created by this Section and the penalties imposed.

(4) "Inland waterway" shall not include the Mississippi River.

C. Whoever commits the crime of hit and run damaging of a potable waterline by operation of a watercraft or vessel shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than five years, or both.

Acts 2006, No. 140, §1.

§100. Hit-and-run driving

A. Hit and run driving is the intentional failure of the driver of a vehicle involved in or causing any accident, to stop such vehicle at the scene of the accident, to give his identity, and to render reasonable aid.

B. For the purpose of this Section:

(1) "To give his identity", means that the driver of any vehicle involved in any accident shall give his name, address, and the license number of his vehicle, or shall report the accident to the police.

(2) "Serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain, or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

(3) "Vehicle" includes a watercraft.

(4) "Accident" means an incident or event resulting in damage to property or injury to person.

C.(1)(a) Whoever commits the crime of hit-and-run driving where there is no death or serious bodily injury shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(b) Whoever commits the crime of hit-and-run driving where there is no death or serious bodily injury shall be fined not more than five hundred dollars, imprisoned for not less than ten days nor more than six months, or both when: (i) there is evidence that the vehicle operator consumed alcohol or used drugs or a controlled dangerous substance prior to the accident; (ii) the consumption of the alcohol, drugs, or a controlled dangerous substance contributed to the accident; and (iii) the driver failed to stop, give his identity, or render aid with the knowledge that his actions could affect an actual or potential present, past, or future criminal investigation or proceeding.

(2) Whoever commits the crime of hit-and-run driving, when death or serious bodily injury is a direct result of the accident and when the driver knew or should have known that death or serious bodily injury has occurred, shall be fined not more than five thousand dollars or imprisoned with or without hard labor for not more than ten years, or both.

(3) Whoever commits the crime of hit-and-run driving where all of the following conditions are met shall be imprisoned, with or without hard labor, for not less than five years nor more than twenty years:

(a) Death or serious bodily injury is a direct result of the accident.

(b) The driver knew or must have known that the vehicle he was operating was involved in an accident or that his operation of the vehicle was the direct cause of an accident.

(c) The driver had been previously convicted of any of the following:

(i) A violation of R.S. 14:98, or a law or an ordinance of any state or political subdivision prohibiting operation of any vehicle or means of transportation or conveyance while intoxicated, impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance on two or more occasions within ten years of this offense.

(ii) A violation of R.S. 14:32.1-vehicular homicide.

(iii) A violation of R.S. 14:39.1-vehicular negligent injuring.

(iv) A violation of R.S. 14:39.2-first degree vehicular negligent injuring.

Amended by Acts 1968, No. 647, §1. Acts 1988, No. 671, §1; Acts 1997, No. 561, §1; Acts 1999, No. 1103, §1; Acts 2003, No. 159, §1.

§100.1. Obstructing public passages

No person shall wilfully obstruct the free, convenient and normal use of any public sidewalk, street, highway, bridge, alley, road, or other passageway, or the entrance, corridor or passage of any public building, structure, water craft or ferry, by impeding, hindering, stifling, retarding or restraining traffic or passage thereon or therein.

Whoever violates the provisions of this Section shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both fined and imprisoned.

This Section shall not be applicable to the erection or construction of any barricades or other forms of obstructions as a safety measure in connection with construction, excavation, maintenance, repair, replacement or other work, in or adjacent to any public sidewalk, street, highway, bridge, alley, road, or other passageway, nor to the placing of barricades or other forms of obstruction by governmental authorities, or any officer or agent thereof, in the proper performance of duties.

Added by Acts 1960, No. 80, §1. Amended by Acts 1976, No. 488, §1.

100.13. Operating a vehicle without lawful presence in the United States

A. No alien student or nonresident alien shall operate a motor vehicle in the state without documentation demonstrating that the person is lawfully present in the United States.

B. Upon arrest of a person for operating a vehicle without lawful presence in the United States, law enforcement officials shall seize the driver's license and immediately

surrender such license to the office of motor vehicles for cancellation and shall immediately notify the INS of the name and location of the person.

C. Whoever commits the crime of driving without lawful presence in the United States shall be fined not more than one thousand dollars, imprisoned for not more than one year, with or without hard labor, or both.

Acts 2002, 1st Ex. Sess., No. 46, §1.

SUBPART B. OFFENSES AFFECTING THE PUBLIC SENSIBILITY

§101. Desecration of graves

Desecration of graves is the:

(1) Unauthorized opening of any place of interment, or building wherein the dead body of a human being is located, with the intent to remove or to mutilate the body or any part thereof, or any article interred or intended to be interred with the said body; or

(2) Intentional or criminally negligent damaging in any manner, of any grave, tomb, or mausoleum erected for the dead.

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

Amended by Acts 1968, No. 647, §1, eff. July 20, 1968.

§101.1. Purchase or sale of human organs

A. No person shall intentionally acquire, receive, sell, or otherwise transfer in exchange for anything of value any human organ for use in human transplantation.

B. For purposes of Subsection A:

(1) The term "human organ" means the human kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, skin, and any other human organ.

(2) The term "anything of value" shall not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ or the expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ.

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

Added by Acts 1986, No. 775, §1.

§101.2. Unauthorized use of sperm, ovum, or embryo

A. No person shall knowingly use a sperm, ovum, or embryo, through the use of assisted reproduction technology, for any purpose other than that indicated by the sperm, ovum, or embryo provider's signature on a written consent form.

B. No person shall knowingly implant a sperm, ovum, or embryo, through the use of assisted reproduction technology, into a recipient who is not the sperm, ovum, or embryo provider, without the signed written consent of the sperm, ovum, or embryo provider and recipient.

C. Knowing violation of the provisions of this Section shall be grounds for immediate revocation of the violator's professional license.

D. This Section shall not apply to the use by a surviving spouse of the human ova or sperm of the deceased spouse in order to conceive a child, provided that prior to his death the deceased spouse signed a consent form authorizing such a donation.

Acts 1999, No. 1246, §

§102. Definitions; cruelty to animals

The following words, phrases, and terms as used in R.S. 14:102.1 through R.S. 14:102.4 shall be defined and construed as follows:

(1) "Cruel" means every act or failure to act whereby unjustifiable physical pain or suffering is caused or permitted.

(2) "Abandons" means to completely forsake and desert an animal previously under the custody or possession of a person without making reasonable arrangements for its proper care, sustenance, and shelter.

(3) "Proper food" means providing each animal with daily food of sufficient quality and quantity to prevent unnecessary or unjustifiable suffering by the animal.

(4) "Proper water" means providing each animal with daily water of sufficient quality and quantity to prevent unnecessary or unjustifiable suffering by the animal.

(5) "Proper shelter" means providing each animal with adequate shelter from the elements as required to prevent unnecessary or unjustifiable suffering by the animal.

(6) "Proper veterinary care" means providing each animal with veterinary care sufficient to prevent unnecessary or unjustifiable physical pain or suffering by the animal.

(7) "Livestock" means cattle, sheep, swine, goats, horses, mules, burros, asses, other livestock of all ages, farm-raised cervidae species, and farm-raised ratite species.

(8) "Public livestock exhibition" means any place, establishment, or facility commonly known as a "livestock market", "livestock auction market", "sales ring", "stockyard", or the like, operated for compensation or profit as a public market for livestock, consisting of pens, or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment. "Public livestock exhibition" also means any public exhibition or sale of livestock or a livestock show.

(9) "Tampers" means any of the following:

(a) The injection, use, or administration of any drug or other internal or external administration of any product or material, whether gas, solid, or liquid, to livestock for the purpose of concealing, enhancing, transforming, or changing the true conformation, configuration, condition, natural color, or age of the livestock or making the livestock appear more sound than they actually are.

(b) The use or administration, for cosmetic purposes, of steroids, growth stimulants, or internal artificial filling, including paraffin, silicone injection, or any other substance.

(c) The use or administration of any drug or feed additive affecting the central nervous system of the livestock, unless administered or prescribed by a licensed veterinarian for the treatment of an illness or an injury.

(d) The use or administration of diuretics for cosmetic purposes.

(e) The surgical manipulation or removal of tissue so as to change, transform, or enhance the true conformation, configuration, or natural color of the livestock unless the procedure is considered an accepted livestock management practice.

Amended by Acts 1982, No. 431, §1; Acts 1997, No. 461, §2.

§102.2. Seizure and disposition of animals cruelly treated

A. When a person is charged with cruelty to animals, said person's animal may be seized by the arresting officer and held pursuant to this Section.

B.(1) The seizing officer shall notify the owner of the seized animal of the provisions of this Section by posting written notice at the location where the animal was seized or by leaving it with a person of suitable age and discretion residing at that location within twenty-four hours of the seizure.

(2) The seizing officer shall photograph the animal within fifteen days after posting of the notice of seizure and shall cause an affidavit to be prepared in order to document its condition in accordance with R.S. 15:436.2.

(3) The seizing officer shall appoint a licensed veterinarian or other suitable custodian to care for any such animal. The custodian shall retain custody of the animal in accordance with this Section.

(4) The seized animal shall be held by the custodian provided for in Paragraph (3) for a period of fifteen consecutive days, including weekends and holidays, after such notice of seizure is given. Thereafter, if a person who claims an interest in such animal has not posted bond in accordance with Subsection C, the animal may be humanely disposed of by sale, adoption, or euthanasia.

C.(1) A person claiming an interest in any animal seized pursuant to this Section may prevent the disposition of the animal as provided for in Subsection B of this Section by posting a bond with the court within fifteen days after receiving notice of such seizure. Such bond shall prevent the disposition of the animal for a period of thirty days commencing on the date of initial seizure.

(2)(a) The amount of the bond shall be determined by the department, agency, humane society, and the custodian of the animal as authorized by the court and shall be sufficient to secure payment for all reasonable costs incurred during the thirty-day period for the boarding and medical treatment of the animal after examination by a licensed veterinarian.

(b) The court shall order that the bond be given to the custodian of the animal to cover such costs.

(3) Such bond shall not prevent the department, agency, humane society, or other custodian of the animal from disposing of the animal in accordance with Subsection B of this Section at the end of the thirty-day period covered by the bond, unless the person claiming an interest posts an additional bond for such reasonable expenses for an additional thirty-day period. In addition, such bond shall not prevent disposition of the animal for humane purposes at any time, in accordance with Subsection E of this Section.

D. Upon a person's conviction of cruelty to animals, it shall be proper for the court, in its discretion, to order the forfeiture and final determination of the custody of any animal found to be cruelly treated in accordance with this Section and the forfeiture of the bond posted pursuant to Subsection C as part of the sentence. The court may, in its discretion, order the payment of any reasonable or additional costs incurred in the boarding or veterinary treatment of any seized animal prior to its disposition, whether or not a bond was posted by the defendant. In the event of the acquittal or final discharge without conviction of the accused, the court shall, on demand, direct the delivery of any animal held in custody to the owner thereof and order the return of any bond posted pursuant to Subsection C, less reasonable administrative costs.

E. Nothing in this Section shall prevent the euthanasia of any seized animal, at any time, whether or not any bond was posted, if a licensed veterinarian determines that the animal is not likely to survive and is suffering, as a result of any physical condition. In such instances, the court, in its discretion, may order the return of any bond posted, less reasonable costs, at the time of trial.

Added by Acts 1982, No. 431, §1; Acts 1997, No. 1212, §1; Acts 2010, No. 916, §1.

§102.3. Search warrant; animal cruelty offenses

If the complaint is made, by affidavit, to any magistrate authorized to issue search warrants in criminal cases, that the complainant has reason to believe that an animal has been or is being cruelly treated in violation of R.S. 14:102.1, in any building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant to any law enforcement officer authorized by law to make arrests for such offenses, authorizing any such officer to make a search of said building or place, and to arrest any person found violating R.S. 14:102.1. Said warrant may also authorize said officer to seize any animal believed to be cruelly treated and to take custody thereof. This section shall not be construed as a limitation on the power of law enforcement officers to seize animals as evidence at the time of the arrest.

Added by Acts 1982, No. 431, §1.

§102.4. Confined animals; necessary food and water

When a living animal is impounded or confined, and continues without necessary food and water for more than twenty-four consecutive hours, any law enforcement officer may, as often as is necessary, enter any place in which the animal is impounded or confined and supply it with necessary food and water so long as it shall remain impounded or confined.

Added by Acts 1982, No. 431, §1.

§102.5. Dogfighting; training and possession of dogs for fighting

A. No person shall intentionally do any of the following:

(1) For amusement or gain, cause any dog to fight with another dog, or cause any dogs to injure each other.

(2) Permit any act in violation of Paragraph (1) to be done on any premises under his charge or control, or aid or abet any such act.

(3) Promote, stage, advertise, or be employed at a dogfighting exhibition.

(4) Sell a ticket of admission or receive money for the admission of any person to any place used, or about to be used, for any activity described in Paragraph (2).

(5) Own, manage, or operate any facility kept or used for the purpose of dogfighting.

(6) Knowingly attend as a spectator at any organized dogfighting event.

(7)(a) Own, possess, keep, or train a dog for purpose of dogfighting.

(b) The following activities shall be admissible as evidence of a violation of this Paragraph:

(i) Possession of any treadmill wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia, together with evidence that the paraphernalia is being used or intended for use in the unlawful training of a dog to fight with another dog, along with the possession of any such dog.

(ii) Tying, attaching, or fastening any live animal to a machine or power propelled device, for the purpose of causing the animal to be pursued by a dog, together with the possession of a dog.

(iii) Possession or ownership of a dog exhibiting injuries or alterations consistent with dogfighting, including but not limited to torn or missing ears, scars, lacerations, bite wounds, puncture wounds, bruising or other injuries, together with evidence that the dog has been used or is intended for use in dogfighting.

B. "Dogfighting" means an organized event wherein there is a display of combat between two or more dogs in which the fighting, killing, maiming, or injuring of a dog is the significant feature, or main purpose, of the event.

C. Whoever violates any provision of Subsection A of this Section shall be fined not less than one thousand dollars nor more than twenty-five thousand dollars, or be imprisoned with or without hard labor for not less than one year nor more than ten years, or both.

D. Nothing in this Section shall prohibit any of the following activities:

(1) The use of dogs for hunting.

(2) The use of dogs for management of livestock by the owner, his employees or agents, or any other person having lawful custody of livestock.

(3) The training of dogs or the possession or use of equipment in the training of dogs for any purpose not prohibited by law.

(4) The possessing or owning of dogs with ears cropped or otherwise surgically altered for cosmetic purposes.

E. Repealed by Acts 2008, No. 14, §2.

Added by Acts 1982, No. 432, §1. Acts 1984, No. 661, §1; Acts 1993, No. 1002, §1; Acts 2001, No. 547, §1; Acts 2001, No. 734, §1, eff. June 25, 2001; Acts 2008, No. 14, §§1, 2.

§102.6. Seizure and destruction or disposition of dogs and equipment used in dogfighting

A.(1) Any law enforcement officer making an arrest under R.S. 14:102.5 may lawfully take possession of all fighting dogs on the premises where the arrest is made or in the immediate possession or control of the person being arrested, whether or not the dogs are actually engaged in a fight at the time, and all paraphernalia, implements, equipment, or other property or things used or employed in violation of that Section.

(2) The legislature finds and declares that fighting dogs used or employed in violation of R.S. 14:102.5 are dangerous, vicious, and a threat to the health and safety of the public. Therefore, fighting dogs seized in accordance with this Section are declared to be contraband and, notwithstanding R.S. 14:102.1, the officer, an animal control officer, or a licensed veterinarian may cause them to be humanely euthanized as soon as possible by a licensed veterinarian or a qualified technician and shall not be civilly or criminally liable for so doing. Fighting dogs not destroyed immediately shall be disposed of in accordance with R.S. 14:102.2.

B.(1) The officer, after taking possession of any dogs other than those destroyed or disposed of pursuant to Subsection A and of the other paraphernalia, implements, equipment, or other property or things, shall file with the district court of the parish within which the alleged violation occurred an affidavit stating therein the name of the person charged, a description of the property so taken and the time and place of the taking thereof, together with the name of the person who claims to own such property, if known, and that the affiant has reason to believe and does believe, stating the ground of such belief, that the property so taken was used or employed in such violation.

(2) The seizing officer shall dispose of any dogs or other animals seized in the manner provided for in R.S. 14:102.2.

(3) He shall thereupon deliver the other property so taken to such court which shall, by order in writing, place such paraphernalia, implements, equipment, or other property in the custody of a suitable custodian, to be kept by such custodian until the conviction or final discharge of the accused, and shall send a copy of such order without delay to the district attorney of the parish. The custodian so named and designated in such order shall immediately thereupon assume the custody of such property and shall retain the same, subject to the order of the court before which the accused shall be required to appear for trial.

C. Any person claiming an interest in a seized animal may post a bond with the court in accordance with the provisions of R.S. 14:102.2(C) in order to prevent the disposition of such animal.

D. Upon conviction of the person so charged, all dogs so seized shall be adjudged by the court to be forfeited and the court shall order a humane disposition of the same in accordance with R.S. 14:102.2. The court may also in its discretion order the forfeiture of the bond posted, as well as payment of any reasonable or additional costs incurred in the boarding or veterinary treatment of any seized dog, as provided in R.S. 14:102.2. In the event of the acquittal or final discharge, without conviction, of the accused, the court shall, on demand, direct the delivery of the animals and other property so held in custody to the owner thereof and order the return of any bond posted pursuant to R.S. 14:102.2(C), less reasonable administrative costs.

Added by Acts 1982, No. 432, §1; Acts 1987, No. 590, §1; Acts 1993, No. 1002, §1; Acts 1997, No. 1212, §1; Acts 2010, No. 369, §1.

§102.7. Search warrant for dogfighting offenses

If complaint is made, by affidavit, to any magistrate authorized to issue search warrants in criminal cases, that the complainant has reason to believe that R.S. 14:102.5 has been violated within the past forty-eight hours, is being, or will be violated in any building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any law enforcement officer competent by law to make arrests for such offenses to make a search of said building or place, and to arrest any person found violating R.S. 14:102.5. This Section shall not be construed as a limitation on the power of law enforcement officers to seize animals or evidence at the time of arrest.

Added by Acts 1982, No. 432, §1.

§102.8. Injuring or killing of a police animal

A. Injuring or killing of a police animal is the intentional infliction of great bodily harm, permanent disability, or death upon a police animal.

B. As used in this Section:

(1) "Police animal" means:

(a) Any dog which is owned or the service of which is used 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.

(b) Any dog which is owned or the service of which is used by any public safety agency and which is 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 for possibly deceased individuals and 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 a public safety agency.

(c) Any horse which is used by a state or local law enforcement officer in the course of his official duty.

(2) "Public safety agency" means any agency of the state or political subdivision of the state which provides or has authority to provide law enforcement, fire protection, emergency medical services, emergency preparedness services, or any other type of emergency services.

C. It shall be an affirmative defense to a prosecution under this Section when the injuring or killing of a police animal is committed with the reasonable belief by one not involved in or being apprehended for the commission of any offense or by one taken into custody that:

(1) He is in imminent danger of losing his life or receiving great bodily harm and that the injuring or killing is necessary to save himself from that danger.

(2) Another person not involved in or being apprehended for the commission of any offense is in imminent danger of losing his life or receiving great bodily harm and that the injury or killing is necessary to save that person from that danger.

(3) His animal or other property not involved in the commission of any offense or in the apprehension of any person for an offense is in imminent danger of being destroyed or receiving grave injury or damage that may result in its destruction.

D.(1) Whoever commits the crime of injuring or killing of a police animal shall be fined not less than five thousand dollars nor more than ten thousand dollars, or imprisoned with or without hard labor for not less than one year nor more than three years, or both.

(2) Upon a second or subsequent conviction, regardless of whether the second or subsequ

ent offense occurred before or after the first conviction, the offender shall be fined not less than five thousand dollars and not more than ten thousand dollars, or imprisoned with or without hard labor for not less than five years nor more than seven years, or both.

E. In addition to the foregoing penalties, a person convicted under this Section shall be ordered to make full restitution to the public safety agency suffering a financial loss from the injury or killing of a police animal. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

Acts 1984, No. 534, §1; Acts 1986, No. 997, §1, eff. July 16, 1986; Acts 1992, No. 921, §1; Acts 1994, 3rd Ex. Sess., No. 82, §1; Acts 1995, No. 208, §1; Acts 1997, No. 130, §1; Acts 2001, No. 213, §1; Acts 2008, No. 158, §1.

§102.9. Interference with animal research; research laboratory or farm

A. Interference with animal research is any of the following:

(1) The unauthorized entry of any research laboratory or research farm with the intent of releasing or causing the release of any animal housed or kept within such research facility.

(2) The intentional or criminally negligent damaging of any research laboratory or research farm.

(3) The intentional or criminally negligent unauthorized release of any animal housed or kept within any research laboratory or research farm.

B. Whoever commits the crime of interference with animal research shall, upon conviction, be fined not less than one thousand nor more than five thousand dollars and may be imprisoned, with or without hard labor, for not more than one year.

Acts 1989, No. 784, §1.

{{NOTE: SEE ALSO R.S. 14:228.}}

102.10. Bear wrestling; penalty

A. Any person who intentionally commits any of the following shall be guilty of bear wrestling:

(1) Promotes, engages in, or is employed by anyone who conducts a bear wrestling match.

(2) Receives money for the admission of another person to a place kept for bear wrestling matches.

(3) Sells, purchases, possesses, or trains a bear for a bear wrestling match.

B. For the purposes of this Section, a "bear wrestling match" means a match or contest between one or more persons and a bear for the purpose of fighting or engaging in a physical altercation.

C. Whoever commits the crime of bear wrestling shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Acts 1992, No. 740, §1.

102.11. Illegal contact sports; penalty

A. Any person who intentionally commits any of the following shall be guilty of illegal contact sports:

(1) Promotes, engages or participates in, judges, or referees a tough-man competition or is employed by anyone who conducts a tough-man competition.

(2) Receives money for the admission of another person to a place which holds or has held tough-man competitions.

B. For the purposes of this Section, a "tough-man contest or competition" means any boxing match, wrestling event, or contest or competition, or combination thereof, between two or more persons, whether professional or amateur, who use their hands, with or without gloves, or their feet, or both, in any manner unauthorized by the State Boxing and Wrestling Commission, and compete for money, financial prize, or any item of pecuniary or nonpecuniary value or compete at an event where a fee is charged whereby either participant may obtain pecuniary gain. "Tough-man contest or competition" shall not include, nor shall the provisions of this Section apply to any contest, competition, or exhibition of any of the recognized martial arts including karate, judo, kung fu, tae kwan do, jujitsu, kickboxing, or any substantially similar tradition.

C. Whoever commits the crime of illegal contact sports shall be fined not more than five hundred dollars or imprisoned, with or without hard labor, for not more than one year, or both.

Acts 1995, No. 1275, §2.

§102.12. Definitions

As used in this Section and R.S. 14:102.13 through 102.18, the following definitions shall apply:

(1) "Animal control agency" means the parish or local animal control agency. If the municipality or parish does not have an animal control agency, it means whatever entity performs animal control functions.

(2) "Impounded" means taken into the custody of the animal control agency or provider of animal control services to the municipality or parish where the dangerous or vicious dog is found.

(3) "Secure enclosure" means a fence or structure suitable to prevent the entry of young children, and which is suitable to confine a dangerous dog in conjunction with other measures which may be taken by the owner of the dog. The enclosure shall be designed in order to prevent the animal from escaping.

(4) "Serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

Acts 2001, No. 823, §1; Acts 2003, No. 563, §1.

§102.13. Hearing to determine if dog is dangerous or vicious

A. The district attorney, the sheriff, an animal control officer, or other designated representative, in the name of and on behalf of the parish and without the payment of any costs, shall be authorized to file a petition in the district court having jurisdiction requesting a hearing for the purpose of determining whether or not a dog should be declared dangerous as defined in R.S. 14:102.14(A) or vicious as defined in R.S. 14:102.15(A).

B. Upon the filing of the petition, the district judge shall immediately issue a rule on the owner of the dog to show cause why the dog should not be declared a dangerous or vicious dog. This rule shall, at the time of its issuance, be fixed for hearing not later than five days, including Sundays, half-holidays and holidays, from the date of its issuance, and shall be heard by preference over all other matters and cases fixed for the same day and shall be heard continuously day after day until submitted for adjudication.

C. Upon the showing made by the parties on the trial of the rule to show cause, the court shall determine whether the dog is a dangerous dog or a vicious dog and may make other orders authorized by this Section.

D. In every case where the dog is established to be a dangerous dog, the court shall enter an order declaring the dog to be a dangerous dog and shall direct the owner of the dog to comply with conditions established for the restraint and confinement of the dog as provided by law.

E. In every case where the dog is established to be a vicious dog, the court shall enter an order declaring the dog to be a vicious dog and shall direct that the vicious dog be humanely euthanized.

F. Any person who fails to restrain and confine a dangerous dog as ordered by the court shall be guilty of contempt and shall be fined not less than one hundred dollars nor more than five hundred dollars.

G. The pleading and practice in all cases under this Section shall be in accordance with the Code of Civil Procedure and the laws and rules of court governing practice before the district courts of this state.

H. The owner of the dog may appeal to the court of competent jurisdiction an order of the district court determining the dog to be dangerous or vicious. Such appeal shall be perfected within five calendar days from the rendition of the order and shall be made returnable to the appropriate appellate court in not more than fifteen calendar days from the rendition of the order. The applicant for the determination may appeal to the court of competent jurisdiction for an order reversing the order of the district court.

I. No dog shall be declared dangerous or vicious if at the hearing authorized by this Section evidence presented is sufficient to establish any of the following:

(1) Any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a crime upon the property of the owner of the dog.

(2) Any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was teasing, tormenting, abusing, or assaulting the dog.

(3) Any injury or damage is sustained by a domestic animal which, at the time the injury or damage was sustained, was teasing, tormenting, abusing, or assaulting the dog.

(4) If the dog was protecting or defending a person within the immediate vicinity of the dog from an unjustified attack or assault.

(5) If the injury or damage to a domestic animal was sustained while the dog was working as a hunting dog, herding dog, or predator control dog on the property of, or under the control of, its owner, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog.

J. The owner of a dog determined to be a vicious dog may be prohibited by the court from owning, possessing, controlling, or having custody of any dog for a period of up to three years, when it is found, after proceedings conducted pursuant to this Section, that ownership or possession of a dog by that person would create a significant threat to the health, safety, or welfare of the public.

Acts 2001, No. 823, §1.

§102.14. Unlawful ownership of dangerous dog

A. For the purposes of this Section "dangerous dog" means:

(1) Any dog which when unprovoked, on two separate occasions within the prior thirty-six-month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner of the dog; or

(2) Any dog which, when unprovoked, bites a person causing an injury; or

(3) Any dog which, when unprovoked, on two separate occasions within the prior thirty-six-month period, has killed, seriously bitten, inflicted injury, or otherwise caused injury to a domestic animal off the property of the owner of the dog.

B. It is unlawful for any person to own a dangerous dog without properly restraining or confining the dog.

C. A dangerous dog, while on the owner's property, shall, at all times, be kept indoors, or in a secure enclosure. A dangerous dog may be off the owner's property only if it is restrained by a leash which prevents its escape or access to other persons.

D. The owner of a dog determined by the court to be dangerous shall post signs around the secure enclosure no more than thirty feet apart and at each normal point of ingress and egress. The signs shall bear the words "Beware of Dog", or "Dangerous Dog" in letters at least three and one-half inches high and shall be so placed as to be readily visible to any person approaching the secure enclosure.

E. If the dog in question dies, or is sold, transferred, or permanently removed from the municipality or parish where the owner resides, the owner of a dangerous dog shall notify the animal control agency of the changed condition and new location of the dog in writing within two days.

F. Whoever violates the provisions of this Section shall be fined not more than three hundred dollars.

G. 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.

Acts 2001, No. 823, §1.

§102.15. Unlawful ownership of a vicious dog

A. For the purposes of this Section "vicious dog" means any dog which, when unprovoked, in an aggressive manner, inflicts serious bodily injury on or kills a human being and was previously determined to be a dangerous dog.

B. It is unlawful for any person to own a vicious dog.

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. 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.

Acts 2001, No. 823, §1.

§102.16. Seizure and destruction or disposition of dangerous or vicious dogs

A.(1) Any law enforcement officer making an arrest under R.S. 14:102.14 or R.S. 14:102.15 may lawfully take possession of all dogs on the premises where the arrest is made or in the immediate possession or control of the person being arrested.

(2) The legislature finds and declares that dangerous or vicious dogs are a threat to the health and safety of the public. Dogs seized in accordance with this Section are declared to be contraband, and the officer may cause them to be impounded pending the hearing held pursuant to R.S. 14:102.13.

B. A dog determined to be a vicious dog by the court shall be humanely euthanized by the animal control agency, a licensed veterinarian, or a qualified technician.

C. A dog determined by the court to be a dangerous dog may be humanely euthanized if it is determined that the dog poses an immediate threat to public health and safety.

D. The owner of the dog shall be liable to the municipality or parish where the dog is impounded for the costs and expenses of keeping the dog if the dog is later adjudicated dangerous or vicious.

Acts 2001, No. 823, §1.

§102.17. Registration of dangerous dogs; fees

A. All dangerous dogs shall be properly licensed and vaccinated. The licensing authority shall include the dangerous designation in the registration records of the dog, either after the owner of the dog has agreed to the designation or the court has determined the designation applies to the dog.

B. The municipality or parish may charge a dangerous dog fee in addition to the regular licensing fee to provide for the increased costs of maintaining the records of the dog.

Acts 2001, No. 823, §1

§102.18. Seizure and disposition of dogs which cause death or inflict bodily injury

A. Any law enforcement officer or animal control officer may seize any dog which when unprovoked, in an aggressive manner, causes the death of or inflicts bodily injury on a human being. Any dog seized pursuant to the provisions of this Section may be impounded pending the outcome of the hearing held in accordance with this Section.

B. The district attorney, the sheriff, an animal control officer, or other designated representative, in the name of and on behalf of the parish, and without the payment of any costs, shall be authorized to file a petition in the district court having jurisdiction requesting a hearing for the purpose of determining whether or not a dog which, when unprovoked, in an aggressive manner, causes the death of or inflicts bodily injury on a human being, shall be euthanized.

C. The hearing shall be conducted in accordance with the procedure provided in R.S. 14:102.13.

D. A dog determined by the court to have, when unprovoked, in an aggressive manner, caused the death of or inflicted bodily injury on a human being may be humanely euthanized by the animal control agency, a licensed veterinarian, or a qualified technician.

E. The owner of the dog shall be liable to the municipality or parish where the dog is impounded for the costs and expenses of keeping the dog if the dog is later adjudicated to have, when unprovoked, in an aggressive manner, caused the death or inflicted bodily injury on a human being.

Acts 2003, No. 563, §1.

§102.19. Hog and canine fighting prohibited; penalties

A. It shall be unlawful for any person to organize or conduct any commercial or private event, wherein there is a display of combat or fighting among one or more domestic or feral canines and feral or domestic hogs and in which it is intended or reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

B. It shall be unlawful for any person to intentionally do any of the following for the purpose of organizing, conducting, or financially or materially supporting any event as provided in Subsection A of this Section:

(1) Finance, commercially advertise, sell admission tickets, or employ persons.

(2) Own, manage, or operate any facility or property.

(3) Supply, breed, train, or keep canines or hogs.

(4) Knowingly purchase tickets of admission.

C. The provisions of this Section shall not apply to any competitive event in which canines, which are trained for hunting or herding activities, are released in an open area or an enclosed area to locate and corner hogs, and in which competitive points are deducted if a hog is caught and held, unless by such actions it is reasonably foreseeable that the canines or hogs would be injured, maimed, mutilated, or killed.

D. The provisions of this Section shall not apply to the lawful hunting of hogs with canines or the use of canines for the management, farming, or herding of hogs which are livestock or the private training of canines for the purposes enumerated in this Subsection provided that such training is conducted in the field and is not in violation of the provisions of Subsection A of this Section.

E. The provisions of this Section shall not apply to "Uncle Earl's Hog Dog Trials", as defined in R.S. 49:170.10.

F. 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.

G. For the purposes of this Section:

(1) "Hog" shall include a pig, swine, or boar.

(2) "Person" means an individual, corporation, partnership, trust, firm, association or other legal entity.

Acts 2004, No. 111, §1.

§102.20. Sport killing of zoo or circus animals prohibited

A. No person shall kill for sport an animal that is presently or was formerly a part of a zoo or circus.

B. No zoo or circus shall provide, sell, or donate any animal for use in any business or activity wherein the animal may be intentionally killed for sport.

C. No person shall knowingly transfer or conspire to transfer any animal from a zoo or circus to any business, person, or activity wherein the animal may be intentionally killed for sport.

D. No business or person wherein an animal may be intentionally killed for sport shall purchase, accept as a donation, or receive any animal that was formerly a part of a zoo or circus.

E. Whoever violates the provisions of this Section or rules and regulations promulgated pursuant thereto shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Acts 2004, No. 891, §1.

§102.21. Unauthorized use of the identity of a deceased soldier

A. It shall be unlawful for any person to use for the purpose of advertising for the sale of any goods, wares, or merchandise, or for the solicitation of patronage by any business the name, portrait, or picture of any deceased soldier, without having obtained prior consent to such use by the soldier, or by the closest living relative, by blood or marriage, of the deceased.

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.

C. For purposes of this Section, "soldier" means any active duty member or former member of the armed forces of the United States including any member who was killed in the line of duty.

Acts 2006, No. 239, §1.

§102.22. Harboring or concealing an animal which has bitten or inflicted serious bodily injury on a human

A. Harboring or concealing an animal which has bitten or inflicted serious bodily injury on a human is committed when a person knows or has reason to know that an animal has bitten or inflicted serious bodily injury on a human and the person intentionally harbors or conceals the animal from any law enforcement or animal control agency investigator or agent.

B. For the purposes of this Section:

(1) "Animal control agency" means the parish or local animal control agency. If the municipality or parish does not have an animal control agency, it means the entity designated to perform animal control functions.

(2) "Serious bodily injury" means bodily injury which involves unconsciousness, extreme physical pain or protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or a substantial risk of death.

C. Whoever commits the crime of harboring or concealing an animal which has bitten or inflicted serious bodily injury on a human shall be fined not more than one thousand dollars or imprisoned with or without hard labor, for not more than two years, or both.

D.(1) Any health care provider, as provided in R.S. 40:1299.41, who examines or treats any person who has been bitten by an animal or upon whom an animal has inflicted serious bodily injury shall report such bite or injury to the law enforcement or animal control agency for the location where the bite or injury occurred. Such report shall be made immediately, if possible, and in any event shall be made within twenty-four hours.

(2) The report shall include as much of the following information as is available:

(a) The patient's name, date of birth, sex, and current home and work addresses.

(b) The nature of the bite or injury that is the subject of the report.

(c) Any information about the location of the biting animal and the name and address of any known owner.

(d) The name and address of the health care provider.

Acts 2006, No. 788, §1.

§102.23. Cockfighting

A. It shall be unlawful for any person to:

(1) Organize or conduct any commercial or private cockfight wherein there is a display of combat or fighting among one or more domestic or feral chickens and in which it is intended or reasonably foreseeable that the chickens would be injured, maimed, mutilated, or killed; or

(2) Possess, train, purchase, or sell any chicken with the intent that the chicken shall be engaged in an unlawful commercial or private cockfight as prohibited in Paragraph (1) of this Subsection.

B. As used in this Section, the following words and phrases have the following meanings ascribed to them:

(1) "Chicken" means any bird which is of the species *Gallus gallus,* whether domestic or feral.

(2) "Cockfight" means a contest wherein chickens are set against one another with the intention that they engage in combat.

C.(1) Whoever violates the provisions of this Section, on conviction of a first offense, shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(2) On a conviction of a second offense, the offender shall be fined not less than seven hundred fifty dollars, nor more than two thousand dollars, or imprisoned, with or without hard labor, for not less than six months nor more than one year, or both. In addition to any other penalty imposed, on a conviction of a second offense, the offender shall be ordered to perform fifteen eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(3) On a conviction of a third offense, the offender shall be fined not less than one thousand dollars, nor more than two thousand dollars, and shall be imprisoned, with or without hard labor, for not less than one year nor more than three years. At least six months of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

Acts 2007, No. 425, §1, eff. Aug. 15, 2008.

§102.24. Participation in cockfighting

A. It shall be unlawful for any person to attend a cockfight, or to bet on a cockfight, or to pay admission at any location to view or bet on a cockfight.

B. As used in this Section, the following words and phrases have the following meaning ascribed to them:

(1) "Chicken" means any bird which is of the species *Gallus gallus*, whether domestic or feral.

(2) "Cockfight" means a contest wherein chickens are set against one another with the intention that they engage in combat.

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 2010, No. 114, §1.

§102.26. Unlawful restraint of a dog; definitions; penalties

A. As used in this Section:

(1) "Collar" means any collar constructed of nylon, leather, or similar material, specifically designed to be used for a dog.

(2) "Owner" means a person who owns or has custody or control of a dog.

(3) "Properly fitted" means, with respect to a collar, a collar that measures the circumference of a dog's neck plus at least one inch.

(4) "Restraint" means a chain, rope, tether, leash, cable, or other device that attaches a dog to a stationary object or trolley system.

B. It shall be unlawful to tie, tether, or restrain any animal in a manner that is inhumane, cruel, or detrimental to its welfare.

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

(1) Accepted veterinary practices.

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

(3) A dog restrained to a running line, pulley, or trolley system and is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type, or improperly fitted collar.

(4) A dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction.

(5) A dog restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog.

(6) A dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock.

(7) A dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products if the restraint is reasonably necessary for the safety of the dog.

(8) A dog being restrained and walked with a hand-held leash regardless of the type of collar being used.

D. Whoever violates the provisions of this Section shall be fined not more than three hundred dollars.

Acts 2010, No. 977, §1.

§102.27. Unlawful sale of a live dog or cat at certain locations

A. It shall be unlawful for any person to offer for sale or sell any dog or cat on any highway, right-of-way, flea market, public park, public playground, public swimming pool, any other public recreational area, or adjacent property to such locations regardless of whether or not access to those locations is authorized, or on any commercial or retail parking lot unless permission is granted by the owner of the parking lot.

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

(1) Bona fide humane societies, animal welfare groups, animal control agencies, or nonprofit organizations sponsoring animal adoption events.

(2) The offering of dogs or cats for sale at a private residence.

(3) The offering of dogs or cats for sale by a paid entrant to a competitive cat show or dog show, provided that the sale occurs on the premises and within the confines of the show.

(4) Any retail pet store or licensed breeder.

(5) Any raffle or drawing for a dog or cat which is a fundraising event for a waterfowl, wetland, or natural resources conservation organization.

C.(1) Whoever violates the provisions of this Section shall be fined not more than two hundred fifty dollars for a first offense.

(2) Whoever violates the provisions of this Section for a second or subsequent offense shall be fined not more than one thousand dollars per violation.

D. For the purposes of this Section:

(1) "Highway" means the entire width between the boundary lines of every way or place of whatever nature publicly maintained and open to the use of the public for the purpose of vehicular travel, including bridges, causeways, tunnels, and ferries; synonymous with the word "street".

(2) "Right-of-way" means the privilege of the immediate use of the highway.

Acts 2012, No. 700, §1.

§103. Disturbing the peace

A. Disturbing the peace is the doing of any of the following in such manner as would foreseeably disturb or alarm the public:

(1) Engaging in a fistic encounter; or

(2) Addressing any offensive, derisive, or annoying words to any other person who is lawfully in any street, or other public place; or call him by any offensive or derisive name, or make any noise or exclamation in his presence and hearing with the intent to deride, offend, or annoy him, or to prevent him from pursuing his lawful business, occupation, or duty; or

(3) Appearing in an intoxicated condition; or

(4) Engaging in any act in a violent and tumultuous manner by any three or more persons; or

(5) Holding of an unlawful assembly; or

(6) Interruption of any lawful assembly of people; or

(7) Intentionally engaging in any act or any utterance, gesture, or display designed to disrupt a funeral, funeral home viewing, funeral procession, wake, memorial service, or burial of a deceased person.

(8) Intentionally blocking, impeding, inhibiting, or in any other manner obstructing or interfering with access into or from any building or parking lot of a building in which a funeral, wake, memorial service, or burial is being conducted, or any burial plot or the parking lot of the cemetery in which a funeral, wake, memorial service, or burial is being conducted.

B.(1) Whoever commits the crime of disturbing the peace shall be fined not more than one hundred dollars or imprisoned for not more than ninety days, or both.

(2) Whoever commits the crime of disturbing the peace as provided in Paragraphs (A)(7) and (8) of this Section shall be fined not more than one hundred dollars or imprisoned for not more than six months, or both.

Amended by Acts 1960, No. 70, §1; Acts 1963, No. 93, §1; Acts 1968, No. 647, §1; Acts 1979, No. 222, §1; Acts 2006, No. 805, §1.

§103.1. Emanation of excessive sound or noise; exceptions; penalties

A. No person shall operate or permit the operation of any sound amplification system which emanates unreasonably loud or excessive sound or noise which is likely to cause inconvenience or annoyance to persons of ordinary sensibilities, when both the following exist:

(1) The sound amplification system is located in or on any motor vehicle on a public street, highway, or public park.

(2) The sound or noise emanating from the sound amplification system is audible at a distance of greater than twenty-five feet which exceeds eighty-five decibels.

B. The provisions of this Section do not apply to the use of a horn, alarm, or other warning device which has as its purpose the signaling of unsafe or dangerous situations or to summon the assistance of law enforcement when used for such purpose, or when used in conjunction with a permitted event.

C. Whoever violates a provision of this Section shall be fined two hundred dollars for a first offense, and not less than three hundred dollars nor more than five hundred dollars for second and subsequent offenses.

D.(1) Upon conviction for a first offense, the court may order the violator to surrender to the law enforcement agency that arrested the violator or reported the violation the driver's license of the driver involved in the violation for a period not to exceed thirty days. The violator shall be responsible for the retrieval of his driver's license from the law enforcement agency after the expiration of the period of surrender.

(2) Upon conviction for a second or subsequent offense, the court may order the violator to surrender to the law enforcement agency that arrested the violator or reported the violation the driver's license of the driver involved in the violation for a period not less than thirty days nor more than ninety days. The violator shall be responsible for the retrieval of his driver's license from the law enforcement agency after the expiration of the period of surrender.

E. A governing authority of a parish or municipality may enact an ordinance consistent with the provisions of this Section and shall incorporate the standards and elements of the crime, and the penalty provided in the ordinance shall not exceed the penalty provided in this Section.

Acts 1997, No. 811, §1, eff. Jan. 1, 1998; Acts 2005, No. 490, §1; Acts 2008, No. 94, §1.

§103.2. Amplified devices in public places; quiet zones; penalties

A. No person shall operate or play any sound-producing device or sound-amplification device in a public street, public park, or other public place in a manner likely to disturb, inconvenience, or annoy a person of ordinary sensibilities, if the sound produced is in excess of fifty-five decibels as measured within ten feet of the entrance to:

(1) Hospitals.

(2) Churches, synagogues, temples, or other houses of religious worship, while the building is occupied and services are being performed, provided that a sign is posted within ten feet of the front door when services are being performed.

B. Whoever violates any of the provisions of this Section shall be imprisoned for not more than thirty days.

Acts 1999, No. 1227, §1.

§104. Keeping a disorderly place

A. Keeping a disorderly place is the intentional maintaining of a place to be used habitually for any illegal purpose.

B.(1) Whoever commits the crime of keeping a disorderly place shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Whoever commits the crime of keeping a disorderly place for the purpose of prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the crime of keeping a disorderly place for the purpose of prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned for not less than twenty-five years nor more than fifty years, or both.

Amended by Acts 1970, No. 460, §1; Acts 1979, No. 224, §1, eff. July 8, 1979; Acts 2012, No. 446, §1.

§105. Letting a disorderly place

A. Letting a disorderly place is the granting of the right to use any premises knowing that they are to be used as a disorderly place, or allowing the continued use of the premises with such knowledge.

B.(1) Whoever commits the crime of letting a disorderly place 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 a disorderly place for the purpose of prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned for not less than fifteen years nor more than fifty years, or both.

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

Amended by Acts 1970, No. 459, §1; Acts 2012, No. 446, §1

§106. Obscenity

A. The crime of obscenity is the intentional:

(1) Exposure of the genitals, pubic hair, anus, vulva, or female breast nipples in any public place or place open to the public view, or in any prison or jail, with the intent of arousing sexual desire or which appeals to prurient interest or is patently offensive.

(2)(a) Participation or engagement in, or management, operation, production, presentation, performance, promotion, exhibition, advertisement, sponsorship, electronic communication, or display of, hard core sexual conduct when the trier of fact determines that the average person applying contemporary community standards would find that the conduct, taken as a whole, appeals to the prurient interest; and the hard core sexual conduct, as specifically defined herein, is presented in a patently offensive way; and the conduct taken as a whole lacks serious literary, artistic, political, or scientific value.

(b) Hard core sexual conduct is the public portrayal, for its own sake, and for ensuing commercial gain of:

(i) Ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being; or

(ii) Masturbation, excretory functions or lewd exhibition, actual, simulated, or animated, of the genitals, pubic hair, anus, vulva, or female breast nipples; or

(iii) 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 that reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or in the condition of being fettered, bound, or otherwise physically restrained, on the part of one so clothed; or

(iv) 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 humans, animals, or a human and an animal, of the same or opposite sex, in an act of apparent sexual stimulation or gratification; or

(v) Actual, simulated, or animated stimulation of a human genital organ by any device whether or not the device is designed, manufactured, or marketed for such purpose.

(3)(a) Sale, allocation, consignment, distribution, dissemination, advertisement, exhibition, electronic communication, or display of obscene material, or the preparation, manufacture, publication, electronic communication, or printing of obscene material for sale,

allocation, consignment, distribution, advertisement, exhibition, electronic communication, or display.

(b) Obscene material is any tangible work or thing which the trier of fact determines that the average person applying contemporary community standards would find, taken as a whole, appeals to the prurient interest, and which depicts or describes in a patently offensive way, hard core sexual conduct specifically defined in Paragraph (2) of this Subsection, and the work or thing taken as a whole lacks serious literary, artistic, political, or scientific value.

(4) Requiring as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, or publication to a purchaser or consignee that such purchaser or consignee also receive or accept any obscene material, as defined in Paragraph (3) of this Subsection, for resale, distribution, display, advertisement, electronic communication, or exhibition purposes; or, denying or threatening to deny a franchise to, or imposing a penalty, on or against, a person by reason of his refusal to accept, or his return of, such obscene material.

(5) Solicitation or enticement of an unmarried person under the age of seventeen years to commit any act prohibited by Paragraphs (1), (2), or (3) above.

(6) Advertisement, exhibition, electronic communication, or display of sexually violent material. "Violent material" is any tangible work or thing which the trier of facts determines depicts actual or simulated patently offensive acts of violence, including but not limited to, acts depicting sadistic conduct, whippings, beatings, torture, and mutilation of the human body, as described in Item (2)(b)(iii) of this Subsection.

(7)(a) Transmission or causing the transmission by a person, knowing the content of an advertisement to be sexually explicit as defined in this Paragraph, of an unsolicited advertisement containing sexually explicit materials in an electronic communication to one or more persons within this state without including in the advertisement the term "ADV-ADULT" at the beginning of the subject line of the advertisement. A "subject line" is the area of an electronic communication that contains a summary description of the content of the message.

(b) As used in this Paragraph, "sexually explicit" means the graphic depiction of sex, including but not limited to sexual audio, text, or images; depiction of sexual activity; nudity; or sexually oriented language.

(8)(a) Transmission or causing the transmission by a person, knowing its content to be sexually explicit as defined in this Paragraph, of an unsolicited text message containing sexually explicit materials to a wireless telecommunications device of one or more persons within this state.

(b) As used in this Paragraph:

(i) "Sexually explicit" means the graphic depiction of sex, including but not limited to sexual audio, text, or images, the depiction of sexual activity, nudity, or sexually oriented language and is obscene as defined in R.S. 14:106(A)(3)(b).

(ii) "Wireless telecommunications device" means a cellular telephone, a text-messaging device, a personal digital assistant, a tablet computer, or any other substantially similar wireless device.

B. Lack of knowledge of age or marital status shall not constitute a defense.

C. If any employee of a theatre or bookstore acting in the course or scope of his employment, is arrested for an offense designated in this Section, the employer shall reimburse the employee for all attorney's fees and other costs of defense of such employee. Such fees and

expenses may be fixed by the court exercising criminal jurisdiction after contradictory hearing or by ordinary civil process.

D.(1) The provisions of this Section do not apply to recognized and established schools, churches, museums, medical clinics, hospitals, physicians, public libraries, governmental agencies, quasi-governmental sponsored organizations and persons acting in their capacity as employees or agents of such organizations, or a person solely employed to operate a movie projector in a duly licensed theatre.

(2) For the purpose of this Paragraph, the following words and terms shall have the respective meanings defined as follows:

(a) "Recognized and established schools" means schools having a full time faculty and pupils, gathered together for instruction in a diversified curriculum.

(b) "Churches" means any church, affiliated with a national or regional denomination.

(c) "Physicians" means any licensed physician or psychiatrist.

(d) "Medical clinics and hospitals" means any clinic or hospital of licensed physicians or psychiatrists used for the reception and care of the sick, wounded or infirm.

E. 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.

F.(1) Except for those motion pictures, printed materials, electronic communication and photographic materials showing actual ultimate sexual acts or simulated or animated ultimate sexual acts when there is an explicit, close-up depiction of human genital organs so as to give the appearance of the consummation of ultimate sexual acts, no person, firm, or corporation shall be arrested, charged, or indicted for any violations of a provision of this Section until such time as the material involved has first been the subject of an adversarial hearing under the provisions of this Section, wherein such person, firm, or corporation is made a defendant and, after such material is declared by the court to be obscene, such person, firm, or corporation continues to engage in the conduct prohibited by this Section. The sole issue at the hearing shall be whether the material is obscene.

(2) The hearing shall be held before the district court having jurisdiction over the proceedings within seventy-two hours after receipt of notice by the person, firm, or corporation. The person, firm, or corporation shall be given notice of the hearing by registered mail or by personal service on the owner, manager, or other person having a financial interest in the material; provided, if there is no such person on the premises, then notice may be given by personal service on any employee of the person, firm, or corporation on such premises. The notice shall state the nature of the violation, the date, place, and time of the hearing, and the right to present and cross-examine witnesses.

(3) The state or any defendant may appeal from a judgment. Such appeal shall not stay the judgment. Any defendant engaging in conduct prohibited by this Section subsequent to notice of the judgment, finding the material to be obscene, shall be subject to criminal prosecution notwithstanding the appeal from the judgment.

(4) No determination by the district court pursuant to this Section shall be of any force and effect outside the judicial district in which made and no such determination shall be res

judicata in any proceeding in any other judicial district. In addition, evidence of any hearing held pursuant to this Section shall not be competent or admissible in any criminal action for the violation of any other Section of this Title; provided, however, that in any criminal action, charging the violation of any other Section of this Title, against any person, firm, or corporation that was a defendant in such hearing, involving the same material declared to be obscene under the provisions of this Section, then evidence of such hearing shall be competent and admissible as bearing on the issue of scienter only.

G.(1) Except as provided in Paragraph (5) of this Subsection, on a first conviction, whoever commits the crime of obscenity shall be fined not less than one thousand dollars nor more than two thousand five hundred dollars, or imprisoned, with or without hard labor, for not less than six months nor more than three years, or both.

(2)(a) Except as provided in Paragraph (5) of this Subsection, on a second conviction, the offender shall be imprisoned, with or without hard labor for not less than six months nor more than three years, and in addition may be fined not less than two thousand five hundred dollars nor more than five thousand dollars.

(b) The imprisonment provided for in Subparagraph (a) of this Paragraph, may be imposed at court discretion if the court determines that the offender, due to his employment, could not avoid engagement in the offense. This Subparagraph shall not apply to the manager or other person in charge of an establishment selling or exhibiting obscene material.

(3) Except as provided in Paragraph (5) of this Subsection, on a third or subsequent conviction, the offender shall be imprisoned with or without hard labor for not less than two years nor more than five years, and in addition may be fined not less than five thousand dollars nor more than ten thousand dollars.

(4) When a violation of Paragraph (1), (2), or (3) of Subsection A of this Section is with or in the presence of an unmarried person under the age of seventeen years, the offender shall be fined not more than ten thousand dollars and shall be imprisoned, with or without hard labor, for not less than two years nor more than five years, without benefit of parole, probation, or suspension of sentence.

(5) Whoever violates the provisions of Paragraphs (A)(7) or (A)(8) of this Section may be fined not less than one hundred dollars nor more than five hundred dollars.

H.(1) When a corporation is charged with violating this Section, the corporation, the president, the vice president, the secretary, and the treasurer may all be named as defendants. Upon conviction for a violation of this Section, a corporation shall be sentenced in accordance with Subsection G hereof. All corporate officers who are named as defendants shall be subject to the penalty provisions of this Section as set forth in Subsection G.

(2) If the corporation is domiciled in this state, upon indictment or information filed against the corporation, a notice of arraignment shall be served upon the corporation, or its designated agent for service of process, which then must appear before the district court in which the prosecution is pending to plead to the charge within fifteen days of service. If no appearance is made within fifteen days, an attorney shall be appointed by the court to represent the defendant corporation with respect to the charge or to show cause why the corporation should not be enjoined from continuing in business during the pendency of the criminal proceedings. Appearance for arraignment may be made through private counsel.

(3) If the corporation is domiciled out of state and is registered to do business in Louisiana, notice of arraignment shall be served upon the corporate agent for service of process

or the secretary of state, who shall then notify the corporation charged by indictment or information to appear before the district court in which the prosecution is pending for arraignment within sixty days after the notice is mailed by the secretary of state. If no appearance is made within sixty days the court shall appoint an attorney to represent the defendant corporation with respect to the charge or to show cause why the corporation should not be enjoined from continuing in business during the pendency of the criminal proceedings. Appearance for arraignment may be made by private counsel.

(4) If the corporation is domiciled out of state and is not registered to do business in Louisiana, notice of arraignment of the corporation shall be served upon the secretary of state and an employee, officer, or agent for service of process of the corporation found within the parish where the violation of this Section has allegedly occurred. Such notice shall act as a bar to that corporation registering to do business in Louisiana until it appears before the district court in which the prosecution is pending to answer the charge.

Amended by Acts 1950, No. 314, §1; Acts 1958, No. 388, §1; Acts 1960, No. 199, §1; Acts 1962, No. 87, §1; Acts 1968, No. 647, §1; Acts 1970, No. 167, §1; Acts 1972, No. 605, §1; Acts 1972, No. 743, §1; Acts 1974, No. 274, §1; Acts 1977, No. 97, §2; Acts 1977, No. 717, §1, eff. July 20, 1977; Acts 1979, No. 252, §1; Acts 1980, No. 464, §1; Acts 1981, No. 159, §1; Acts 1982, No. 680, §1; Acts 1983, No. 384, §1; Acts 1983, No. 385, §1; Acts 2001, No. 177, §1; Acts 2001, No. 403, §1, eff. June 15, 2001; Acts 2003, No. 237, §1; Acts 2012, No. 846, §1.

§106.1. Promotion or wholesale promotion of obscene devices

A. For the purposes of this Section, the following definitions shall apply unless the context clearly requires otherwise:

(1) "Obscene device" means a device, including an artificial penis or artificial vagina, which is designed or marketed as useful primarily for the stimulation of human genital organs.

(2) "Promote" means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, distribute, circulate, disseminate, present, or exhibit, including the offer or agreement to do any of these things, for the purpose of sale or resale.

B. No person shall knowingly and intentionally promote an obscene device.

C.(1) On a first conviction, whoever commits the crime of promoting an obscene device shall be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned with or without hard labor for not less than six months nor more than three years, or both.

(2) On a second conviction, the offender shall be imprisoned with or without hard labor for not less than six months nor more than three years, and in addition may be fined not less than two thousand five hundred dollars nor more than five thousand dollars.

Acts 1985, No. 928, §1; Acts 2001, No. 403, §1, eff. June 15, 2001.

§106.2. Sexual acts prohibited in public; penalties

A. It shall be unlawful for any person to engage in vaginal, anal, or oral sexual intercourse in any public place or place open to the public view for the purpose of gaining the attention of the public.

B. Whoever violates a provision of this Section shall be fined not more than one thousand dollars and imprisoned for not less than ten days nor more than one year. At least ten days of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

Acts 2003, No. 895, §1.

§106.3. Unlawful exhibition of sexually explicit material in a motor vehicle; penalties

A. It shall be unlawful for any person to knowingly exhibit sexually explicit material in a motor vehicle on a public street, highway, public place, or any place open to public view knowing that the material is visible to the public from outside the motor vehicle.

B. For the purposes of this Section the term "exhibit sexually explicit material" means to present, exhibit, project, or display a motion picture, film, videotape, compact disc, digital versatile disc, digital video disc, or any other form of visual technology of any of the following:

(1) Ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being.

(2) The graphic depiction of sex, including but not limited to the visual depiction of sexual activity or nudity.

C.(1) Whoever violates a provision of this Section upon a first conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) Upon a second conviction, the offender shall be fined not more than one thousand dollars and imprisoned for not more than one year, or both.

(3) Upon a third or subsequent conviction, the offender shall be fined not more than one thousand dollars and shall be imprisoned for not more than one year, or both. At least ten days of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

Acts 2004, No. 767, §1.

§107. Vagrancy

The following persons are and shall be guilty of vagrancy:

(1) Habitual drunkards; or

(2) Persons who live in houses of ill fame or who habitually associate with prostitutes; or

(3) Able-bodied persons who beg or solicit alms, provided that this article shall not apply to persons soliciting alms for bona fide religious, charitable or eleemosynary organizations with the authorization thereof; or

(4) Habitual gamblers or persons who for the most part maintain themselves by gambling; or

(5) Able-bodied persons without lawful means of support who do not seek employment and take employment when it is available to them; or

(6) Able-bodied persons of the age of majority who obtain their support gratis from persons receiving old age pensions or from persons receiving welfare assistance from the state; or

(7) Persons who loaf the streets habitually or who frequent the streets habitually at late or unusual hours of the night, or who loiter around any public place of assembly, without lawful business or reason to be present; or

(8) Persons found in or near any structure, movable, vessel, or private grounds, without being able to account for their lawful presence therein; or

(9) Prostitutes.

Whoever commits the crime of vagrancy shall be fined not more than two hundred dollars, or imprisoned for not more than six months, or both.

Amended by Acts 1952, No. 434, §1; Acts 1968, No. 647, §1.

§107.1. Ritualistic acts

A.(1) The legislature hereby finds that this enactment is necessary for the immediate preservation of the public peace, health, morals, safety, and welfare and for the support of state government and its existing public institutions.

(2) The legislature further recognizes that:

(a) The preamble to the Constitution of Louisiana affirmatively states "We, the people of Louisiana, grateful to Almighty God for the civil, political, economic, and religious liberties we enjoy, and desiring to protect individual rights to life, liberty, and property; afford opportunity for the fullest development of the individual; assure equality of rights; promote the health, safety, education, and welfare of the people; maintain a representative and orderly government; ensure domestic tranquility; provide for the common defense; and secure the blessings of freedom and justice to ourselves and our posterity, do ordain and establish this constitution."

(b) The state, under its police power, may enact laws in order to promote public peace, health, morals, and safety.

B.(1) For purposes of this Subsection, "ritualistic acts" means those acts undertaken as part of a ceremony, rite, initiation, observance, performance, or practice that result in or are intended to result in:

(a) The mutilation, dismemberment, torture, abuse, or sacrifice of animals.

(b) The ingestion of human or animal blood or human or animal waste.

(2) The acts defined in this Subsection are hereby determined to be destructive of the peace, health, morals, and safety of the citizens of this state and are hereby prohibited.

(3) Any person committing, attempting to commit, or conspiring with another to commit a ritualistic act may be sentenced to imprisonment for not more than five years or fined not more than five thousand dollars, or both.

C.(1) No person shall commit ritualistic mutilation, dismemberment, or torture of a human as part of a ceremony, rite, initiation, observance, performance, or practice.

(2) No person shall commit ritualistic sexual abuse of children or of physically or mentally disabled adults as part of a ceremony, rite, initiation, observance, performance, or practice.

(3) No person shall commit ritualistic psychological abuse of children or of physically or mentally disabled adults as part of a ceremony, rite, initiation, observance, performance, or practice.

(4) Any person who commits, attempts to commit, or conspires with another to commit a violation of this Subsection shall be sentenced to imprisonment for not less than five nor more than twenty-five years and may be fined not more than twenty-five thousand dollars.

D. Each violation that occurs under the provisions of this Section shall be considered a separate violation.

E. The provisions of this Section shall not be construed to apply to generally accepted agricultural or horticultural practices and specifically the branding or identification of livestock.

F. The provisions of this Section shall not be construed to apply to any state or federally approved, licensed, or funded research project.

Acts 1989, No. 637, §1.

§107.2. Hate crimes

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

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

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

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

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

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

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

Acts 1997, No. 1479, §2, eff. July 15, 1997; Acts 2001, No. 301, §1; Acts 2004, No. 676, §1; Acts 2011, No. 67, §3.

§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, and after all reviews or appeals have occurred.

C.(1) On the first conviction, the offender shall be punished by a fine not to exceed five hundred dollars. 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.

(2) On a second conviction, the offender shall be punished by a fine not to exceed five hundred dollars and ordered to perform not more than forty hours of community service. Additionally, the court shall require that the offender correct all existing housing violations on the blighted property.

(3) On any third or subsequent conviction, the offender shall be punished by a fine not to exceed two thousand dollars, and ordered to perform not more than eighty hours of community service, or both. Additionally, the court shall require that the offender correct all existing housing violations on the blighted property.

D. On any conviction under Paragraph (C)(2) or (3) of this Section, the court may order the offender to occupy the blighted property for a designated period of time not to exceed sixty days.

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.

Acts 1999, No. 1229, §1; Acts 2001, No. 232, §1.

§107.4. Unlawful posting of criminal activity for notoriety and publicity

A. It shall be unlawful for a person who is either a principal or accessory to a crime to obtain an image of the commission of the crime using any camera, videotape, photo-optical, photo-electric, or any other image recording device and to transfer that image obtained during the commission of the crime by the use of a computer online service, Internet service, or any other means of electronic communication, including but not limited to a local bulletin board service, Internet chat room, electronic mail, or online messaging service for the purpose of gaining notoriety, publicity, or the attention of the public.

B. 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.

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

(1) The obtaining, use, or 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 or in the production,

exhibition, or presentation of an audiovisual work in any medium, including but not limited to a motion picture or television program.

(2) The obtaining, use, or transference of images by a law enforcement officer pursuant to investigation of criminal activity.

(3) The obtaining, use, or transference of images by any bona fide member of the news media broadcasting a news report through television, cable television, or other telecommunication.

(4) The obtaining, use, or transference of images for use in a feature-length film, short subject film, video, television series, television program, public service announcement, or commercial.

D. After the institution of prosecution, access to, and the disposition of any material seized as evidence of this offense shall be in accordance with R.S. 46:1845.

E. Any evidence resulting from the commission of unlawful filming or recording criminal activity shall be contraband.

Acts 2008, No. 660, §1.

SUBPART D. OFFENSES AFFECTING LAW ENFORCEMENT

§108. Resisting an officer

A. Resisting an officer is the intentional interference with, opposition or resistance to, or obstruction of an individual acting in his official capacity and authorized by law to make a lawful arrest, lawful detention, or seizure of property or to serve any lawful process or court order when the offender knows or has reason to know that the person arresting, detaining, seizing property, or serving process is acting in his official capacity.

B.(1) The phrase "obstruction of" as used herein shall, in addition to its common meaning, signification, and connotation mean the following:

(a) Flight by one sought to be arrested before the arresting officer can restrain him and after notice is given that he is under arrest.

(b) Any violence toward or any resistance or opposition to the arresting officer after the arrested party is actually placed under arrest and before he is incarcerated in jail.

(c) Refusal by the arrested or detained party to give his name and make his identity known to the arresting or detaining officer or providing false information regarding the identity of such party to the officer.

(d) Congregation with others on a public street and refusal to move on when ordered by the officer.

(2) The word "officer" as used herein means any peace officer, as defined in R.S. 40:2402, and includes deputy sheriffs, municipal police officers, probation and parole officers, city marshals and deputies, and wildlife enforcement agents.

C. Whoever commits the crime of resisting an officer shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

Amended by Acts 1952, No. 127, §4; Acts 1960, No. 76, §1; Acts 1963, No. 98, §1; Acts 1968, No. 647, §1; Acts 1984, No. 584, §1; Acts 1989, No. 206, §1; Acts 1991, No. 677, §1; Acts 1992, No. 302, §1; Acts 1993, No. 860, §1; Acts 1997, No. 565, §1; Acts 2001, No. 247, §1; Acts 2006, No. 132, §1.

§108.1. Flight from an officer; aggravated flight from an officer

A. No driver of a motor vehicle or operator of a watercraft shall intentionally refuse to bring a vehicle or watercraft to a stop knowing that he has been given a visual and audible signal to stop by a police officer when the officer has reasonable grounds to believe that the driver has committed an offense. The signal shall be given by an emergency light and a siren on a vehicle marked as a police vehicle or marked police watercraft.

B. Whoever commits the crime of flight from an officer shall be fined not less than one hundred fifty dollars, nor more than five hundred dollars, or imprisoned for not more than six months, or both.

C. Aggravated flight from an officer is the intentional refusal of a driver to bring a vehicle to a stop or of an operator to bring a watercraft to a stop, under circumstances wherein human life is endangered, knowing that he has been given a visual and audible signal to stop by a police officer when the officer has reasonable grounds to believe that the driver or operator has committed an offense. The signal shall be given by an emergency light and a siren on a vehicle marked as a police vehicle or marked police watercraft.

D. Circumstances wherein human life is endangered shall be any situation where the operator of the fleeing vehicle or watercraft commits at least two of the following acts:

(1) Leaves the roadway or forces another vehicle to leave the roadway.

(2) Collides with another vehicle or watercraft.

(3) Exceeds the posted speed limit by at least twenty-five miles per hour.

(4) Travels against the flow of traffic or in the case of watercraft, operates the watercraft in a careless manner in violation of R.S. 34:851.4 or in a reckless manner in violation of R.S. 14:99.

(5) Fails to obey a stop sign or a yield sign.

(6) Fails to obey a traffic control signal device.

E. Whoever commits aggravated flight from an officer shall be imprisoned at hard labor for not more than two years and may be fined not more than two thousand dollars.

F. In addition to any other fine or penalty imposed pursuant to the provisions of this Section, the court may, in its discretion, order restitution as a part of the sentence. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

Added by Acts 1981, No. 307, §1; Acts 1997, No. 865, §1; Acts 2008, No. 3, §1; Acts 2009, No. 6, §1; Acts 2010, No. 512, §1; Acts 2011, No. 264, §1.

§108.2. Resisting a police officer with force or violence

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

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

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

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

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

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

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

Acts 2008, No. 491, §1.

§110. Simple escape; aggravated escape

A. Simple escape shall mean any of the following:

(1) The intentional departure, under circumstances wherein human life is not endangered, of a person imprisoned, committed, or detained from a place where such person is legally confined, from a designated area of a place where such person is legally confined, or from the

lawful custody of any law enforcement officer or officer of the Department of Public Safety and Corrections.

(2) The failure of a criminal serving a sentence and participating in a work release program authorized by law to report or return from his planned employment or other activity under the program at the appointed time.

(3) The failure of a person who has been granted a furlough under the provisions of R.S. 15:833 or R.S. 15:908 to return to his place of confinement at the appointed time.

B.(1) A person who is participating in a work release program as defined in Paragraph A(2) of this Section and who commits the crime of simple escape shall be imprisoned with or without hard labor for not less than six months nor more than one year and any such sentence shall not run concurrently with any other sentence.

(2) A person who fails to return from an authorized furlough as defined in Paragraph A(3) of this Section shall be imprisoned with or without hard labor for not less than six months nor more than one year and any such sentence shall not run concurrently with any other sentence.

(3) A person participating in a home incarceration program under the jurisdiction and control of the sheriffs of the respective parishes who commits the crime of simple escape shall be imprisoned with or without hard labor for not less than six months nor more than five years, and such sentence shall not run concurrently with any other sentence.

(4) A person imprisoned, committed, or detained who commits the crime of simple escape as defined in Paragraph (A)(1) of this Section shall be imprisoned with or without hard labor for not less than two years nor more than five years; provided that such sentence shall not run concurrently with any other sentence.

C.(1) Aggravated escape is the intentional departure of a person from the legal custody of any officer of the Department of Public Safety and Corrections or any law enforcement officer or from any place where such person is legally confined when his departure is under circumstances wherein human life is endangered.

(2) Whoever commits an aggravated escape as herein defined shall be imprisoned at hard labor for not less than five years nor more than ten years and any such sentence shall not run concurrently with any other sentence.

D. For purposes of this Section, a person shall be deemed to be in the lawful custody of a law enforcement officer or of the Department of Public Safety and Corrections and legally confined when he is in a rehabilitation unit, a work release program, or any other program under the control of a law enforcement officer or the department.

E. The provisions of this Section shall be applicable to all penal, correctional, rehabilitational, and work release centers and any and all prison facilities under the control of the sheriffs of the respective parishes of the state of Louisiana. The prison facilities shall include but are not limited to parish jails, correctional centers, home incarceration, work release centers, and rehabilitation centers, hospitals, clinics, and any and all facilities where inmates are confined under the jurisdiction and control of the sheriffs of the respective parishes.

Amended by Acts 1954, No. 122, §1; Acts 1963, No. 65, §1; Acts 1968, No. 189, §1; Acts 1968, No. 647, §1; Acts 1970, No. 290, §1; Acts 1972, No. 740, §1; Acts 1975, No. 450, §1; Acts 1976, No. 345, §1; Acts 1977, No. 455, §1; Acts 1978, No. 177, §1; Acts 1981, No. 719, §1; Acts 1984, No. 746, §1; Acts 1985, No. 70, §1, eff. June 22, 1985; Acts 1985, No. 413, §1; Acts 2012, No. 137, §1.

§110.1. Jumping bail

A. Jumping bail is the intentional failure to appear at the date, time, and place as ordered by the court before which the defendant's case is pending. If the state proves notice has been given to the defendant as set forth in Code of Criminal Procedure Articles 322 and 344, a rebuttable presumption of notice shall apply, and the burden of proof shifts to the defendant to show that he did not receive notice. The fact that no loss shall result to any surety or bondsman is immaterial.

B. Whoever commits the crime of jumping bail when the bail is to assure the presence of the defendant for those cases defined as misdemeanors in this Title and in the Uniform Controlled Dangerous Substances Law shall be imprisoned for not more than six months, or fined not more than five hundred dollars, or both.

C. Whoever commits the crime of jumping bail when the bail is to assure the presence of the defendant for those cases defined as felonies in this Title and in the Uniform Controlled Dangerous Substances Law shall be imprisoned at hard labor for not more than two years.

Added by Acts 1950, No. 385, §1. Amended by Acts 1982, No. 523, §1; Acts 1993, No. 501, §1; Acts 2008, No. 54, §1.

§110.1.1. Out-of-state bail jumping

A. Out-of-state bail jumping is the intentional failure to appear, by leaving the state to avoid appearing in court, at the date, time, and place as ordered by the court before which the defendant's case is pending. If the state proves notice has been given to the defendant as set forth in Code of Criminal Procedure Articles 322 and 344, a rebuttable presumption of notice shall apply, and the burden of proof shifts to the defendant to show that he did not receive notice.

B. Whoever commits the crime of out-of-state bail jumping, when the bail is to assure the presence of the defendant for those cases defined as misdemeanors and felonies in this Title and in the Uniform Controlled Dangerous Substances Law shall be fined two thousand dollars and imprisoned at hard labor for not less than one year nor more than three years.

Acts 2010, No. 215, §1.

§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. 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. 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 for not more than one year. 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.

§110.3. Tampering with surveillance, accounting, inventory, or monitoring systems; definitions; penalties

A. No person shall intentionally defeat, degrade, tamper, damage, alter, destroy, remove, disable, obstruct, or impair in any way the operation of any surveillance, accounting, inventory, or monitoring system of any nature or purpose, including but not limited to any of the following:

(1) Removing, damaging, altering, destroying, disabling, impairing, obstructing, obscuring, covering, or infusing with any object, substance, or material any component of any surveillance, accounting, inventory, or monitoring system.

(2) Disconnecting, interfering with, damaging, tampering with, or temporarily or permanently delaying or interrupting the internal or external signal or electronic wire or wireless analog or digital transmissions of any surveillance, accounting, inventory, or monitoring system.

(3) Interrupting any source of power for or degrading the performance in any manner of the whole or any part or component or operating software or hardware of any surveillance, accounting, inventory, or monitoring system.

B. For the purposes of this Section, "surveillance, accounting, inventory, or monitoring system" means any electronic, analog, digital, radio, or other system which generates, detects, senses, or records any or all of the following: video, audio, radio waves of any frequency, light in the visible light spectrum, ultraviolet light, infrared radiation, laser light or impulses, microwaves, magnetism, ionization, heat, smoke, water, motion, or fire.

C.(1) Whoever commits the crime of tampering with surveillance, accounting, inventory, or monitoring systems shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

(2) If the surveillance, accounting, inventory, or monitoring system is located on the premises of any jail, prison, correctional facility, juvenile detention center, the offender shall be fined not more than two thousand dollars, imprisoned with or without hard labor for not more than two years, or both. Such sentence shall be consecutive to any other sentence imposed for violation of the provisions of any state criminal law.

Acts 2010, No. 351, §1.

§111. Assisting escape

Assisting escape is the:

(1) Permitting, by any public officer, of the escape of any prisoner in his custody, by virtue of his active assistance or intentional failure to act; or

(2) The active assistance given by any person to one in legal custody with intent to aid him in escaping therefrom.

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

§112. False personation

False personation is the performance of any of the following acts with the intent to injure or defraud, or to obtain or secure any special privilege or advantage:

(1) Impersonating any public officer, or private individual having special authority by law to perform an act affecting the rights or interests of another, or the assuming, without authority, of any uniform or badge by which such officer or person is lawfully distinguished; or

(2) Performing any act purporting to be official in such assumed character.

Whoever commits the crime of false personation shall be fined not more than one hundred dollars, or imprisoned for not more than ninety days, or both.

§112.1. False personation of a peace officer or firefighter

A. False personation of a peace officer or firefighter is the performance of any one or more of the following acts with the intent to injure or defraud or to obtain or secure any special privilege or advantage:

(1) Impersonating any peace officer or firefighter or assuming, without authority, any uniform or badge by which a peace officer or firefighter is lawfully distinguished.

(2) Performing any act purporting to be official in such assumed character.

(3) Making, altering, possession, or use of a false document or document containing false statements which purports to be a training program certificate or in-service training certificate or other documentation issued by the Council on Peace Officer Standards and Training, pursuant to R.S. 40:2405, which certifies the peace officer has successfully completed the requirements necessary to exercise his authority as a peace officer.

(4) Equipping any motor vehicle with lights or sirens which simulate a law enforcement vehicle.

B. As used in this Section:

(1) "Badge" shall mean a device or emblem, regardless of the material of which it is made, worn as an insignia of rank, office, or membership in a law enforcement organization, including but not limited to those that bear the seal of the state of Louisiana.

(2) "Firefighter" means any certified first responder as defined in R.S. 40:1231, certified emergency medical technician as defined in R.S. 40:1231, or any firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state of Louisiana, or any volunteer fireman of the state of Louisiana.

(3) "Peace officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, park wardens, livestock brand inspectors, forestry officers, military police, fire marshal investigators, probation and parole officers, attorney general investigators, and district attorney investigators.

C. Whoever commits the crime of false personation of a peace officer or firefighter shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than two years, or both.

Acts 1993, No. 673, §1; Acts 2009, No. 157, §1; Acts 2012, No. 165, §1.

§112.2. Fraudulent portrayal of a law enforcement officer or firefighter

A. Fraudulent portrayal of a law enforcement officer or firefighter is the impersonation of any law enforcement officer or firefighter for the purpose of obtaining access to a public

building, facility, or service. The fraudulent portrayal includes but is not limited to any of the following:

(1) Portraying or impersonating a law enforcement officer or firefighter by any means.

(2) Possessing, without authority, any uniform or badge by which a law enforcement officer or firefighter is identified.

(3) Performing any act purporting to be official while portraying a law enforcement officer or firefighter.

(4) Making, altering, possessing, or using a false document or document containing false statements which purports to be a training program certificate or in-service training certificate or other documentation issued by the Council on Peace Officer Standards and Training, pursuant to R.S. 40:2405, which certifies the peace officer has successfully completed the requirements necessary to exercise his authority as a peace officer.

(5) Making, altering, possessing, or using any false documents or credentials which purport to identify the person as a law enforcement officer or firefighter.

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

C. "Access to a public building, facility, or service" includes but is not limited to the following:

(1) Free and unhampered passage on and over toll bridges and ferries in this state.

(2) Free passage on and over the Crescent City Connection Bridge at New Orleans.

(3) Free passage on any tollway as defined in R.S. 48:2021(17).

(4) Free parking at any parking facility owned by the state or any of its political subdivisions.

(5) Free admission or reduced price admission to any entertainment, cultural, or sporting event.

D. Nothing herein shall be construed to expand the provisions of law which provide for the free and unhampered passage by law enforcement personnel over toll bridges and ferries.

E. Whoever commits the crime of fraudulent portrayal of a law enforcement officer or firefighter shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

Acts 2004, No. 85, §1.

§112.3. Aiding and abetting the fraudulent portrayal of a law enforcement officer or firefighter

A. Aiding and abetting the fraudulent portrayal of a law enforcement officer or firefighter is the inciting, soliciting, urging, encouraging, exhorting, instigating, or assisting any other person to commit the crime of fraudulent portrayal of a law enforcement officer or firefighter. For purposes of this Section, "law enforcement officer or firefighter" shall have the same meaning as provided in R.S. 14:112.2.

B. Whoever commits the crime of aiding and abetting the fraudulent portrayal of a law enforcement officer or firefighter shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Acts 2004, No. 85, §1.

§112.4. Unlawful production, manufacturing, distribution, or possession of unauthorized peace officer badges

A. It shall be unlawful for any person to knowingly or intentionally produce, manufacture, distribute, or possess unauthorized peace officer badges.

B. For purposes of this Section:

(1) "Distribute" means to sell, give, transport, issue, provide, lend, deliver, transfer, transmit, distribute, or disseminate.

(2) "Peace officer" shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, park wardens, livestock brand inspectors, forestry officers, attorney general investigators, district attorney investigators, inspector general investigators, and probation and parole officers.

(3) "Produce or manufacture" means to develop, prepare, design, create, or otherwise process.

(4) "Unauthorized peace officer badge" means any device or emblem, regardless of the material of which it is made, worn as an insignia of rank, office, or membership of a peace officer in a law enforcement agency which has not been expressly authorized by the law enforcement agency.

C.(1) Whoever violates the provisions of this Section by possessing an unauthorized peace officer badge shall be fined not more than fifty dollars, imprisoned for not more than ten days, or both.

(2) Whoever violates the provisions of this Section by distributing, manufacturing, or producing an unauthorized peace officer badge upon a first conviction shall be fined not more than two hundred dollars, imprisoned for not more than ninety days, or both. Upon a second or subsequent conviction, the offender shall be fined not more than one thousand dollars, imprisoned for not more than six months, or both.

D. The provisions of this Section shall not be construed to limit the production, manufacturing, distribution, or possession of a peace officer badge with the designation "police", "marshal", "sheriff", "law enforcement", "warden", or any other designation which does not designate a specific law enforcement agency by name or jurisdiction and which is intended for novelty purposes.

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

Acts 2011, No. 91, §1.

PART VII. OFFENSES AFFECTING ORGANIZED GOVERNMENT
SUBPART A. TREASON AND DISLOYAL ACTS

§113. Treason

Treason is the levying of war against the United States or the State of Louisiana, adhering to enemies of the United States or of the State of Louisiana, or giving such enemies aid and comfort.

No person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or on his own confession in open court.

Whoever commits the crime of treason shall be punished by death.

§114. Misprision of treason

Misprision of treason is the concealment of treason, or the failure to disclose immediately all pertinent facts to proper authorities, by a person who has knowledge of the commission of the crime of treason.

Whoever commits misprision of treason shall be fined not more than one thousand dollars, and imprisoned at hard labor for not more than ten years.

§115. Criminal anarchy

Criminal anarchy is:

(1) The advocating or teaching, in any manner, in public or private, of the subversion, opposition, or destruction of the government of the United States or of the State of Louisiana by violence or other unlawful means; or

(2) The organizing or becoming a member of any organization or society which is known to the offender to advocate, teach, or practice the subversion, opposition, or destruction of the government of the United States or of the State of Louisiana by violence or other unlawful means.

Whoever commits the crime of criminal anarchy shall be imprisoned at hard labor for not more than ten years.

§116. Flag desecration

Flag desecration is the act of any person who shall intentionally, in any manner, for exhibition or display:

(1) Place or cause to be placed any word, mark, design or advertisement of any nature upon any flag; or

(2) Expose to public view any flag, upon which has been printed or otherwise produced, or to which shall have been attached any such word, mark, design, or advertisement; or

(3) Expose to public view, or have in possession for sale or any other purpose, any article of merchandise, or thing for holding or carrying merchandise, upon or to which

shall have been produced or attached any flag, in order to advertise, call attention to or decorate such article; or

(4) Publicly mutilate, defile, or by word or act cast contempt upon any flag.

The word "flag" as used herein shall mean any duly authorized flag, shield, standard, color or ensign of the United States, the State of Louisiana, or the Confederate States of America, or any copy thereof.

Whoever commits the crime of flag desecration shall be fined not more than one hundred dollars, or imprisoned for not more than ninety days, or both.

Amended by Acts 1960, No. 544, §1.

§116.1. Flag burning

A. Flag burning is the act of any person who intentionally burns or sets fire to the United States flag to cast contempt upon the flag.

B. This Section shall not prohibit the burning of the flag in a respectful retirement ceremony to dispose of a worn or soiled flag.

C. The word "flag" as used in this Section shall mean the flag of the United States.

D. Whoever commits the crime of flag burning shall be fined not more than one thousand dollars, or imprisoned for not more than ninety days, or both.

E. The provisions of this Section shall not take effect unless and until an amendment to the federal constitution regarding flag desecration is proposed by the Congress and approved by the requisite number of states and becomes law.

Acts 2006, No. 506, §1.

§117. Flag desecration; exceptions

The flag desecration section shall not apply to any act permitted by the statutes of the United States or of Louisiana, or by the United States army and navy regulations; nor shall it apply to the depicting of a flag upon any document, stationery, ornament, picture, or jewelry, with no design or words thereon and disconnected with any advertisement.

§117.1. Paramilitary organizations; prohibitions

A. No paramilitary organization, or any member thereof, shall train in this state.

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

C.(1) For the purposes of this Section, "paramilitary organization" shall mean a group organized in a military or paramilitary structure, consisting of two or more persons who knowingly possess firearms or other weapons and who train in the use of such firearms or weapons, or knowingly teach or offer to teach the use of such firearms or weapons to others, for the purpose of committing an offense under the laws of this state or any political subdivision thereof.

(2) It shall not include a law enforcement agency, the armed services or reserve forces of the United States, the Louisiana National Guard, or any other organization that may possess firearms and train with such firearms, or teach or offer to teach the use of such firearms to others, for a lawful purpose.

Added by Acts 1983, No. 394, §1.

{{NOTE: SECTION 2 OF ACTS 1983, NO. 394 READS AS FOLLOWS: "NOTHING CONTAINED IN THE PROVISIONS OF THIS ACT SHALL INFRINGE UPON A PERSON'S STATE OR FEDERAL CONSTITUTIONAL RIGHTS TO KEEP AND BEAR ARMS OR FREEDOM OF ASSOCIATION."}}

SUBPART B. BRIBERY AND INTIMIDATION

§118. Public bribery

A.(1) Public bribery is the giving or offering to give, directly or indirectly, anything of apparent present or prospective value to any of the following persons, with the intent to influence his conduct in relation to his position, employment, or duty:

(a) Public officer, public employee, or person in a position of public authority.

(b) Repealed by Acts 2010, No. 797, §2, eff. Jan. 1, 2011.

(c) Grand or petit juror.

(d) Witness, or person about to be called as a witness, upon a trial or other proceeding before any court, board, or officer authorized to hear evidence or to take testimony.

(e) Any person who has been elected or appointed to public office, whether or not said person has assumed the title or duties of such office.

(2) The acceptance of, or the offer to accept, directly or indirectly, anything of apparent present or prospective value, under such circumstances, by any of the above named persons, shall also constitute public bribery.

B. For purposes of this Section, "public officer", "public employee", or "person in a position of public authority", includes those enumerated in R.S. 14:2(9), and also means any public official, public employee, or person in a position of public authority, in other states, the federal government, any foreign sovereign, or any subdivision, entity, or agency thereof.

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

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

D. Property which was given, offered, or accepted during the commission of the crime of public bribery shall be deemed to be contraband and shall be subject to seizure and forfeiture. Upon final disposition of the case, the district attorney may petition the district court to forfeit the property seized in connection with a violation of this Section, and such property seized under this Section shall be forfeited upon:

(1) A showing by the district attorney of a conviction for a violation of the provisions of this Section.

(2) A showing by the district attorney that the seizure was made incident to an arrest with probable cause or a search under a valid search warrant pursuant to other provisions of law.

E. Property forfeited pursuant to the provisions of this Section shall be disposed of as follows:

(1) When the property is not cash or currency, it shall be disposed of pursuant to the provisions of R.S. 15:41.

(2) When the property consists of cash or currency, it shall be forfeited and distributed as follows:

(a) Fifty-five percent to the law enforcement agency or agencies who investigated the crime.

(b) Fifteen percent to the criminal court fund.

(c) Twenty-five percent to the prosecuting authority that prosecuted the crime.

(d) Five percent to the clerk of court.

F. If the charges of public bribery are dismissed by the district attorney, or if the accused is acquitted following a trial in the district court of the parish in which the violation is alleged to have occurred, all property shall be immediately returned to the owner.

Amended by Acts 1975, No. 802, §1; Acts 1988, No. 684, §1; Acts 2008, No. 269, §1; Acts 2010, No. 797, §2, eff. Jan. 1, 2011; Acts 2010, No. 811, §1, eff. Aug. 15, 2011

§118.1. Bribery of sports participants

A. Bribing of sports participants is the giving or offering to give, directly or indirectly, anything of apparent present or prospective value to any professional or amateur baseball, football, hockey, polo, tennis or basketball player or boxer or any person or player who participates or expects to participate in any professional or amateur game or sport or any contest of skill, speed, strength or endurance of man or beast or any jockey, driver, groom or any person participating or expecting to participate in any horse race, including owners of race tracks and their employees, stewards, trainers, judges, starters or special policemen, or to any owner, manager, coach or trainer of any team or participant in any such game, contest or sport, with the intent to influence him to lose or cause to be lost, or corruptly to affect or influence the result thereof, or to limit his or his team's or his mount or beast's margin of victory in any baseball, football, hockey or basketball game, boxing, tennis or polo match or horse race or any professional or amateur sport or game in which such player or participant or jockey or driver is taking part or expects to take part, or has any duty in connection therewith.

The acceptance of, or the offer to accept directly or indirectly anything of apparent present or prospective value under such circumstances by any of the above named persons shall also constitute bribery of sports participants.

Whoever commits the crime of bribery of sports participants is guilty of a felony and shall be punished by a fine of not more than ten thousand dollars and imprisoned for not less than one year nor more than five years, with or without hard labor, or both.

B. The offender under this Section, who states the facts under oath to the district attorney charged with the prosecution of the offense, and who gives evidence tending to

convict any other offender under that Section, may, in the discretion of such district attorney be granted full immunity from prosecution in respect to the offense reported, except for perjury in giving such testimony.

Acts 1952, No. 279, §§1 to 3.

§118.2. Falsifying information on racing license applications

A. Falsifying racing license applications is the intentional falsification of any information required on an application for a Louisiana racing license.

B. Whoever commits the crime of falsifying racing license applications shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

C. For the purpose of this Section, the term "racing license" shall mean any license issued by the Louisiana State Racing Commission including, but not limited to those licenses issued to persons applying for jobs as cooks, nurses, stand girls, and other miscellaneous employees along with persons actually involved in racing.

Added by Acts 1982, No. 857, §1. Acts 1985, No. 942, §1, eff. July 23, 1985.

§119.1. Bribery of parents of school children

A. Bribery of parents of school children is the giving or offering to give, directly or indirectly, any money, or anything of apparent present or prospective value to any parent, to any tutor or guardian, to any person having legal or actual custody of, or to any person standing in loco parentis to, any child eligible to attend a public school in this State, as an inducement to encourage, influence, prompt, reward or compensate any such person to permit, prompt, force, or cause any such child to attend any such school in violation of any law of this state.

The acceptance of, or the offer to accept, directly or indirectly, any money, or anything of apparent present or prospective value, by any such person under any such circumstances, shall also constitute bribery of parents of school children.

B. Whoever commits the crime of bribery of parents of school children shall be fined not less than five hundred dollars, nor more than one thousand dollars, and imprisoned for not more than one year.

C. In the trial of persons charged with bribery of parents of school children, either the bribe-giver or the bribe-taker may give evidence, or make affidavit against the other, with immunity from prosecution in favor of the first informer, except for perjury in giving such testimony.

D. Any fine imposed and collected from the convicted person or persons under the provisions of this Section shall be paid to the informer or informers who shall give information resulting in the conviction of said person or persons.

Added by Acts 1961, 2nd Ex.Sess., No. 3, §1; Acts 2001, No. 403, §1, eff. June 15, 2001.

§120. Corrupt influencing

A. Corrupt influencing is the giving or offering to give anything of apparent present or prospective value to, or the accepting or offering to accept anything of apparent present or prospective value by, any person, with the intention that the recipient shall corruptly influence

the conduct of any of the persons named in R.S. 14:118 (public bribery) in relation to such person's position, employment, or duty.

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

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

Amended by Acts 1980, No. 454, §1; Acts 2008, 1st Ex. Sess., No. 21, §1, eff. March 11, 2008; Acts 2010, No. 811, §1, eff. Aug. 15, 2011

§121. Informers granted immunity

The offender, under the public bribery, bribery of voters or corrupt influencing articles, who states the facts under oath to the district attorney charged with the prosecution of the offense, and who gives evidence tending to convict any other offender under those articles, may, in the discretion of such district attorney, be granted full immunity from prosecution in respect to the offense reported, except for perjury in giving such testimony.

§122. Public intimidation and retaliation

A. Public intimidation is the use of violence, force, or threats upon any of the following persons, with the intent to influence his conduct in relation to his position, employment, or duty:

(1) Public officer or public employee.

(2) Grand or petit juror.

(3) Witness, or person about to be called as a witness upon a trial or other proceeding before any court, board or officer authorized to hear evidence or to take testimony.

(4) Voter or election official at any general, primary, or special election.

(5) School bus operator.

B. Retaliation against an elected official is the use of violence, force, or threats upon a person who is elected to public office, where:

(1) The violence, force, or threat is related to the duties of the elected official.

(2) Is in retaliation or retribution for actions taken by the elected official as part of his official duties.

C. Whoever commits the crime of public intimidation or retaliation against an elected official shall be fined not more than one thousand dollars or imprisoned, with or without hard labor, for not more than five years, or both.

Amended by Acts 1979, No. 479, §1; Acts 2003, No. 1089, §2.

§122.1. Intimidation and interference in the operation of schools

A. Intimidation and interference in the operation of public schools is the offering to do or doing of any act, or threatening to do any act, directly or indirectly, to any child enrolled in a public school, to any parent, tutor or guardian, or person having lawful custody of or standing in loco parentis to any such child, the purpose and intent of which is to intimidate, induce, influence, reward, compensate or cause any such person, or any school teacher, school principal, transfer operator, or any other school employee, to do or perform any act in violation of any law of this state.

B. Whoever commits the crime of intimidation and interference in the operation of schools shall be fined not less than five hundred dollars, nor more than one thousand dollars, and imprisoned for not more than one year.

C. In the trial of persons charged with public intimidation and interference in the operation of schools, either the person doing or offering to do or the person or persons sought to be influenced, coerced, intimidated, threatened, or forced, may give evidence, or make affidavit against the other, with immunity from prosecution in favor of the first informer, except for perjury in giving such testimony.

D. Any fine imposed and collected from the convicted person or persons under the provisions of this Section shall be paid to the informer or informers who shall give information resulting in the conviction of said person or persons.

Added by Acts 1961, 2nd Ex.Sess., No. 5, §1; Acts 2001, No. 403, §1, eff. June 15, 2001.

§122.2. Threatening a public official; penalties; definitions

A.(1) Threatening a public official is engaging in any verbal or written communication which threatens serious bodily injury or death to a public official.

(2) Except as provided in Subsection B, whoever commits the crime of threatening a public official shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

B. Whoever commits the crime of threatening a public official with the intent to influence his conduct in relation to his position, employment, or official duty, or in retaliation as reprisal for his previous action in relation to his position, employment, or official duty, shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

C. For the purpose of this Section, "public official" is defined as any executive, ministerial, administrative, judicial, or legislative officer of the state of Louisiana.

Acts 1984, No. 607 §1.

SUBPART C. PERJURY

§123. Perjury

A. Perjury is the intentional making of a false written or oral statement in or for use in a judicial proceeding, any proceeding before a board or official, wherein such board or official is authorized to take testimony, or before any committee or subcommittee of either house or any joint committee or subcommittee of both houses of the legislature. In order to constitute perjury the false statement must be made under sanction of an oath or an equivalent affirmation and must relate to matter material to the issue or question in controversy.

B. It is a necessary element of the offense that the accused knew the statement to be false, but an unqualified statement of that which one does not know or definitely believe to be true is equivalent to a statement of that which he knows to be false.

C. Whoever commits the crime of perjury shall be punished as follows:

(1) When committed on a trial in which a sentence of death or life imprisonment may be imposed, the offender shall be fined not more than one hundred thousand dollars or imprisoned at hard labor for not less than five years, nor more than forty years, or both.

(2) When committed on a trial in which a sentence of imprisonment necessarily at hard labor for any period less than a life sentence may be imposed, the offender shall be fined not more than fifty thousand dollars or imprisoned at hard labor for not less than one year, nor more than twenty years, or both.

(3) When committed in all other cases in which any other sentence may be imposed, the offender shall be fined not more than ten thousand dollars or imprisoned at hard labor for not more than five years, or both.

(4) When committed in any civil action, administrative proceeding, legislative hearing or proceeding, or in any other legal proceeding, by a fine of not more than ten thousand dollars or imprisonment at hard labor for not more than five years, or both.

Acts 1995, No. 820, §1; Acts 1997, No. 1312, §1; Acts 2001, No. 403, §1, eff. June 15, 2001; Acts 2004, No. 399, §1.

§124. Inconsistent statements; perjury

It shall constitute perjury whenever any person, having taken an oath required by law, or made an equivalent affirmation, swears or affirms any fact or state of facts material to the issue or question in controversy; and thereafter in the same or other proceedings, where such matter is material to the issue or question in controversy, swears or affirms in a manner materially contradictory of or inconsistent with his former sworn or affirmed statement. It shall not be necessary for the prosecution, in such case, to show which of the contradictory or inconsistent statements was false; but it shall be an affirmative defense that at the time he made them, the accused honestly believed both statements to be true.

This article shall only be applicable in cases where at least one of the contradictory or inconsistent statements was made in, or for use in, a judicial proceeding or a

proceeding before a board or official wherein such board or official is authorized to take testimony

§125. False swearing

False swearing is the intentional making of a written or oral statement, known to be false, under sanction of an oath or an equivalent affirmation, where such oath or affirmation is required by law; provided that this article shall not apply where such false statement is made in, or for use in, a judicial proceeding or any proceeding before a board or official, wherein such board or official is authorized to take testimony.

Whoever commits the crime of false swearing shall be fined not more than five hundred dollars, or imprisoned for not more than one year, or both.

§125.1. False swearing in paternity cases

A. False swearing in paternity cases is the intentional making of a written or oral statement, known to be false, under sanction of oath or equivalent statement, where such oath or affirmation is given for use in any judicial proceeding filed by or on behalf of the state of Louisiana to establish paternity.

B. Whoever commits the crime of false swearing in paternity cases shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

Acts 1992, No. 722, §1.

§125.2. False statements concerning paternity

A. It shall be unlawful for any person to willfully and knowingly make a written or oral false statement concerning the following:

(1) Biological paternity in or in support of a certificate, record, or report required by the provisions of Chapter 2 of Title 40 of the Louisiana Revised Statutes of 1950; or

(2) The surrender of parental rights pursuant to the provisions of Title XI of the Louisiana Children's Code.

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

Acts 2001, No. 953, §1.

§126. Inconsistent statements; false swearing

It shall constitute false swearing whenever any person, having made a statement under sanction of an oath, or an equivalent affirmation, required by law, shall thereafter swear or affirm in a manner materially contradictory of or inconsistent with his former sworn or affirmed statement. It shall not be necessary for the prosecution, in such case, to show which of the contradictory or inconsistent statements was false; but it shall be an affirmative defense that at the time he made them, the accused honestly believed both statements to be true.

§126.1. False swearing for purpose of violating public health or safety

No person shall make a false statement, report or allegation concerning the commission of a crime for the purpose of violating, disrupting, interfering with or endangering the public health or safety, or to deprive any person or persons of any right, privilege or immunity secured by the United States Constitution and laws or by the Louisiana Constitution and laws, or cause such false statement or report to be made to any official or agency of the state or any parish, city or political subdivision thereof, or to any judicial, executive or legislative body or subdivision thereof within this state, knowing or having reason to believe the same or any material part thereof to be false and with the intent to cause an investigation of or any other action to be taken as a result thereof.

Any person or persons convicted of violating the provisions of this Section shall be punished by imprisonment for not less than one year nor more than five years, with or without hard labor, or by a fine of not less than one hundred dollars nor more than one thousand dollars, or by both such fine and imprisonment.

Added by Acts 1960, No. 81, §1.

§126.2. False statements concerning denial of constitutional rights

No person shall wilfully and knowingly, whether orally or in writing, make or cause to be made to any agency, board, commission, member, officer, official, appointee, employee or representative thereof, of the executive, legislative or judicial department of the United States or any subdivision thereof, which may be now in existence, or who may be now appointed, or hereafter created or appointed, including but not limited to any commissioner, referee or voting referee now appointed or who may be hereafter appointed by any court of the United States or any judge thereof, and further including but not limited to any member of the Federal Bureau of Investigation and any agent or representative, investigator or member of the Commission of Civil Rights of the United States, or the Advisory Committee or Board of the Commission of Civil Rights of the United States appointed in and for the state of Louisiana, any false or fictitious or fraudulent statement or statements, or to use any false writing or document asserting or claiming that such person or persons, or any other person or persons have been or are about to be denied or deprived of any right, privilege or immunity granted or secured to them, or to any of them, by the United States Constitution and laws, or by the Louisiana Constitution and laws, by any officer, agency, employee, representative, board or commission or any member thereof of the state of Louisiana, or of any parish or municipality of the state of Louisiana, or of any other political subdivision of the state of Louisiana, or by the state of Louisiana.

Any person or persons violating the provisions of this Section shall, upon conviction thereof, be punished by imprisonment for not less than one year nor more than five years with or without hard labor, or by a fine of not less than one hundred dollars nor more than one thousand dollars or by both such fine and imprisonment.

Added by Acts 1960, No. 68, §1.

§126.3. False statements concerning employment in a nursing or health care facility

A. The crime of health care facility application fraud is the knowing and intentional offering of a false written or oral statement in any employment application or in an effort to obtain employment as a caretaker in any nursing home, mental retardation facility, mental health facility, hospital, home health agency, hospice, or other residential facility required to be licensed or operated under the laws of this state or established by the laws of this state. Such false statement must be relevant to the caretaking obligation of such employee, but shall specifically apply to but not be limited to educational and professional background and licensing and credential qualifications.

B. Any person who 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 1995, No. 788, §1.

§126.3.l. Unauthorized participation in medical assistance programs

A. A person commits the crime of unauthorized participation in a medical assistance program when the person has been excluded by any state or federal agency under the authority of 42 U.S.C. 1320a-7, LAC 50:4165, or LAC 50:4167, and knowingly:

(1) Seeks, obtains, or maintains employment with a provider.

(2) Seeks, obtains, or maintains employment as a provider.

(3) Seeks, obtains, or retains any monies or payments derived in whole or in part from any state or federal medical assistance funds while excluded from participation in any state or federal medical assistance program.

(4) Seeks, obtains, or maintains a contract with a provider.

(5) Shares in the proceeds from a provider or participates in the ownership or management of a provider.

B. The following definitions apply to the terms in this Section:

(1) "Exclusion" means that a state or federal oversight agency has determined that the person or provider can no longer be employed by, contract with, or have an ownership or management interest in any entity that provides services which will be billed directly or indirectly to any medical assistance program.

(2) "Medical assistance program" means any state or federally funded program paid for directly or indirectly with federal or state funds.

(3) "Oversight agency" means the state or federal agency responsible for the administration of the medical assistance program, including but not limited to Louisiana's Department of Health and Hospitals or the United States Department of Health and Human Services, office of the inspector general.

(4) "Participation" means employment for a provider in any capacity, employment as a provider in any capacity, or obtaining any monies derived in whole or part from any medical assistance programs.

(5) "Payment" includes a payment, any portion of which is paid out of any medical assistance program funds, including but not limited to the Louisiana Medicaid Program. "Payment" also includes a payment by a contractor, subcontractor, or agent for the Louisiana Medicaid Program, or any other state or federally funded medical assistance program pursuant to

a managed care program, which is operated, funded, or reimbursed by the Louisiana Medicaid Program, or any other state or federally funded medical assistance program.

(6) "Provider" means an actual provider of medical assistance or other service, including any managed care organization providing services pursuant to a managed care program operated, funded, or reimbursed by any state or federally funded medical assistance program, including but not limited to the Louisiana Medicaid Program.

C. Whoever commits the crime of unauthorized participation in medical assistance programs shall be:

(1) Imprisoned for not more than six months or fined not more than one thousand dollars, or both, when the state or federal exclusion is based on an underlying criminal conviction defined by Louisiana law as a misdemeanor, or when the exclusion is based on any reason other than a criminal conviction.

(2) Imprisoned for not more than five years with or without hard labor, or fined not less than one thousand dollars nor more than twenty thousand dollars, or both, when the exclusion is based on an underlying criminal conviction defined by Louisiana law as a felony.

Acts 2009, No. 337, §1, eff. July 1, 2009.

§126.4. False certification of arrest documents

No person shall intentionally certify a false report required under the provisions of R.S. 32:666(B). Any person who 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. 240, §2.

§127. Limitation of defenses

It is no defense to a prosecution for perjury or false swearing:

(1) That the oath, or affirmation, was administered or taken in an irregular manner; or

(2) That the accused was not competent to give the testimony, deposition, affidavit or certificate of which falsehood is alleged; or

(3) That the accused did not know the materiality of the false statement made by him, or that it did not in fact affect the proceeding in or for which it was made.

§128. Completion of affidavit

The making of a deposition, affidavit or certificate is deemed to be complete, within the provisions of this Chapter, from the time when it is delivered by the accused to any other person, with intent that it be uttered or published as true.

SUBPART D. ANTI-TERRORISM

§128.1. Terrorism

A. Terrorism is the commission of any of the acts enumerated in this Subsection, when the offender has the intent to intimidate or coerce the civilian population, influence the policy of a unit of government by intimidation or coercion, or affect the conduct of a unit of government by intimidation or coercion:

(1) Intentional killing of a human being.

(2) Intentional infliction of serious bodily injury upon a human being.

(3) Kidnapping of a human being.

(4) Aggravated arson upon any structure, watercraft, or movable.

(5) Intentional aggravated criminal damage to property.

B.(1) Whoever commits the crime of terrorism as provided in Paragraph (A)(1) of this Section shall be punished by life imprisonment at hard labor, without benefit of probation, parole, or suspension of sentence.

(2) Whoever commits the crime of terrorism as provided in Paragraph (A)(2) of this Section shall be imprisoned at hard labor for not more than thirty years.

(3) Whoever commits the crime of terrorism as provided in Paragraph (A)(3) of this Section shall be imprisoned at hard labor for not more than ten years.

(4) Whoever commits the crime of terrorism as provided in Paragraph (A)(4) of this Section shall be imprisoned at hard labor for not less than six years nor more than forty years. At least four years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence.

(5) Whoever commits the crime of terrorism as provided in Paragraph (A)(5) of this Section shall be imprisoned at hard labor for not less than one year nor more than thirty years.

C. Nothing in this Section shall be construed to prevent lawful assembly and peaceful and orderly petition for the redress of grievances, including but not limited to any labor dispute between any employer and its employees.

Acts 2002, 1st Ex. Sess., No. 128, §2.

§128.2. Aiding others in terrorism

A.(1) Aiding others in terrorism is the raising, soliciting, collecting, or providing material support or resources with intent that such will be used, in whole or in part, to plan, prepare, carry out, or aid in any act of terrorism or hindering the prosecution of terrorism or the concealment of, or escape from, an act of terrorism.

(2) For the purposes of this Section, "hindering prosecution of terrorism" shall include but not be limited to the following:

(a) Harboring or concealing a person who is known or believed by the offender to have committed an act of terrorism.

(b) Warning a person who is known or believed by the offender to have committed an act of terrorism of impending discovery or apprehension.

(c) Suppressing any physical evidence which might aid in the discovery or apprehension of a person who is known or believed by the offender to have committed an act of terrorism.

B. Whoever commits the crime of aiding others in terrorism shall be punished as follows:

(1) If the offense so aided is punishable by 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.

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

C. For purposes of this Section, "material support or resources" means currency or other financial securities, financial services, instruments of value, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except the provision of medical attention by a licensed health care provider or religious materials.

Acts 2002, 1st Ex. Sess., No. 128, §2.

SUBPART E. MISCELLANEOUS OFFENSES AFFECTING JUDICIAL FUNCTIONS AND PUBLIC RECORDS

§129. Jury tampering

A. Jury tampering is any verbal or written communication or attempted communication, whether direct or indirect, made to any juror in a civil or criminal cause, including both grand and petit jurors, for the purpose of influencing the juror in respect to his verdict or indictment in any cause pending or about to be brought before him, otherwise than in the regular course of proceedings upon the trial or other determination of such cause. To constitute the offense of jury tampering, the influencing or attempt to influence the juror must be either:

(1) For a corrupt or fraudulent purpose, or

(2) By violence or force, by threats whether direct or indirect.

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

(2) Whoever commits the crime of jury tampering in a criminal case shall be punished as follows:

(a) If the offense charged in the trial for which the jury has been impaneled is punishable by death or life imprisonment, the offender shall be imprisoned at hard labor for not more than ninety-nine years.

(b) In all other cases the offender shall be fined or imprisoned, or both, to the same extent and in the same manner as for the offense charged in the trial for which the jury has been impaneled.

Amended by Acts 1968, No. 60, §1; Acts 1981, No. 866, §1; Acts 1995, No. 823, §1; Acts 2002, 1st Ex. Sess., No. 128, §5.

§129.1. Intimidating, impeding, or injuring witnesses; injuring officers; penalties

A. No person shall intentionally:

(1) Intimidate or impede, by threat of force or force, or attempt to intimidate or impede, by threat of force or force, a witness or a member of his immediate family with intent to influence his testimony, his reporting of criminal conduct, or his appearance at a judicial proceeding;

(2) Injure or attempt to injure a witness in his person or property, or a member of his immediate family, with intent to influence his testimony, his reporting of criminal conduct, or his appearance at a judicial proceeding; or

(3) Injure or attempt to injure an officer of a court of this state in his person or property, or a member of his immediate family, because of the performance of his duties as an officer of a court of this state or with intent to influence the performance of his duties as an officer of a court of this state.

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

(1) "A member of his immediate family" means a spouse, parent, sibling, and child, whether related by blood or adoption.

(2) "Witness" means any of the following:

(a) A person who is a victim of conduct defined as a crime under the laws of this state, another state, or the United States.

(b) A person whose declaration under oath has been received in evidence in any court of this state, another state, or the United States.

(c) A person who has reported a crime to a peace officer, prosecutor, probation or parole officer, correctional officer, or judicial officer of this state, another state, or the United States.

(d) A person who has been served with a subpoena issued under authority of any court of this state, another state, or the United States, or

(e) A person who reasonably would be believed by an offender to be a witness as previously defined in this Section.

C.(1) Whoever violates the provisions of this Section in a civil proceeding 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 violates the provisions of this Section in a criminal proceeding in which a sentence of death or life imprisonment may be imposed, the offender shall be fined not more than one hundred thousand dollars, imprisoned for not more than forty years at hard labor, or both.

(3) Whoever violates the provisions of this Section in a criminal proceeding in which a sentence of imprisonment necessarily served at hard labor for any period less than a life sentence may be imposed, the offender shall be fined not more than fifty thousand dollars, or imprisoned for not more than twenty years at hard labor, or both.

(4) Whoever violates the provisions of this Section in a criminal proceeding in which any other sentence may be imposed, the offender shall be fined not more than ten thousand dollars, imprisoned for not more than five years, with or without hard labor, or both.

Added by Acts 1981, No. 866, §2; Acts 2008, No. 4, §1.

§129.2. Recording, listening to, or observing proceedings of grand or petit juries while deliberating or voting

It shall be unlawful for any person knowingly and intentionally, by any means or device whatsoever:

(1) to record or attempt to record, the proceedings of any grand or petit jury in any court of the state of Louisiana while such jury is deliberating or voting; or

(2) to listen to or observe, or attempt to listen to or observe, the proceedings of any grand or petit jury of which he is not a member in any court of the state of Louisiana while such jury is deliberating or voting.

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.

Added by Acts 1981, No. 866, §2.

§130. Jury misconduct

A. Jury misconduct is committed when:

(1) Any petit or grand juror shall make any promise or agreement to give a verdict or finding for or against any party.

(2) Any petit juror shall intentionally permit any person to influence him, or attempt to influence him, in respect to his verdict in any cause pending, or about to be brought before him, otherwise than in the regular course of proceedings upon the trial of such cause.

(3) Any petit juror shall either use or consume any beverage of low or high alcoholic content during the time he is in actual service as juror.

(4) Any petit juror accepts or offers to accept anything of apparent present or prospective value, before he is discharged from his services as a juror, even if the thing of value is not to be received, delivered, or come to fruition until after discharge from jury service, for his interpretation, impression, analysis or narrative, verbal or written, regarding any element of the criminal trial or jury deliberations.

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

Amended by Acts 1958, No. 80, §1; Acts 1991, No. 967, §1.

§130.1. Obstruction of justice

A. The crime of obstruction of justice is any of the following when committed with the knowledge that such act has, reasonably may, or will affect an actual or potential present, past, or future criminal proceeding as hereinafter described:

(1) Tampering with evidence with the specific intent of distorting the results of any criminal investigation or proceeding which may reasonably prove relevant to a criminal investigation or proceeding. Tampering with evidence shall include the intentional alteration, movement, removal, or addition of any object or substance either:

(a) At the location of any incident which the perpetrator knows or has good reason to believe will be the subject of any investigation by state, local, or United States law enforcement officers; or

(b) At the location of storage, transfer, or place of review of any such evidence.

(2) Using or threatening force toward the person or property of another with the specific intent to:

(a) Influence the testimony of any person in any criminal proceeding;

(b) Cause or induce the withholding of testimony or withholding of records, documents, or other objects from any criminal proceeding;

(c) Cause or induce the alteration, destruction, mutilation, or concealment of any object with the specific intent to impair the object's integrity or availability for use in any criminal proceeding;

(d) Evade legal process or the summoning of a person to appear as a witness or to produce a record, document, or other object in any criminal proceeding;

(e) Cause the hindrance, delay, or prevention of the communication to a peace officer, as defined in R.S. 14:30, of information relating to an arrest or potential arrest or

relating to the commission or possible commission of a crime or parole or probation violation.

(3) Retaliating against any witness, victim, juror, judge, party, attorney, or informant by knowingly engaging in any conduct which results in bodily injury to or damage to the property of any such person or the communication of threats to do so with the specific intent to retaliate against any person for:

(a) The attendance as a witness, juror, judge, attorney, or a party to any criminal proceeding or for producing evidence or testimony for use or potential use in any criminal proceeding, or

(b) The giving of information, evidence, or any aid relating to the commission or possible commission of a parole or probation violation or any crime under the laws of any state or of the United States.

B. Whoever commits the crime of obstruction of justice shall be subject to the following penalties:

(1) When the obstruction of justice involves a criminal proceeding in which a sentence of death or life imprisonment may be imposed, the offender shall be fined not more than one hundred thousand dollars, imprisoned for not more than forty years at hard labor, or both.

(2) When the obstruction of justice involves a criminal proceeding in which a sentence of imprisonment necessarily at hard labor for any period less than a life sentence may be imposed, the offender may be fined not more than fifty thousand dollars, or imprisoned for not more than twenty years at hard labor, or both.

(3) When the obstruction of justice involves any other criminal proceeding, the offender shall be fined not more than ten thousand dollars, imprisoned for not more than five years, with or without hard labor, or both.

Acts 1984, No. 561, §1, eff. Jan. 1, 1985.

§131. Compounding a felony

Compounding a felony is the accepting of anything of apparent present or prospective value which belongs to another, or of any promise thereof, by a person having knowledge of the commission of a felony, upon an agreement, express or implied, to conceal such offense, or not to prosecute the same, or not to reveal or give evidence thereof.

Whoever commits the offense of compounding 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.

§131.1. Failure to report the commission of certain felonies

A. It shall be unlawful for any person having knowledge of the commission of any homicide, rape, or sexual abuse of a child to fail to report or disclose such information to a law enforcement agency or district attorney, except when the person having such knowledge is bound by any privilege of confidentiality recognized by law.

B. Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned, with or without hard labor, for not more than one year, or both.

Acts 2012, No. 638, §1, eff. June 7, 2012.

§132. Injuring public records

A. First degree injuring public records is the intentional removal, mutilation, destruction, alteration, falsification, or concealment of any record, document, or other thing, filed or deposited, by authority of law, in any public office or with any public officer.

B. Second degree injuring public records is the intentional removal, mutilation, destruction, alteration, falsification, or concealment of any record, document, or other thing, defined as a public record pursuant to R.S. 44:1 et seq. and required to be preserved in any public office or by any person or public officer pursuant to R.S. 44:36.

C.(1) Whoever commits the crime of first degree injuring public records shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars or both.

(2) Whoever commits the crime of second degree injuring public records shall be imprisoned for not more than one year with or without hard labor or shall be fined not more than one thousand dollars or both.

Amended by Acts 1980, No. 454, §1; Acts 1999, No. 671, §1, eff. July 1, 1999

§133. Filing or maintaining false public records

A. Filing false public records is the filing or depositing for record in any public office or with any public official, or the maintaining as required by law, regulation, or rule, with knowledge of its falsity, of any of the following:

(1) Any forged document.

(2) Any wrongfully altered document.

(3) Any document containing a false statement or false representation of a material fact.

B. The good faith inclusion of any item of cost on a Medical Assistance Program cost report which is later determined by audit to be nonreimbursable under state and federal regulations shall be an affirmative defense to a violation of this Section.

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

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

Amended by Acts 1980, No. 454, §1; Acts 1982, No. 676, §1; Acts 1992, No. 539, §1; Acts 1995, No. 787, §1; Acts 2010, No. 811, §1, eff. Aug. 15, 2011.

§133.1. Obstruction of court orders

Whoever, by threats or force, or wilfully prevents, obstructs, impedes, or interferes with, or wilfully attempts to prevent, obstruct, impede, or interfere with, the due exercise

of rights or the performance of duties under any order, judgment, or decree of a court of the state of Louisiana, shall be fined not more than $1,000 or imprisoned not more than one year, or both.

No injunctive or other civil relief against the conduct made criminal by this Section shall be denied on the ground that such conduct is a violation of criminal law, and, when granted, the order, judgment or decree granting such relief as to conduct which does constitute a violation of criminal law shall be construed as a mandate to all law enforcement officers to take such affirmative action as may be necessary to apprehend, arrest and charge any person or persons who engage in such conduct.

Acts 1960, 2nd Ex.Sess., No. 6, §§1, 4. Amended by Acts 1976, No. 487, §1.

§133.2. Misrepresentation during booking

A. Misrepresentation during booking is the misrepresentation of, or refusal by a person being booked to provide his name, age, sex, residence, or social security number to any law enforcement officer or official who is booking him pursuant to a lawful arrest, or the refusal of such person to submit to fingerprinting or photographing.

B. Whoever commits the crime of misrepresentation during booking shall be imprisoned for not more than six months, provided that any such sentence shall be made to run concurrently with any other sentence.

Acts 1988, No. 557, §1.

§133.3. Falsification of drug tests

A.(1) No person who submits to court-ordered drug testing, either after arrest for an offense and as a condition of pretrial release or after conviction of, or plea of guilty to, an offense and as a condition of probation, shall intentionally falsify or alter or attempt to falsify or alter the results of such a drug test by the substitution of urine or other samples or specimens or the use of any device in order to obscure or conceal the presence of a substance the presence of which the test is administered to detect.

(2) No person shall knowingly and intentionally deliver, possess with intent to deliver, or manufacture with intent to deliver a substance or device designed or intended solely to falsify or alter drug test results.

B. 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 1995, No. 250, §1.

§133.4. Misrepresentation during issuance of a misdemeanor summons or preparation of a juvenile custodial agreement

A. Misrepresentation during issuance of a misdemeanor summons or preparation of a juvenile custodial agreement is the giving of false information to any law enforcement officer preparing such document, by a person being issued a misdemeanor summons, or a person giving information or signing such juvenile custodial agreement.

B. Whoever commits the crime of misrepresentation during issuance of a misdemeanor summons, or preparation of a juvenile custodial agreement shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Acts 1999, No. 1072, §1

§133.5. Filing a false complaint against a law enforcement officer

A. Filing a false complaint against a law enforcement officer is knowingly filing, by affidavit under oath, a false statement or false representation with a law enforcement agency regarding the conduct, job performance, or behavior of a law enforcement officer for the purpose of initiating an administrative action against that law enforcement officer.

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

C. Whoever commits the crime of filing false statements against law enforcement officers shall be fined not more than five hundred dollars or imprisoned not more than six months, or both.

Acts 2006, No. 287, §1.

§133.6. Filing a false lien against a law enforcement or court officer

A. The crime of filing a false lien or encumbrance against a law enforcement officer or court officer is committed when a person knowingly files, attempts to file, or conspires to file, in any public records or in any private record that is generally available to the public, any false lien or encumbrance against the real or personal property of a law enforcement officer or court officer, as retaliation against the officer for the performance of his official duties, knowing or having reason to know that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation.

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

(1) "Court officer" means any active or retired justice of the peace, any active or retired judge of a city, parish, state, or federal court located in this state, any district attorney, assistant district attorney, or investigator within the office of a district attorney, any city prosecutor, assistant city prosecutor, or investigator within the office of a city prosecutor, and the attorney general and any assistant attorney general or investigator within the office of the attorney general.

(2) "Law enforcement officer" shall mean any active or retired city, parish, or state law enforcement officer, peace officer, sheriff, deputy sheriff, probation or parole officer, marshal, deputy, wildlife enforcement agent, state correctional officer, a commissioned agent of the Department of Public Safety and Corrections, and any federal law enforcement officer or employee whose permanent duties include making arrests, performing search and seizures, execution of criminal arrest warrants, execution of civil seizure warrants, any civil functions performed by sheriffs or deputy sheriffs, enforcement of penal or traffic laws, or the care, custody, control, or supervision of inmates.

C.(1) Whoever commits the crime of filing a false lien against a law enforcement or court officer shall be fined not less than five hundred dollars nor more than the amount of the value of

the false lien or encumbrance, imprisoned, with or without hard labor, for not more than two years, or both.

(2) The court, in addition to any punishment imposed under the provisions of this Section, may order the offender to pay restitution to the law enforcement officer or court officer for any costs incurred as a result of the false lien or encumbrance.

Acts 2012, No. 405, §1, eff. May 31, 2012.

SUBPART F. OFFICIAL MISCONDUCT AND CORRUPT PRACTICES

§134. Malfeasance in office

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

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

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

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

B. Any duty lawfully required of a public officer or public employee when delegated by him to a public officer or public employee shall be deemed to be a lawful duty of such public officer or employee. The delegation of such lawful duty shall not relieve the public officer or employee of his lawful duty.

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

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

Amended by Acts 1980, No. 454, §1; Acts 2002, 1st Ex. Sess., No. 128, §6; Acts 2010, No. 811, §1, eff. Aug. 15, 2011.

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

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

(1) A law enforcement officer.

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

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

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

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

§134.2. Malfeasance in office; tampering with evidence

A. It shall be unlawful and constitute malfeasance in office for a peace officer to tamper with evidence.

(1) For purposes of this Section, a "peace officer" shall be defined as a commissioned state, parish, or municipal police officer, a sheriff, or a deputy sheriff.

(2) For purposes of this Section, "tampering with evidence" is the intentional alteration, movement, removal, or addition of any object or substance when the peace officer:

(a) Knows or has good reason to believe that such object or substance will be the subject of any investigation by state, local, or federal law enforcement officers, and

(b) Acts with the intent of distorting the results of such an investigation.

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

Acts 1984, No. 566, §1.

§134.3. Abuse of office

A. No public officer or public employee shall knowingly and intentionally use the authority of his office or position, directly or indirectly, to compel or coerce any person to provide the public officer, public employee or any other person with anything of apparent present or prospective value when the public officer or employee is not entitled by the nature of his office to the services sought or the object of his demand.

B.(1) Whoever violates the provisions of this Section shall be fined up to five thousand dollars, or be imprisoned with or without hard labor for not less than one year nor more than five years.

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

C. The provisions of this Section shall not apply to benefits or services rendered to a person who is entitled to such benefits or services from the state or any political subdivision of the state or any governmental entity when the public officer or public employee is performing his duties as authorized by law. Nothing in this Section shall prohibit or limit the ability of a public officer or public employee from performing his duties as authorized by law or as a condition of his employment or office.

Acts 2008, 1st Ex. Sess., No. 22, §1, eff. March 11, 2008; Acts 2010, No. 811, §1, eff. Aug. 15, 2011.

§135. Public salary deduction

A. Public salary deduction is committed when any public officer or public employee retains or diverts for his own use or the use of any other person or political organization, any part of the salary or fees allowed by law to any other public officer or public employee, unless authorized in writing by the said public officer or public employee.

B. Whoever commits the crime of public salary deduction shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars or both.

Amended by Acts 1980, No. 454, §1; Acts 1999, No. 318, §1.

§136. Public salary extortion

A. Public salary extortion is committed when any person shall:

(1) Solicit or receive, or attempt to solicit or receive, either directly or indirectly, the payment of any money or other thing of value from any public officer or public employee to himself or any other person or political organization, through any means or form whatsoever and for any purpose whatsoever, when such payment is obtained or solicited upon suggestion or threat that the failure to make such payment shall result in the loss or impairment of value to such officer or employee of his office or employment, or when such payment shall be a reward or remuneration for securing such office or employment; and proof that such payments were collected from or paid by such officers or employees on a uniform or progressive percentage or amount basis, shall be presumptive evidence that payments were made under duress or upon the considerations set forth hereinbefore; however, a written request made pursuant to R.S. 14:135 shall serve to rebut the presumption that payment was made under duress; or

(2) Solicit or receive or attempt to solicit or receive, either directly or indirectly, the contribution of any money or other thing of value for any general, primary or special election or for any other political purpose, from any person holding any office or employment for remuneration or profit, including those persons who work on a commission basis, with the state, who receive a remuneration of two hundred dollars per month or less from such employment; provided that this Subdivision shall not apply where the person solicited or whose contribution was received was an elective public officer or a candidate for any elective public office.

B. Whoever commits the crime of public salary extortion shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars or both.

Amended by Acts 1980, No. 454, §1; Acts 1999, No. 318, §1.

§138. Public payroll fraud

A. Public payroll fraud is committed when:

(1) Any person shall knowingly receive any payment or compensation, or knowingly permit his name to be carried on any employment list or payroll for any payment or compensation from the state, for services not actually rendered by himself, or for services grossly inadequate for the payment or compensation received or to be received according to such employment list or payroll; or

(2) Any public officer or public employee shall carry, cause to be carried, or permit to be carried, directly or indirectly, upon the employment list or payroll of his office, the name of any person as employee, or shall pay any employee, with knowledge that such employee is receiving payment or compensation for services not actually rendered by said employee or for services grossly inadequate for such payment or compensation.

B. This Section shall not apply in the following situations:

(1) When a bona fide public officer or public employee, who is justifiably absent from his job or position for a reasonable time, continues to receive his usual compensation or a part thereof.

(2) When arrangements between firefighters to swap work or perform substitute work with or for each other is done in compliance with the provisions of the federal Fair Labor Standards Act, 29 U.S.C. 207(p)(3) and the associated regulations found in the Code of Federal Regulations and in accordance with rules and regulations adopted by the appointing authority.

C.(1) Whoever commits the crime of public payroll fraud shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than two years, or both.

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

Acts 1997, No. 538, §1; Acts 2010, No. 811, §1, eff. Aug. 15, 2011.

§139. Political payroll padding

Political payroll padding is committed when any public officer or public employee shall, at any time during the six months preceding any election for governor:

(1) Increase the number of public employees in his office, department, board, agency, or institution more than five percent over the average number of such employees for each of the first six months of the twelve months next preceding said election; or

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

The provisions of this Article shall not apply where the increases are necessitated by flood, invasion by a common enemy, or other public emergency.

Whoever commits the crime of political payroll padding shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars or both.

Amended by Acts 1980, No. 454, §1.

§139. Political payroll padding

Political payroll padding is committed when any public officer or public employee shall, at any time during the six months preceding any election for governor:

(1) Increase the number of public employees in his office, department, board, agency, or institution more than five percent over the average number of such employees for each of the first six months of the twelve months next preceding said election; or

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

The provisions of this Article shall not apply where the increases are necessitated by flood, invasion by a common enemy, or other public emergency.

Whoever commits the crime of political payroll padding shall be imprisoned for not more than five years with or without hard labor or shall be fined not more than five thousand dollars or both.

Amended by Acts 1980, No. 454, §1.

§139.2. Transfer of capital assets of clerk of court's office prohibited

A. It shall be unlawful for any clerk of court, during a period beginning on the second Saturday in April of a year in which a regular gubernatorial election is scheduled and ending on the first day of July of the following year, to transfer title and ownership of any capital assets of his office which have an aggregate value greater than ten percent of the total value of the capital assets of his office.

B. For purposes of this Section, the capital assets of the office of a clerk of court shall include all general fixed assets over which the clerk has custody and control, regardless of whether such assets are carried as assets by the clerk or by the parish governing authority.

C. The value of the capital assets shall be the value of such assets as reflected in the current inventory filed under the provisions of R.S. 24:513 prior to the beginning day of the period specified in Subsection A or, if no such inventory is filed, the value of the assets as carried on the records of the clerk or the parish governing authority on the day prior to the beginning day of the period specified in Subsection A.

D. The provisions of this Section shall not apply to a transfer necessitated by flood, invasion by common enemy, or other public emergency.

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

Acts 1985, No. 381, §1.

§140. Public contract fraud

A. Public contract fraud is committed:

(1) When any public officer or public employee shall use his power or position as such officer or employee to secure any expenditure of public funds to himself, or to any partnership of which he is a member, or to any corporation of which he is an officer, stockholder, or director.

(2) When any member of any public board, body, or commission charged with the custody, control, or expenditure of any public funds votes for or uses his influence to secure any expenditure of such funds to himself, or to any partnership of which he is a member, or to any corporation of which he is an officer, director, or stockholder.

(3) When any sheriff charged with the duties of enforcing the laws of this state or any political subdivision thereof shall enter into a contract, either written or oral, individually or as a member or stockholder of any partnership, company, or corporation, with any such person whereby such sheriff or partnership, company, or corporation, of which he is a member or

stockholder is to perform any services of a law enforcement nature; provided, however, a deputy sheriff may, as an employee only, perform services of a law enforcement nature for any person, partnership, company, or corporation, but only if the deputy sheriff fulfills his employee performance requirements while not on official duty.

B. The fact that an expenditure has been made to any party named in Paragraphs (1) and (2) of Subsection A of this Section, or to any partnership of which he is a member, or to any corporation of which he is an officer, stockholder, or director, shall be presumptive evidence that such person has used his power, position, or influence to secure such expenditure.

C.(1) Whoever commits the crime of public contract fraud shall be fined not more than one thousand dollars, or imprisoned, with or without hard labor, for not more than two years, or both.

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

Amended by Acts 1968, No. 487, §1; Acts 1979, No. 562, §1; Acts 2010, No. 811, §1, eff. Aug. 15, 2011.

§141. Prohibited splitting of profits, fees or commissions; exceptions

A. For the purposes of this Section, "splitting of profits, fees or commissions" means the giving, offering to give, receiving or offering to receive, directly or indirectly, anything of apparent present or prospective value by or to a public officer or public employee or to any fund or fiduciary existing for the benefit of or use by such public officer or employee, when such value is derived from any agreement or contract to which the state or any political subdivision thereof is a party.

B. There shall be no splitting of profits, fees or commissions, past or present, derived from the sale of any commodity, goods, services, insurance, or anything of value to the state or any political subdivision thereof from which a public officer or public employee, representing the state or a political subdivision, as the case may be, in his official capacity, receives or offers to receive a portion of the profits, fees and/or commissions. The contract shall be a public record.

C. Whoever commits the crime of receiving or offering to receive a portion of the profits, fees or commissions as provided by this Section shall upon conviction be fined not more than ten thousand dollars or shall be imprisoned, with or without hard labor, for not more than ten years, or both.

Added by Acts 1972, No. 760, §1; Acts 2011, No. 343, §1

PART VIII. CONCLUDING PROVISIONS

§142. Offenses committed prior to effective date of Code

This Code shall not apply to any crimes committed before July 29, 1942. Crimes committed before that time shall be governed by the law existing at the time the crime was committed.

§143. Preemption of state law; exceptions

A. Except as otherwise specifically provided in this Section, no governing authority of a political subdivision shall enact an ordinance defining as an offense conduct that is defined and punishable as a felony under state law.

B. A governing authority of a parish or municipality may enact an ordinance defining as an offense conduct that is defined and punishable as a felony under state law if the ordinance is comparable to one of the crimes defined by state law and listed in Subsection C of this Section. No ordinance shall define as an offense conduct that is defined and punishable as a felony under any other state law. The ordinance shall comply with the provisions of Subsection D of this Section. A conviction under an ordinance which complies with the provisions of this Section may be used as a predicate conviction in prosecutions under state law.

C. The offense defined in the ordinance shall be comparable to one of the following state laws:

(1) R.S. 14:63 (criminal trespass).

(2) R.S. 14:67(B)(3) (theft when the misappropriation or taking amounts to less than a value of three hundred dollars).

(3) R.S. 14:67.2(B)(3) (theft of animals when the misappropriation or taking amounts to less than a value of three hundred dollars).

(4) R.S. 14:67.3 (unauthorized use of "access card" as theft).

(5) R.S. 14:67.4 (theft of domesticated fish from fish farm).

(6) R.S. 14:67.5 (theft of crawfish).

(7) R.S. 14:67.6(C)(1) (first offense of theft of utility service).

(8) R.S. 14:67.10(B)(3) (theft of goods when the misappropriation or taking amounts to less than a value of three hundred dollars).

(9) R.S. 14:67.12 (theft of timber).

(10) R.S. 14:67.13(B)(3) (theft of an alligator when the misappropriation or taking amounts to less than a value of three hundred dollars).

(11) R.S. 14:69(B)(3) (illegal possession of stolen things when the value of the stolen things is less than three hundred dollars).

(12) R.S. 14:82(B)(1) (prostitution).

(13) R.S. 14:93.2.1 (child desertion).

(14) R.S. 14:222.1 (unauthorized interception of cable television services).

(15) R.S. 14:285(C) (improper telephone communications).

(16) R.S. 40:966(E)(1) (possession of marijuana).

(17) R.S. 40:1021, 1022, 1023, 1023.1, 1024, 1025(A), and 1026 (possession of drug paraphernalia).

(18) R.S. 14:35.3 (domestic abuse battery).

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

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 a 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:

(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; or,

(2) Fail or refuse to return the collateral on demand; or,

(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; or,

(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; or,

(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.

Whoever violates this Section shall be imprisoned with or without hard labor, for not more than ten years.

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.

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 mentioned in the first paragraph 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.

§283. Video voyeurism; penalties

A. Video voyeurism is:

(1) The use of 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 observing, viewing, photographing, filming, or videotaping and it is for a lewd or lascivious purpose; or

(2) The transfer of an image obtained by activity described in Paragraph (1) of this Subsection by live or recorded telephone message, electronic mail, the Internet, or a commercial online service.

B.(1) Except as provided in Paragraphs (3) and (4) of this Subsection, whoever commits the crime of video voyeurism shall, upon a first conviction thereof, be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not more than two years, or both.

(2) On a second or subsequent conviction, the offender shall be fined not more than two thousand dollars and imprisoned at hard labor for not less than six months nor more than three years without benefit of parole, probation, or suspension of sentence.

(3) Whoever commits the crime of video voyeurism when the observing, viewing, photographing, filming, or videotaping is of any vaginal or anal sexual intercourse, actual or simulated sexual intercourse, masturbation, any portion of the female breast below the top of the areola or of any portion of the pubic hair, anus, cleft of the buttocks, vulva, or genitals shall be fined not more than ten thousand dollars and be imprisoned at hard labor for not less than one year or more than five years, without benefit of parole, probation, or suspension of sentence.

(4) Whoever commits the crime of video voyeurism when the observing, viewing, photographing, filming, or videotaping is of any child under the age of seventeen with the intention of arousing or gratifying the sexual desires of the offender shall be fined not more than ten thousand dollars and be imprisoned at hard labor for not less than two years or more than ten years without benefit of parole, probation, or suspension of sentence.

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

D. After the institution of prosecution, access to and the disposition of any material seized as evidence of this offense shall be in accordance with R.S. 46:1845.

E. Any evidence resulting from the commission of video voyeurism shall be contraband.

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

Acts 1999, No. 1240, §1; Acts 2003, No. 690, §1; Acts 2003, No. 1245, §1.

§283.1. Voyeurism; penalties

A. Voyeurism is the viewing, observing, spying upon, or invading the privacy of a person by looking 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.

Acts 2004, No. 888, §1.

§284. Peeping Tom; penalty

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."

"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 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.

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

Acts 1950, No. 437, §§1 to 3.

§285. Telephone communications; improper language; harassment; penalty

A. No person shall:

(1) Engage in or institute a telephone call, telephone conversation, or telephone conference, with another person, anonymously or otherwise, and therein use obscene, profane, vulgar, lewd, lascivious, or indecent 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 another person.

(2) Make repeated telephone communications anonymously or otherwise in a manner reasonably expected to annoy, 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, when by making a graphic description of a sexual act, and 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 under his control to be used for any purpose prohibited by this Section.

B. Any offense committed by use of a telephone as set forth in this Section shall be deemed to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were 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. Repealed by Acts 2001, No. 944, §4.

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.

§334. Ignition interlock device offenses

A. No person who, as a condition of probation, is prohibited from operating a motor vehicle unless it is equipped with an ignition interlock device as provided in R.S. 15:306 shall:

(1) Operate, lease, or borrow a motor vehicle unless that vehicle is equipped with a functioning ignition interlock device.

(2) Request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the person so restricted with an operable motor vehicle.

B. No person shall blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable motor vehicle to a person who is prohibited from operating a motor vehicle without an ignition interlock device.

C. No person shall intentionally attempt to tamper with, defeat, or circumvent the operation of an ignition interlock device.

D. Any person convicted of a violation of this Section may be punished by imprisonment for not more than six months or a fine of not more than five hundred dollars, or both.

Acts 1992, No. 982, §2, eff. Jan. 1, 1993.