State Domestic Violence Laws
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LOUISIANA DOMESTIC ABUSE, DATING VIOLENCE, STALKING AND SEXUAL ASSAULT (and related) LAWS, Part 1

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LOUISIANA DOMESTIC ABUSE, DATING VIOLENCE, STALKING AND SEXUAL ASSAULT (and related) LAWS, Part 1

CIVIL ORDERS OF PROTECTION

Louisiana Revised Statutes – Title 46. Public Welfare and Assistance
Chapter 28. Protection from Family Violence Act
Part II. Domestic Abuse Assistance

R.S. 46:2131. et seq. – Domestic Abuse Assistance Act

R.S. 46:2131. Purposes

The purpose of this Part is to recognize and address the complex legal and social problems created by domestic violence. The legislature finds that existing laws which regulate the dissolution of marriage do not adequately address problems of protecting and assisting the victims of domestic abuse. The legislature further finds that previous societal attitudes have been reflected in the policies and practices of law enforcement agencies and prosecutors which have resulted in different treatment of crimes occurring between family members, household members, or dating partners and those occurring between strangers. It is the intent of the legislature to provide a civil remedy for domestic violence which will afford the victim immediate and easily accessible protection. Furthermore, it is the intent of the legislature that the official response of law enforcement agencies to cases of domestic violence shall stress the enforcement of laws to protect the victim and shall communicate the attitude that violent behavior is not excused or tolerated.

> Lassair on Behalf of T.P.J. v. Paul, 353 So.3d 1048, (La. App. 4 Cir. 12/14/22). Intent of the Domestic Abuse Assistance Act is to provide a civil remedy of immediate and easily accessible protection to endangered persons from domestic abuse. See also Carrie v. Jones, 334 So.3d 834 (La. App. 4 Cir. 2022); Aguillard v. Aguillard, 304 So.3d 473 (La. App. 3 Cir. 2020); Pierce v. Pierce, 298 So.3d 902 (La. App. 1 Cir. 2020); Ferrand v. Ferrand, 221 So.3d 909 (La. App. 5 Cir. 2016); D.M.S. v. I.D.S., 225 So.3d 1127 (La. App. 4 Cir. 2015), reconsideration not considered (8/2015), Dvilansky v. Correu, 204 So.3d 686 (La. App. 4 Cir. 2016), writ denied (La. 1/9/17); Lee v. Smith, 4 So.3d 100 (La. App. 5 Cir. 2008); Branstetter v. Purohit, 958 So.2d 740 (La. App. 4 Cir. 2007).
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> Lepine v. Lepine, 223 So.3d 666 (La. App. 5 Cir. 2017). The trial court's order suspending the co-parenting guidelines after it found that the husband had committed domestic abuse was not an abuse of discretion; co-parenting guidelines helped to facilitate communication between parents regarding their children, and suspension of the guidelines helped stop the abuse by limiting contact between parents.

R.S. 46:2132. Definitions

As used in this Part:

(1) “Adult” means any person eighteen years of age or older, or any person under the age of eighteen who has been emancipated by marriage or otherwise.

(2) “Court” shall mean any court of competent jurisdiction in the state of Louisiana.

(3) “Domestic abuse” includes but is not limited to physical or sexual abuse and any offense against the person, physical or non-physical, as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family member, household member, or dating partner against another. “Domestic abuse” also includes abuse of adults as defined in R.S. 15:1503 when committed by an adult child or adult grandchild.

(4) “Family members” means spouses, former spouses, parents and children, stepparents, stepchildren, foster parents, foster children, other ascendants, and other descendants. “Family member” also means the other parent or foster parent of any child or foster child of the offender.

“Household members” means any person presently or formerly living in the same residence with the defendant and who is involved or has been involved in a sexual or intimate relationship with the defendant, or any child presently or formerly living in the same residence with the defendant, or any child of the defendant regardless of where the child resides. “Dating partner” means any person protected from violence under R.S. 46:2151. If a parent or grandparent is being abused by an adult child, adult foster child, or adult grandchild, the provisions of this Part shall apply to any proceeding brought in district court.

Domestic Abuse:

Spillers v. Senn, 339 So.3d 778 (La. App. 2 Cir. 5/25/22). Trial court acted within its discretion in determining that daughter established by preponderance of the evidence that father's stalking behavior caused her to feel grievous alarm and suffer emotional distress, as required to grant protective order under Protection from Family Violence Act (PFVA); following exchange on social media between daughter's sister-in-law and brother regarding father's alleged abuse of daughter and her sisters during childhood, there was evidence that father sent a message directly to daughter, he attempted to directly contact daughter's father-in-law several times, daughter's brother and mother attempted to contact daughter acting on father's behalf, and daughter and her sisters testified alleging years of physical and sexual abuse against them by father.

Carrie v. Jones, 334 So.3d 834 (La. App. 4 Cir. 1/21/22). There is no requirement that the abuse itself be recent, immediate, or present for purposes of issuing a protection order.

McCauley v. McCauley, 305 So.3d 981 (La. App. 3 Cir. 2020). Trial court's finding that non-consensual physical touches warranted a protective order for wife was not manifestly erroneous, in trial on wife's petition for protection from abuse against husband, despite husband's assertion that wife was the instigator; nothing in the record contradicted the court's finding, which was based on wife's credible testimony about incidents of abuse in which husband pushed her and threw her to the floor, dragged her along the hallway and pinned her down to the floor before dragging her outside, twisted her arms, and stepped on her back.

S.M. v. T.M. 289 So.3d 141 (La. App. 5 Cir. 2019). Neither the definition of “domestic abuse” under the definitions statute of the Domestic Abuse Assistance Law nor any other provision of the Domestic Abuse Assistance Law requires evidence of a pattern of domestic abuse to obtain a protective order.

Craig v. Bishop, 283 So.3d 521 (La. App. 3 Cir. 2019). Definition of domestic abuse was broad enough to include crime of solicitation of murder, as required for grant of husband's petition for protective order against wife on behalf of himself and parties' minor child, arising from wife's attempt to solicit third party to murder husband; although solicitation was not listed in criminal code as offense against the person, statutory language explained that definition of domestic abuse included, but was not limited to, enumerated offenses, and by counseling others to commit crime, wife as principal, could have been charged with other crimes that qualified as crimes against the person, such as murder. See also Cummings v. Bishop, 283 So.3d 507 (La. App. 3 Cir. 2019).

Patterson v. Charles, 282 So.3d (La. App. 4 Cir. 2019). Because stalking and cyberstalking is an offense against the person in the criminal code, it constitutes domestic abuse for purposes of the Domestic Abuse Assistance statutes.

Larremore v. Larremore, 280 So.3d 1282 (La. App. 2 Cir. 2019). Former husband's actions constituted “offenses against the person;” former husband, who had history of physically abusing and harassing former wife, repeatedly utilized electronic means of mail and/or communication to harass her, and former husband had repeated uninvited presence at former wife's home, which caused her alarm and emotional distress.

S.L.B. v. C.E.B., 252 So.3d 950 (La. App. 4 Cir. 2018), writ denied 256 So.3d 992 (La. 11/20/18). Actions by mother toward her child were physical abuse under the Domestic Abuse Assistance Act rather than reasonable discipline as obligated under civil code article governing parental correction; mother repeatedly struck her child in the face during an argument about washing dishes, knocked child to the floor, climbed on top of him, and caused a nosebleed. Audio recording of an interview of a child by a pediatrician was made for the purposes of diagnosis and treatment and, thus, was admissible as non-hearsay in action seeking protection order against mother for abuse of the child under the Domestic Abuse Assistance Act, despite identification of mother as child's abuser in the interview; identity of an abuser was reasonably pertinent to treatment of children in cases involving suspected domestic abuse.

Rodriguez v. Claassen, 207 So.3d 490 (La. App. 4 Cir. 2016). Trial court did not abuse its discretion in issuing protective order to wife, although husband argued that the worst of his actions involved his own self-abuse and threats to his own life and that wife had not shown any

fear of him as evidenced by their continuous contact through text messages and phone calls, where wife testified that husband assaulted her, threatened her life, and falsely imprisoned her, and both parties testified that husband became violent and broke car windshield while riding in a car with wife and their minor child and that husband had twice threatened to take his life in conversations with wife.

Shaw v. Young, 199 So.3d 1180 (La. App. 4 Cir. 2016). Husband's repeated e-mails and text messages to wife and repeated postings on his social media account about wife constituted cyberstalking, which qualified as domestic abuse, and thus supported the issuance of a permanent protective order in favor of wife and against husband, in divorce proceeding; wife and a friend testified as to husband's repeated text messages, e-mails, and social media posts that included threats, negative comments about wife, and pictures of wife and her acquaintances that caused wife to feel alarmed and to suffer emotional distress.

Okechukwu v. Okechukwu, 139 So.3d 1135(La. App. 3 Cir. 2014), writ denied (La. 2014). Wife adequately stated a cause of action for the issuance of a protection from abuse order; wife alleged a long history of physical abuse at the hands of husband, and wife went into hiding away from husband after she filed a petition for divorce due to her fear of how husband would react to the filing.

McCann v. McCann, 33 So.3d 389 (La. App. 3 Cir. 2010). Ancillary to a petition for divorce wife obtained a temporary restraining order prohibiting her husband from threatening or harassing her and thereafter filed a petition for domestic abuse protection seeking protection for herself and her two minor granddaughters who resided next door to her. Judge Guy E. Bradberry for the Parish of Calcasieu found the husband's act to be domestic abuse sufficient to support the domestic abuse protective order and included in the protective order the protection of the wife's two minor grandchildren; the husband appealed. The Third Circuit Court of Appeal, in an opinion authored by Judge Pro Tempore, David E. Chatelain, held that the husband's act of striking his wife was "domestic abuse" sufficient to support a domestic abuse protective order and that the district court acted within its discretion by granting a protective order that included within its scope the wife's two minor grandchildren, who were the husband's step-grandchildren.

Clayton v. Abbitt, 16 So.3d 512 (La. App. 2 Cir. 2009). After the expiration of a protective order for herself and her minor children against the children's paternal grandfather, mother filed a petition for another such protective order. Judge Michael A. Pitman of the First Judicial District Court for the Parish of Caddo granted the petition and grandfather appealed. The Second Circuit Court of Appeal, in an opinion authored by Judge Lolley, reversed the trial court, finding that insufficient evidence supported trial court's issuance of the second protective order. The Second Circuit found that even though the mother was not informed of the psychologist's interview with the children, the psychologist's report indicated that the children wanted to see their grandfather and that there were no signs that the grandfather was ever inappropriate with them, and, in issuing the protective order, the trial court had relied on a statement made by the grandfather after the trial was over without giving him an opportunity to explain his statement. Here, there were neither new allegations nor new evidence that the children's grandfather had acted inappropriately with his grandchildren. In fact, there was evidence to the contrary as indicated by the report from the psychologist Dr. Susan Vigen. The Second Circuit further indicated that "In light of our findings, we pretermit a discussion of whether Charles (minor children's grandfather) is a member of the class of people whom a protective order may be issued against. "

Cory v. Cory, 989 So.2d 855 (La. App. 2 Cir. 2008). Wife filed a petition for protection from abuse; Judge Irwin P. Young, III for the Caddo Parish Juvenile Court found domestic abuse and issued a protective order, and among other relief awarded custody and child support to the wife; the husband appealed. The Second Circuit Court of Appeal, in an opinion authored by Judge Williams, held, among other things, that the evidence was sufficient to establish that domestic abuse had occurred perpetrated by the husband. Wife testified that although her husband had never hit her, he had threatened to "whip her ass" and would intimidate her by walking toward her at a fast pace, causing her to believe that he was going to hit her; wife further stated that husband got into his truck and revved the motor, put the truck in reverse while she was standing at the end of the driveway and wife believed that he was going to run her over with the truck.

Ruiz v. Ruiz, 910 So.2d 443 (La. App. 5 Cir. 2005). Judge Greg G. Guidry of the 24th Judicial District Court for the Parish of Jefferson issued a Protective Order in favor of Ms. Ruiz against Mr. Ruiz holding that Mr. Ruiz' striking of his wife in the head while she was in the hospital after surgery to deliver their child and threatening to shoot her in front of witnesses and the couple's children constituted "physical abuse" within the meaning of the Domestic Abuse Assistance Act. The Fifth Circuit Court of Appeal, in an opinion authored by Judge Walter J. Rothschild, affirmed the trial court's judgment.

Harper v. Harper, 537 So.2d 282 (La. App. 4 Cir. 1988). Judge Max N. Tobias, Jr. of the Civil District Court for the Parish of Orleans found that the wife's allegations that her husband attempted to strike her, pulled her from the family automobile, and threatened her with physical harm were sufficient to charge the crime of assault, and therefore were sufficient to state a cause

of action under Title 46, Domestic Abuse Assistance Act. The Fourth Circuit Court of Appeal, in an opinion authored by Judge Plotkin, affirmed the trial court's ruling and found "domestic abuse" even though the husband had never battered or physically abused his wife, but rather had engaged in assaultive behavior, which had placed his wife in reasonable apprehension of a battery. The Fourth Circuit further held that family arguments that do not rise to the threshold of physical or sexual abuse, or other violations of the Criminal Code, are not within the ambit of Title 46, Domestic Abuse Assistance Act.

NOT Domestic Abuse:

Lassair on Behalf of T.P.J. v. Paul, 353 So.3d 1048, (La. App. 4 Cir. 2020). General harassment and family arguments, if they do not rise to the threshold of physical or sexual abuse in violation of the criminal code, or an offense against the person, are not within the ambit of the Domestic Abuse Assistance Act.

Carrie v. Jones, 334 So.3d 834, (La. App. 4 Cir. 2022). Definition of "domestic abuse" in the Domestic Abuse Assistance Act does not include nonphysical acts, such as general harassment and family arguments, unless the nonphysical acts constitute an offense against the person as defined in the criminal code.. See also Launey v. Launey, 307 So.3d 280 (La. App. 3 Cir. 2020); D.M.S. v. I.D.S., 225 So.3d 114 (La. App. 4 Cir. 2015), writ denied 172 So.3d 654 (La. 6/19/15), reconsideration not considered 174 So.3d 1160 (La. 8/28/15); Shipp v. Callahan, 113 So.3d 454 (La. App. 2 Cir. 2013). Shirley v. Shirley, 107 So.3d 99 (La. App. 2 Cir. 10/10/12); Coy v. Coy, 69 So.3d 1270 (La. App. 2 Cir. 2011); Culp v. Culp, 960 So.2d 1279 (La. App. 2 Cir. 2007).

Fontenot v. Newcomer, 63 So.3d 1149 (La. App. 3 Cir. 2011). Plaintiff's parents' actions of following her and her minor children around town, attending one child's basketball games, driving by children's school, and on one occasion parking behind her vehicle in the parking lot so that they temporarily blocked her in and prevented her from leaving, did not constitute "domestic abuse" for purposes of Domestic Abuse Assistance Act, and thus did not warrant issuance of a protective order.

Rouyea v. Rouyea, 808 So.2d 558 (La. App. 1 Cir. 2001). Judge Guy Holdridge of the Twenty-Third Judicial District Court for the Parish of Ascension entered a protective order against Mr. Rouyea forbidding him from having contact with Mrs. Rouyea and their minor son. The First Circuit Court of Appeal, in an opinion authored by Judge Gonzales, held that the husband's alleged action in forcing his wife to the ground and holding her there in reaction to the wife's attempt to take the husband's wallet was not "domestic abuse" warranting the issuance of a protective order. Further, that family arguments that do not rise to the threshold of physical or sexual abuse or violations of the criminal code are not within the ambit of the Domestic Abuse Assistance Act. The First Circuit therefore reversed the trial court and ordered the trial court to set aside the protective order. The evidence included the wife's testimony that action was the only action taken by her husband, the evidence further included the testimony of the couple's 20-year-old daughter that it was the wife/mother who was aggressive, abusive, and who was destroying the husband/father property at the father's home in the very early hours of the morning. The First Circuit further held that the standard of review is "abuse of discretion".

R.S. 46:2133. Jurisdiction; venue; standing

A. Any court in the state of Louisiana which is empowered to hear family or juvenile matters shall have jurisdiction over proceedings appropriate to it under this Part.

B. Venue lies:

(1) In the parish where the marital domicile is located or where the household is located.

(2) In the parish where the defendant resides.

(3) In the parish where the abuse is alleged to have been committed.

(4) In the parish where the petitioner resides.

(5) In the parish where an action for annulment of marriage or for a divorce could be brought pursuant to Code of Civil Procedure Article 3941(A).

C. Notwithstanding the venue provisions of Subsection B of this Section, in a judicial district comprised of multiple parishes, if a court determines that it is in the interest of justice to afford the parties a more expeditious hearing than current docketing scheduling would permit, or to comply with the time provisions provided for by this Part, a judge or hearing officer may conduct a hearing in any parish within the judicial district.

D. An adult may seek relief under this Part by filing a petition with the court alleging abuse by the defendant. Any parent, adult household member, or district attorney may seek relief on behalf of any minor child or any person alleged to be incompetent by filing a petition with the court alleging abuse by the defendant. A petitioner's right to relief under this Part shall not be affected by leaving the residence or household to avoid further abuse.

Welborn v. 19th Judicial District Court, 974 So.2d 1 (La. 2008), rehearing denied. The East Baton Rouge Parish Clerk of Court filed suit against the 19th Judicial District Court and the Family Court seeking declaratory judgment regarding the proper method of allotting petitions from "dating partners" or "household members" seeking relief from domestic or dating violence under the Domestic Abuse Assistance Act and/or the Protection from Dating Violence Act. Judge Don Aaron, Jr., Judge Ad Hoc presiding for the 19th Judicial District Court declared that both courts had concurrent subject matter jurisdiction over these actions. The Court of Appeal for the First Circuit affirmed. The Louisiana Supreme Court, in an opinion authored by Chief Justice Calogero, held that the Family Court has exclusive subject matter jurisdiction over actions for relief from domestic and dating violence brought by unrelated "household members" or "dating partners"; that unrelated "household members" and "dating partners" were, for certain domestic violence actions, defined as falling within jurisdiction of any court in state empowered to hear family or juvenile matters, and Family Court was empowered to hear family matters, and thus, jurisdiction over actions was specifically added to Family Court's jurisdiction; and that the 19th Judicial District Court did not have concurrent subject matter jurisdiction with Family Court over such actions.

Cormier v. Cormier, 330 So.3d 681 (La. App. 3 Cir. 2021. Ex-wife was not required to advise ex- husband of her move out of state with couple's child, nor was she required to seek judicial approval prior to her relocation, where a valid order of protection against domestic abuse had been entered against ex-husband, and that order was still in effect at the time of ex-wife's relocation without notice to the court or to ex-husband, who subsequently filed motion to modify child custody, for contempt, and for civil warrant.

Larremore v. Larremore, 280 So.3d (La. App. 2 Cir. 2019). Former husband waived his right to complain about any expansion of original petition for protection filed by former wife, which had been filed under provision pertaining to stranger and acquaintance stalking, where former husband's counsel agreed to proceed under Domestic Abuse Assistance Act without objection.

State in Interest of C.D., 262 So.3d 929 (La. App. 4 Cir. 2018), writ denied (La. 3/6/19). Juvenile Court had subject-matter jurisdiction over father's petition under Children's Code for protection from abuse on behalf of children, although father had previously, under Domestic Abuse Assistance statutes, petitioned in District Court for protection from abuse based on same alleged facts, where District Court petition had not reached decision on merits and was no longer pending when father filed Juvenile Court petition.

McFall v. McFall, 44 So.3d 329 (La. App. 5 Cir. 2010). On subsequent appeal 50 So.3d 904 (La. App. 5 Cir. 2010). Trial court lacked authority to issue protective order in wife's favor upon consideration of wife's answer and reconventional demand in response to husband's petition for divorce and request for custody, where wife's prior petition for protection from abuse filed in separate case had been dismissed, and no other petition had been filed.

Anders v. Anders, 618 So.2d 452 (La. App. 4 Cir. 1993). Wife filed a Petition for Divorce Pursuant to Louisiana Civil Code of Article 102 in the same pleading in which she filed a petition pursuant to the Domestic Abuse Assistance Act under Title 46. After a hearing on the merits regarding relief under the Domestic Abuse Assistance Act, Judge Ronald J. Sholes of the Civil District Court for the Parish of Orleans, dismissed the allegations of domestic abuse but awarded the wife child support, alimony *pendente lit*e, etc. The Fourth Circuit Court of Appeal, in an opinion authored by Judge Armstrong, held that while the action requesting domestic abuse assistance was dismissed, the trial court was within its authority to consider issues regarding matters ancillary to the divorce action which had been filed in the same proceeding.

R.S. 46:2134. Petition

A. A petition filed under the provisions of this Part shall contain the following:

(1) The name of each petitioner and each person on whose behalf the petition is filed, and the name, address, and parish of residence of each individual alleged to have committed abuse, if

known; if the petition is being filed on behalf of a child or person alleged to be incompetent, the relationship between that person and the petitioner.

(2) The facts and circumstances concerning the alleged abuse.

(3) The relationship between each petitioner and each individual alleged to have committed abuse.

(4) A request for one or more protective orders.

(5) If desired, a request for a competent interpreter for a non-English-speaking principal party or witness to the proceeding.

B. The address and parish of each petitioner and each person on whose behalf the petition is filed may remain confidential with the court.

C. If the petition requests a protective order for a spouse and alleges that the other spouse has committed abuse, the petition shall state whether a suit for divorce is pending.

D. If the petition requests the issuance of an ex parte temporary restraining order, the petition shall contain a written affirmation signed and dated by each petitioner that the facts and circumstances contained in the petition are true and correct to the best knowledge, information, and belief of the petitioner, under penalty of perjury pursuant to R.S. 14:123. The affirmation shall be made before a witness who shall sign and print his name.

E. If a suit for divorce is pending, any application for a protective order shall be filed in that proceeding and shall be heard within the delays provided in this Part. Any decree issued in a divorce proceeding filed subsequent to a petition filed or an order issued pursuant to this Part may, in the discretion of the court hearing the divorce proceeding, supersede in whole or in part the orders issued pursuant to this Part. Such subsequent decree shall be forwarded by the rendering court to the court having jurisdiction of the petition for a protective order and shall be made a part of the record thereof. The findings and rulings made in connection with such protective orders shall not be res judicata in any subsequent proceeding.

F. A petitioner shall not be required to prepay or be cast with court costs or costs of service or subpoena for the filing of the petition or the issuance of a temporary restraining order or protective order pursuant to this Part, and the clerk of court shall immediately file and process the petition and temporary restraining order issued pursuant to this Part, regardless of the ability of the petitioner to pay court costs.

G. If the court orders the issuance of a temporary restraining order, the defendant may be cast for all costs.

Camarigg v. Heffner, 368 So.3d 726 (La .App. 5 Cir. 2023). Domestic Commissioner's ruling at hearing on wife's earlier petition for protective order under the Domestic Abuse Assistance Act (DAAA), that Domestic Commissioner would not find history of family violence, did not prohibit wife, under res judicata doctrine, from litigating history of family violence in current custody proceeding; DAAA specifically prohibited any findings and rulings made in connection with a protective order from being res judicata in any subsequent proceedings.

McCauley v. McCauley, 305 So.3d 981 (La. App. 3 Cir. 2020). There was no abuse of discretion in allowing testimony about alleged incident of domestic abuse by husband against wife that was not specifically asserted in wife's petition for protection from abuse against husband, at trial on such petition; petition contained enough details to put husband on notice that the incident was at issue, as incident allegedly occurred at same marital home as three other incidents alleged in petition.

Lepine v. Lepine, 223 So.3d 666 (La. App. 5 Cir. 2017). Order awarding wife $4,000 in attorney fees related to her petition for protection from abuse was not an abuse of discretion; all attorney fees and court costs incurred in maintaining and defending a proceeding concerning domestic abuse assistance were to be paid by the perpetrator, which was husband.

Koerner v. Monju, 210 So.3d 935 (La. App. 5 Cir. 2017). Costs could not be assessed against petitioner related to petition for protection from abuse filed against former dating partner; costs could not be assessed against a petitioner in domestic abuse proceedings unless the petition was frivolous, and trial court made no determination that petition was frivolous and gave no explanation as to why it was assessing costs against her.

Vallius v. Vallius, 53 So.3d 655 (La. App. 4 Cir. 2010). Step-daughter filed a petition for protection

from abuse against her step-mother. Judge Christopher Bruno, for the Orleans Parish Civil District Court, dismissed the petition prior to the hearing on the merits of the petition. The Fourth Circuit Court of Appeal, in an opinion authored by Judge Terri F. Love, reversed and remanded the case finding that the trial court abused its discretion in dismissing the action without hearing any evidence or sworn testimony in support or opposition.

Jimenez v. Jimenez, 922 So.2d 672 (La. App. 5 Cir. 2006). Wife filed an action for protection from domestic abuse pursuant to R.S. 46:2131 et seq.; the court issued a temporary restraining order against husband, but husband was never served; the court issued a temporary restraining order 14 times. Judge Greg G. Guidry of the 24th Judicial District Court, Parish of Jefferson, signed a Judgment of Dismissal and assessed costs to the petitioner. The Fifth Circuit Court of Appeal, in an opinion authored by Judge Thomas F. Daley, held that both R.S. 46:2134(F) and Code of Civil Procedure Article 3603.1(C)(1) use the word "shall" as in "shall not be required to . . . court costs", there is simply no provision in the law that allows court costs to be assessed against a domestic abuse petitioner, for any reason.

McInnis v. McInnis, 880 So.2d 240 (La .App. 2 Cir. 2004). Defense of reconciliation provided by statute, stating that cause of action for divorce is extinguished by the reconciliation of the parties, did not apply since wife's request for spousal support and consent agreement for payment of support were not part of a proceeding for divorce, and thus, evidence relevant to the defense of reconciliation was properly excluded in proceeding brought by wife under provisions of the Protection From Family Violence Act and prior to either party filing for divorce.

R.S. 46:2135. Temporary restraining order

A. Upon good cause shown in an ex parte proceeding, the court may enter a temporary restraining order, without bond, as it deems necessary to protect from abuse the petitioner, any minor children, or any person alleged to be an incompetent. Any person who shows immediate and present danger of abuse shall constitute good cause for purposes of this Subsection. The court shall consider any and all past history of abuse, or threats thereof, in determining the existence of an immediate and present danger of abuse. There is no requirement that the abuse itself be recent, immediate, or present. The order may include but is not limited to the following:

(1) Directing the defendant to refrain from abusing, harassing, or interfering with the person or employment or going near the residence or place of employment of the petitioner, the minor children, or any person alleged to be incompetent, on whose behalf a petition was filed under this Part.

(2) Awarding to a party use and possession of specified jointly owned or leased property, such as an automobile.

(3) Granting possession to the petitioner of the residence or household to the exclusion of the defendant, by evicting the defendant or restoring possession to the petitioner where:

(a) The residence is jointly owned in equal proportion or leased by the defendant and the petitioner or the person on whose behalf the petition is brought;

(b) The residence is solely owned by the petitioner or the person on whose behalf the petition is brought; or

(c) The residence is solely leased by defendant and defendant has a duty to support the petitioner or the person on whose behalf the petition is brought.

(4) Prohibiting either party from the transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business, or for the necessary support of the party or the minor children.

(5) Awarding temporary custody of minor children or persons alleged to be incompetent.

(6) Awarding or restoring possession to the petitioner of all separate property and all personal property, including but not limited to telephones or other communication equipment, computers, medications, clothing, toiletries, social security cards, birth certificates or other forms of identification, tools of the trade, checkbooks, keys, automobiles, photographs, jewelry, or any other items or personal effects of the petitioner and restraining the defendant from transferring, encumbering, concealing, or disposing of the personal or separate property of the petitioner.

(7) Granting to the petitioner the exclusive care, possession, or control of any pets belonging to or under the care of the petitioner or minor children residing in the residence or household of either party, and directing the defendant to refrain from harassing, interfering with, abusing or injuring any pet, without legal justification, known to be owned, possessed, leased, kept, or held by either party or a minor child residing in the residence or household of either party.

B. If a temporary restraining order is granted without notice, the matter shall be set within twenty-one days for a rule to show cause why the protective order should not be issued, at which time the petitioner must prove the allegations of abuse by a preponderance of the evidence. The defendant shall be given notice of the temporary restraining order and the hearing on the rule to show cause by service of process as required by law within twenty-four hours of the issuance of the order.

C. During the existence of the temporary restraining order, a party shall have the right to return to the family residence once to recover his or her personal clothing and necessities, provided that the party is accompanied by a law enforcement officer to ensure the protection and safety of the parties.

D. If no temporary restraining order has been granted, the court shall issue a rule to show cause why the protective order should not be issued, and set the rule for hearing on the earliest day that the business of the court will permit, but in any case within ten days from the date of service of the petition, at which time the petitioner must prove the allegations of abuse by a preponderance of the evidence. The defendant shall be given notice by service of process as required by law.

E. If the hearing pursuant to Subsection B or D of this Section is continued, the court shall make or extend such temporary restraining orders as it deems necessary. Any continuance of a hearing ordered pursuant to Subsection B or D of this Section shall not exceed fifteen days, unless good cause is shown for further continuance.

F. The court may, in its discretion, grant an emergency temporary restraining order outside regular court hours.

G. Immediately upon entering a temporary restraining order, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall immediately forward it to the clerk of court for filing on the day that the order is issued.

H. The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside by facsimile transmission or direct electronic input 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. A copy of the Uniform Abuse Prevention Order shall be reviewed by the law enforcement agency and shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.

I. The initial rule to show cause hearing required pursuant to Subsection B or D may be conducted by a hearing officer who is qualified and selected in the same manner provided in R.S. 46:236.5(C). The hearing officer shall be subject to the applicable limitations and shall follow the applicable procedures provided in R.S. 46:236.5(C). The hearing officer shall make recommendations to the court as to the action that should be taken in the matter.

J. Upon filing a petition for a temporary restraining order, regardless of whether the court grants the temporary restraining order, the clerk of court shall notify the petitioner of his right to initiate criminal proceedings and shall inform the petitioner that the granting of a temporary restraining order pursuant to the provisions of this Section does not automatically file criminal charges against the defendant.

> Rung v. Bessard, 381 So.3d 1000 (La. App. 3 Cir. 3/13/24). Trial court's failure to have hearing officer record proceedings on wife's petition for an order of protection from abuse against husband did not deprive husband of due process, despite his claim that a transcript was necessary to corroborate his assertions of not being allowed to testify in full or call witnesses, not being told that

any objection to the hearing officer's recommendation needed to be made that day, and not being explained the proceedings or the potential effect on his child custody or visitation; husband's presence at contradictory hearing, as noted in the hearing officer's recommendation, showed that he received proper notice, and husband's signature at various places further confirmed his presence at the contradictory hearing.

Milam v. Hughes, 360 So.3d 852 (La. App. 1 Cir. 2022). Allegations in minor child's father's petition against child's mother seeking permanent order for protection from abuse and detailing nine types of abuse that father alleged mother had inflicted on him, and including a recent social-media post by mother and a request that a prior protection order against mother that was set to expire, and that had, among other things, required her to stay away from minor child's daycare, continue in effect, established good cause by showing an immediate and present danger of abuse against father and thus were sufficient to state a cause of action for a protective order under Domestic Abuse Assistance statutes; petition was not based solely on the social-media post, and there was no requirement that the alleged abuse itself be recent, immediate, or present.

Carrie v. Jones, 334 So.3d 834 (La. App. 4 Cir. 2022). Court shall consider any and all past history of abuse, or threats thereof, in determining the existence of an immediate and present danger of abuse for purposes of issuing a protection order. There is no requirement that the abuse itself be recent, immediate, or present for purposes of issuing a protection order. See also Bettevy v. Bettevy, 283 So.3d 1047, (La. App. 3 Cir. 2019).

Cormier v. Cormier, 330 So.3d 681 (La. App. 3 Cir. 2021). Ex-wife was not required to advise ex-husband of her move out of state with couple's child, nor was she required to seek judicial approval prior to her relocation, where a valid order of protection against domestic abuse had been entered against ex-husband, and that order was still in effect at the time of ex-wife's relocation without notice to the court or to ex-husband, who subsequently filed motion to modify child custody, for contempt, and for civil warrant.

Aguillard v. Aguillard, 304 So.3d 473 (La. App. 3 Cir. 2020). The trial court has vast discretion to consider all history of abuse or threats, past and present, in determining whether to issue an order of protection based on domestic abuse.

Breaux v. Tipton, 259 So.3d 429 (La. App. 4 Cir.2018), writ denied 262 So.3d 898 (La. 1/18/19). The record supported the trial court's determination that stepfather's conduct toward stepson constituted immediate and present danger of abuse warranting temporary restraining order under Domestic Abuse Assistance Act, where record indicated that step-father threatened step-son with a weapons, whipped step-son on several occasions, and attempted to remove step-son from school, which resulted in police report.

Okechukwu v. Okechukwu, 139 So.3d 1135 (La. App. 3 Cir. 2014). La. R.S. 46:2135 requires that the **danger of abuse** be immediate and present, however, there is no statutory requirement that the **abuse itself** be recent, immediate, or present. Likewise, the court did not find any statutory or jurisprudential authority setting forth how recent the abuse must have occurred in order for a party to obtain the protection afforded by La. R.S. 46:2135.

Shirley v. Shirley, 107 So.3d 99 (La. App. 2 Cir. 2012). The trial court's issuance of a temporary restraining order (TRO) protecting former wife against former husband was justified because of former husband's apparent violations of cyberstalking and telephone harassment statutes; former husband made telephonic threats that he would burn down former wife's home with their children inside the home, and that he would have wife killed.

Cazes v. Pertuit, et al., 864 So.2d 705 (La. App. 5 Cir. 2003). Mr. Cazes filed a petition for divorce and was granted a temporary restraining order against his wife ordering her to vacate the marital home, which she and the children did after being given several minutes to collect her belongings upon service of process of the petition for divorce and temporary restraining order. Over the next several weeks, Ms. Cazes made several attempts to return to the home to collect clothing and necessities for herself and the minor children with the assistance of police but was unsuccessful. Finally, the St. James Sheriff's Office advised Ms. Cazes that no officers were available, but two officers with the Gramercy City Police Department agreed to escort Ms. Cazes to the home in Lutcher. Officer Pertuit instructed Mr. Cazes to remain on the sofa while Ms. Cazes collected clothing and personal necessities for herself and the minor children; Officer Detillier remained outside; Ms. Cazes took approximately ten minutes and the officers, and she then left the residence. Mr. Cazes filed a petition for damages under 41 U.S.C. § 1983 and the Louisiana Civil Code Article 2316 against Ms. Cazes and both police officers alleging that they had deprived him of his constitutional right to be free of unreasonable search and seizure under the fourth amendment of the U.S. Constitution. Judge Ralph Tureau of the Twenty-Third Judicial District Court for the Parish of St. James signed a judgment dismissing Ms. Cazes from the instant suit finding that 42 U.S.C. § 1983 was not intended to protect against private trespass; thereafter, the officers' motion for summary judgment of the issue of their liability was granted. Mr. Cazes appealed. The Fifth Circuit Court of Appeal, in an opinion authored by Judge Marion S. Edwards, held that the officers did not conduct any search or seizure of the husband or his residence and affirmed the ruling of the trial court. The Fifth Circuit noted that "The Fourth Amendment to the U.S. Constitution requires that searches and seizures must be reasonable. The purpose of this protection against unreasonable

searches and seizures is to safeguard the privacy and security of individual citizens against arbitrary invasions by government authorities . . ." In this case, Officers Pertuit and Detillier assisted Ms. Cazes in retrieving clothing and personal effects from the marital home pursuant to R.S. 46:2135(C). The court further found that even taking the facts alleged by Mr. Cazes as true, "the Court finds the defendant officers in this matter did not conduct any search or seizure of Mr. Cazes or his residence. Neither Officers Pertuit or Detillier were conducting any sort of police investigation of Mr. Cazes with regard to the commission of any criminal offense nor were they attempting to seize evidence for any sort of criminal prosecution. Rather, it is apparent that the defendants were simply providing Cherie Cazes and her daughter with assistance in the recovery of personal items (clothing and necessities) with police supervision, as required by Louisiana Law."

Keneker v. Keneker, 579 So.2d 1083 (La. App. 5 Cir. 1991). Father filed a motion to dismiss mother's petition for a protective order alleging that mother's temporary restraining order had expired after numerous continuances and delays, some of which father requested and others in which father concurred. Judge Charles V. Cusimano of the Twenty-Fourth Judicial District Court for the Parish of Jefferson denied the motion to dismiss. The Fifth Circuit Court of Appeal, in an opinion authored by Judge Elora C. Fink, Pro Tempore, found that the legislature did not contemplate indefinite continuances or extensions of temporary restraining orders; where such order is extended, the extension must be done prior to the expiration of the order, with the longest duration for temporary restraining orders being thirty days (pursuant to Louisiana Code of Civil Procedure Article 3604). The court further held that although the temporary restraining order had expired by operation of law, the proceeding for the final protective order was still viable and need not be dismissed.

Louisiana Attorney General Opinion No. 83-977 to Sheriff Paul R. Valteau, Jr. (1983). The Attorney General expressed the opinion that an ex parte order of eviction issued pursuant to R.S. 46:2135(A)(3) is not a deprivation of property without due process of law. In addition, the Attorney General was of the opinion that the Sheriff may act on the temporary restraining order alone to effect the eviction; no writ of ejectment is necessary because the temporary restraining order is itself a valid order of a competent court ordering an eviction. Nothing further is required.

R.S. 46:2136. Protective orders; content; modification; service

A. The court may grant any protective order or approve any consent agreement to bring about a cessation of domestic abuse as defined in R.S. 46:2132(3), or the threat or danger thereof, to a party, any minor children, or any person alleged to be incompetent, which relief may include but is not limited to:

(1) Granting the relief enumerated in R.S. 46:2135.

(2) Where there is a duty to support a party, any minor children, or any person alleged to be incompetent living in the residence or household, ordering payment of temporary support or provision of suitable housing for them, or granting possession to the petitioner of the residence or household to the exclusion of the defendant, by evicting the defendant or restoring possession to the petitioner where the residence is solely owned by the defendant and the petitioner has been awarded the temporary custody of the minor children born of the parties.

(3) Awarding temporary custody of or establishing temporary visitation rights and conditions with regard to any minor children or person alleged to be incompetent.

(4)(a) Ordering either a medical or mental health evaluation or both of the perpetrator to be conducted by an independent court-appointed evaluator who qualifies as an expert in the field of domestic abuse. The evaluation shall be conducted by a person who has no family, financial, or prior medical or mental health relationship with the perpetrator or his attorney of record.

(b) After a medical or mental health evaluation has been completed and a report issued, the court may order counseling or other medical or mental health treatment as deemed appropriate.

B. A protective order may be rendered pursuant to this Part if the court has jurisdiction over the parties and subject matter and either of the following occurs:

(1) The parties enter into a consent agreement.

(2) Reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process.

C. Any protective order issued within this state or outside this state that is consistent with Subsection B of this Section shall be accorded full faith and credit by the courts of this state and enforced as if it were the order of the enforcing court.

D. (1) On the motion of any party, the court, after notice to the other parties and a hearing, may modify a prior order to exclude any item included in the prior order, or to include any item that could have been included in the prior order.

(2) On the motion of any party, after a hearing, the court may modify the effective period of a protective order pursuant to Paragraph (F)(2) of this Section.

E. A protective order made under this Part shall be served on the person to whom the order applies in open court at the close of the hearing, or in the same manner as a writ of injunction.

F. (1) Except as provided in Paragraph (2) of this Subsection, any final protective order or approved consent agreement shall be for a fixed period of time, not to exceed eighteen months, and may be extended by the court, after a contradictory hearing, in its discretion. Such protective order or extension thereof shall be subject to a devolutive appeal only.

(2)(a) For any protective order granted by the court which directs the defendant to refrain from abusing, harassing, or interfering with the person as provided in R.S. 46:2135(A)(1), the court may grant the order to be effective for an indefinite period of time as provided by the provisions of this Paragraph on its own motion or by motion of the petitioner. The indefinite period shall be limited to the portion of the protective order which directs the defendant to refrain from abusing, harassing, or interfering with the person as provided in R.S. 46:2135(A)(1).

(b) The hearing for this motion shall be conducted concurrently with the hearing for the rule to show cause why the protective order should not be issued.

(c) Any motion to modify the indefinite effective period of the protective order as provided in Subparagraph (a) of this Paragraph 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.

G. Immediately upon granting a protective order or approving any consent agreement, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall immediately forward it to the clerk of court for filing on the day that the order is issued.

H. The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by transmission or direct electronic input as expeditiously as possible, but no later than the end of the next calendar day after the order is filed with the clerk of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside by transmission or direct electronic input as expeditiously as possible, but no later than the end of the next calendar day after the order is filed with the clerk of court. A copy of the Uniform Abuse Prevention Order shall be reviewed by the law enforcement agency and shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.

I. At the proceeding, regardless of whether the court grants the protective order, the court shall notify the petitioner of his right to initiate criminal proceedings and shall inform the petitioner that the granting of a protective order pursuant to the provisions of this Section does not automatically file criminal charges against the defendant.

Bays v. Bays, 779 So.2d 754 (La. 2001). Former husband filed a petition for a protective order against his former wife. The trial court (St. Tammany Parish) issued protective orders against both the former husband and the former wife after trial on the merits, even though the former wife had not filed her own petition for a protective order. The husband appealed; the First Circuit Court of Appeal affirmed. The former husband sought certiorari relief. The Supreme Court, in an opinion authored by Justice Pro Tempore James C. Gulotta, held that the husband did not have reasonable notice and a meaningful opportunity to be heard, precluding the issuance of a protective order against him.

Porter v. Porter, 2024 WL 2307620 (La. App. 2 Cir. 5/22/24). Hearing officer's failure to provide husband with notice of his rights to a full hearing and the procedure by which to object amounted to denial of due process, in proceeding on wife's petition for order of protection under the Domestic Abuse Assistance Act; there was no evidence that the completed form containing the hearing officer's findings of fact and recommendation was provided to the parties at the conclusion of the hearing, hearing officer did not provide a written statement and left that section of the form completely blank, and husband was not properly served with the protective order granted against him.

Bagwell v. Bagwell, 383 So.3d 1159 (La. App. 2 Cir. 2024). Former wife failed to prove that protective order against former husband based on allegations of physical and sexual abuse of parties' children was warranted; former wife filed initial petition in another parish in bad faith, rather than filing in parish that was familiar with her case, medical records attached to initial petition were incomplete and missing pages that provided more information about daughter's diagnosis with bladder infection and son's bruise on his abdomen, complete records included that former wife refused to accept daughter's diagnosis, and former wife testified that children were examined by medical staff at hospital, interviewed by Department of Children and Family Services (DCFS) and police, and that no charges were being brought against former husband.

Alexander v. Victor, 374 So.3d 1016 (La .App. 5 Cir. 2023). In order to reverse protective order issued under Domestic Abuse Assistance statute, appellate court must review record in its entirety and conclude that reasonable factual basis does not exist for finding and fact finder is clearly wrong or manifestly erroneous.

Milam v. Hughes, 360 So.3d 852 (La. App. 1 Cir. 12/29/22). Allegations in minor child's father's petition against child's mother seeking permanent order for protection from abuse and detailing nine types of abuse that father alleged mother had inflicted on him, and including a recent social-media post by mother and a request that a prior protection order against mother that was set to expire, and that had, among other things, required her to stay away from minor child's daycare, continue in effect, established good cause by showing an immediate and present danger of abuse against father and thus were sufficient to state a cause of action for a protective order under Domestic Abuse Assistance statutes; petition was not based solely on the social-media post, and there was no requirement that the alleged abuse itself be recent, immediate, or present.

Durand v. Rose, 366 So.3d 484 (La. App. 4 Cir. 2022), writ denied 353 So.3d 127 (La. 1/18/23). Award to father, whom trial court determined had history of perpetuating domestic violence, of unsupervised visitation with children was not warranted; there was no record evidence that father had successfully completed court-monitored domestic abuse intervention program since last incident of violence or abuse.

Rozelle v. Rozelle, 345 So.3d 501 (La. App. 2 Cir. 8/10/22). Trial court acted within its discretion in finding that wife met her burden under the Protection from Family Violence Act (PFVA) of proving that her husband had committed assault upon her by threatening to kill her, sending her threatening text messages, and repeatedly showing up to her house and attempting to gain entry even after police told him not to, thus supporting issuance of a protective order under the PFVA, despite husband's argument that the trial court granted wife's request for the protective order based on wife's testimony alone, where husband was questioned by the trial court and confirmed the facts to which wife testified, and wife previously received a protective order against husband when he threatened violence against her.

Compton v. Chatman, 341 So.3d 581(La. App. 1 Cir. 2022), writ denied 337 So.3d 154 (La. 5/3/22).Trial court's failure at show cause hearing to address non-expiring provisions of domestic abuse protective order against boyfriend did not render the protective order a nullity for vices of form or substance; boyfriend did not show any vices of form, and even if the failure to inform boyfriend of the non-expiring provisions was an ill practice, he admitted that he discovered the non-expiring provisions when he was arrested for violating the protective order, but he did not file a motion to modify or dissolve the order until almost two years after the discovery, and further, he was able to present his case for modification or dissolution at a subsequent hearing.

State v. Cepriano, 339 So.3d 32 (La. App. 5 Cir. 2022). Protective order, which prohibited defendant from going to places of employment of woman with whom he had previously had a relationship, specifically community school and school board building, and from interfering in any manner with such employment, did not violate defendant's First Amendment rights to assemble in a public place and express non-threatening opinions, where there were alternate ways for defendant to set forth any valid claims other than going to the building itself, and defendant did not establish that the order was unduly restrictive or that he had a purpose for going to the building other than to harass woman or interfere with her employment.

Spillers v. Senn, 339 So.3d 778 (La. App. 2 Cir. 2022). A party seeking a protective order under the Protection from Family Violence Act (PFVA) must establish the necessary facts by a preponderance of the evidence.

Carrie v. Jones, 334 So.3d 834 (La. App. 4 Cir. 2022). Petitioner, for issuance of a protection order, must show that allegations of abuse are true by a preponderance of the evidence. Proof of abuse is sufficient to constitute a preponderance of the evidence for the issuance of a protection order when the entirety of the evidence, both direct and circumstantial, shows that the fact sought to be proved is more probable than not. Issuance of a protection order requires that there be good cause shown by the petitioner. Photocopies of text messages between former girlfriend and former boyfriend that purported to show threats and abuse endured by girlfriend from boyfriend were not inadmissible hearsay in girlfriend's petition for protection from abuse against boyfriend; statements contained in the text messages were made by both girlfriend and boyfriend. Photocopies of text messages between former girlfriend and former boyfriend that purported to show threats and abuse endured by girlfriend from boyfriend were properly authenticated, and thus, were admissible in girlfriend's petition for protection from abuse against boyfriend; girlfriend testified that all the text messages were stored on her cell phone, boyfriend testified to his phone number which was clearly depicted as the sender and recipient of the text messages, boyfriend admitted to sending girlfriend the text message, and boyfriend testified that the text messages showed the lack of communication he had with girlfriend thus further corroborating that he had sufficient personal knowledge of the text messages and that he was the sender and recipient of the text messages.

Jennings v. Jennings, 332 So.3d 179 (La. App. 4 Cir. 2021). Testimony is not necessary for a contradictory hearing to have taken place in a proceeding for a protective order.

Cormier v. Cormier, 330 So.3d 681 (La. App. 3 Cir. 2021). Ex-wife was not required to advise ex-husband of her move out of state with couple's child, nor was she required to seek judicial approval prior to her relocation, where a valid order of protection against domestic abuse had been entered against ex-husband, and that order was still in effect at the time of ex-wife's relocation without notice to the court or to ex-husband, who subsequently filed motion to modify child custody, for contempt, and for civil warrant.

Landry v. Landry, 323 So.3d 456 (La. App. 2 Cir. 2021). The failure of a hearing officer report to include any one of the items described in the statute governing the written recommendations of a hearing officer in certain domestic matters, including protective orders based on domestic abuse or dating violence, is fatal to the proceedings and requires a remand. Lack of written recommendations of hearing officer in record required reversal of judgment and remand in proceeding on husband's petition for protection, although extract of minutes stated that hearing officer hearing was held and protective order recited that judgment was recommended by the hearing officer; as a result, reviewing court could not tell whether wife, against whom protective order was issued, received reasonable notice and opportunity to be heard, as was guaranteed by statute.

McCauley v. McCauley, 305 So.3d 981 (La. App. 3 Cir. 2020). Trial court did not abuse its discretion by granting wife exclusive possession of husband's separately owned residence for an 18-month period, pursuant to protective order against husband, even though husband and wife had no children together; court had statutory authority to tailor relief to the circumstances of the case, and decision to award occupancy of residence to wife was a protective order resulting in the cessation of abuse by husband.

State v. Fink, 296 So.3d 1270 (La. App. 5 Cir. 2020). Trial court did not abuse its discretion or exceed its authority in imposing a non-expiring protective order following defendant's convictions for domestic abuse battery of his former live-in girlfriend and violation of a protective order that had been issued in favor of the former girlfriend, although defendant argued that non-expiring protective order did not fit the crimes, and State had originally requested a two-year protective order.

S.M. v. T.M., 289 So.3d 141 (La. App. 5 Cir. 2019). Evidence sufficiently supported trial court's grant of protective order in favor of 16-year-old child, and against her father; testimony indicated that child was arguing with father, he became agitated, and started yelling at her, that they got into the fight because he was homophobic, transphobic, and did not like that she was the way she was, that father started saying awful things about her gender preferences, that father became very mad as child tried to exit room and grabbed her and she ended up on the ground, that he would not let her go until her mother intervened, that she ran away from home previously after father cornered her in their home, and that after the altercation child was taken to the hospital in an ambulance and sustained scratches and bruising on her neck, back, and ribs.

Cummings v. Bishop, 283 So.3d 507 (La. App. 3 Cir. 2019). Trial court acted within its discretion in determining that ex-husband and husband were in immediate and present danger of domestic abuse to support court's grant of protective orders in favor of ex-husband and husband against wife; wife and wife's mother admitted that a discussion occurred between wife and a man she met at a casino about alleged abuse committed by ex-husband and husband against children, wife prodded husband to kill a third-party, she prodded husband to kill ex-husband, and she prodded boyfriend and man at casino to kill ex-husband and husband, and her discussions with boyfriend and man at the casino took place one month before ex-husband and husband filed their petitions for protective order.

Bettevy v. Bettevy, 283 So.3d 1047 (La. App. 3 Cir. 2019). Statute governing protective orders permits a court to grant a protective order to prevent the possibility of family violence, provided a petition is filed requesting the order and the defendant is afforded reasonable notice consistent with due process.

See also Larremore v. Larremore, 280 So.3d (La. App. 2 Cir. 2019).

Pellerano v. Pellerano, 275 So.3d 947 (La. App. 1 Cir. 2019). Evidence supported trial court's finding that ex-husband was imprisoning ex-wife and prevented her and children from leaving parking lot during an exchange, for purposes of ex-wife's request for protection from abuse order; during and after marriage ex-husband physically and verbally abused ex-wife, parties agreed to meet at a salon to exchange children, video recording showed that after a verbal disagreement ex-husband and his mother stood behind ex-wife's vehicle in a public parking lot blocking her from leaving in her vehicle, ex-wife was trapped there for approximately 45 minutes, and any maneuver by ex-wife to move her vehicle would have been not only dangerous but illegal.

See also S.L.B. v. C.E.B., 252 So.3d 950 (La. App. 4 Cir. 2018), writ denied 256 So.3d 992 (La. 11/20/18).

Munger v. Sirenko, 224 So.3d 445 (La. App. 4 Cir. 2017). Order granting wife a protective order against husband was not manifestly erroneous; wife described several instances of abuse, the judge explained why she believed wife's testimony and commented that the events related by wife were indicative of a classic pattern of abuse, and the judge examined the pictures submitted into evidence and determined that the bruises to wife's arms, legs and neck were consistent with her testimony. The trial court's denial of husband's request for a protection from abuse order against wife was not an abuse of discretion; the record supported a finding that husband was the aggressor in incident with wife.

Lepine v. Lepine, 223 So.3d 666 (La. App. 5 Cir. 2017). Evidence was sufficient to establish husband committed domestic abuse by stalking, in wife's action seeking a protection from abuse order; husband made excessive telephone calls to wife, sometimes exceeding 25 in one day, he sent wife extensive text messages, sometimes exceeding 100 in one day, and husband's language during recorded conversations between husband and wife was vile, abusive, and threatening. The trial court had the authority to refuse to allow husband to list the family home for sale as part of a partition of community property; the trial court found husband had committed domestic abuse against wife, and under the Domestic Abuse Assistance Law, the trial court was authorized to protect the petitioning party against further abuse by granting the petitioner possession of the residence to the exclusion of the defendant even where the residence was jointly owned by the petitioner and the defendant.

See also Rodriguez v. Claassen, 207 So.3d 490 (La. App. 4 Cir. 2016).

See also Shaw v. Young, 199 So.3d 1180 (La. App. 4 Cir. 2016).

See also Okechukwu v. Okechukwu, 139 So.3d 1135(La. App. 3 Cir. 2014), writ denied (La. 2014).

See also Shipp v. Callahan, 113 So.3d 454 (La. App. 2 Cir. 2013).

See also Fontenot v. Newcomer, 63 So.3d 1149 (La. App. 3 Cir. 2011).

See also McCann v. McCann, 33 So.3d 389 (La. App. 3 Cir. 2010).

Clayton v. Abbitt, 16 So.3d 512 (La. App. 2 Cir. 2009). After the expiration of a protective order for herself and her minor children against the children's paternal grandfather, mother filed a petition for another such protective order. Judge Michael A. Pitman of the First Judicial District Court for the Parish of Caddo granted the petition and grandfather appealed. The Second Circuit Court of Appeal, in an opinion authored by Judge Lolley, reversed the trial court, finding that insufficient evidence supported trial court's issuance of the second protective order. The Second Circuit found that even though the mother was not informed of the psychologist's interview with the children, the psychologist's report indicated that the children wanted to see their grandfather and that there were no signs that the grandfather was ever inappropriate with them, and, in issuing the protective order, the trial court had relied on a statement made by the grandfather after the trial was over without giving him an opportunity to explain his statement. Here, there were neither new allegations nor new evidence that the children's grandfather had acted inappropriately with his grandchildren. In fact, there was evidence to the contrary as indicated by the report from the psychologist Dr. Susan Vigen. The Second Circuit further indicated that "In light of our findings, we pretermit a discussion of whether Charles (minor children's grandfather) is a member of the class of people whom a protective order may be issued against. "

Lee v. Smith, 4 So.3d 100 (La. App. 5 Cir. 2008). Former girlfriend filed a petition for protection from abuse against her former boyfriend. The Twenty–Fourth Judicial District Court for the Parish of Jefferson, Judge Jo Ellen V. Grant, dismissed the petition and issued mutual restraining orders against both parties. Girlfriend appealed. The Fifth Circuit Court of Appeal, in an opinion authored by Judge Walter J. Rothschild, found that the trial judge did not have the authority to issue a restraining order against the former girlfriend, because no pleadings were filed against her and she

was not afforded reasonable notice that a restraining order could be issued against her. Accordingly, the Fifth Circuit reversed and set aside that part of the trial court's judgment issuing a restraining order against the former girlfriend. NOTE: In her second assignment of error, the former girlfriend contends that the trial court exceeded its authority when it issued a restraining order against her *after* it dismissed the only petition pending in this case. Considering the ruling on the first assignment of error setting aside the restraining order against the former girlfriend, the Fifth Circuit found this assignment of error unnecessary to address.

Young v. Young, 999 So.2d 351 (La. App. 3 Cir. 2008). After divorce judgment and order of joint custody as to couple's child, wife obtained a protective order against husband. Thereafter, husband obtained his own protective order, then moved to modify the order, seeking an ex parte order awarding him sole custody of the parties' child and terminating his child support, as well as a hearing thereafter to make such order permanent. The Ninth Judicial District Court for the Parish of Rapides, Judge Donald T. Johnson presiding, denied the motion. Husband's motion for reconsideration was also denied; husband appealed. The Third Circuit Court of Appeal, in an opinion authored by Judge Jimmie C. Peters, affirmed the trial court's ruling finding that the domestic abuse protective order that husband had obtained against his former wife to protect him from her physical abuse of him could not be modified to permit husband to obtain sole custody of the couple's child.

See also Cory v. Cory, 989 So.2d 855 (La. App. 2 Cir. 2008).

Francois v. Francois, 941 So.2d 722 (La. App. 3 Cir. 2006). Wife filed a Motion to Modify her protective order, seeking to extend the order of protection against her husband. Judge Edward M. Leonard of the Sixteenth Judicial District Court for the Parish of St. Martin extended the terms of the protective order including the provision prohibiting the husband from going within a hundred yards of the wife's home. The Third Circuit Court of Appeal, in an opinion authored by Judge Genovese, held that the trial court did not abuse its discretion in extending the protective order. The court further found that the trial court has wide discretion in the issuance of protective orders; R.S. 46:2135 does not contain a restriction on distance, therefore the trial court has vast discretion in setting the distance requirement in such proceedings. Further, the wife's right to be protected outweighed the husband's perceived constitutional right to attend the church of his choice; husband's church was in very close proximity to wife's home.

Beard v. Beard, 917 So.2d 1160 (La. App. 5 Cir. 2005). Wife filed a petition for a protective order which was granted by Judge Emile R. St. Pierre of the Twenty-Ninth Judicial District Court for the Parish of St. Charles. In addition, as a part of the protective order, the court granted wife exclusive use of husband's separate property home even though it was not incident to an award of child custody. Husband appealed. The Fifth Circuit Court of Appeal, in an opinion authored by Judge Marion F. Edwards, held that the court could grant the wife exclusive use of the marital residence, which was the husband's separate property, by way of a protective order even though such award was not incident to an award of child custody as required by the protective order statute. The Fifth Circuit found that R.S. 46:2136 provides in pertinent part in Section A: "The court may grant any protective order or approve any consent agreement to bring about a cessation of abuse of a party, any minor children, or any person alleged to be incompetent, which relief may include, but is not limited to: . . ." The Fifth Circuit found "The wording of LSA - R.S. 46:2136 makes it clear that the court is not limited to the enumerated relief. The Legislature apparently fashioned the statute thus in order to permit the court to tailor relief to the circumstances of the case. Under the facts presented here, we find the decision by the trial court to award occupancy of the family home to Ms. Beard is a protective order which results in the cessation of systematic psychological abuse by her husband." See Ruiz v. Ruiz, 910 So.2d 443 (La. App. 5 Cir. 2005).

McInnis v. McInnis, 880 So.2d 240 (La. App. 2 Cir. 2004). Stephanie McInnis filed a petition for a protective order against her husband pursuant to La. R.S. 46:2131 et seq. and included a request for "temporary spousal support." At the hearing, the parties reached an "interim agreement" as to the relief requested by Ms. McInnis; Mr. McInnis' attorney read the parties stipulations into the record. The stipulations included that Ms. McInnis would receive $300.00 as temporary spousal support "which is to come from rent on a trailer that the parties own in common, pending further hearing." Thereafter, no further proceedings occurred, no other orders were issued, and no written judgment was prepared or signed. Thereafter, the parties were divorced pursuant to a proceeding filed by Mr. McInnis. Ms. McInnis filed a "Rule to Accrue Past Due Support and for Contempt" seeking to collect the $300.00 per month as agreed to by Mr. McInnis at the protective order hearing. Judge Andrew B. Gallagher of the First Judicial District Court for the Parish of Caddo awarded Ms. McInnis past due periodic support in the amount of $5,100.00 with interest from the date of judicial demand. Mr. McInnis appealed. The Second Circuit Court of Appeal, in an opinion authored by Judge Stewart, affirmed the trial court's judgment holding that the defense of reconciliation pursuant to La. Civil Code Article 104 did not apply since Ms. McInnis' request for spousal support and the consent agreement which resulted therefrom providing for payment of support were not part of a proceeding for divorce but rather a proceeding for protection pursuant to R.S. 46:2131, et seq. The court also held that once a consent judgment is read into the record, it becomes a legal judgment even if not reduced to writing.

Brown v. Bumb, 871 So.2d 1201 (La. App. 4 Cir. 2004). Judge Kirk A. Vaughn of the Thirty-Fourth Judicial District Court for the Parish of St. Bernard entered a protective order on behalf of two minor children to the children's mother against the children's paternal grandfather. The

grandfather appealed. The Fourth Circuit Court of Appeal, in an opinion authored by Judge Bagneris, affirmed the trial court's decision and held that sufficient minimum contacts existed with the state of Louisiana in order to establish personal jurisdiction over the grandfather and that the suit brought in Louisiana did not offend traditional notions of fair play and substantial justice. The injuries to the children that the mother complained of resulted from the continuing harassment from the defendant through letters and phone calls. The Fourth Circuit was of the opinion that Louisiana's long-arm statute has become co-extensive with the limits of constitutional due process and found "the sole inquiry into jurisdiction over a non-resident is a one-step analysis of the constitutional due process requirements." The court went on to say that the "bedrock principle for personal jurisdiction over a non-resident defendant requires that the defendant have certain minimum contacts with the state such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice. The defendant's harassing conduct and frequent visits are such that he should reasonably anticipate being haled into court in Louisiana." "The defendant will not be inconvenienced by the litigation in this state as he has admitted that he regularly visits within the state. Most of the witnesses reside in the State of Louisiana, including the children's father and stepmother. Further, as the trial court noted, it is in this state's interest to protect the plaintiff's children. Since the activities complained of by the plaintiff are directed at children in Louisiana, it is in the judicial system's interest for efficient resolution of controversies and the state's shared interest in furthering fundamental social policies to exercise jurisdiction over the defendant."

Wise v. Wise, 833 So.2d 393 (La. App. 5 Cir. 2002). Former wife filed a petition for a protective order against former husband where husband was spending six months in prison for failure to pay child support and petitioner alleged husband threatened revenge against her upon release; further, petitioner alleged that during the marriage husband had hit her, choked her, etc. Judge Emile R. St. Pierre of the Twenty-Ninth Judicial District Court for the Parish of St. Charles issued a protective order for a period of 18 months. Former husband appealed. The Fifth Circuit Court of Appeal, in an opinion authored by Judge Sol Gothard, affirmed the trial court's judgment declaring it not manifestly erroneous. The court held that it is permitted to grant a protective order to prevent the possibility of family violence, providing a petition is filed requesting the order, and the defendant is afforded reasonable notice consistent with due process.

Buchanan v. Langston, 827 So.2d 1186 (La. App. 2 Cir. 2002). Mother filed a petition for domestic abuse assistance seeking sole custody of child alleging father had sexually abused child. Judge John Larry Lolley of the Fourth Judicial District Court for the Parish of Ouachita granted the protective order for the child suspending the father's parental rights - the protective order lasting until the child attained the age of 18 years. Father appealed. The Second Circuit Court of Appeal, in an opinion authored by Judge Peatross, held that the trial court's ruling was not manifestly erroneous and that following a determination that the father had sexually abused the child, the trial court was not limited to remedies contained in the Domestic Abuse Assistance Act or Post Separation Family Violence Relief Act, but could properly suspend father's visitation pursuant to the Children's Code.

Mitchell v. Marshall, 819 So.2d 359 (La. App. 3 Cir. 2002). Former wife sought a protective order against former husband for alleged abuse against her and their three children. Judge Billy Howard Ezell of the Fourteenth Judicial District Court for the Parish of Calcasieu denied the former wife's request and former wife appealed. The Third Circuit Court of Appeal, in an opinion authored by Judge Gremillion, affirmed the trial court's ruling applying the abuse of discretion standard of review.

See also Rouyea v. Rouyea, 808 So.2d 558 (La. App. 1 Cir. 2001).

Paschal v. Hazlinsky, 803 So.2d 413 (La. App. 2 Cir. 2001) Judge Michael Ingram of the Fourth Judicial District Court for the Parish of Ouachita found that the hearing officer's recommendation to grant the protective order was proper. Although appellants did not designate such as an assignment of error, they argued that the granting of the protective order was manifestly erroneous. The Second Circuit Court of Appeal, in an opinion authored by Judge Peatross, found that "review of the jurisprudence applying the Domestic Abuse Assistance statutes does not reveal a standard of judicial review of protective order matters from the district court. Similar cases involving the issuance of orders, including injunctions and support orders, grant the trial court wide discretion in granting or denying such orders and in fashioning the appropriate relief. We conclude, by analogy, that the abuse of discretion standard is applicable to our review of the trial court's grant of a Domestic Abuse Protective Order under the Domestic Violence Assistance Act."

Chi v. Pang, 643 So.2d 411 (La. App. 3 Cir. 1994). Chi separated from her husband and filed a petition for protective orders pursuant to R.S. 46:2131 et seq. and sought spousal support from her husband, Pang. Judge Donald Aaron, Jr. of the Fifteenth Judicial District Court for the Parish of Lafayette granted Chi spousal support and Pang appealed. The Third Circuit Court of Appeal, in an opinion authored by Judge Knoll, upheld the award of spousal support even though the support award was not time limited (at that time three months). The Third Circuit was of the opinion that Chi's pleadings set forth facts "which constitute her claim for support and Pang had an opportunity to present evidence contesting that assertion"; therefore, the trial court was empowered to grant relief under whatever statute or codal article applied to Chi's claim. The court was of the opinion that R.S. 9:291 allows the trial court to award spousal support without the inclusion of a fixed time limit.

See also Anders v. Anders, 618 So.2d 452 (La. App. 4 Cir. 1993).

See also Keneker v. Keneker, 579 So.2d 1083 (La. App. 5 Cir. 1991).

See also Harper v. Harper, 537 So.2d 282 (La. App. 4 Cir. 1988).

R.S. 46:2136.1. Costs paid by abuser

A. Except as provided in Subsection B of this Section, all court costs, attorney fees, costs of enforcement and modification proceedings, costs of appeal, evaluation fees, and expert witness fees incurred in maintaining or defending any proceeding concerning domestic abuse assistance in accordance with the provisions of this Part shall be paid by the perpetrator of the domestic violence, including all costs of medical and psychological care for the abused adult, or for any of the children, necessitated by the domestic violence.

B. If the court determines the petition was frivolous, the court may order the nonprevailing party to pay all court costs and reasonable attorney fees of the other party. Failure to appear at a hearing on the petition shall not on its own constitute grounds for assessing court costs and fees against the petitioner.

Lassair on Behalf of T.P.J. v. Paul, 353 So.3d 1048 (La. App. 4 Cir. 12/14/22). Trial court dismissed two petitions for protection from abuse and cast the petitioner with court costs for her failure to appear at the hearings on both requests for protective orders; defendant had not been served in either proceeding with the petitions and temporary restraining orders. The Fourth Circuit held that the trial court cannot assess costs to petitioner when there is no evidence demonstrating the petition for protection was frivolous. As acknowledged by the trial court, there was no testimony or evidence presented thus there is no basis to show that the allegations in the petition are in fact frivolous. Moreover, in awarding costs and fees based on the failure to put forth evidence essentially imposes an affirmative duty on the petitioner to prove her allegations in order to avoid a financial penalty. Additionally, the fact that the petitioner did not meet her burden of proof on a protective order such that she is entitled to relief does not necessarily establish that the action was frivolous.

McCauley v. McCauley, 305 So.3d 981 (La. App. 3 Cir. 2020). Attorney fees were properly awarded to wife who prevailed in trial on her petition for protection from abuse against husband, pursuant to the Domestic Abuse Assistance Act; the Act clearly awarded all fees incurred and provided that they be paid by perpetrator of domestic violence.

Rogers v. Rogers, 287 So.3d 749 (La. App. 1 Cir. 2019). Court costs could not be assessed against petitioner related to her unsuccessful petition for protection from stalking or sexual assault filed against second cousin; there was no evidence that petition was frivolous, and trial court noted in oral reasons and signed judgment that petition was not frivolous. Absent a determination that a petition for protection from abuse is frivolous, a trial court is not authorized to assess costs of the proceedings against the petitioner.

Munger v. Sirenko, 224 So.3d 445 (La. App. 4 Cir. 2017). Husband, as the perpetrator of domestic violence, was required to bear all costs of court associated with wife's petition for protection from abuse.

Lepine v. Lepine, 223 So.3d 666 (La. App. 5 Cir. 2017). Order awarding wife $4,000 in attorney fees related to her petition for protection from abuse was not an abuse of discretion; all attorney fees and court costs incurred in maintaining and defending a proceeding concerning domestic abuse assistance were to be paid by the perpetrator, which was husband.

Koerner v. Monju, 210 So.3d 935 (La. App. 5 Cir. 2017). Costs could not be assessed against petitioner related to petition for protection from abuse filed against former dating partner; costs could not be assessed against a petitioner in domestic abuse proceedings unless the petition was frivolous, and trial court made no determination that petition was frivolous and gave no explanation as to why it was assessing costs against her.

D.M.S. v. I.D.S., 225 So.3d 1127 (La. App. 4 Cir. 2015). Trial court did not abuse its discretion in entering order for father to pay attorney fees of $10,600 to mother's counsel in proceeding for protective order, based on allegations of abuse of minor children by father, since Domestic Abuse Assistance Act requires all court costs and attorney fees to be paid by the perpetrator of domestic violence, and mother's counsel submitted detailed log delineating fees he incurred in maintaining and defending petition for protection. Domestic Abuse Assistance Act could not be more clear: all attorneys' fees incurred, including the costs of appeals, in maintaining and defending a proceeding concerning domestic abuse assistance are to be paid by the perpetrator.

Vallius v. Vallius, 53 So.3d 655 (La. App. 5 Cir. 2010). The trial court's order taxing the petitioning step-daughter with all costs of the proceeding in which she sought an order of protection from her step-mother, and which awarded attorneys' fees in the amount of $500 to step-mother, constituted

an abuse of discretion, absent any evidence to support trial court's finding that step-daughter's petition was frivolous.

Paschal v. Hazlinsky, 803 So.2d 413 (La. App. 2 Cir. 2001). Judge Michael Ingram of the Fourth Judicial District Court for the Parish of Ouachita granted a protective order and assessed medical costs against the defendant and defendant appealed. The Second Circuit Court of Appeal, in an opinion authored by Judge Peatross, affirmed the trial court's ruling holding that the treatment cost for a bruise the petitioner received in the altercation with the defendant fell within the costs contemplated by the statute governing domestic abuse protective orders.

R.S. 46:2136.2. Louisiana Protective Order Registry

A. In order to provide a statewide registry for abuse prevention orders to protect victims and witnesses and to prevent domestic abuse, dating violence, stalking, sexual assault, and crimes of violence and to aid law enforcement, prosecutors, and the courts in handling such matters, there shall be created a Louisiana Protective Order Registry administered by the judicial administrator's office, Louisiana Supreme Court. The judicial administrator's office shall collect the data transmitted to it from the courts, law enforcement, and private process servers of the state and enter it into the Louisiana Protective Order Registry as expeditiously as possible.

B. The Louisiana Protective Order Registry encompasses temporary restraining orders, protective orders, preliminary injunctions, permanent injunctions, and court-approved consent agreements resulting from actions brought pursuant to R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S. 46:2181 et seq., R.S. 9:361 et seq., R.S. 9:372, Children's Code Article 1564 et seq., Code of Civil Procedure Article 3607.1, or peace bonds pursuant to Code of Criminal Procedure Article 30(B), or as part of the disposition, sentence, bail condition, or other issue ancillary to a criminal matter pursuant to Code of Criminal Procedure Article 320 or 871.1, or any other lawfully issued Uniform Abuse Prevention Order.

C. The courts of this state shall use a uniform form for the issuance of any protective or restraining order, which form shall be developed, approved, and distributed by the Judicial Administrator's Office, shall be titled the "Uniform Abuse Prevention Order".

D. The clerk of the issuing court shall immediately send a copy of the order or any modification thereof to the Louisiana Protective Order Registry and to the chief law enforcement officer of the parish in which the person or persons protected by the order reside as expeditiously as possible but no later than the end of the next calendar day after the order is filed with the clerk of court. Transmittal of the Uniform Abuse Prevention Order shall be made by transmission or direct electronic input as expeditiously as possible, but no later than the end of the next calendar day after the order is filed with the clerk of court.

E. Upon formation, the registry shall immediately implement a daily process of expungement of records and names of the parties in all cases where either a temporary restraining order expires without conversion to an injunction or, after an evidentiary hearing, it is determined that a protective order is not warranted.

F. The judicial administrator's office shall make the Louisiana Protective Order Registry available to state and local law enforcement agencies, district attorney offices, the Department of Children and Family Services, office of children and family services, child support enforcement section, the Department of Health, bureau of protective services, the Governor's Office of Elderly Affairs, elderly protective services, the office of the attorney general, and the courts.

G. The judicial administrator's office shall develop policies and procedures that provide for immediate entry of protection orders received by the office to include those received the next calendar day. To avoid delays in entry, the office shall have the authority to authorize agencies to enter protective orders directly into the registry when certain conditions or criteria exist.

R.S. 46:2136.3. Prohibition on the possession of firearms by a person against whom a protective order is issued

A. Any person against whom the court has issued a permanent injunction or a protective order pursuant to a court-approved consent agreement or pursuant to the provisions of R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2136 or 2151, or 2173, Children's Code Article 1570, Code of Civil Procedure Article 3607.1, or Code of Criminal Procedure Articles 30, 320 or 871.1 shall be prohibited from

possessing a firearm or carrying a concealed weapon for the duration of the injunction or protective order if both of the following occur:

(1) The permanent injunction or protective order includes a finding that the person subject to the permanent injunction or protective order represents a credible threat to the physical safety of a family member, household member, or dating partner.

(2) The permanent injunction or protective order informs the person subject to the permanent injunction or protective order that the person is prohibited from possessing a firearm pursuant to the provisions of 18 U.S.C. 922(g)(8) and this Section.

B. For the provisions 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.

C. Whoever violates the provisions of this Section shall be in violation of and subject to the penalties set forth in R.S. 14:79.

R.S. 46:2137. Repealed by Act 367 of the 2018 Regular Session of the Louisiana Legislature

> United States v. Dixon, 509 U.S. 688, 113 S. Ct. 2849, 125 L. Ed. 2d 556 (1993). Defendant was convicted in the Superior Court of the District of Columbia of assault and threatening offenses following convictions for violation of a civil protection order, and he appealed. The District of Columbia Court of Appeals found the prosecution barred by double jeopardy, and certiorari was granted. The Supreme Court, Justice Scalia, held in part that: (1) double jeopardy precluded prosecution for assault on his wife following prosecution for criminal contempt for violating civil protection order which prohibited assault on her and (2) prosecution for violation of civil protection order by assaulting his wife did not preclude subsequent prosecutions for assault with intent to kill and threatening to kidnap or injure another. Double jeopardy protection applies both to successive punishments and to successive prosecutions for the same criminal offense. Same elements test, sometimes referred to as the "*Blockburger* test," inquires whether each offense contains an element not contained in the other; if not, they are "same offense" and double jeopardy bars additional punishment and successive prosecution. Double jeopardy did not bar prosecution of defendant for threats to injure or kidnap after he was prosecuted for violating the civil protection order which prohibited him from in any manner threatening his wife, as conviction for criminal contempt required willful violation of civil protection order which the conviction for making threats to kidnap or injure did not require and conviction for making threats to kidnap or injure required particular types of threats which the civil protection order did not require.

R.S. 46:2138. Assistance; clerk of court; domestic abuse advocate

A. The clerk of court shall make forms available for making application for protective orders under this Part, provide clerical assistance to the petitioner when necessary, advise indigent applicants of the availability of filing in forma pauperis, provide the necessary forms, as supplied by the judicial administrator's office, Louisiana Supreme Court, and provide the services of a notary, where available, for completion of the affidavit required in R.S. 46:2134(D).

B. Domestic abuse advocates may provide clerical assistance to petitioners in making an application for a protective order in accordance with this Part.

C. For purposes of this Section, "domestic abuse advocate" means an employee or representative of a community based shelter providing services to victims of family violence or domestic abuse.

R.S. 46:2139. Other relief not affected

The granting of any relief authorized under this Part shall not preclude any other relief authorized by law.

> Buchanan v. Langston, 827 So.2d 1186 (La. App. 2 Cir. 2002).
>
> Chi v. Pang, 643 So.2d 411 (La. App. 3 Cir. 1994).
>
> Anders v. Anders, 618 So.2d 452 (La. App. 4 Cir. 1993).

R.S. 46:2140. Law enforcement officers; duties

A. If a law enforcement officer has reason to believe that a family or household member or dating partner has been abused and the abusing party is in violation of a temporary restraining order, a preliminary or permanent injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 30, 327.1, 335.1, 335.2, and 871.1, the officer shall immediately arrest the abusing party.

B. If a law enforcement officer has reason to believe that a family or household member or dating partner has been abused, and the abusing party is not in violation of a restraining order, a preliminary or permanent injunction, or a protective order, the officer shall immediately use all reasonable means to prevent further abuse, including:

(1) Arresting the abusive party with a warrant or without a warrant pursuant to Code of Criminal Procedure Article 213, if probable cause exists to believe that a felony has been committed by that person, whether or not the offense occurred in the officer's presence.

(2) Arresting the abusive party in case of any misdemeanor crime which endangers the physical safety of the abused person whether or not the offense occurred in the presence of the officer. If there is no cause to believe there is impending danger, arresting the abusive party is at the officer's discretion.

(3) Assisting the abused person in obtaining medical treatment necessitated by the battery; arranging for, or providing, or assisting in the procurement of transportation for the abused person to a place of shelter or safety.

(4) Notifying the abused person of his right to initiate criminal or civil proceedings; the availability of the protective order, R.S. 46:2136; and the availability of community assistance for domestic violence victims.

C. (1) When a law enforcement officer receives conflicting accounts of domestic abuse or dating violence, the officer shall evaluate each account separately to determine if one party was the predominant aggressor.

(2) In determining if one party is the predominant aggressor, the law enforcement officer may consider any other relevant factors, but shall consider the following factors based upon his or her observation:

(a) Evidence from complainants and other witnesses.

(b) The extent of personal injuries received by each person.

(c) Whether a person acted in self-defense.

(d) An imminent threat of future injury to any of the parties.

(e) Prior complaints of domestic abuse or dating violence, if that history can be reasonably ascertained by the officer.

(f) The future welfare of any minors who are present at the scene.

(g) The existence of a temporary restraining order, a preliminary or permanent injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 30, 327.1, 335.1, 335.2, and 871.1. The officer shall presume that the predominant aggressor is the person against whom the order was issued.

(3)(a) If the officer determines that one person was the predominant aggressor in a felony offense, the officer shall arrest that person. The arrest shall be subject to the laws governing arrest, including the need for probable cause as otherwise provided by law.

(b) If the officer determines that one person was the predominant aggressor in a misdemeanor offense, the officer shall arrest the predominant aggressor if there is reason to believe that there is impending danger or if the predominant aggressor is in violation of a temporary restraining order, a preliminary or permanent injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 30, 327.1, 335.1, 335.2, and 871.1. If there is no threat of impending danger or no violation of a temporary restraining order, a preliminary or permanent injunction, or a protective order, the officer may arrest the predominant aggressor at the officer's discretion, whether or not the offense occurred in the presence of the officer. An arrest pursuant to the provisions of this Subparagraph shall be subject to the laws governing arrest, including the need for probable cause as otherwise provided by law. The exceptions provided for in this Section shall apply.

(4) As used in this Subsection:

(a) “Dating violence” has the meaning as defined in R.S. 46:2151(C).

(b) “Domestic abuse” has the meaning as defined in R.S. 46:2132(3).

Wilson v. Town of Mamou, 972 So.2d 461 (La. App. 3 Cir. 2007), writ denied 978 So.2d 307 (La. 3/28/08). Parents brought a wrongful death and survival action against the Town of Mamou and its police department alleging that those two entities failed to protect their daughter who was killed in a murder/suicide. Judge Larry Vidrine of the Thirteenth Judicial District Court for the Parish of Evangeline entered a judgment in favor of the parents and awarded damages. Both parties appealed. The Third Circuit Court of Appeal, in an opinion authored by Judge Cooks, held that, among other things, the immunity statutes did not apply, that the police department was negligent in failing to protect the victim. The evidence and testimony at trial included that a neighbor heard Yvette Michelle Wilson’s screams and found her in the yard holding her new baby; Ms. Wilson was badly beaten, bruised and bleeding from cuts on her face. The neighbor learned that the perpetrator was Ms. Wilson’s boyfriend, the father of her four children, Harry Richard, Jr. The neighbor immediately called the police and Lieutenant Charles Israel of the Mamou Police Department responded; when Lieutenant Israel arrived, he saw Ms. Wilson was bruised and bleeding; he testified he proceeded with caution because he was worried that the boyfriend was still there. Lieutenant Israel asked the neighbor to take Ms. Wilson to the police station while he made the block to look for Mr. Richard; unable to locate Mr. Richard, Lieutenant Israel returned to the police station to fill out the paperwork and take pictures of Ms. Wilson’s condition. Lieutenant Israel clearly assessed the seriousness of the threat to Ms. Wilson and recognized his responsibility to protect her. He testified that Ms. Wilson communicated to him that she believed Mr. Richard was dangerous and she wanted him arrested and kept in jail because she feared for her life. Lieutenant Israel further testified that it was because Ms. Wilson was so scared that her boyfriend was going to walk in the police station and kill her that Lieutenant Israel kept her in his office and indicated to Ms. Wilson that it was his duty as a police officer to take the appropriate action and put a warrant out on Mr. Richard. Testimony from Lieutenant Israel indicated that the police department was short-handed at the time of the incident, however the record reflects that there were several other officers on duty and in the police station at the time of the incident but Lieutenant Israel did not communicate any urgency in apprehending Mr. Richard. Two other officers testified that they would have assisted Lieutenant Israel in locating Mr. Richard or escorting Ms. Wilson to safety if they had been asked. Lieutenant Israel completed the necessary forms, and contacted a domestic violence program in Lafayette to secure placement for Ms. Wilson and her four children. Although Lieutenant Israel testified that Ms. Wilson was not interested in going to the Lafayette shelter, this assertion was refuted by a staff person of that shelter who testified that Ms. Wilson was scared and wanted shelter from Mr. Richard; this staff person stated that Ms. Wilson was concerned for the welfare of her children and intended to come to that shelter that day as soon as she was able to pick her children up from school. Ms. Wilson called her mother to come to the police station; thereafter, she left with her mother and without police protection to obtain her children from school and begin preparations to flee to the domestic violence shelter. Lieutenant Israel chose not to accompany her to her mother’s house but instead sent another officer to secure a warrant for Mr. Richard’s arrest. Two hours later while one officer was getting the warrant and Lieutenant Israel was going off duty, Mr. Richard appeared at Ms. Wilson’s mother’s house with a gun. Mr. Richard stormed through the house, found Ms. Wilson in the hall, shot twice and missed, chased her outside into the yard and shot her in the back. Ms. Wilson died shortly thereafter. After killing Ms. Wilson, Mr. Richard killed himself.

The Third Circuit found no merit in the Town of Mamou’s assertion that it is immune from liability due to either R.S. 46:2142 or R.S. 9:2798.1. R.S. 46:2142 provides that:

“Any law enforcement officer reporting in good faith , exercising due care in the making of an arrest or providing assistance pursuant to the provisions of R.S. 46:2140 and 2141

shall have immunity from any civil liability that otherwise might be incurred or imposed because of the report, arrest, or assistance provided."

However, in this case, the Third Circuit found that liability does not stem from a report, arrest or assistance provided, but rather it is related to the failure to assist. The Third Circuit further found that R.S. 9:2798.1(B) inapplicable in this situation also. That statute provides:

"Liability shall not be imposed on public entities or their officers or employees based upon the exercise or performance or the failure to exercise or perform their policy making or discretionary acts when such acts are within the course and scope of their lawful powers and duties." (emphasis added)

The Third Circuit found that R.S. 46:2140 is a legislative mandate and therefore its requirements on the part of the officer are neither policy making nor within his or her discretion. Accordingly, the Third Circuit found that the immunity statutes are inapplicable.

The Third Circuit indicated that the liability of the Town of Mamou is analyzed under the duty-risk theory of recovery. Under the duty-risk analysis, the plaintiff must prove the conduct in question was a cause-in-fact of the harm, the defendant owed a duty to the victim, the requisite duty was breached by the defendant, and the risk of harm was within the scope of protection afforded by the duty breached. Whether a duty is owed to the plaintiff is a question of law. The duty of a police officer in a domestic abuse situation is found in R.S. 46:2140. It reads in pertinent part:

"A. Whenever a law enforcement officer has reason to believe that a family or household member or dating partner has been abused, the officer shall immediately use all reasonable means to prevent further abuse, including: (emphasis added)

(1)Arresting the abusive party with a warrant or without a warrant pursuant to Code of Criminal Procedure Article 213, if probable cause exists to believe that a felony has been committed by that person, whether or not the offense occurred in the officer's presence.

(2) Arresting the abusive party in case of any misdemeanor crime which endangers the physical safety of the abused person whether or not the offense occurred in the presence of the officer. If there is no cause to believe there is impending danger, arresting the abusive party is at the officer's discretion.

(3) Assisting the abused person in obtaining medical treatment necessitated by the battery; arranging for, or providing, or assisting in the procurement of transportation for the abused person to a place of shelter or safety.
(4) Notifying the abused person of his right to initiate criminal or civil proceedings; the availability of the protective order, R.S. 46:2136; and the availability of community assistance for domestic violence victims."
The Third Circuit also quoted the purpose of the Protection From Family Violence Act found at R.S. 46:2121:

"A. The legislature hereby finds and declares that there is a present and growing need to develop innovative strategies and services which will reduce and treat the trauma of family violence. Available studies documenting police statistics indicate that thousands of persons in this state are regularly beaten, tortured, and, in many cases, killed by spouses or persons with whom they are living in a primary relationship. These studies further indicate that victims of family violence come from all socioeconomic classes and ethnic groups, though it is the poor who suffer most from family violence, since it is less likely that they have immediate access to private counseling and shelter for themselves and their children. Children, though often not physically assaulted, suffer deep and lasting emotional effects, and it is most often the children of those parents who commit family violence that perpetuate the cycle by abusing their spouses.

B. The legislature further finds and declares that there is a high incidence of deaths and injuries sustained by law enforcement officers in the handling of domestic disturbances. A definite correlation between family violence and marital homicide has been established, yet police arrests for family violence are low, and victims are reluctant to press charges. Furthermore, instances of family violence are considered to be the single most unreported crime in the state.

C. It is the intention of the legislature to achieve a reduction in serious and fatal injuries to the victims of family violence and to clarify the problems, causes, and remediation of family violence by providing that necessary services including shelter, counseling, and referrals to social services, medical care and legal assistance in the form of a family violence center."

The issue presented is whether, considering the totality of the circumstances, without the benefit of hindsight, the police officers took reasonable measures to protect Ms. Wilson from harm. This court found that the facts in the present case are distinguishable from the facts in Latiolais. In the present case Lieutenant Israel was fully aware of the intensity of

the situation based on the severity of the beating and Ms. Wilson's fear for her life. Lieutenant Israel immediately perceived Mr. Richard was a dangerous man and proceeded with caution. However, although Lieutenant Israel recognized his responsibility, he made only a cursory attempt to locate Mr. Richard, did not ask for assistance in apprehending Mr. Richard, and allowed Ms. Wilson to leave the police station unescorted to get her children and pack her belongings before going to the domestic violence shelter. The Third Circuit found that "this he did despite the fact that he testified that Ms. Wilson was 'very bloody, beat-up, brutalized and, you know, in bad condition and she could barely move'." Lieutenant Israel further testified that Ms. Wilson had been "beat so badly, she was purely exhausted. Her emotional state was in an - just like in limbo. I mean - I mean, I don't think she could make - make a decision - you know, a good decision because she had been beat up so badly."

Further, the Chief of Police acknowledged that the Mamou Police Department had no policies or procedures for the handling of domestic violence cases; he admitted this was a failure on the part of the department. The Chief testified that it is customary in these types of situations for the police to escort the victim back to the house to pack clothes and prepare to leave. When asked why Lieutenant Israel did not escort Ms. Wilson to her mother's home, Chief Celestine stated "Well I think he should have, but I mean he was getting off, the other officer was coming on, . . ." Chief Celestine stated that he would have secured assistance in apprehending Mr. Richard while Ms. Wilson was in the protection of the police station. The Third Circuit therefore found that the Mamou Police Department and Lieutenant Israel should have taken reasonable measures to escort Ms. Wilson to a place of safety until Mr. Richard was apprehended; therefore affirmed the decision of the trial court finding liability on the part of the Town of Mamou.

Latiolais v. Guillory, 747 So.2d 675 (La. App. 3 Cir. 1999), writ denied 753 So.2d 832, writ denied 753 So.2d 833. Judy Guillory and Tom Latiolais, Judy's nine-year-old son, were killed by Frank Guillory, Judy's estranged husband. Lawsuits were filed by the victims' relatives against the Sheriff's Department and individual employees thereof for damages arising out of the victims' deaths. After a trial on the merits, Judge James T. Genovese of the Twenty-Seventh Judicial District Court for the Parish of St. Landry found in favor of the defendants and dismissed petitioners' claims. The Third Circuit Court of Appeal, in an opinion authored by Judge Sullivan, upheld the trial court's decision and held that the evidence supported the finding that the deputy Sheriff did not breach a duty to the victims by allowing Frank Guillory to leave the premises.

The court applied the duty-risk analysis to the conduct of Deputy Guillory; the duty-risk analysis requires a plaintiff to prove that the conduct in question was a cause-in-fact of the resulting harm, that the defendant owed a duty of care to the plaintiff, but the requisite duty was breached by the defendant, and that the risk of harm was within the ambit of protection afforded by the duty breached. Ultimately, the court found that there was no duty to arrest Frank Guillory since Deputy Guillory reasonably believed that there was no impending danger to Judy Guillory in the deputy's absence. The court found that Deputy Guillory's assessment was reasonable under the circumstances.

Judy Guillory had a protective order in effect against Frank Guillory, however, the Sheriff's Department did not arrest him when they discovered him with Judy Guillory in a trailer behind her mother's lounge. The deputy indicated that the circumstances at the trailer, the parties mode of dress (both were in their undergarments), and the fact that Judy Guillory told the deputy that she did not want Mr. Guillory arrested entered into his decision not to arrest. Frank Guillory asked to speak with Judy Guillory before he left and Judy indicated that it was okay, so the deputy allowed them a few minutes to speak while he stood by. The deputy then advised Judy Guillory to go inside the trailer and advised Frank Guillory that he had to leave. Mr. Guillory got in his truck and left. The deputy indicated that at no time in the deputy's presence did Frank Guillory display any outward signs of violence or threaten Judy Guillory with bodily harm; he did what he was told by the deputy and vacated the premises when ordered to do so. The deputy waited for Judy Guillory to get her clothing and her children's clothing while keeping a watch out for Frank Guillory. The deputy indicated he remained with Judy Guillory until she and the children were safely inside the vehicle and he advised her to drive around while he went back to inform Judy Guillory's mother that Frank Guillory was gone and that Judy Guillory was going to be staying with her tonight. The deputy indicated that Judy Guillory asked him to assist her the next morning before she went to work because she did not trust Frank Guillory. The deputy indicated that he told her to call the Sheriff's Department when she was ready. The deputy then indicated that he went to the lounge to talk with Judy Guillory's mother who had called the Sheriff's Department. While talking with Judy Guillory's mother, the deputy heard glass breaking and shots fired coming from the direction of the trailer. It was at that time that the deputy found Judy Guillory and her son shot to death. The deputy indicated that he saw Frank Guillory's truck leaving the scene.

The facts in the case included that Frank Guillory was allowed contact with Judy Guillory and was actually on the premises where Judy Guillory was and that she did not object to his presence and that he even cooked for Judy Guillory and her mother on one occasion during the existence of the Protective Order.

Further, the court was of the opinion that arrest is discretionary by law enforcement under the Domestic Abuse Assistance Act if there is no cause to believe there is impending danger. The court in this case agreed with the deputy's analysis that there was no cause to believe that there was impending danger to Judy Guillory in law enforcement's absence.

See also Ardoin v. City of Mamou, 685 So.2d 294 (La. App. 3 Cir. 1996).

R.S. 46:2141. Reporting

Whenever a law enforcement officer investigates an allegation of domestic abuse, whether or not an arrest is made, the officer shall make a written report of the alleged incident, including a statement of the complainant, and the disposition of the case.

R.S. 46:2142. Immunity

Any law enforcement officer reporting in good faith, exercising due care in the making of an arrest or providing assistance pursuant to the provisions of R.S. 46:2140 and 2141 shall have immunity from any civil liability that otherwise might be incurred or imposed because of the report, arrest, or assistance provided.

James v. Iberia Parish Sheriff's Office, 286 So.3d 629 (La. App. 3 Cir. 2019). Deputy sheriffs acted in good faith and with due care upon their quick return in response to reports that widow's husband had barricaded himself in a home and was threatening suicide after being served earlier in the day with an eviction notice and temporary restraining order (TRO) filed by widow, and thus officers were statutorily immune from liability for husband's death in widow's wrongful death and survival action against sheriff's office, even if officers did not strictly comply with sheriff's office's policies and procedures for dealing with mentally ill and barricaded citizens; officers collectively acted in a manner that was professional, courteous, and compassionate, seeking not to arrest husband, but to prevent any loss of life to husband, who allegedly experienced hallucinations, or others.

See also Wilson v. Town of Mamou, 972 So.2d 461 (La. App. 3 Cir. 2007), writ denied 978 So.2d 307 (La. 3/28/08).

Louisiana Attorney General Opinion No. 97-5 to Judge D. Milton Moore, III (1997). The Attorney General expressed the opinion that "as peace officers, probation officers may arrest incident to the supervision of those they are assigned to supervise. As peace officers, probation officers may carry a weapon in connection with their official duties. Finally . . . the Legislature has given probation officers the same immunities and defenses that are available to peace officers."

R.S. 46:2143. Use of electronic monitoring of offenders; pilot program

A. When a court issues any peace bond, temporary restraining order, protective order, preliminary injunction, permanent injunction or court-approved consent agreements pursuant to R.S. 46:2131 et seq., R.S. 9:361 et seq., R.S. 9:372 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Article 3604, or as part of the disposition, sentence, or bail condition of a criminal matter pursuant to Code of Criminal Procedure Articles 327.1 or 871.1 for the purpose of preventing acts of domestic violence, the court may also order the domestic violence offender to participate in an electronic monitoring program. However, the use of electronic monitoring equipment shall be used only if the domestic abuse victim has consented to its use.

B. The court shall specify the terms of the electronic monitoring program, which shall include but is not limited to the following requirements:

(1) The device shall alert the domestic violence victim and the appropriate law enforcement agency when the domestic violence offender is within a certain distance of the protected person or protected premises, as ordered by the court. The court issuing the order shall be notified of the violation of the order by the local law enforcement agency within twenty-four hours.

(2) The device shall be worn at all times by the domestic violence offender.

(3) Equipment shall be installed or placed in the home of the offender to monitor the compliance of the offender.

(4) The offender shall be placed under the supervision of the Department of Public Safety and Corrections, or the court in misdemeanor cases, for the purposes of monitoring.

C. The cost of electronic monitoring shall be paid by the domestic violence offender.

D. (1)(a) Any court in the parishes of East Baton Rouge and Lafourche which has jurisdiction over the matters provided for in Subsection A of this Section shall be authorized to implement the provisions of this Section. No other court may do so, except as provided in Paragraph (2) of this Subsection.

(b)(i) Any court which exercises this authority shall maintain a record of the use of electronic monitoring devices, their effectiveness, any added costs that result, and any other information relevant to providing a basis for a determination of the value of the use of such devices and whether the authority to use such devices should be expanded to all courts with jurisdiction over the matters provided for in Subsection A of this Section.

(ii) All records required in Item (i) of this Subparagraph shall be submitted to the Judicial Council in a manner and at a time required by the council. The Judicial Council shall review all such records and study any recommendation submitted by the courts with the records and determine whether the authority to use such devices should be expanded to all courts with relevant jurisdiction for use in appropriate matters.

(2) At the conclusion of such study and upon a determination that the authority should be expanded, the pilot continued, or the authority revoked and the use discontinued, the Judicial Council shall advise all relevant courts. This determination shall provide the authority for the use or discontinuation of the use of such devices until the Judicial Council determines otherwise.

> Louisiana Attorney General Opinion No. 21-0128 (2022). Louisiana law does not require a sheriff to provide a global positioning monitoring program for pre-trial criminal defendants as a condition of bail pending trial.

Chapter 28-A. Protection from Dating Violence Act

R.S. 46:2151. Dating violence

A. A victim of a dating partner, as defined in Subsection B, shall be eligible to receive all services, benefits, and other forms of assistance provided by Chapter 28 of this Title.

B. For purposes of this Section, "dating partner" means any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. "Dating partner" shall not include a casual relationship or ordinary association between persons in a business or social context.

C. For purposes of this Section, "dating violence" includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one dating partner against the other.

> Welborn v. 19th Judicial District Court, 974 So.2d 1 (La. 2008), rehearing denied.

Chapter 28-C. Protection from Stalking Act

R. S. 46:2171 et seq. Protection from Stalking Act

R.S. 46:2171. Statement of purpose

The legislature hereby finds and declares that there is a present and growing need to develop innovative strategies and services which will reduce and treat the trauma of stranger and acquaintance stalking. The nature of stalking allegations are sometimes not easily substantiated to

meet the prosecution's burden of proving the case beyond a reasonable doubt, and victims of stalking are left without protection. Orders of protection are a proven deterrent that can protect victims of stalking from further victimization; however, many victims are forced to pursue civil orders of protection through ordinary process, often unrepresented, rather than through a shortened, summary proceeding. Additionally, victims of stalking are not always aware of the vast resources available to assist them in recovering from the trauma associated with being a victim of stalking. It is the intent of the legislature to provide a civil remedy for victims of stalking that will afford the victim immediate and easily accessible protection.

R.S. 46:2171.1. Jurisdiction

Any district court in the state of Louisiana which is empowered to hear civil matters shall have jurisdiction over proceedings appropriate to it under this Chapter.

> Patterson v. Charles, 282 So.3d 1075 (La. App. 4 Cir. 2019). Father's girlfriend had reasonable notice that she was subject to a temporary restraining order and the allegations against her, despite receiving a copy of the rule to show cause a few days prior to the hearing date, and thus girlfriend was not denied due process in action for protective order from stalking filed by mother, on behalf of child, against girlfriend; the petition alleged that girlfriend harassed, stalked, harmed/threatened to harm, intimidated, and emotionally and physically abused child, and petition provided the details of the abuse and harassment that were discussed at trial. Trial court did not abuse its discretion in conducting the *Watermeier* hearing, conducted in chambers and consisted of an interview of child, by allegedly failing to conduct a competency interview or swear in child. Court of Appeal would amend protective order to show it was issued pursuant to Protection from Stalking Act, rather than protection from child domestic abuse, where trial court selected box on order form indicating protection from domestic abuse, despite no evidence that girlfriend lived in the same household as child's father, and mother filed petition for protection from stalking and there was evidence of stalking to support the protective order.

R.S. 46:2172. Definitions

As used in this Chapter, “stalking” means any act that would constitute the crime of stalking under R.S. 14:40.2 or cyberstalking under R.S. 14:40.3.

> Selcer v. Boudreaux, 318 So.3d 393 (La. App. 3 Cir. 2021). Evidence did not support conclusion that nephew was stalking aunt, and thus trial court abused its discretion in entering order of protection pursuant to the Protection from Stalking Act, although nephew and his mother left typed list of hurtful statements verbalized by aunt to nephew on door of house where aunt was staying, and although nephew chased and kicked aunt in subsequent incident at house where aunt was staying; nephew did not intentionally and repeatedly follow aunt, aunt returned to house where she was staying after list was left on door, knowing nephew was living there, which indicated she was not afraid of him, and nephew moved out of house where aunt was staying immediately after incident where nephew chased and kicked aunt.

R.S. 46:2173. Protection from stalking

A victim of stalking by a perpetrator who is a stranger to or acquaintance of the victim shall be eligible to receive all services, benefits, and other forms of assistance provided by Chapter 28 of this Title, provided the services, benefits, and other forms of assistance are applicable based on the status of the relationship between the victim and perpetrator.

> Badinger v. Falcon, 2024 WL 1926190 (La. App. 4 Cir. 2024). Statutory definition of the term “stalking” could include incidents of vandalism allegedly committed by petitioner's neighbor and neighbor's adult son, for purposes of obtaining order for protection from stalking against neighbor's adult son; statutory definition of “stalking” included the “intentional or repeated following or harassing of another person,” and statutory definition of “harassing” specifically included nonverbal behaviors, with the list of potential behaviors being nonexclusive.

> Gaudet v. Lalonde, 2023 WL 2769157 (La. App. 1 Cir. 4/4/23). Founder of disaster-relief foundation could not establish probability of success on his petition for protection from stalking against owner of restaurant that he and foundation used after hurricane, and thus, owner was entitled to strike petition under statute governing special motions to strike; owner's social-media posts and text messages stating that she had to close restaurant due to foundation's use of it and that founder was improperly using public donations did not rise to level of harassment required for cyberstalking, and combined with founder's allegation of single incident that owner followed him, did not constitute crime of stalking.

Oliva v. Jones, 2023 WL 2674122 (La. App. 5 Cir. 3/29/23). Evidence was sufficient to support trial court's finding that ex-girlfriend's actions toward boyfriend's new girlfriend constituted stalking, as required for issuance of an order of protection under the Protection from Stalking Act. Girlfriend testified that ex-girlfriend's harassment had occurred for over a year and that ex-girlfriend refused to relent, girlfriend averred that she had more than 60 pages of communications from ex-girlfriend and ex-girlfriend's family members, and girlfriend stated that ex-girlfriend ran an online blog that made disparaging comments about girlfriend, contacted girlfriend's ex-husband, visited her 10-year-old daughter's social media page, and had her daughters contact girlfriend directly. Order of protection against stalking entered against ex-girlfriend, which prohibited ex-girlfriend from mentioning boyfriend's new girlfriend in her online public blog, did not violate ex-girlfriend's rights to free speech under the federal or state constitutions. References to girlfriend on ex-girlfriend's blog, albeit indirect, had nothing to do with any discussions involving matters of public concern warranting free-speech protection, ex-girlfriend had stated that the blog was initiated as a matter of "self-help" to personally cope and heal from boyfriend's devastating betrayal and deception in their private relationship, and the indirect references to girlfriend on the blog appeared to be nothing more than personal attacks on girlfriend's character and a smear campaign to impugn girlfriend's reputation, which was not a form of protected speech.

Raymond v. Lasserre, 368 So.3d 82. (La. App. 1 Cir. 3/6/2023). Finding that respondent had engaged in cyberstalking as defined by criminal cyberstalking statute, as ground for order for protection under Protection from Stalking Act, did not require proof that respondent had ever posed or intended physical threat. Reverend alleged, and respondent admitted, that, after respondent's employment with church was not renewed, respondent sent reverend and his daughter multiple text messages threatening to reduce church "to zero" and that respondent created and maintained page on social media against reverend with multiple posts referring to reverend as "coward" and Satan, reverend testified that texts and posts on social media made him afraid for his safety and for safety of his family and that school affiliated with church had gone into virtual lockdown, and other witnesses testified that respondent's acts were volatile and that social media posts were frightening.

Head v. Robichaux, 265 So.3d 813 (La. App. 1 Cir. 2018). Court of Appeal would amend protective order to show it was issued pursuant to Protection from Stalking Act, in petitioner's proceedings seeking order for protection from acquaintance, where trial court selected box on order indicating protection from domestic abuse, no other relationship with acquaintance was indicated on form other than "acquaintance", petitioner requested protection from stalking only, and evidence supported finding of stalking. Trial court did not abuse its discretion in determining that acquaintance's actions constituted stalking under Protection from Stalking Act where petitioner presented evidence that she repeatedly asked acquaintance to leave her alone but that acquaintance made continued attempts to contact her after seven months, that acquaintance's actions were escalating, and that petitioner felt unsafe.

R.S. 46:2174. Assistance to victims of stalking

A person who is engaged in any office, center, or institution referred to as a rape crisis center or battered women's shelter, who has undergone at least forty hours of training and who is engaged in rendering advice, counseling, or assistance to victims may provide the assistance provided for in R.S. 46:2138 to a victim of stalking.

Chapter 28-D. Protection for Victims of Sexual Assault Act

R. S. 46:2181 et seq. Protection for Victims of Sexual Assault Act

R.S. 46:2181. Legislative purpose

A. The legislature hereby finds and declares that sexual assault is a major public health problem and a violation of human rights that affects many women and men at some time in their lives. These effects range from threats of violence or actual violence to the daily limitations that the fear of violence places on victims' lives. The ripple effect of sexual assault threatens the peace, order, health, safety, and general welfare of the state and its residents.

B. According to the Centers for Disease Control and Prevention, approximately one in five women and one in seventy-one men have experienced rape in their lifetime. Rape is recognized as the most under-reported crime, and victims of rape and other forms of sexual assault who do not report the crime still desire safety and protection from future interactions with the offender. Additionally, in some cases the rape or other sexual assault is reported but not prosecuted, as the nature of such

allegations are sometimes not easily substantiated to meet the prosecution's burden of proving guilt beyond a reasonable doubt. In such cases, the victims of sexual assault are left without protection.

C. Orders of protection are a proven deterrent that can protect victims of sexual assault from further victimization. However, many victims are forced to pursue civil orders of protection through ordinary process, often unrepresented, rather than through a shortened summary proceeding. Additionally, victims of sexual assault are not always aware of the vast resources available to assist them in recovering from the trauma associated with being a victim of sexual assault.

D. It is the intent of the legislature to provide a civil remedy for all victims of sexual assault that will afford the victim immediate and easily accessible protection.

R.S. 46:2182. Short title

This Chapter shall be known and may be cited as the "Protection for Victims of Sexual Assault Act".

R.S. 46:2183. Protection from sexual assault; temporary restraining order

A. A victim of sexual assault as defined by R.S. 46:2184, perpetrated by a person who is either unknown to the victim or who is an acquaintance of the victim, shall be eligible to receive all services, benefits, and other forms of assistance provided by Chapter 28 of this Title.

B. For persons who are eligible, under the provisions of this Chapter, to seek a temporary restraining order pursuant to the provisions of R.S. 46:2135, a showing that the person is or has been a victim of sexual assault shall constitute good cause for purposes of obtaining a temporary restraining order in an ex parte proceeding.

R.S. 46:2184. Definitions

For purposes of this Chapter, "sexual assault" means any nonconsensual sexual contact including but not limited to any act provided in R.S. 15:541(24) or obscenity (R.S. 14:106).

> Scott v. Hogan, 255 So.3d 24 (La. App. 1 Cir. 2018). Female coworker failed to meet the threshold showing of sexual assault as defined in the Protection for Victims of Sexual Assault Act in her allegations against ex-coworker, where coworker alleged that ex-coworker's employment was terminated by their mutual employer, that she became concerned that he blamed her for his termination after she raised some issues with her supervisor regarding his behavior and actions on the job and he was escorted off the premises, that he drove by and allegedly trespassed on the property on at least one occasion, and that a letter addressed to ex-coworker was sent by a third party to co-worker's personal residence, but she failed to present any evidence that she was a victim of sexual assault, and nowhere in the record did the trial court make a finding that sexual assault occurred.

R.S. 46:2185. Jurisdiction; venue

A. Any court in the state of Louisiana that is empowered to hear family or juvenile matters shall have jurisdiction over proceedings appropriate to it under this Chapter.

B. Venue under this Chapter lies:

(1) In the parish where the victim resides.

(2) In the parish where the defendant resides.

(3) In the parish where the sexual assault is alleged to have been committed.

R.S. 46:2186. Assistance; clerk of court; sexual assault advocate

A. The clerk of court shall make forms available for making application for protective orders under this Chapter, provide clerical assistance to the petitioner when necessary, notify indigent applicants of the availability of filing in forma pauperis, provide the necessary forms, as supplied by the judicial administrator's office, Louisiana Supreme Court, and provide the services of a notary, where available, for completion of the affidavit required in R.S. 46:2134(D).

B. Sexual assault advocates may provide clerical assistance to petitioners in making an application for a protective order in accordance with this Chapter.

C. For purposes of this Section, "sexual assault advocate" means a person who is engaged by any office, center, or institution referred to as a sexual assault or rape crisis center or similar program, and who has undergone at least forty hours of training and who is engaged in rendering advice, counseling, advocacy, or assistance to victims.

R.S. 46:2187. Privileged communications and records

A. For purposes of this Section:

(1) "Privileged communication" means a communication made to a representative or employee of a sexual assault center by a victim. It also means a communication not otherwise privileged made by a representative or employee of a sexual assault center to a victim in the course of rendering services authorized by R.S. 46:2186.

(2) "Sexual assault center" means a program established and accredited in accordance with the standards set by the Louisiana Foundation Against Sexual Assault.

(3) "Victim" means a person against whom an act of attempted or perpetrated sexual assault was committed.

B. Notwithstanding any other provision of law, no person shall be required to disclose, by way of testimony or otherwise, a privileged communication, or to produce any records, documentary evidence, opinions, or decisions relating to such privileged communication, in connection with any civil or criminal proceeding.

C. Records relating to a privileged communication maintained by a sexual assault center shall not be public records, but such records may be used for the compilation of statistical data if the identity of the victim and the contents of any privileged communication are not disclosed.

R.S. 46:2188. Other relief not affected

The granting of any relief authorized under this Chapter shall not preclude any other relief authorized by law.

Louisiana Children's Code - Title XV. Special proceedings.

Chapter 8. Domestic Abuse Assistance

Ch. C. Art. 1564. et seq. – Domestic Abuse Assistance

Ch. C. Art. 1564. Purpose

The purpose of this Chapter is to recognize and address the complex legal and social problems created by domestic violence and to provide a civil remedy in the juvenile courts for domestic violence in homes in which children reside which will afford the victim immediate and easily accessible protection.

Ch C. Art. 1565. Definitions

As used in this Chapter:

(1) "Domestic abuse" includes but is not limited to physical or sexual abuse and any offense against the person as defined in Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, except negligent injury and defamation, committed by one family or household member against another.

(2) "Family or household member" means spouses, former spouses, parents and children, stepparents, stepchildren, foster parents, foster children, and any person living in the same residence with the defendant as a spouse whether married or not if a child or children also live in the residence, who are seeking protection under this Chapter.

Ch. C. Art. 1566. Assistance; clerk of court; domestic abuse advocate

A. The clerk of court shall make forms available for making application for protective orders under this Chapter, provide clerical assistance to the petitioner when necessary, advise indigent applicants of the availability of filing in forma pauperis, provide the necessary forms, and provide the services of a notary, where available, for completion of the affidavit required in Article 1568. The forms shall be prepared by the Judicial Administrator's Office, Louisiana Supreme Court.

B. Domestic abuse advocates may provide clerical assistance to petitioners in making an application for a protective order in accordance with this Chapter.

C. For purposes of this Article, "domestic abuse advocate" means an employee or representative of a community-based shelter providing services to victims of family violence or domestic abuse.

Ch. C. Art. 1567. Venue; standing

A. Venue lies in either:

(1) The parish in which the marital domicile is located or in which the household is located.

(2) The parish in which the defendant resides.

(3) The parish in which the abuse is alleged to have been committed.

(4) For purposes of issuing an order pursuant to Article 1569(A)(1) only, the parish in which the petitioner resides.

(5) The parish in which an action for an annulment of marriage or for a divorce could be brought pursuant to the Code of Civil Procedure.

B. An adult may seek relief under this Chapter by filing a petition with the court alleging abuse by the defendant. Any parent, adult household member, local child protection unit of the Department of Children and Family Services, or district attorney may seek relief on behalf of any child or any person alleged to be incompetent by filing a petition with the court alleging abuse by the defendant. A petitioner's right to relief under this Chapter shall not be affected by his leaving the residence or household to avoid further abuse.

> Martin ex rel. K.M. v. Harrison, 855 So.2d 950 (La. App. 2 Cir. 2003). Mother and father were divorced and father was named the custodial parent of the minor children which included a six year old daughter. Mother subsequently remarried and established a residence in Texas. Father began to suspect that his daughter was being abused by the stepfather. Subsequently, the father filed a petition to modify custody and for relief pursuant to the Domestic Abuse Assistance Act, R.S. 46:2131, et seq. in Caddo District Court alleging that the minor child had been sexually abused by the stepfather with the mother's knowledge. After hearing, the trial court issued a protective order limiting the location of the mother's visitation with the child in Caddo Parish and prohibited the stepfather's presence during the visit. Thereafter, father filed a rule for contempt of the protective order and to stay and restrict visitation alleging that the stepfather had been present during the mother's visitation and had taken pornographic photographs of the minor child. The mother's visitation was temporarily terminated and the matter was set for a hearing; the court issued an interim order reinstating the mother's visitation under the prior restrictions, ordered the parties to submit to an evaluation by a mental health professional, and scheduled a trial date. The following day, the father filed in proper person a petition in Caddo Juvenile Court seeking a protective order for the alleged sexual abuse of the minor child. The Juvenile Court assumed exclusive jurisdiction of the case as a child in need of care proceeding and issued a temporary restraining order; thereafter, the mother filed an exception alleging that the Juvenile Court lacked subject matter jurisdiction based on the pending domestic abuse proceeding brought in District Court pursuant to R.S. 46:2131. Judge E. Paul Young, III of the Caddo Parish Juvenile Court denied the mother's exception of lack of subject matter jurisdiction and granted the father sole custody of the minor child, subject to supervised visitation by the mother; mother appealed. The Second Circuit Court of Appeal, in an opinion authored by Judge Williams, held that the Juvenile Court lacked subject matter jurisdiction over the father's petition alleging abuse of the minor child under the Children's Code as father had previously filed a domestic abuse assistance proceeding based on the same allegations in District Court, pursuant to R.S. 46:2131, et seq. The Second Circuit held

that Children's Code Article 303(9) specifically precluded the Juvenile Court from exercising jurisdiction over the case since an action for domestic abuse protection had already been filed in District Court. The Second Circuit went on to say that a "reasonable interpretation of the purpose of Article 303(9) is to prevent the very situation which occurred in this case, that is, a litigant who is dissatisfied with the ruling in District Court will turn to the Juvenile Court in an effort to obtain a favorable outcome. This act or procedure, generally referred to as "forum shopping" is viewed unfavorably by this court." Therefore, the Second Circuit sustained the exception of lack of subject matter jurisdiction, dismissed the Juvenile Court proceedings, vacated all orders issued by that court; the case was remanded to the District Court for further proceedings and the father was cast with all costs of the appeal.

Ch. C. Art. 1568. Petition

A. A petition filed under the provisions of this Chapter shall contain the following:

(1) The name of each petitioner and each person on whose behalf the petition is filed and the name, address, and parish of residence of each individual alleged to have committed abuse, if known.

(2) If the petition is being filed on behalf of a child or person alleged to be incompetent, the relationship between that person and the petitioner.

(3) The facts and circumstances concerning the alleged abuse.

(4) The relationship between each petitioner and each individual alleged to have committed abuse.

(5) A request for one or more protective orders or a temporary restraining order.

B. The address and parish of residence of each petitioner and each person on whose behalf the petition is filed may remain confidential with the court.

C. If the petition requests a protective order for a spouse and alleges that the other spouse has committed abuse, the petition shall state whether a suit for divorce is pending.

D. If the petition requests the issuance of an ex parte temporary restraining order, the petition shall contain a written affirmation signed and dated by each petitioner that the facts and circumstances contained in the petition are true and correct to the best knowledge, information, and belief of the petitioner, under penalty of perjury pursuant to R.S. 14:123. The affirmation shall be made before a witness who shall sign and print his name.

E. If a suit for divorce is pending, any application for a protective order shall be filed in that proceeding and shall be heard within the delays provided by this Chapter. Any decree issued in a divorce proceeding filed subsequent to the filing of a petition or an order issued pursuant to this Chapter may, in the discretion of the court hearing the divorce proceeding, supersede in whole or in part the orders issued pursuant to this Chapter. Such subsequent decree shall be forwarded by the rendering court to the court having jurisdiction of the petition for a protective order and shall be made a part of the record thereof. The findings and rulings made in connection with such protective orders shall not be res judicata in any subsequent proceeding.

Ch. C. Art. 1569. Temporary restraining order

A. Upon good cause shown in an ex parte proceeding, the court may enter a temporary restraining order, without bond, as the court deems necessary to protect from abuse the petitioner, any children, or any person alleged to be an incompetent. Immediate and present danger of abuse shall constitute good cause for purposes of this Article. The order may include but is not limited to the following:

(1)(a) Directing the defendant to refrain from abusing, harassing, or interfering with the person or employment or going near the residence or place of employment of the petitioner, the children, or any person alleged to be incompetent, on whose behalf a petition was filed under this Chapter.

(b) Directing the defendant to refrain from activities associated with a coerced abortion as defined in Article 603.

(2) Awarding to a party the use and possession of specified community property, such as an automobile.

(3) Granting possession to the petitioner of the residence or household to the exclusion of the defendant, by evicting the defendant or restoring possession to the petitioner when either:

(a) The residence is jointly owned in equal proportion or leased by the defendant and the petitioner or the person on whose behalf the petition is brought.

(b) The residence is solely owned by the petitioner or the person on whose behalf the petition is brought.

(c) The residence is solely leased by defendant and defendant has a duty to support the petitioner or the person on whose behalf the petition is brought.

(4) Prohibiting either party from the transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business, or for the necessary support of the party or the children.

(5) Awarding temporary custody of children or persons alleged to be incompetent.

(6) Awarding or restoring possession to the petitioner of all separate property and all personal property, including but not limited to telephones or other communication equipment, computer, medications, clothing, toiletries, social security cards, birth certificates or other forms of identification, tools of the trade, checkbook, keys, automobile, photographs, jewelry, or any other items or personal effects of the petitioner and restraining the defendant from transferring, encumbering, concealing, or disposing of the personal or separate property of the petitioner.

(7) Granting to the petitioner the exclusive care, possession, or control of any pets belonging to or under the care of the petitioner or minor children residing in the residence or household of either party, and directing the defendant to refrain from harassing, interfering with, abusing or injuring any pet, without legal justification, known to be owned, possessed, leased, kept, or held by either party or a minor child residing in the residence or household of either party.

B. If a temporary restraining order is granted without notice, the matter shall be set within twenty-one days for a rule to show cause why the protective order should not be issued, at which time the petitioner must prove the allegations of abuse by a preponderance of the evidence. The defendant shall be given notice of the temporary restraining order and the hearing on the rule to show cause by service of process as required by law.

C. During the existence of the temporary restraining order, a party shall have the right to return to the family residence once to recover his or her personal clothing and necessities, provided that the party is accompanied by a law enforcement officer to insure the protection and safety of the parties.

D. If no temporary restraining order has been granted, the court shall issue a rule to show cause why the protective order should not be issued, and set the rule for hearing on the earliest day that the business of the court will permit, but in any case within ten days from the date of service of the petition, at which time the petitioner must prove the allegations of abuse by a preponderance of the evidence. The defendant shall be given notice by service of process as required by law.

E. If the hearing pursuant to Paragraph B or D of this Article is continued, the court shall make or extend such temporary restraining order as it deems necessary. Any continuance of a hearing ordered pursuant to Paragraph B or D of this Article shall not exceed fifteen days, unless good cause is shown for further continuance.

F. The court may, in its discretion, grant an emergency temporary restraining order outside regular court hours.

G. Repealed by Acts 1999, No. 1200, § 5.

H. Immediately upon rendering a decision granting the relief requested by the petitioner, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C),

shall sign such order, and shall immediately forward it to the clerk of court for filing on the day that the order is issued.

I. If a temporary restraining order is issued or extended, the clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside by facsimile transmission or direct electronic input 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. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.

Ch. C. Art. 1570. Protective orders; content; modification; service

A. The court may grant any protective order or approve any consent agreement to bring about a cessation of abuse of a party, any children, or any person alleged to be incompetent, which relief may include but is not limited to:

(1) Granting the relief enumerated in Article 1569.

(2) When there is a duty to support a party, any minor children, or any person alleged to be incompetent living in the residence or household, ordering payment of temporary support or provision of suitable housing for them.

(3) Awarding temporary custody of or establishing temporary visitation rights and conditions with regard to any children or person alleged to be incompetent.

(4) Ordering counseling or professional medical treatment for the defendant or the abused person, or both.

(5)(a) Ordering a medical evaluation of the defendant or the abused person, or both, to be conducted by an independent court-appointed evaluator who qualifies as an expert in the field of domestic abuse. The evaluation shall be conducted by a person who has no family, financial, or prior medical relationship with the defendant or abused person, or their attorneys of record.

(b) If the medical evaluation is ordered for both the defendant and abused person, two separate evaluators shall be appointed.

(c) After an independent medical evaluation has been completed and a report issued, the court may order counseling or other medical treatment as deemed appropriate.

B. A protective order may be rendered pursuant to this Chapter if the court has jurisdiction over the parties and subject matter and either of the following occurs:

(1) The parties enter into a consent agreement.

(2) Reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process.

C. Any protective order issued within this state or outside this state that is consistent with Paragraph B shall be accorded full faith and credit by the courts of this state and enforced as if it were the order of the enforcing court.

D. On the motion of any party, the court, after notice to the other parties and a hearing, may modify a prior order to exclude any item included in the prior order or to include any item that could have been included in the prior order.

E. A protective order made under this Chapter shall be served on the person to whom the order applied in open court at the close of the hearing, or in the same manner as a writ of injunction.

F. Any final protective order or approved consent agreement shall be for a fixed period of time, not to exceed six months, and may be extended by the court, after a contradictory hearing, in its discretion. When such order or agreement is for the protection of a child under the age of eighteen who has been sexually molested, the period shall last at least until the child attains the age of eighteen years, unless otherwise modified or terminated following a contradictory hearing. Such protective order or extension thereof shall be subject to a devolutive appeal only.

G. Immediately upon rendering a decision granting the relief requested by the petitioner, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall immediately forward it to the clerk of court for filing on the day that the order is issued.

H. If a protective order is issued or modified, or a consent agreement is agreed to or modified, the clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside by facsimile transmission or direct electronic input 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. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.

I. A court shall not grant a mutual order for protection to opposing parties. However, nothing contained in this Paragraph shall be construed to prohibit the court from granting a protective order to a party in a subsequently filed Petition for Domestic Abuse Assistance provided that the provisions contained in R.S. 46:2136(B) have been met.

> State of Louisiana in the Interest of C.J.K. and K.K., 774 So.2d 107 (La. 2000). The Department of Social Services, Office of Community Services filed a petition to terminate the parental rights of R.K. (father of the two minor children, C.J.K. and K.K. and husband of J.K.) and J.K. (mother of the minor children, C.J.K. and K.K. and wife of R.K.). The Fourteenth Judicial District Court for the Parish of Calcasieu granted the petition and the mother appealed; the Third Circuit Court of Appeal reversed the trial court's decision. The Louisiana Supreme Court in an opinion authored by Justice Traylor, reversed the Third Circuit Court of Appeal decision and affirmed the decision of the trial court. The Supreme Court held that the mother participated in passive abuse of her children which resulted in life-threatening and severely disabling psychological injuries to the children and it was in the children's best interest to terminate the mother's parental rights. The facts included testimony by J.K. that she had obtained several restraining and protective orders against R.K. and attempted to have him arrested for his abusive behavior on numerous occasions. J.K. complained that R.K. often violated the restraining and protective orders and that sometimes the Sheriff's Department would not pick up R.K. when he violated the court orders or when she reported his abuse. J.K.'s testimony also included admissions that she returned to R.K. after filing for the protective orders and failed to pursue contempt of court proceedings for R.K.'s violations of the protective orders, J.K. also acknowledged that she had not initiated divorce proceedings. Further, it was discovered that J.K. had reconciled with R.K. even after the filing of the petition to terminate her parental rights.
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> J.K. voluntarily surrendered physical custody of her minor children to the State of Louisiana after R.K. had physically abused them, leaving bruises. Ultimately, the minor children were found to be "In Need of Care" by the trial court. At first, the permanent plan for the minor children was reunification with J.K.; however, over time the permanent plan was changed to termination of parental rights to free the minor children for adoption. Evidence included a psychological evaluation of J.K. which revealed that J.K. was abandoned by her mother at the age of seven months and adopted at the age of two years; that J.K.'s adoptive father physically abused her and her adoptive mother was mentally and emotionally abusive. The psychologist believed that J.K. was suffering from a chronic self-defeating personality disorder; also that J.K. was an intelligent, sensitive woman who had a legitimate concern for her children. Other evidence included an evaluation of the minor children by a clinical psychologist. The psychologist found the children to be "very traumatized" and "very disturbed" children. In addition, a clinical social worker who provided counseling to K.K. testified that the child displayed "abusiveness toward animals, angry behavior, antisocial behavior, sad behavior, self

mutilation, hyperactive behavior, and oppositional behavior." She described K.K. as being attention-seeking, argumentative, demanding, very impulsive, and very manipulative. The court concluded that "although J.K.'s testimony reveals efforts on her part to obtain help for herself through restraining orders and law enforcement, the record also demonstrates her inability to follow through with any attempt to stay away from her husband. In fact, the overwhelming evidence of mental health professionals and her own admissions support the finding that she sabotaged her own efforts to rehabilitate, for example by refusing to participate in further therapy to allow OCS to determine compliance with her case plan, and returning to her husband on numerous occasions, including contact initiated by her, even after the petition to terminate her rights had been filed." In the unique facts of this case, the trial court found that repeated returns to R.K., and high risk of continuing to do so constituted neglect that is chronic, life threatening, or results in gravely disabling physical or psychological injury or disfigurement. The court further stated that it is "cognizant that domestic violence and child abuse or neglect are often related problems within the same dysfunctional family. While we recognize that the battered woman in the relationship is the victim, and a pattern of returning to the batterer is common, we must also accept the legislature's mandate that the children are the paramount concern."

Green v. Myers, 335 So.3d 514 (La. App. 2 Cir. 2022), rehearing denied, writ denied 338 So.3d 1188 (La. 5/18/22). Trial court's determination that mother did not establish by a preponderance of the evidence that child's father had sexually abused child, as required to warrant issuing protective order barring father from contacting child, was not an abuse of discretion, where sheriff's office had investigated allegations and grand jury had not indicted, Department of Children and Family Services (DCFS) had closed its investigation with inconclusive findings, district court, having heard testimony from child and mother, questioned mother's credibility, stating that child appeared to have been coached and that court was troubled that mother subjected child to parental alienation and coaching, and child's therapist testified that child never said in therapy that father molested her.

State in Interest of C.D., 262 So.3d 929 (La. App. 4 Cir. 2018), writ denied 266 So.3d 903(La. 3/6/19).Juvenile Court had subject-matter jurisdiction over father's petition under Children's Code for protection from abuse on behalf of children, although father had previously, under Domestic Abuse Assistance statutes, petitioned in District Court for protection from abuse based on same alleged facts, where District Court petition had not reached decision on merits and was no longer pending when father filed Juvenile Court petition. Evidence supported issuance of protective order on behalf of children which alleged that mother had allowed her then-boyfriend to physically harm children; mother had obtained own protective order against ex-boyfriend based on request that had included allegations of physical abuse, she admitted she falsely denied such physical abuse at hearing in prior proceedings, various other witnesses testified, and juvenile court interviewed children.

S.L.B. v. C.E.B., 252 So.3d 950 (La. App. 4 Cir. 2018), writ denied 256 So.3d 992 (La. 11/20/18).

Richardson v. Smith, 92 So.3d 1145 (La. App. 2 Cir.2012). Evidence was insufficient to establish, by a preponderance of the evidence, that father sexually abused child, in action to obtain a protection from abuse order on behalf of child against father; social worker testified, after interviewing child, that the likelihood that child was sexually abused was "very high," but she also stated that child "never" identified father as her abuser, and child's preschool teacher testified that she noticed a change in child's behavior but did not state that child ever said anything about her father abusing her.

Newton v. Berry, 15 So.3d 262 (La. App. 2 Cir. 2009). Preponderance of evidence was sufficient to support issuance of protective order under Domestic Abuse Assistance Act against stepfather as to stepdaughter; stepfather disrobing, getting into bed with stepdaughter, and tickling her stomach could not be considered anything other than lewd and lascivious behavior intended to arouse or gratify his sexual desires, such behavior appeared to constitute grooming, his reference to nudists as excuse for his conduct was ludicrous, stepfather also relieved himself in front of stepdaughter and her sister while two girls were in bathtub, and stepfather and child's mother had to clarify their testimony to admit that stepfather was at times alone in room with girls when mother was in another room or absent.

Buchanan v. Langston, 827 So.2d 1186 (La. App. 2 Cir. 2002). Prior to entering final order pursuant to Children's Code suspending father's visitation rights until child attained age of 18 years, trial court correctly applied Post-Separation Family Violence Relief Act (PSFVRA) provision stating that court shall prohibit all visitation between sexually abusive parent and child until such time, following a contradictory hearing, that court finds that parent has successfully completed treatment program and that supervised visitation is in child's best interest. Trial court was not limited to remedies contained in the Domestic Abuse Assistance Act or Post-Separation Family Violence

Relief Act (PSFVRA), but could properly pursuant to Children's Code suspend father's visitation rights until child attained age of 18 years.

Bourque v. Bouillion, 663 So.2d 491 (La. App. 3 Cir. 1995). Father's unsupervised child visitation rights were suspended by Judge Byron Hebert of the Fifteenth Judicial District Court for the Parish of Vermillion until such time as the state could arrange for supervised visits. Father applied for supervisory writs. The Third Circuit Court of Appeal, in an opinion authored by Judge Woodard, held in relevant part that: (1) supervisory writs are permissible means of reviewing protective order; (2) trial court was required to find that child had been sexually abused by preponderance of evidence in order to suspend unsupervised visitation, rather than by clear and convincing evidence.

Art. 1570.1. Costs paid by abuser

A. Except as provided in Paragraph B of this Article, all court costs, attorney fees, costs of enforcement and modification proceedings, costs of appeal, evaluation fees, and expert witness fees incurred in maintaining or defending any proceeding concerning domestic abuse assistance in accordance with the provisions of this Chapter shall be paid by the perpetrator of the domestic violence, including all costs of medical and psychological care for the abused adult, or for any of the children, necessitated by the domestic violence.

B. If the court determines the petition was frivolous, the court may order the nonprevailing party to pay all court costs and reasonable attorney fees of the other party. Failure to appear at a hearing on the petition shall not on its own constitute grounds for assessing court costs and fees against the petitioner.

Ch. C. Art. 1571. Penalties; notice of penalty in order

A. Upon violation of a temporary restraining order, a protective order, or a court-approved consent agreement, the court may hold the defendant in contempt of court and punish the defendant by imprisonment in the parish jail for not more than six months or a fine of not more than five hundred dollars, or both, and may order that all or a part of any fine be forwarded for the support of petitioner and dependents, in the discretion of the court.

B. Such sentence shall be imposed only after trial by the judge of a rule against the defendant to show cause why he should not be adjudged guilty of contempt and punished accordingly. The rule to show cause may issue on the court's own motion or on motion of a party to the action or proceeding, and shall state the facts alleged to constitute the contempt. A certified copy of the motion and of the rule to show cause shall be served upon the person charged with contempt in the same manner as a subpoena, at least forty-eight hours before the time assigned for the trial of the rule, which shall be scheduled within twenty days of the filing of the motion for contempt.

C. Each protective order issued under this Chapter, including a temporary ex parte order, shall have the following statement printed in bold-faced type or in capital letters: "A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR CONTEMPT OF COURT BY A FINE OF NOT MORE THAN $500 OR BY CONFINEMENT IN JAIL FOR AS LONG AS SIX MONTHS, OR BOTH, AND MAY BE FURTHER PUNISHED UNDER THE CRIMINAL LAWS OF THE STATE OF LOUISIANA. THIS ORDER SHALL BE ENFORCED BY ALL LAW ENFORCEMENT OFFICERS AND COURTS OF THE STATE OF LOUISIANA."

D. Nothing contained herein shall be construed as a limitation on any applicable provisions of Title 14 of the Louisiana Revised Statutes of 1950.

Ch. C. Art. 1572. Other relief not affected

The granting of any relief authorized under this Chapter shall not preclude any other relief authorized by law.

Ch. C. Art. 1573. Law enforcement officers; duties

Whenever a law enforcement officer has reason to believe that a family or household member has been abused, the officer shall immediately use all reasonable means to prevent further abuse, including:

(1) Arresting the abusive party with a warrant or without a warrant pursuant to Article 213 of the Code of Criminal Procedure, if probable cause exists to believe that aggravated or second degree battery has been committed by that person, whether or not the offense occurred in the officer's presence.

(2) Arresting the abusive party in case of simple assault, aggravated assault, or simple battery, whether or not the offense occurred in the presence of the officer, when the officer reasonably believes there is impending danger to the physical safety of the abused person in the officer's absence. If there is no cause to believe there is impending danger, arresting the abusive party is at the officer's discretion.

(3) Assisting the abused person in obtaining medical treatment necessitated by the battery, or arranging for, or providing or assisting in the procurement of transportation for the abused person to a place of shelter or safety.

(4) Notifying the abused person of his right to initiate criminal or civil proceedings, the availability of the protective order pursuant to Article 1570, and the availability of community assistance for domestic violence victims.

Ch. C. Art. 1574. Reporting

Whenever a law enforcement officer investigates an allegation of domestic abuse, whether or not an arrest is made, the officer shall make a written report of the alleged incident, including a statement of the complainant and the disposition of the case.

Ch. C. Art. 1575. Immunity

Any law enforcement officer reporting in good faith, exercising due care in the making of an arrest, or providing assistance pursuant to the provisions of Articles 1573 and 1574 shall have immunity from any civil liability that otherwise might be incurred or imposed because of the report, arrest, or assistance provided.

Louisiana Revised Statutes - Title 9. Civil Code Ancillaries.
Code Book I. Title V. Chapter 1. Divorce
Part IV. Post-Separation Family Violence Relief Act
R.S. 9:361 et seq. Post Separation Family Violence Relief Act

R.S. 9:361. Legislative findings

The legislature hereby reiterates its previous findings and statements of purpose set forth in R.S. 46:2121 and 2131 relative to family violence and domestic violence. The legislature further finds that the problems of family violence do not necessarily cease when the victimized family is legally separated or divorced. In fact, the violence often escalates, and child custody and visitation become the new forum for the continuation of the abuse. Because current laws relative to child custody and visitation are based on an assumption that even divorcing parents are in relatively equal positions of power, and that such parents act in the children's best interest, these laws often work against the protection of the children and the abused spouse in families with a history of family violence. Consequently, laws designed to act in the children's best interest may actually effect a contrary result due to the unique dynamics of family violence.

> State in Interest of A.C., 643 So.2d 719 (La. 1994), rehearing granted, on rehearing 643 So.2d 743, 1993-1125 (La. 10/17/94), certiorari denied 115 S.Ct. 2291, 515 U.S. 1128, 132 L.Ed.2d 292. In enacting child sexual abuse statute which prohibits contact between abusive parent and child until court finds that parent has successfully completed sexual abuse treatment program, intent of legislature was to remove any possibility of further abuse of child at hands of parent due to perceived failure of existing laws.
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> Pierre v. Pierre, 2024 WL 698323 (La. App. 5 Cir. 2/21/24). Father failed to overcome presumption under Post-Separation Family Violence Relief Act (PSFVRA) that he could not be awarded sole or joint custody of children based on his history of perpetrating family violence, and thus only supervised visitation with children was permitted under PSVFRA; even though father had completed domestic abuse intervention program and did not abuse alcohol or illegal drugs, there was evidence that he had a history of perpetrating family violence, and it was in the best interest of children for his visitation to be supervised.

Melancon v. Russell, 258 So.3d 955 (La. App. 5 Cir. 2018). Neither the provisions of Post-Separation Family Violence Relief Act (PSFVRA), which in part creates a presumption against awarding sole or joint custody to a parent with a history of perpetuating family violence, nor caselaw requires that relief under PSFVRA be specifically pleaded, where the allegations of abuse have been raised in the pleading or tried by the express or implied consent of the parties.

Hudson v. Strother, 246 So.3d 851 (La. App. 3 Cir. 2018). Apparent legislative intent in creating Post-Separation Family Violence Relief Act, which addresses issues of child custody and visitation, and how they are affected by family violence during legal separation and divorce, was to protect victimized parties when domestic disputes arise in course of separation and divorce.

Coleman v. Manley, 188 So.3d 395 (La. App. 5 Cir. 2016). An award of domiciliary custody of child to father did not constitute a considered decree, and thus mother did not have to meet the *Bergeron* burden of proof and establish that a change in circumstances had occurred such that the continuation of the present custody arrangement is so deleterious to the child as to justify a modification of the custody decree, in child custody modification proceeding; father had been granted custody under the Post-Separation Family Violence Relief Act, and at the hearing no evidence regarding the statutory child custody factors was considered and the only evidence presented concerned an allegation of family violence.

Cloud v. Dean, 184 So.3d 235 (La. App. 3 Cir. 2016). The trial court's initial decree awarding mother sole custody of child, upon finding that father had committed acts of family violence under the Post–Separation Family Violence Relief Act, was not a considered decree of permanent child custody triggering application of *Bergeron* 's heightened burden of proof to father's rule seeking modification of the custody arrangement; the award of sole custody to mother was not intended to be a permanent custody arrangement, and trial court made clear in its written reasons for judgment that the initial judgment was an arrangement to last only until father completed a domestic violence intervention program, after which a full hearing could be held, wherein the trial court would hear evidence pertaining to "all relevant factors" in determining the best interests of the child.

Dufresne v. Dufresne, 992 So.2d 579 (La. App. 5 Cir. 2008), rehearing denied, writ denied 996 So.2d 1123 (La. 12/17/08). The trial court could award relief to wife under domestic abuse statutes in post-divorce hearing on custody, child support, spousal support, and return of separate property, even though wife did not specifically request relief for domestic abuse in her pleadings; such award was not a denial of husband's due process rights; two witnesses testified as to the physical abuse of wife by husband with no objection from husband's counsel; husband's counsel fully cross-examined each witness, and husband presented testimony of himself and his children denying allegations of physical abuse; and the pleadings could be amended to conform with the evidence even after judgment was rendered.

Nguyen v. Le, 960 So.2d 261 (La. App. 5 Cir. 2007). Ms. Nguyen, wife of Dr. Le, presented evidence at trial of one incident of family violence which did not result in any injury to her. Judge Stephen J. Windhorst of the 24th Judicial District Court for the Parish of Jefferson did not make a finding that Dr. Le had a history of family violence. The issue was neither briefed nor argued during the trial. The Fifth Circuit Court of Appeal, in an opinion authored by Judge Thomas F. Daley, held that the Post Separation Family Violence Relief Act cannot be plead for the first time on appeal as it requires the trial court to make a specific determination of a history of perpetration of family violence. See also Howze v. Howze, 727 So.2d 586 (La. App. 1 Cir. 1998).

State of Louisiana in the Interest of S.D.K. and K.D.K., 875 So.2d 887 (La. App. 5 Cir. 2004). In 1999, after protracted litigation, an Alabama Family Court granted legal custody of S.D.K. and K.D.K. to their biological father who presently lives in St. Charles Parish; the mother who lives in Alabama was given visitation. When mother picked up the minor children for her regularly scheduled visitation, she noticed bruising on S.D.K.'s body; a physician observed multiple bruises that were consistent with the child's statement of physical abuse by his father and stepmother. The children initially went into state custody in Alabama and were thereafter transferred to state custody in St. Charles Parish; the District Attorney filed a petition to have the minor children declared in need of care. The court adjudicated the children to be in need of care and maintained the custody of the children with the Office of Community Services finding that return of the children to the home of either parent would be contrary to their health, safety, welfare, and the best interest. Thereafter, the father and stepmother began participation in the services recommended in the case plan by the Office of Community Services; a disposition hearing was held and the court determined that the children should remain in the continued legal custody of the state, but found that the father had completed the necessary counseling pursuant to R.S. 9:364 (part of the Post Separation Family Violence Relief Act). After the permanency hearing, the court found that the minor children should be returned to the legal custody of their father with no further supervision by the Department of Social Services. The court also indicated

that "I don't know whether or not R.S. 9:364 applies to a child in need of services or OCS proceeding. However, if it does, in my opinion, the father's completion of the anger management classes and the parenting classes satisfies the requirements of 9:364." The mother appeals the ruling by Judge Kirk R. Granier of the Twenty-Ninth Judicial District Court for the Parish of St. Charles.

The Fifth Circuit Court of Appeal, in an opinion authored by Judge Dufresne, affirmed the trial court's ruling and noted that "it is unlikely that the provisions of the Post Separation Family Violence Relief Act applied to the instant child in need of care proceedings." The court went on to note that the Act is contained in Title 9 of the Louisiana Revised Statutes, under Chapter 1, pertaining to divorce. LSA -R.S. 9:361 "specifically addresses the issues of child custody and visitation and how they are affected by family violence during legal separation and divorce."

The court further found that "even if the provisions of the Post Separation Family Violence Relief Act are deemed applicable, we find, as did the trial judge, that the father met the requirements as contemplated by the Act. In the present case, the Office of Community Services recommended that the father and stepmother participate in family therapy, and that the stepmother participate in anger management therapy. The father and stepmother also underwent a psychological evaluation with a psychologist who recommended anger management and family therapy. The record is clear that the father and the stepmother were very cooperative with the Office of Community Services and completed all of the services that were recommended for them, including parenting classes, anger management therapy, and in-home family therapy. In addition, the stepmother continued with her therapy even after completion of the case in the trial court".

Martin v. Martin, 833 So.2d 1216 (La. App. 2 Cir. 2002). Mother, who lives out of state, sought sole permanent custody of the minor child when she and the child's father had previously agreed to have joint legal custody. Judge Carl B. Sharp of the 4th Judicial District Court for the Parish of Morehouse granted sole physical custody to the father and the mother appealed. The Second Circuit Court of Appeal, in an opinion authored by Judge Caraway, held, in part, that the Post Separation Family Violence Relief Act was inapplicable to this child custody issue. Mother's complaints of physical violence included bruising on her legs on three occasions - all prior to the birth of the minor child.

Lewis v. Lewis, 771 So.2d 856 (La. App. 2 Cir. 2000), rehearing denied. Husband had history of perpetrating family violence, and, thus, trial court committed reversible legal error in failing to apply Post-Separation Family Violence Relief Act, where evidence showed multiple instances of violent acts inflicted upon wife by husband, one beating resulted in broken nose, and husband did admit that violent acts occurred.

MacHauer v. Randolph, 754 So.2d 1042 (La. App. 1 Cir. 1999). Mr. MacHauer, the father of Mindy, filed a Motion for Modification of Custody based on violent incidences between Mindy's mother (Mr. MacHauer's ex-wife) and her new husband, Mr. Randolph. Judge William J. Burris of the 22nd Judicial District Court for the Parish of St. Tammany refused to designate the father the domiciliary parent or to award him sole custody since the trial court found that the Post Separation Family Violence Relief Act did not apply to the dispute between Mr. MacHauer and Mrs. Randolph. The First Circuit Court of Appeal, in an opinion authored by Judge Guidry, affirmed the trial court's judgment in that the Post Separation Family Violence Relief Act did not apply in this particular case under these particular facts. The First Circuit held that the overall tone and the language of the domestic violence statutes relate to acts "committed by one parent against the other parent or against any of the children." The court held that this is not the case here. At the time of the incident, Mindy and her father were not on the scene, he and Mrs. Randolph having separated prior to the incident.

Raney v. Wren, 722 So.2d 54 (La. App. 1 Cir. 1998). Ex-wife petitioned for change in custody. Judge Jennifer Luse of the Family Court for the Parish of East Baton Rouge rendered judgment maintaining joint custody and designating the ex-husband as the domiciliary parent. The ex-wife appealed. The First Circuit Court of Appeal, in an opinion authored by Judge Weimer, held that evidence of facts occurring before a stipulated custody judgment are not admissible to establish that the ex-husband had a history of family violence. NOTE: In addition, the First Circuit held that testimony of a child of tender years is a matter which addresses itself to the sound discretion of the trial court. In this case, the child's competency was not evaluated by the trial court, the trial court never questioned the child to determine if she had sufficient understanding to testify but limited the child's testimony to that of her preference as to her domicile on grounds that it was in the child's best interest. This case is interesting in that the court maintained the father with domiciliary custody of the minor child even though the minor child's preference was to live with the mother, the court appointed expert was of the opinion that the child should reside with the mother, and the father's expert did not render an opinion as to who was the better parent.

Further, the First Circuit held that for "evidence of facts occurring before a stipulated judgment to be admissible, the evidence must meet the criteria of relevance and the balancing test as set forth in the Louisiana Code of Evidence Articles 401 through 403." The First Circuit further stated that "courts should not automatically exclude evidence as pre-consent judgment conduct . . . courts should not automatically admit the evidence." The First Circuit Court of Appeal evaluated the testimony found in the proffers and concluded

that the evidence involved a swearing contest between the parties. "A thorough review of the record in this case indicates that the evidence does not support Mrs. Raney's allegations of violence on the part of Mr. Wren. Given the length of time between Mrs. Raney's complaints and the original decree, Mrs. Raney's allegations are suspect." The court listed Mrs. Raney's statements that she and Mr. Wren began communicating a lot more, tried to show Jessica that they were okay with each other and that they could get along with each other; Mrs. Raney indicated that she had "no problems going to Mr. Wren's house" and "no problem spending time with him and Jessica". Mrs. Raney also admitted to spending the night at Mr. Wren's house on two occasions.

Bruscato v. Avant, 660 So.2d 72 (La. App. 4 Cir. 1995), rehearing denied, writ denied, 664 So.2d 457 (La. 12/15/95). In an ongoing custody case, Judge Michael G. Bagneris of the Civil District Court for the Parish of Orleans ruled that the Post Separation Family Violence Relief Act provisions were substantive in nature and therefore were not applicable at retrial. The mother applied for supervisory writs. The Fourth Circuit Court of Appeal, in an opinion authored by Judge Landrieu, held that the Post Separation Family Violence Relief Act is in fact applicable to proceedings which were initiated prior to its enactment as its provisions are procedural in nature and do not impact substantive rights of parties.

R.S. 9:362. Definitions

As used in this Part:

(1) "Abused parent" means the parent who has not committed family violence.

(2) "Court" means any district court, juvenile court, or family court having jurisdiction over the parents and/or child at issue.

(3) "Court-monitored domestic abuse intervention program" means a program, comprised of a minimum of twenty-six in-person sessions, that follows a model designed specifically for perpetrators of domestic abuse. The offender's progress in the program shall be monitored by the court. The provider of the program shall have all of the following:

(a) Experience in working directly with perpetrators and victims of domestic abuse.

(b) Experience in facilitating batterer intervention groups.

(c) Training in the causes and dynamics of domestic violence, characteristics of batterers, victim safety, and sensitivity to victims.

(4) "Family violence" includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injuring and defamation, committed by one parent against the other parent or against any of the children. Family violence does not include reasonable acts of self-defense utilized by one parent to protect himself or herself or a child in the family from the family violence of the other parent.

(5) "Injunction" means a temporary restraining order or a preliminary or a permanent court ordered injunction, as defined in the Code of Civil Procedure, which prohibits the violent parent from in any way contacting the abused parent or the children except for specific purposes set forth in the injunction, which shall be limited to communications expressly dealing with the education, health, and welfare of the children, or for any other purpose expressly agreed to by the abused parent. All such injunctions shall prohibit the violent parent, without the express consent of the abused parent, from intentionally going within fifty yards of the home, school, place of employment, or person of the abused parent and the children, or within fifty feet of any of their automobiles, except as may otherwise be necessary for court ordered visitation or except as otherwise necessitated by circumstances considering the proximity of the parties' residences or places of employment. Such injunctions shall be issued in the form of a Uniform Abuse Prevention Order and transmitted to the Louisiana Protective Order Registry, as required by this Part.

(6) "Sexual abuse" includes but is not limited to acts which are prohibited by R.S. 14:41, 42, 42.1, 43, 43.1, 43.2, 43.4, 78, 80, 81, 81.1, 81.2, 89 and 89.1.
(7) "Supervised visitation" means face-to-face contact between a parent and a child which occurs in the immediate presence of a supervising person approved by the court under conditions which prevent any physical abuse, threats, intimidation, abduction, or humiliation of either the abused parent or the child. The supervising person shall not be any relative, friend, therapist, or associate

of the parent perpetrating family violence. With the consent of the abused parent, the supervising person may be a family member or friend of the abused parent. At the request of the abused parent, the court may order that the supervising person shall be a police officer or other competent professional. The parent who perpetrated family violence shall pay any and all costs incurred in the supervision of visitation. In no case shall supervised visitation be overnight or in the home of the violent parent.

Durand v. Rose, 366 So.3d 484 (La. App. 4 Cir. 2022), writ denied 353 So.3d 127 (La. 1/18/23). Award to father, whom trial court determined had history of perpetuating domestic violence, of unsupervised visitation with children was not warranted; there was no record evidence that father had successfully completed court-monitored domestic abuse intervention program since last incident of violence or abuse.

Barak v. Saacks, 367 So,3d 656 (La. App. 4 Cir. 2022), writ denied 352 So.3d 987, 2022-01734 (La. 1/11/23). Trial court committed legal error when it awarded father "unsupervised physical custody periods" with children after finding that father had a history of family violence; the Post-Separation Family Violence Relief Act mandated that the trial court could not reinstate custody to father until finding by a preponderance of the evidence that he completed a court-monitored domestic abuse intervention program, he was not abusing alcohol or using illegal substances, and that the best interest of the child factors required father's participation as a custodial parent, and while father presented evidence that he completed a domestic abuse intervention program, the trial court failed to establish that the program father completed abided by the requirements out lined in the Act.

Graugnard v. Graugnard, 342 So.3d 1022 (La. App. 4 Cir. 6/9/22). Wife was not barred by res judicata from pursuing relief as to allegations of abuse by husband that were not included in wife's original petition for protection from abuse, including six new occurrences of abuse alleged to have occurred after dismissal of wife's original petition, in divorce and custody proceeding, given that the new allegations were not in existence at the time wife filed her successive petition and were not previously adjudicated by the trial court.

Cockheran v. Christopher, 331 So.3d 389 (La. App. 4 Cir. 2021). Allegations of abuse in mother's petition were sufficient to qualify as "family violence," as required trigger the applicability of the Post-Separation Family Violence Relief Act after mother sought a permanent order of protection against father and sole custody of their son; claimed that he strangled and slammed her against a wall, forcefully shoved and held her seven-year old son by his neck, and hit her two-year old daughter on the legs with a ruler so hard that it broke the skin. Evidence of father's abuse was sufficient to establish a history of "family violence," as required for the trial court to grant mother's petition seeking a permanent order of protection against father and sole custody of their son under the Post-Separation Family Violence Relief Act; mother testified that when she attempted to leave father, he threatened to reveal her location to her former sex trafficker, mother's counsel offered and introduced into evidence photocopies of mother's scars, her seven-year old son's scars, and their infant son's certified medical records, and incidents of father's domestic abuse against mother and her children were corroborated with evidence and other testimony.

See Pierce v. Pierce, 298 So.3d 902 (La. App. 1 Cir. 2020).

Hudson v. Strother, 246 So.3d 851 (La. App. 3 Cir. 2018). Post-Separation Family Violence Relief Act did not apply to father's action filed against mother in which father sought a change of custody of parties' minor child from that established in consent decree, even though father claimed Act applied based upon allegations of violent acts committed against mother by her live-in paramour; father did not assert that mother had committed violent acts against him or the child, and thus mother was not an abusive parent subject to the application of the Act.

D.O.H., Sr. v. T.L.H. now C., 799 So.2d 714 (La. App. 3 Cir. 2001). Writ not considered 805 So.2d 1190, reconsideration denied 810 So.2d 1140. This is the second ruling by the Third Circuit in this ongoing custody dispute. See Hicks v. Hicks, 733 So.2d 1261 (La. App. 3 Cir. 1999). Before the Third Circuit handed down its decision in Hicks, the parties entered a stipulation dismissing the rules for contempt. Later that same day, allegations were made by the oldest minor child that she had been sexually abused by her mother and her mother's new husband; the older child also accused the new husband of physical and emotional abuse of the younger children. Because of the bizarre nature of the allegations and the fact that the children were to be returned to the mother in order for them all to return to Canada, the trial court went into juvenile session and in its juvenile capacity placed the older child with the paternal grandparents with supervision by the Louisiana Office of Community Services. In compliance with the Third Circuit's ruling, the trial court returned custody of the two youngest children to the mother and ordered that a report be referred to Family Services in Canada.

Louisiana OCS referred the older child and the father to counseling; the father thereafter completed an "anger management program." Thereafter, the father filed another rule to change custody; Louisiana OCS made an appearance through its counsel and recommended that custody of the oldest child be transferred to the father. Counsel for the mother responded that they were not opposed to the recommendation of the state but reserved their rights under the Post Separation Family Violence Relief Act; the trial court returned custody of the oldest minor child to the father. At a later date, the trial court determined that the best interests of the youngest children were to award sole custody to the father with the mother having visitation. Mother appealed the change of custody. The Third Circuit Court of Appeal, in an opinion authored by Judge Yelverton, held that the husband completed a proper treatment program, as defined by the Post Separation Family Violence Relief Act, and that modification of child custody granting the husband sole custody of the youngest children was justified. The Third Circuit held that a licensed mental health professional, Dr. Adams - a clinical psychologist - met the statutory requirements of the Post Separation Family Violence Relief Act. The Third Circuit went on to say that he was the one who conducted the course of psychotherapy; Dr. Adam's testimony according to the Third Circuit was that "his treatment of the father consisted of exposing him to anger management techniques and strategies for controlling his anger." In fact, Dr. Adams met with the father for an initial evaluation and six subsequent sessions. During the sessions, Dr. Adams went through the tactics that people use for controlling themselves and for identifying risk situations for loss of control, in addition to anger reducers and tactics for managing anger. Further, that "Dr. Adams found the father to be completely cooperative during these sessions." The Third Circuit even noted that Dr. Adams "admitted he did not know the specific details of the spousal abuse for which the father was receiving treatment."

The Third Circuit further indicated that Dr. Adams "testified that six anger management training sessions were sufficient to expose the father to the basic principles of anger management." The Third Circuit acknowledged the "attack the mother has made on the course of evaluation and psychotherapy including questioning whether the course was, in the statutory language, 'designed specifically for perpetrators of family violence'." However, the Third Circuit indicated that the mother "offered neither expert witness testimony nor other evidence regarding the standard for meeting the program for treatment as defined by this statute."

The Third Circuit also upheld the trial court's decision to change custody of the two youngest children from the mother to sole custody to the father. The Third Circuit held that they had already determined that the father successfully completed a treatment program and "there was evidence by the father establishing that he was not abusing alcohol or using illegal drugs and therefore, had complied with the provisions of the Post Separation Family Violence Relief Act." Since the earlier award of custody of the youngest children to the mother was a "considered" decree, the trial court had to find that continuation of the present custody is "so deleterious to the child as to justify a modification of the custody decree" or finding by "clear and convincing evidence that the harm likely to be caused by the change of environment is substantially outweighed by its advantages to the child." The Third Circuit upheld the trial court's finding that the father had "clearly proven a material change in circumstances and that continuation of the present custody arrangement would be so damaging to justify a modification of the custody decree. The trial court did not err in awarding sole custody of the two minor children to the father."

NOTE: Judge Woodard, the author of the opinion in Hicks v. Hicks, 733 So.2d 1261 (La. App. 3 Cir. 1999) wrote a lengthy dissent. She provided numerous sources from the federal government to the Louisiana Coalition Against Domestic Violence Research Consortium to support her assessment that the six sessions of "anger management" did not meet the statutory requirements of "a course of evaluation and psychotherapy designed specifically for perpetrators of family violence". Judge Woodard found that the father did not provide prima facie evidence that he had complied with the provisions of the act and therefore it was inappropriate for the trial court to shift the burden to the mother where the statute does not provide for such a shift.

NOTE: Case decided prior to the 2014 change in statute: "Court-monitored domestic abuse intervention program" means a program, comprised of a minimum of twenty-six in-person sessions that follows a model designed specifically for perpetrators of domestic abuse. The offender's progress in the program shall be monitored by the court. The provider of the program shall have all of the following:

> (a) Experience in working directly with perpetrators and victims of domestic abuse.
> (b) Experience in facilitating batterer intervention groups.
> (c) Training in the causes and dynamics of domestic violence, characteristics of batterers, victim safety, and sensitivity to victims.

Morrison v. Morrison, 699 So.2d 1124 (La. App. 1 Cir. 1997). Any intentional use of force or violence upon person of one's spouse or child, whether physical contact is injurious or merely offensive, constitutes "family violence" under Post-Separation Family Violence Relief Act.

R.S. 9:363. Ordered mediation prohibited

Notwithstanding any other provision of law to the contrary, in any separation, divorce, child custody, visitation, child support, alimony, or community property proceeding, no spouse or parent who satisfies the court that he or she, or any of the children, has been the victim of family violence perpetrated by the other spouse or parent shall be court ordered to participate in mediation.

R.S. 9:364. Child custody; visitation

A. There is created a presumption that no parent who has a history of perpetrating family violence, as defined in R.S. 9:362, or domestic abuse, as defined in R.S. 46:2132, or has subjected any of his or her children, stepchildren, or any household member, as defined in R.S. 46:2132, to sexual abuse, as defined in R.S. 14:403(A)(4)(b), or has willingly permitted another to abuse any of his children or stepchildren, despite having the ability to prevent the abuse, shall be awarded sole or joint custody of children. The court may find a history of perpetrating family violence if the court finds that one incident of family violence has resulted in serious bodily injury or the court finds more than one incident of family violence.

B. The presumption shall be overcome only if the court finds all of the following by a preponderance of the evidence:

(1) The perpetrating parent has successfully completed a court-monitored domestic abuse intervention program as defined in R.S. 9:362, or a treatment program designed for sexual abusers, after the last instance of abuse.

(2) The perpetrating parent is not abusing alcohol or using illegal substances scheduled in R.S. 40:964.

(3) The best interest of the child or children, considering the factors listed in Civil Code Article 134, requires the perpetrating parent's participation as a custodial parent because of the other parent's absence, mental illness, substance abuse, or other circumstance negatively affecting the child or children.

C. The fact that the abused parent suffers from the effects of the abuse shall not be grounds for denying that parent custody.

D. If the court finds that both parents have a history of perpetrating family violence, custody shall be awarded solely to the parent who is less likely to continue to perpetrate family violence. In such a case, the court shall mandate completion of a court-monitored domestic abuse intervention program by the custodial parent. If necessary to protect the welfare of the child, custody may be awarded to a suitable third person pursuant to Civil Code Article 133, provided that the person would not allow access to a violent parent except as ordered by the court.

E. If the court finds that a parent has a history of perpetrating family violence, the court shall allow only supervised child visitation with that parent pursuant to R.S. 9:341.

F. If any court finds, by clear and convincing evidence, that a parent has sexually abused his or her child or children, the court shall prohibit all visitation and contact between the abusive parent and the children pursuant to R.S. 9:341.

> Folse v. Folse, 738 So.2d 1040 (La. 1999). Evidence was sufficient to support finding that father sexually abused child, as would support child custody determination denying father all visitation rights. Child's statements regarding incidents of sexual abuse were admissible hearsay in child custody case; child first reported sexual abuse in response to her mother's questions made after she observed child's uncharacteristic sexual display, and such evidence was admissible as an initial complaint pursuant to rules of evidence.
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> State in Interest of A.C., 643 So.2d 743 (La. 1994) certiorari denied 115 S. Ct. 2291, 515 U.S. 1128, 132 L.Ed.2d 292. NOTE: Pursuant to the Supreme Court's ruling in this case, the Legislature amended those provisions of the Post Separation Family Violence Relief Act which were found to be unconstitutional, namely requiring the court to give greater weight to the testimony of the child's therapist and allowing a total and partially permanent loss of a parent's right to visitation and contact by a mere preponderance of the evidence standard.

Pierre v. Pierre, 2024 WL 698323 (La. App. 5 Cir. 2/21/24). Father failed to overcome presumption under Post-Separation Family Violence Relief Act (PSFVRA) that he could not be awarded sole or joint custody of children based on his history of perpetrating family violence, and thus only supervised visitation with children was permitted under PSVFRA; even though father had completed domestic abuse intervention program and did not abuse alcohol or illegal drugs, there was evidence that he had a history of perpetrating family violence, and it was in the best interest of children for his visitation to be supervised..

Dean v. Burkeen, 371 So.3d 44 (La. App. 5 Cir. 2023).The trial court's order suspending any visitation between father and the children, and granting a permanent protective order in favor of mother and the children against father, was not manifestly erroneous, in proceeding in which mother, inter alia, sought modification of custody after daughter alleged father had molested her; the trial court found daughter was credible, statute prohibited visitation and contact between a parent and child if the trial court found the parent sexually abused the child, and the trial court found father had sexually abused daughter.

Durand v. Rose, 366 So.3d 484 (La. App. 4 Cir. 2022), writ denied 353 So.3d 127 (La. 1/18/23). Post-Separation Family Violence Relief Act, which establishes a presumption against awarding custody to a parent with a history of perpetrating family violence, only requires evidence of past events of family violence and does not require that events be frequent or continuous. Failure to apply provisions of Post-Separation Family Violence Relief Act, which establishes a presumption against awarding custody to a parent with a history of perpetrating family violence, is reversible legal error, and appellate court should conduct de novo review of record and render judgment on merits.

Baker v. Perret, 349 So.3d 594 (La. App. 1 Cir. 2022), writ denied 349 So.3d 1, (La. 11/1/22). Post-Separation Family Violence Relief Act (PSFVRA), which creates a presumption that no parent who has a history of perpetrating family violence shall be awarded sole or joint custody of children, was designed to protect a child's interest by restricting rights of visitation of an abusing parent in families with a history of family violence.

Garcia v. Hernandez, 339 So.3d 61 (La. App. 5 Cir. 2022). Post-Separation Family Violence Relief Act becomes operative in a custody case if the court finds that there has been family violence and that there is a history of family violence.

Lavigne v. Braud, 335 So.3d 972 ((La. App. 5 Cir. 2021). Statute requiring trial court to ensure parents had frequent and continuing contact with child was only applicable to joint custody orders and did not apply to trial court order, in modification proceeding, awarding mother sole legal and physical custody and permitting father to have regular, unsupervised visitation. Father who had history of perpetrating domestic violence against mother failed to overcome presumption under the Post-Separation Family Violence Relief Act that he would not be awarded sole or joint custody of parties' minor child because of the domestic violence history, notwithstanding that father completed domestic violence intervention program and that trial court found unsupervised visitation for father was in child's best interest, absent any evidence that mother, as custodial parent, had been absent, had been diagnosed with a mental health condition, or had used controlled substances or that any other circumstances would negatively affect the child so that father's participation in custody would be in child's best interest.

Main v. Main, 292 So.3d 135 (La. App. 5 Cir. 2020). Mother, rather than father, had the burden to prove that visitation by the father would not have been in child's best interest, despite evidence of abuse by father, where trial court made no findings that the case involved family violence or domestic abuse. Only in extreme circumstances should a trial court find that a permanent deprivation of visitation rights has been proven.

Melancon v. Russell, 258 So.3d 955 (La. App. 5 Cir.2018). Even if the Post-Separation Family Violence Relief Act (PSFVRA) is not applicable in child custody modification action, trial court may impose supervised visitation when warranted for the child's safety or if in the child's best interest. Unwed father was not denied due process by mother's failure to specifically plead for relief under PSFVRA in child custody modification action brought by father; allegations of domestic violence were at issue throughout the proceedings, and in mother's answer and reconventional demand, while she did not specifically ask for relief under PSFVRA, she did specifically allege domestic violence as ground for maintaining sole custody in her favor, and record showed that mother had filed petitions for protection of abuse, had sought restraining orders against father, and had alleged various acts of violence by father since litigation had commenced.

Hudson v. Strother, 246 So.3d 851 (La. App. 3 Cir. 2018). The Post-Separation Family Violence Relief Act was specifically designed to protect the child's interest by restricting the right of visitation of the abusing spouse in families with a history of family violence.

England v. England, 238 So.3d 1064 (La. App. 4 Cir. 2018). The trial court does not have the authority to order mother to obtain mental health treatment from a therapist of the court's choosing rather than therapist of mother's choice in custody dispute.

Bourgeois v. Bourgeois, 218 So.3d 684 (La. App. 5 Cir. 2017). Evidence in child custody modification case did not support ex-husband's assertion that ex-wife had a violent or abusive nature, or that she should not exercise shared custody or have domiciliary status on this basis; instances of ex-wife's anger and acting out in a violent manner stemmed from her being confronted with numerous instances of ex-husband's infidelity, no evidence was presented of instances of violence occurring after their separation, and social worker opined that ex-wife had no pathology or diagnosis as a violent person, that her behaviors, while inappropriate, were confined to the parties' deteriorating marital relationship, and that she was fit to have custody of her child.

Coleman v. Manley, 188 So.3d 395 (La. App. 5 Cir. 2016), writ denied 191 So.3d 1057 (La. 5/13/16). Evidence supported finding that mother completed a treatment program, which would overcome presumption that mother, who was a perpetrator of family violence, should not be awarded sole or joint custody of child in custody modification proceeding involving out of wedlock child; mother presented evidence that she completed a therapy course, an anger management course, and cognitive processing therapy, and she testified as to the length of the courses and how many sessions she attended.

McFall v. Armstrong, 75 So.3d 30 (La. App. 5 Cir. 2011). The trial court's order that awarded joint care, custody and control of minor children to both husband and wife, designated wife as the primary domiciliary parent, and awarded custody and visitation time periods to husband, was premature, where the court had not yet rendered judgment with regard to husband's petition for domestic abuse protection against wife.

Smith v. Smith, 16 So.3d 643 (La. App. 2 Cir. 2009). Wife sought application of the Post- Separation Family Violence Relief Act; both wife and husband had filed petitions under the Domestic Abuse Assistance Act in the past; and in the midst of a relocation of the child's residence proceeding, Judge Dewey E. Burchett, Jr. of the Twenty-Sixth Judicial District Court for the Parish of Bossier awarded custody of the minor children to the father. The Second Circuit Court of Appeal, in an opinion authored by Judge Gaskins, found that the trial court was not manifestly erroneous in finding that there was no showing of a history of family violence by the divorced father requiring the application of the Post-Separation Family Violence Relief Act, which creates a presumption that no parent who has a history of such violence shall be awarded sole or joint custody of children; there was evidence that each party provoked verbal and sometimes physical altercations with the other, no serious bodily injury occurred during any altercation, and father received counseling and completed an anger management program following an incident with the daughter.

Dufresne v. Dufresne, 992 So.2d 579 (La. App. 5 Cir. 2008).

Nguyen v. Le, 960 So.2d 261 (La. App. 5 Cir. 2007).

C.L.S. v. G.J.S., 953 So.2d 1025 (La. App. 4 Cir. 2007), writ denied 955 So.2d 698 (4/27/07), rehearing denied. Mother filed a petition requesting relief under the Post Separation Family Violence Relief Act alleging sexual abuse perpetrated by the father on the child. Father subsequently filed a rule to change the child's custody. Judge Sidney H. Cates for the Civil District Court of Orleans Parish ordered that a Uniform Abuse Prevention Order be issued to suspend all further contact between the father and the child and awarded mother the sole custody of the child. The father appealed. The Fourth Circuit Court of Appeal, in an opinion authored by Leon A. Cannizzaro, Jr., held that the mother established by clear and convincing evidence that the child suffered sexual abuse and that the father was the perpetrator based on the opinion of four expert witnesses that the child had been sexually abused, had disclosed the abuse to the mother, a babysitter, and two of the expert witnesses; however, there was no physical evidence of the abuse.

Ledet v. Ledet, 865 So.2d 762 (La. App. 5 Cir. 2003). Mother filed petition for divorce alleging that father had sexually abused both children and she sought relief pursuant to the Post Separation Family Violence Relief Act and the Domestic Abuse Assistance Act. Judge Martha E. Sassone of the Twenty-Fourth Judicial District Court for the Parish of Jefferson awarded mother temporary sole custody and granted father unsupervised visitation pending a formal hearing on the issues of abuse. Mother sought writs; the Fifth Circuit Court of Appeal, in an opinion authored by Judge Rothschild, granted mother's writ application, reversed the visitation order, and ordered the trial court to conduct a hearing on the allegations of sexual abuse within

ten days. However, the trial court did not hold a hearing as ordered by the Fifth Circuit; seven months later mother again sought a writ from the Fifth Circuit when the trial court denied the mother's motion to set for evidentiary hearing the issue of whether the defendant is a perpetrator of domestic violence and sexual abuse. The Fifth Circuit again ordered the trial court to hold a hearing within ten days of the rendition of the order to allow the mother the opportunity to present evidence regarding her allegations of abuse by the defendant. Four months later the trial court issued an order to be put in effect for 60 days granting the mother temporary sole custody and the father supervised visitation with the father's sister to serve as a supervisor. The mother appealed from that order. The Fifth Circuit noted that although a hearing on the allegations of abuse commenced, it was never completed. Therefore, the Fifth Circuit set aside the trial court's latest judgment and remanded the matter to the trial court to complete the hearing on the mother's allegations of abuse against the father. The Fifth Circuit ordered this hearing to be held and completed within 15 days of the rendition of the opinion. The Fifth Circuit was of the opinion that the provisions of the Post Separation Family Violence Relief Act become operative if the court finds there is a history of family violence. In order to determine what protections, if any, the children and the mother are entitled to, specifically, what custody and visitation arrangement is appropriate, the trial judge must make a finding as to whether or not the father is a perpetrator of family violence and/or sexual abuse.

Petsch v. Petsch, 809 So.2d 222 (La. App. 1 Cir. 2001). Father filed a petition for divorce and requested joint custody of the parties' child; mother filed an answer and reconventional demand seeking a divorce, sole custody pursuant to the Post Separation Family Violence Relief Act, etc. Judge Wayne Ray Chutz of the Twenty-First Judicial District Court for the Parish of Livingston held that one possible incident of family violence which did not result in serious bodily injury does not support a finding of a history of family violence and awarded joint custody of the minor child. The First Circuit Court of Appeal, in an opinion authored by Judge Foil, affirmed the trial court's decision finding that evidence of a single act of violence that did not cause serious injury was insufficient to find family violence under the Post Separation Family Violence Relief Act.

Duhon v. Duhon, 801 So.2d 1263 (La. App. 3 Cir. 2001). After the parties divorced, wife filed an action for sole custody of the two minor children through the Post Separation Family Violence Relief Act; wife alleged abuse by the husband of one of the children. The court granted the wife the ex parte temporary sole custody of both minor children pending a full hearing on the matter. Prior to the ex parte ruling, the husband enjoyed the sole custody of the minor children, the wife having supervised visitation until further order of the court. After numerous continuances, a hearing was finally held and the trial court found that the husband was the perpetrator of family violence under the Post Separation Family Violence Relief Act and granted sole custody of the minor children to the wife. Husband was granted supervised visitation in the presence of a third party approved by the court; husband's supervised visitation was to begin after he complied with the requirements of the Post Separation Family Violence Relief Act. In addition, the trial court ordered the husband to reimburse wife for court costs and attorney fees. Husband appealed. The Third Circuit Court of Appeal, in an opinion authored by Judge Thibodeaux, affirmed the trial court's ruling. The evidence included the husband's admission that he and his new wife made one child "kneel for at least an hour". Not only did the father admit that these things happened but testified that he thought the punishments were justified. The evidence included testimony by the children's therapist and a worker from the Louisiana Office of Community Services (child protection) validating the allegations of abuse.

Hollingsworth v. Semerand, 799 So.2d 658 (La. App. 2 Cir. 2001). After the parties' divorce, mother petitioned the court to modify the father's visitation with the child based on allegations of abuse of the child's stepmother by the father and based on allegations of abuse of the child by the father. Judge R. Wayne Smith of the Third Judicial District Court for the Parish of Lincoln found that the Post Separation Family Violence Relief Act was not applicable but imposed supervised visitation for the father with the father's family members providing the supervision. The Second Circuit Court of Appeal, in an opinion authored by Judge Gaskins, affirmed the trial court's ruling that the Post Separation Family Violence Relief Act is not applicable to the father's violence to the stepmother. The Second Circuit further found that "the trial court retains some latitude in evaluating incidents of abuse in deciding visitation matters" and further noted that "the trial court obviously found that they (acts of violence towards the child) were not so numerous or so severe as to warrant the full consequences of the Act. However, the court - - with an appropriate measure of caution and concern for this intelligent and sensitive young girl's emotional and physical well-being - - chose to carefully craft a visitation plan that would afford the child sufficient protection while eventually permitting a suitable compliant father to be restored to his full parental rights." The Second Circuit found no error in the trial court's action in that regard. However, the Second Circuit found La. R.S. 9:341 applicable in relevant part.

The Second Circuit noted that the "child was consistent in her accounts of

being slapped, hit, punched, and pinched by her father. She recounted her fear of her father and her reluctance to being near him." Therefore, the Second Circuit concluded that their foremost consideration is the safety and well-being of the child. "The father's deliberate striking of the stepmother and the repeated bruising of the child, combined with his alcohol dependency raises serious concerns for the child's well-being. Also, given the testimony by all of the child's treating mental health care professionals indicating that supervision of the father's visitation by an unbiased person would be in the child's best interest, we amend the trial court judgment to remove the provision that allows a family member or friend of the father's to supervise the visitation. In particular, to allow supervision by members of the father's family - - who refuse to believe that the father is capable of abusing the child - - carries the potential of placing this child at risk." Thus, the Second Circuit amended the trial court's judgment to remove the provision allowing a relative or friend of the father to supervise the father's visitation with the child and affirmed the trial court's judgment in all other respects.

G.N.S. v. S.B.S., 796 So.2d 739 (La .App. 2 Cir. 2001). Father brought an action to modify child custody seeking sole custody of the minor child based on the mother's alleged abuse of the child. Judge Ford E. Stinson of the Twenty-Sixth Judicial District Court for the Parish of Bossier found that the mother had a history of perpetrating family violence on the child and awarded sole custody of the child to the father. Also pursuant to the Post Separation Family Violence Relief Act, the court allowed the mother only supervised visitation with the child, conditioned upon her participation and completion of a treatment program; the mother was also ordered to pay all costs of the proceeding. The mother appealed. The Second Circuit Court of Appeal, in an opinion authored by Judge Gaskins, affirmed the trial court's judgment. The Second Circuit stated that the "issue for the appellate court is not whether the trier of fact was wrong, but rather were the fact finder's conclusions reasonable. When expert witnesses give differing testimony, the trier of fact must determine which evidence is most credible. The trial judge, having observed the witnesses, is in the best position to determine credibility. A trial court's determination of child custody is entitled to great weight and will not be disturbed on appeal absent a clear abuse of discretion. It is well-settled that a court of appeal may not set aside a trial court's or a jury's findings of fact in the absence of "manifest error" or unless it is "clearly wrong". In custody cases, the paramount consideration is always the best interest of the child." The Second Circuit also found no error in the trial court's ruling allowing statements made by the child to an abuse expert, psychiatrist, and social worker, finding an exception to the hearsay rule for statements made to receive medical treatment.

State of Louisiana in the Interest of J.B. and W.K., 794 So.2d 899 (La. App. 2 Cir. 2001). Two minor children, J.B. and W.K., were adjudicated as children in need of care by Judge Cecil P. Campbell, II of the 26th Judicial District Court for the Parish of Webster. Both the mother and the father appealed. The Second Circuit Court of Appeal, in an opinion authored by Judge Peatross, compared the provisions of La. R.S. 9:341 (restriction on visitation) with La. R.S. 9:364 (part of the Post Separation Family Violence Relief Act). The Second Circuit was of the opinion that both 9:341 and 9:364 restricted visitation on the part of the abusive parent with the "abused child." The Second Circuit was also of the opinion that since the trial court did not make a visitation determination under either of the statutes and allowed the father supervised visitation with the non-abused child, and the permanent plan for the child was reunification with his father, that the father should be allowed more liberal supervised visitation with the non-abused child.

Lewis v. Lewis, 771 So.2d 856 (La. App. 2 Cir. 2000).

McGee v. McGee, 745 So.2d 708 (La. App. 3 Cir. 1999). Mr. McGee filed a petition for divorce seeking sole custody of the four minor children of the parties and requesting that the court restrict Mrs. McGee's visitation privileges pursuant to the Post Separation Family Violence Relief Act. Mrs. McGee filed a reconventional demand for divorce seeking sole custody and also requesting application of the Post Separation Family Violence Relief Act. Thereafter, the parties stipulated that they would enjoy temporary joint custody and that Mr. McGee would be designated the primary domiciliary parent during the pendency of the divorce proceeding. After a trial on the merits, Judge John D. Trahan of the 15th Judicial District Court for the Parish of Acadia awarded joint custody and designated Mr. McGee as the primary domiciliary parent. In his reasons for judgment, the trial judge did not indicate or express concern regarding the incidences of abuse raised at trial. The Third Circuit Court of Appeal, in an opinion authored by Judge Cooks, held that a single specific incident of family violence was insufficient to invoke the Post Separation Family Violence Relief Act.

Hicks v. Hicks, 733 So.2d 1261 (La. App. 3 Cir. 1999). Mr. Hicks brought an action for divorce; Judge John Ford of the Thirteenth Judicial District Court for the Parish of Vernon entered a Judgment of Divorce awarding primary residency of all three minor children to Mr. Hicks. Mrs. Hicks appealed. The Third Circuit Court of Appeal in an

opinion authored by Judge Woodard held that sufficient evidence of abuse existed warranting application of the Post Separation Family Violence Relief Act in determining custody and that the trial court's failure to apply the provisions of that act was reversible error; therefore, the court conducted an independent *de novo* review of the record and rendered judgment on the merits. The Third Circuit noted that the Second Circuit "reads into the statute that a reviewing court, in the application of the Act, should consider 'whether the violence occurred in the presence of the children' and 'to what extent there existed provocation for any violent act'." The Third Circuit expressly rejected that language as being inconsistent with the mandate of the Act and its remedial purposes. The Third Circuit awarded custody of all three children to Mrs. Hicks and ordered that all visitation by Mr. Hicks be under supervised conditions until he could prove to the trial court that he had satisfied all requirements of the Act. NOTE: The Third Circuit reiterated that the law in this Circuit requires that an in-chambers interview of a child in a child custody case must be conducted with a reporter present, a record made of the questioning by the court and the answers of the witnesses.

Morrison v. Morrison, 699 So.2d 1124 (La. App. 1 Cir. 1997). Mr. Morrison brought an action for divorce seeking joint custody of the parties' minor child; the wife reconvened for divorce and sole custody. Judge Jennifer Luse of the Family Court for East Baton Rouge Parish granted the divorce in the husband's favor, but awarded the wife sole custody of the minor child. The husband appealed. The First Circuit Court of Appeal, in an opinion authored by Judge Shortess, held that the evidence supported finding that both parties had a history of perpetrating family violence but that the wife was less likely to perpetuate the violence; that pursuant to the Post Separation Family Violence Relief Act, an award of sole custody to the wife was required. The trial court, however, did not order the wife to participate in and complete a treatment program nor did the trial court order the husband to do so. The First Circuit affirmed the trial court's decision regarding the finding of family violence and the award of sole custody to the wife, but remanded the case with instructions to the trial court to monitor the wife's progress to insure that she completes her treatment program, and order the father to complete a treatment program before his supervised visitation may begin. The First Circuit further ruled that the wife shall have provisional custody of the minor child during the pendency of the remand and that after the requirements of R.S. 9:361, et seq. are complied with, the trial court shall issue its final custody order.

Evans v. Terrell, 665 So.2d 648 (La. App. 2 Cir. 1995). The father, Mr. Evans, appealed the judgment of Judge Richard N. Ware, Pro Tem. of the Eleventh Judicial District Court for the Parish of DeSoto awarding physical custody of the parties' minor son to both him and the maternal grandparents and allowing supervised visitation by the child's mother, Ms. Terrell. The Second Circuit Court of Appeal, in an opinion authored by Judge Williams, held that the father was entitled to sole custody pending further proceedings by the trial court, the mother was entitled to supervised weekend visitation, and the mother was not responsible for all costs incurred in the dispute. The appellate court concluded that the trial court had not conclusively found that the mother had abused the minor child and therefore the provisions of the Post Separation Family Violence Relief Act were not invoked. The custody and visitation ordered by the trial court was temporary in nature, so the Second Circuit remanded the case with instructions for the trial court to conduct a hearing to finally decide whether the child was abused and if so, by whom.

Michelli v. Michelli, 655 So.2d 1352 (La. App. 1 Cir. 1995). Former wife appealed ruling by Judge Luke A. LaVergne of the Family Court for the Parish of East Baton Rouge granting former husband unsupervised visits with the two minor children. The First Circuit Court of Appeal, in an opinion authored by Judge Pitcher, again held that the Post Separation Family Violence Relief Act is applicable and therefore the award of unsupervised visitation to the father is erroneous and therefore reversed. The case was remanded for further proceedings consistent with this opinion and the decision rendered in the foregoing case. Costs were assessed to Mr. Michelli.

Michelli v. Michelli, 655 So.2d 1342 (La. App. 1 Cir. 1995). Mrs. Michelli filed a petition for divorce and sought sole custody of the minor children pursuant to the Post Separation Family Violence Relief Act alleging that Mr. Michelli had physically abused her and their minor children. The parties entered into a stipulation wherein Mrs. Michelli was awarded temporary sole custody of the minor children and Mr. Michelli was awarded supervised visitation with Mrs. Michelli's father appointed as the supervisor. A trial on the merits was held and while the case was under advisement, Mrs. Michelli filed a motion to immediately terminate Mr. Michelli's visitation alleging that Mr. Michelli violated a provision of the stipulated judgment regarding visitation with the minor children. The court signed an order immediately terminating Mr. Michelli's temporary visitation, thereafter, at the scheduled hearing, the court found Mr. Michelli in contempt and ordered that his visitation privileges remain terminated until a decision was rendered pursuant to the trial on the merits. Judge Luke A. LaVergne of the Family Court for the Parish of East Baton Rouge found that the Post Separation Family Violence Relief Act was not applicable, granted Mrs. Michelli custody, and granted Mr. Michelli unsupervised visitation. Thereafter, Mrs.

Michelli filed a motion for a new trial, a motion for supervised visitation, and a rule for contempt; Mr. Michelli filed a rule for contempt. Pursuant to those filings, Judge LaVergne ordered that Mr. Michelli's visitation with the minor children be supervised by his girlfriend and his sister; Mrs. Michelli's motion for a new trial was denied. The First Circuit Court of Appeal, in an opinion authored by Judge Pitcher, held that the Post Separation Family Violence Relief Act did apply and that the trial court erred by failing to invoke the supervised visitation provisions of R.S. 9:364(C). The First Circuit found at least seven incidents of family violence from a reading of the record and held that "the Act only requires evidence of past events of family violence and does not require that the events be frequent or continuous". Further, the First Circuit held that the trial court erred in denying Mrs. Michelli the opportunity to make a proffer of Mr. Michelli's criminal charges and circumstances surrounding those charges. Costs were assessed to Mr. Michelli. NOTE: This case was decided prior to the amendment to R.S. 9:364 which defined history of perpetrating family violence to include one incident of family violence which resulted in serious bodily injury or more than one incident of family violence.

Simmons v. Simmons, 649 So.2d 799 (La. App. 2 Cir. 1995). Father filed suit requesting sole custody of two minor children and the mother reconvened seeking similar relief. The mother cited the Post Separation Family Violence Relief Act as grounds to deny the father custody. Judge Robert W. Kostelka of the Fourth Judicial District Court for the Parish of Ouachita granted joint custody designating the father as the primary domiciliary parent. The mother appealed. The Second Circuit Court of Appeal, in an opinion authored by Judge Hightower, held there was not manifest error in the trial court's findings that the Post Separation Family Violence Relief Act did not apply even though the court found occasional incidents of violence on the part of the husband. NOTE: This case was decided prior to the amendments to the Post Separation Family Violence Relief Act, in particular to R.S. 9:364 which defined history of perpetrating family violence to be one incident of family violence which resulted in serious bodily injury or more than one incident of family violence.

W.M.E. v. E.J.E., 619 So.2d 707 (La. App. 3 Cir. 1993). Mother filed a modification petition requesting a change in the previous joint custody judgment to grant her sole custody and sought to prohibit the father from exercising visitation with the parties' two children based on the father's sexual abuse of the parties' daughter. Judge Ellis Bond of the Thirty-Sixth Judicial District Court for the Parish of Beauregard granted the mother sole custody and suspended the father's visitation with both children. The father appealed and the Third Circuit Court of Appeal, in an opinion authored by Judge Cooks, affirmed the trial court's judgment. This case was actually decided pursuant to Louisiana Civil Code Article 133 (now La. R.S. 9:341). The Third Circuit Court of Appeal did, however, write that any modification to this judgment "will be subject to the requirements of the new Louisiana Post Separation Family Violence Relief Act, Act. No. 1091 of the 1992 Legislative Session, La. R.S. 9:361 to 9:369."

R.S. 9:364.1. Visitation with incarcerated parent

A. If the court authorizes visitation with an incarcerated parent, as part of such visitation order the court shall include restrictions, conditions, and safeguards as are necessary to protect the mental and physical health of the child and minimize the risk of harm to the child.

B. A court considering the supervised visitation of a minor child with an incarcerated parent shall consider the best interest of the child, including but not limited to:

(1) The length and quality of the prior relationship between the child and the parent.

(2) Whether the child is in need of guidance, enlightenment, or tutelage which can best be provided by the parent.

(3) The preference of the child if he is determined to be of sufficient maturity to express a preference.

(4) The willingness of the relative to encourage a close relationship between the child and his parent or parents, including the willingness of the child's custodial parent, caretaker, or legal guardian to voluntarily take the child to the incarcerated parent's place of incarceration for supervised visitation.

(5) The mental and physical health of the child and the parent.

(6) The length of time that the child lived with the parent prior to the parent's incarceration.

(7) The desirability of maintaining the continuity of the relationship between the child and the incarcerated parent.

(8) The costs of travel and other expenses incurred by visitation at the place of incarceration, and who will bear responsibility for such costs.

(9) The effect upon the child of supervised visitation in the place of incarceration and the feasibility, if any, of alternative or additional use of technology for visitation pursuant to R.S. 9:357.

(10) Other testimony or evidence as the court may consider applicable.

> Loya v. Loya, 239 So.3d 1048 (La. App. 5 Cir. 2018). The trial court did not abuse its discretion and was not manifestly erroneous or clearly wrong in crediting the testimony of the ex-wife in its decision to deny petition for contact with minor biological children filed by ex-husband, who was incarcerated after being convicted of various crimes involving sexual acts with his then-minor step-daughter. The ex-wife testified that children were now together, healed, successful, and stable and that she did not want them receiving gifts or cards from ex-husband, court found that ex-wife's trembling hands, shaking body, and wavering voice were proof positive that she was being candid, and no evidence was presented in support of ex-husband's argument that the contact he requested would be in the best interest of his children.

R.S. 9:365. Qualification of mental health professional

Any licensed mental health professional appointed by the court to conduct a custody evaluation in a case where family violence is an issue shall have current and demonstrable training and experience working with perpetrators and victims of family violence.

R.S. 9:366. Injunctions

A. All separation, divorce, child custody, and child visitation orders and judgments in family violence cases shall contain an injunction as defined in R.S. 9:362. Upon issuance of such injunction, the judge shall cause to have prepared a Uniform Abuse Prevention Order as provided in R.S. 46:2136.2(C), shall sign such order, and shall immediately forward it to the clerk of court for filing on the day that the order is issued. The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside by facsimile transmission or direct electronic input 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. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.

B. Any violation of the injunction, if proved by the appropriate standard, shall be punished as contempt of court, and shall result in a termination of all court-ordered child visitation.

R.S. 9:367. Costs

In any family violence case, all court costs, attorney fees, costs of enforcement and modification proceedings, costs of appeal, evaluation fees, and expert witness fees incurred in furtherance of this Part shall be paid by the perpetrator of the family violence, including all costs of medical and psychological care for the abused spouse, or for any of the children, necessitated by the family violence.

> State in the Interest of A.C., 643 So.2d 743 (La. 1994) certiorari. denied 115 S. Ct. 2291, 515 U.S. 1128, 132 L.Ed.2d 292. Provision in statute which provides that all costs incurred in execution of the statutory scheme be paid by the perpetrator of family violence, including all costs of medical care and psychological care "necessitated" by family violence, is not unconstitutionally vague or over broad. The word "necessitated" in the statute leaves the court with discretion to determine which costs are and are not "necessitated" by the violence.

Obi v. Onunkwo, 378 So.3d 812 (La. App. 5 Cir. 12/6/23). Mother was not entitled to recover $1,000 in attorney fees from father under the Post-Separation Family Violence Relief Act, in post-divorce custody proceeding, since the trial court did not find that there was a history of domestic violence by father, as required to invoke the Act's cost provisions.

Dean v. Burkeen, writ denied 352 So.3d 987 2022-01734 (La. 1/11/23). Mother was entitled to an award of attorney fees, even though she failed to request them in her pleading seeking a change of child custody; statute specifically provided that the perpetrator of family violence shall pay attorney fees incurred in furtherance of the enforcement of the Post-Separation Family Violence Relief Act, even if the demand for such was not included in the pleadings, daughter alleged that father had molested her, and the trial court found father had sexually abused daughter.

Barak v. Saacks, 367 So.3d 656 (La. App. 4 Cir. 2022) writ denied 352 So.3d 987 2022-01734 (La. 1/11/23). As the trial court found father had a history of family violence, mother was entitled to an award of all court costs and attorney fees associated with appeal, in child custody case; the Post-Separation Family Violence Relief Act provided that all court costs, attorney fees, and costs of appeal incurred in furtherance of the Act would be paid by the perpetrator of the family violence.

Jarrell v. Jarrell, 811 So.2d 207 (La. App. 2 Cir. 2002). After the parties divorced and the court found the father to be a perpetrator of family violence and ordered supervised visitation with the child, the father petitioned for joint custody of the minor child or unsupervised visitation with the child. Judge B. Woodrow Nesbitt, Jr. of the First Judicial District Court for the Parish of Caddo restored the father's unsupervised visitation and awarded the mother attorney fees; the father appealed. The Second Circuit Court of Appeal, in an opinion authored by Judge Norris, held that husband was liable to pay wife's attorney fees under the Post Separation Family Violence Relief Act and the wife was entitled to those attorney fees even though she did not specifically ask for them in any pleading but rather orally requested an award of fees at the close of trial. Further, the Second Circuit held that the Post Separation Family Violence Relief Act permits the assessment of attorney fees against the perpetrator of family violence who prevailed in obtaining unsupervised visitation; the trial court had previously found the husband to have a history of perpetrating family violence and the Post Separation Family Violence Relief Act directs the perpetrator to pay attorney fees "incurred in furtherance of this Part." The Second Circuit went on to say that this phrase "obviously refers to actions which would serve the stated purpose of the Act, protecting children from family violence during the exercise of custody or visitation. In our view, this purpose is promoted or furthered by actions to determine whether a treatment program is sufficient under the Act, and whether the perpetrator has successfully completed it so he poses no further danger to the child. Attorney fees incurred to test these crucial issues fall under the mandate of Section 367, and are the obligation of the perpetrator even if incurred by another party."

Duhon v. Duhon, 801 So.2d 1263 (La. App. 3 Cir. 2001).

G.N.S. v. S.B.S., 796 So.2d 739 (La. App. 2 Cir. 2001). In an opinion for the Court of Appeal for the Second Circuit, Judge Gaskins held that the necessity of the costs and expenses that are imposed in family violence cases pursuant to the Post Separation Family Violence Relief Act are not required to be predetermined by the court at the time they are imposed.

Evans v. Terrell, 665 So.2d 648 (La. App. 2 Cir. 1995). In an opinion for the Court of Appeal for the Third Circuit, Judge Williams found that the mother was not responsible for all court costs incurred in the custody dispute since the trial court did not make a conclusive finding that she physically abused the child or that she had a history of perpetrating family violence.

R.S. 9:368. Other remedies not affected

This Part shall in no way affect the remedies set forth in R.S. 46:2131 through 2142, the Criminal Code, the Children's Code, the Civil Code, or elsewhere; however, the court, in any case brought under R.S. 46:2131 et seq., may impose the remedies provided herein.

Buchanan v. Langston, 827 So.2d 1186 (La. App. 2 Cir. 2002).

R.S. 9:369. Limitations

No public funds allocated to programs which provide services to victims of domestic violence shall be used to provide services to the perpetrator of domestic violence.

Part V. Injunctions and Incidental Orders

R.S. 9:372. Injunction against abuse; form; central registry

A. In a proceeding for divorce, a court may grant an injunction prohibiting a spouse from physically or sexually abusing the other spouse or a child of either of the parties.

B. Immediately upon rendering a decision granting relief provided in Subsection A of this Section, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall immediately forward it to the clerk of court for filing on the day that the order is issued.

C. The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside by facsimile transmission or direct electronic input 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. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.

> Aguillard v. Aguillard, 305 So.3d 955 (La. App. 3 Cir. 2020). Fact that trial court granted divorce before discussing wife's request for permanent abuse protective injunction did not mean that there was no longer a divorce proceeding within meaning of protective order statute, and thus grant of injunction was not precluded; wife filed for permanent injunction during pendency of divorce, and both the petition for divorce and judgment of divorce included the language required to continue the injunction permanently. Grant of wife's request for preliminary protective injunction in divorce proceedings was not res judicata with respect to wife's request for permanent protective injunction after the Court of Appeal affirmed the preliminary injunction, and thus trial court had authority to grant permanent injunction; divorce suit was pending when wife filed for permanent injunction, and wife sought preliminary injunction under statute for protective orders regarding any persons in a particular relationship but sought second injunction under statute for protective orders against a spouse in connection with a pending divorce.
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> Greene v. Greene, 286 So.3d 1103 (La. App. 5 Cir. 2019). Injunctions issued pursuant to statute governing issuance of injunctions against abuse and harassment during proceedings for divorce are incidental to proceedings for divorce or separation; injunctions issued during the pendency of the proceeding, but not specifically continued or ordered in the later judgment, terminate by operation of law at the time of the final judgment.
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> Lawrence v. Lawrence, 839 So.2d 1201 (La. App. 3 Cir. 2003). After the parties divorced, former wife filed a rule for contempt and request for a permanent injunction against harassment; former husband filed a rule for contempt, sanctions, injunctive relief, etc. Judge Ronald D. Cox of the Fifteenth Judicial District Court for the Parish of Lafayette denied the former husband's rule for contempt, found in favor of the former wife's rule for contempt, and granted former wife a permanent injunction against former husband prohibiting harassment. Former husband appealed. The Third Circuit Court of Appeal, in an opinion authored by Judge Gremillion, reversed the ruling of the trial court holding that the trial court could not grant former wife a permanent injunction against harassment by former husband pursuant to R.S. 9:372 three years following the divorce judgment which was silent as to any injunctions.
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> Steele v. Steele, 591 So.2d 810 (La. App. 3 Cir. 1991). Divorced wife brought an action to hold her former husband in contempt in connection with a non-harassment injunction issued prior to their divorce. Judge Michael J. McNulty of the Sixteenth Judicial District Court for the Parish of Iberia denied the wife's rule for contempt. The Third Circuit Court of Appeal, in an opinion authored by Judge Doucet, held that an injunction derived from R.S. 9:306 (predecessor statute to R.S. 9:372) is ineffective and unenforceable where it is not expressly continued or ordered in the later separation or divorce judgment. The court followed Walters v. Walters (see below).
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> Walters v. Walters, 540 So.2d 1026 (La. App. 2 Cir. 1989). Former wife filed a rule for contempt alleging that her former husband violated an injunction against

harassment contained in the separation judgment. The husband filed an exception of no cause of action. Judge Glen W. Strong of the Fifth Judicial District Court for the Parish of Richland denied the husband's exception of no cause of action and held the husband in contempt for conduct that occurred six months after the divorce judgment became final. The Second Circuit Court of Appeal, in an opinion authored by Judge Marvin, held that an injunction derived from R.S. 9:306 (predecessor statute to R.S. 9:372) which is ordered in a separation judgment must be held ineffective and unenforceable where it is not expressly continued or ordered in the later divorce judgment. The Second Circuit held that a 9:306 (now 9:372) injunction is incidental to the marriage and therefore must be specifically provided for, continued or ordered in the divorce judgment.

R.S. 9:372.1. Injunction against harassment

In a proceeding for divorce, a court may grant an injunction prohibiting a spouse from harassing the other spouse.

Louisiana Code of Civil Procedure. Book VII. Special Proceedings.
Title I. Provisional Remedies
Chapter 2. Injunction

. . .

C.C.P. Art. 3603.1. Governing provisions for issuance of protective orders; grounds; notice; court appointed counsel

A. Notwithstanding any provision of law to the contrary, and particularly the provisions of Domestic Abuse Assistance, Part II of Chapter 28 of Title 46, Post-Separation Family Violence Relief Act and Injunctions and Incidental Orders, Parts IV and V of Chapter 1 of Code Title V of Title 9, Domestic Abuse Assistance, Chapter 8 of Title XV of the Children's Code, and this Chapter, no temporary restraining order or preliminary injunction prohibiting a spouse or other person from harming or going near or in the proximity of another shall issue, unless the complainant has good and reasonable grounds to fear for his or her safety or that of the children, or the complainant has in the past been the victim of domestic abuse by the other spouse.

B. Any person against whom such an order is issued shall be entitled to a court-appointed attorney if the applicant has likewise been afforded a court-appointed attorney, which right shall also be included in any order or notice.

C. (1) A complainant seeking protection from domestic abuse, dating violence, stalking, or sexual assault shall not be required to prepay or be cast with court costs or costs of service of subpoena for the issuance or dissolution of a temporary restraining order, preliminary or permanent injunction, or protective order , or the dismissal of a petition for such, and the clerk of court shall immediately file and process the order issued regardless of the ability of the plaintiff to pay court costs.

(2) When the complainant is seeking protection from domestic abuse, stalking, or sexual assault, the clerk of court shall make forms available for making application for protective orders, provide clerical assistance to the petitioner when necessary, provide the necessary forms, and provide the services of a notary, where available, for completion of the petition.

(3) When a complainant is seeking a temporary restraining order for protection from domestic abuse, dating violence, stalking, or sexual assault, it is sufficient for the petition to contain a written affirmation signed and dated by the complainant that the facts and circumstances contained in the complaint are true and correct to the best knowledge, information, and belief of the complainant, under penalty of perjury pursuant to R.S. 14:123. The affirmation shall be made before a witness who shall sign and print his name.

See Koerner v. Monju, 210 So.3d 935 (La. App. 5 Cir. 2017).

Jimenez v. Jimenez, 922 So.2d 672 (La. App. 5 Cir. 2006). Wife filed an action for protection from domestic abuse pursuant to R.S. 46:2131 et seq.; the court issued a temporary restraining order against husband, but husband was never served; the court issued temporary restraining orders 14 times. Judge Greg G. Guidry of the Twenty-Fourth Judicial District Court, Parish of Jefferson, signed a Judgment of Dismissal and

assessed costs to the petitioner. The Fifth Circuit Court of Appeal, in an opinion authored by Judge Thomas F. Daley, held that both R.S. 46:2134(F) and Code of Civil Procedure Article 3603.1(C)(1) use the word "shall" as in "shall not be required to pay . . . court costs", there is simply no provision in the law that allows court costs to be assessed against a domestic abuse petitioner, for any reason. NOTE: This case was decided prior to Act 777 of the 2006 Regular Session of the Louisiana Legislature wherein R.S. 46:2136.1 was amended to include a paragraph B allowing the court, if it determined the petition to be frivolous, to order the nonprevailing party to pay all court costs and reasonable attorney fees of the other party.

C.C.P. Art. 3604. Form, contents, and duration of temporary restraining order

A. A temporary restraining order shall be endorsed with the date and hour of issuance; shall be filed in the clerk's office and entered of record; shall state why the order was granted without notice and hearing; and shall expire by its terms within such time after entry, not to exceed ten days, as the court prescribes. A restraining order, for good cause shown, and at any time before its expiration, may be extended by the court for one or more periods not exceeding ten days each. The party against whom the order is directed may consent that it be extended for a longer period. The reasons for each extension shall be entered of record.

B. Nevertheless, in a suit for divorce, a temporary restraining order issued in conjunction with a rule to show cause for a preliminary injunction shall remain in force until a hearing is held on the rule for the preliminary injunction prohibiting a spouse from:

(1) Disposing of or encumbering community property;

(2) Harming the other spouse or a child; or

(3) Removing a child from the jurisdiction of the court.

C. (1) A temporary restraining order issued in conjunction with a rule to show cause for a protective order filed in an action pursuant to the Protection from Family Violence Act, R.S. 46:2121 et seq., and pursuant to the Protection From Dating Violence Act, R.S. 46:2151, shall remain in force until a hearing is held on the rule for the protective order or for thirty days, whichever occurs first. If the initial rule to show cause is heard by a hearing officer, the temporary restraining order shall remain in force for fifteen days after the hearing or until the judge signs the protective order, whichever occurs last. At any time before the expiration of a temporary restraining order issued pursuant to this Paragraph, it may be extended by the court for a period not exceeding thirty days.

(2) In the event that the hearing on the rule for the protective order is continued by the court because of a declared state of emergency made in accordance with R.S. 29:724, any temporary restraining order issued in the matter shall remain in force for five days after the date of conclusion of the state of emergency. When a temporary restraining order remains in force under this Paragraph, the court shall reassign the rule for a protective order for hearing at the earliest possible time, but no later than five days after the date of conclusion of the state of emergency. The reassignment of the rule shall take precedence over all matters except older matters of the same character.

D. To be effective against a federally insured financial institution, a temporary restraining order or preliminary injunction issued in accordance with Subparagraph (B)(1) of this Article shall be served in accordance with the provisions of R.S. 6:285(C). A temporary restraining order or preliminary injunction granted pursuant to the provisions of this Article shall be effective only against accounts, safe deposit boxes, or other assets listed or held in the name of the following:

(1) One or both of the spouses named in the injunction.

(2) Another party or business entity specifically named in the injunction.

E. A federally insured financial institution shall not be liable for loss or damages resulting from its actions to comply with a temporary restraining order or preliminary injunction provided that the requirements of this Article have been met.

Keneker v. Keneker, 579 So.2d 1083 (La. App. 5 Cir.1991). Legislature did not contemplate indefinite continuances or extensions of temporary restraining orders issued under domestic abuse assistance laws; where such order is to be extended,

extension must be done prior to expiration of order, and longest duration for temporary restraining order is 30 days.

C.C.P. Art. 3605. Content and scope of injunction or restraining order

An order granting either a preliminary or a final injunction or a temporary restraining order shall describe in reasonable detail, and not by mere reference to the petition or other documents, the act or acts sought to be restrained. The order shall be effective against the parties restrained, their officers, agents, employees, and counsel, and those persons in active concert or participation with them, from the time they receive actual knowledge of the order by personal service or otherwise.

C.C.P. Art. 3606. Temporary restraining order; hearing on preliminary injunction

A. When a temporary restraining order is granted, the application for a preliminary injunction shall be assigned for hearing at the earliest possible time, subject to Article 3602, and shall take precedence over all matters except older matters of the same character. The party who obtains a temporary restraining order shall proceed with the application for a preliminary injunction when it comes on for hearing. Upon his failure to do so, the court shall dissolve the temporary restraining order.

B. In the event that the hearing on the issuance of a preliminary injunction is continued by the court because of a declared state of emergency made in accordance with R.S. 29:724, any temporary restraining order issued in the matter shall remain in force for five days after the conclusion of the state of emergency. When a temporary restraining order remains in force under this Paragraph, the court shall reassign the application for a preliminary injunction for hearing at the earliest possible time, but no later than five days after the conclusion of the state of emergency. The reassignment of the application shall take precedence over all matters except older matters of the same character.

C.C.P. Art. 3607. Dissolution or modification of temporary restraining order or preliminary injunction

An interested person may move for the dissolution or modification of a temporary restraining order or preliminary injunction, upon two days' notice to the adverse party, or such shorter notice as the court may prescribe. The court shall proceed to hear and determine the motion as expeditiously as the ends of justice may require.

The court, on its own motion and upon notice to all parties and after hearing, may dissolve or modify a temporary restraining order or preliminary injunction.

C.C.P. Art. 3607.1. Registry of temporary restraining order, preliminary injunction or permanent injunction

A. Immediately upon rendering a decision granting the petitioner a temporary restraining order or a preliminary or permanent injunction prohibiting a person from harming a family or household member or dating partner, or directing a person accused of stalking to refrain from abusing, harassing, or interfering with the victim of the stalking when the parties are strangers or acquaintances, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall immediately forward it to the clerk of court for filing on the day that the order is issued.

B. When a temporary restraining order, preliminary injunction, or permanent injunction relative to domestic abuse or dating violence, or relative to stalking as provided for in Paragraph A of this Article, is issued, dissolved, or modified, the clerk of court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside by facsimile transmission or direct electronic input 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. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.

> Bourgeois v. Bazil, 271 So.3d 341 (La. App. 5 Cir. 2019). Former wife's children were not covered by permanent injunction granted in favor of wife in action brought against former husband's girlfriend, alleging that girlfriend initiated physical confrontation with wife and that she interfered in matters involving children; although court's oral reasons for judgment indicated that court intended to enjoin girlfriend from contacting either former wife or children, written judgment granting injunction did not identify children as protected persons.

C.C.P. Art. 3608. Damages for wrongful issuance of temporary restraining order or preliminary injunction

The court may allow damages for the wrongful issuance of a temporary restraining order or preliminary injunction on a motion to dissolve or on a reconventional demand. Attorney's fees for the services rendered in connection with the dissolution of a restraining order or preliminary injunction may be included as an element of damages whether the restraining order or preliminary injunction is dissolved on motion or after trial on the merits.

C.C.P. Art. 3609. Proof at hearings; affidavits

The court may hear an application for a preliminary injunction or for the dissolution or modification of a temporary restraining order or a preliminary injunction upon the verified pleadings or supporting affidavits, or may take proof as in ordinary cases. If the application is to be heard upon affidavits, the court shall so order in writing, and a copy of the order shall be served upon the defendant at the time the notice of hearing is served.

At least twenty-four hours before the hearing, or such shorter time as the court may order, the applicant shall deliver copies of his supporting affidavits to the adverse party, who shall deliver to the applicant prior to the hearing copies of affidavits intended to be used by such adverse party. The court, in its discretion, and upon such conditions as it may prescribe, may permit additional affidavits to be filed at or after the hearing, and may further regulate the proceeding as justice may require.

> Kilbourne v. Hunt, 276 So.2d 742 (La. App. 1 Cir. 1973). Where there was no order issued by the trial judge that the application for a preliminary injunction was to be heard on affidavits, the hearing had to be on proof as in ordinary cases.

C.C.P. Art. 3610. Security for temporary restraining order or preliminary injunction

A temporary restraining order or preliminary injunction shall not issue unless the applicant furnishes security in the amount fixed by the court, except where security is dispensed with by law. The security shall indemnify the person wrongfully restrained or enjoined for the payment of costs incurred and damages sustained. However, no security is required when the applicant for a temporary restraining order or preliminary or permanent injunction is seeking protection from domestic abuse, dating violence, stalking, or sexual assault.

> Holley v. Holley, 232 So.3d 717 (La. App. 5 Cir. 2017). Preliminary injunction issued by the trial court against mother in a custody dispute, per father's request, was invalid, where trial court did not require father to post security, and father did not do so.
>
> Lambert v. Lambert, 480 So.2d 784 (La. App. 3 Cir. 1985). Preliminary injunction enjoining parties, . . . was invalid when issued without security and hence, was subject to being vacated.
>
> Cochran v. Crosby, 411 So.2d 654 (La. App. 4 Cir. 1982). Under this article, the better approach when a preliminary injunction has been issued without bond is to vacate and set aside the injunction.

C.C.P. Art. 3611. Penalty for disobedience; damages

Disobedience of or resistance to a temporary restraining order or preliminary or final injunction is punishable as a contempt of court. The court may cause to be undone or destroyed whatever may be done in violation of an injunction, and the person aggrieved thereby may recover the damages sustained as a result of the violation.

C.C.P. Art. 3612. Appeals

A. There shall be no appeal from an order relating to a temporary restraining order.

B. An appeal may be taken as a matter of right from an order or judgment relating to a preliminary or final injunction, but such an order or judgment shall not be suspended during the pendency of an appeal unless the court in its discretion so orders.

C. An appeal from an order or judgment relating to a preliminary injunction must be taken, and any bond required must be furnished, within fifteen days from the date of the order or judgment. The court in its discretion may stay further proceedings until the appeal has been decided.

D. Except as provided in this Article, the procedure for an appeal from an order or judgment relating to a preliminary or final injunction shall be as provided in Book III.

C.C.P. Art. 3613. Jurisdiction not limited

The provisions of this Chapter do not limit the issuance by a court of any writ, process, or order in aid of its jurisdiction.

ORDERS OF PROTECTION FROM OTHER STATES

Louisiana Revised Statutes – Title 13. Courts and Judicial Procedure
Chapter 23. Judgments.
Part III. Enforcement of Foreign Judgments Act

R.S. 13:4248. Foreign protective orders

A. A copy of any foreign protective order authenticated in accordance with an act of congress or the statutes of this state may be annexed to and filed with an ex parte petition praying that the protective order be made executory in this state. The address of the petitioner may remain confidential with the court.

B. At an ex parte hearing, the court shall make the protective order executory in this state, cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall forward it to the clerk of court for filing, all without delay.

C. The clerk of the issuing court shall transmit the order to the Louisiana Protective Order Registry, R.S. 46:2136.2(A), by facsimile transmission, mail, or direct electronic input, where available. The order shall be mailed and transmitted 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.

CHILD CUSTODY, VISITATION AND DOMESTIC VIOLENCE

Louisiana Civil Code – Book I. Title V. Divorce
Chapter 2. Procedural and Incidental Proceedings.
Section 3. Child Custody.

C. C. Art. 131. Court to determine custody

In a proceeding for divorce or thereafter, the court shall award custody of a child in accordance with the best interest of the child.

C. C. Art. 132. Award of custody to parents

If the parents agree who is to have custody, the court shall award custody in accordance with their agreement unless the provisions of R.S. 9:364 apply or the best interest of the child requires a different award. Subject to the provisions of R.S. 9:364, in the absence of agreement, or if the agreement is not in the best interest of the child, the court shall award custody to the parents jointly;

however, if custody in one parent is shown by clear and convincing evidence to serve the best interest of the child, the court shall award custody to that parent.

C. C. Art. 133. Award of custody to person other than a parent; order of preference

If an award of joint custody or of sole custody to either parent would result in substantial harm to the child, the court shall award custody to another person with whom the child has been living in a wholesome and stable environment, or otherwise to any other person able to provide an adequate and stable environment.

C. C. Art. 134. Factors in determining child's best interest

A. Except as provided in Paragraph B of this Article, the court shall consider all relevant factors in determining the best interest of the child including:

(1) The potential for the child to be abused, as defined by Children's Code Article 603(2), which shall be the primary consideration.

(2) The love, affection, and other emotional ties between each party and the child.

(3) The capacity and disposition of each party to give the child love, affection, and spiritual guidance and to continue the education and rearing of the child.

(4) The capacity and disposition of each party to provide the child with food, clothing, medical care, and other material needs.

(5) The length of time the child has lived in a stable, adequate environment, and the desirability of maintaining continuity of that environment.

(6) The permanence, as a family unit, of the existing or proposed custodial home or homes.

(7) The moral fitness of each party, insofar as it affects the welfare of the child.

(8) The history of substance abuse, violence, or criminal activity of any party.

(9) The mental and physical health of each party. Evidence that an abused parent suffers from the effects of past abuse by the other parent shall not be grounds for denying that parent custody.

(10) The home, school, and community history of the child.

(11) The reasonable preference of the child, if the court deems the child to be of sufficient age to express a preference.

(12) The willingness and ability of each party to facilitate and encourage a close and continuing relationship between the child and the other party, except when objectively substantial evidence of specific abusive, reckless, or illegal conduct has caused one party to have reasonable concerns for the child's safety or well-being while in the care of the other party.

(13) The distance between the respective residences of the parties.

(14) The responsibility for the care and rearing of the child previously exercised by each party.

B. In cases involving a history of committing family violence, as defined in R.S. 9:362, or domestic abuse, as defined in R.S. 46:2132, including sexual abuse, as defined in R.S. 14:403(A)(4)(b), whether or not a party has sought relief under any applicable law, the court shall determine an award of custody or visitation in accordance with R.S. 9:341 and 364. The court may only find a history of committing family violence if the court finds that one incident of family violence has resulted in serious bodily injury or the court finds more than one incident of family violence.

C.C. Art. 135. Closed custody hearing

A custody hearing may be closed to the public.

C. C. Art. 136. Award of visitation rights

A. Subject to R.S. 9:341 and 364, a parent not granted custody or joint custody of a child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would not be in the best interest of the child.

B. In addition to the parents referred to in Paragraph A of this Article, the following persons may be granted visitation if the parents of the child are not married or cohabitating with a person in the manner of married persons or if the parents of the child have filed a petition for divorce:

(1) A grandparent if the court finds that it is in the best interest of the child.

(2) Under extraordinary circumstances, any other relative, by blood or affinity, or a former stepparent or stepgrandparent if the court finds that it is in the best interest of the child. Extraordinary circumstances shall include a determination by a court that a parent is abusing a controlled dangerous substance.

C. Before making any determination under Subparagraph (B)(1) or (2) of this Article, the court shall hold a contradictory hearing as provided by R.S. 9:345 in order to determine whether the court should appoint an attorney to represent the child.

D. In determining the best interest of the child under Subparagraph (B)(1) or (2) of this Article, the court shall consider only the following factors:

(1) A parent's fundamental constitutional right to make decisions concerning the care, custody, and control of their own children and the traditional presumption that a fit parent will act in the best interest of their children.

(2) The length and quality of the prior relationship between the child and the relative.

(3) Whether the child is in need of guidance, enlightenment, or tutelage which can best be provided by the relative.

(4) The preference of the child if he is determined to be of sufficient maturity to express a preference.

(5) The mental and physical health of the child and the relative.

E. If the parents of a child are married and have not filed for divorce or they are living in concubinage, the provisions of R.S. 9:344 shall apply.

C. C. Art. 136.1. Award of visitation rights

A child has a right to time with both parents. Accordingly, when a court-ordered schedule of visitation, custody, or time to be spent with a child has been entered, a parent shall exercise his rights to the child in accordance with the schedule unless good cause is shown. Neither parent shall interfere with the visitation, custody or time rights of the other unless good cause is shown.

C. C. Art. 137. Denial of visitation; sex offense; death of a parent

A. In a proceeding in which visitation of a child is being sought by a parent, if the child was conceived through the commission of a sex offense as provided by R.S. 15:541, the parent who committed the sex offense shall be denied visitation rights and contact with the child.

B. In a proceeding in which visitation of a child is being sought by a relative by blood or affinity, if the court determines, by a preponderance of the evidence, that the intentional criminal conduct of the relative resulted in the death of the parent of the child, the relative shall be denied visitation rights and contact with the child.

Louisiana Revised Statutes - Title 9. Civil Code Ancillaries.
Code Book I. Title V.
Chapter 1. Divorce. Part III. Child Custody.

Subpart C. Protective and Remedial Provisions.

R.S. 9:341. Restriction on visitation

A. Whenever the court finds by a preponderance of the evidence that a parent has subjected any of his or her children or stepchildren to family violence as defined in R.S. 9:362, or domestic abuse, as defined in R.S. 46:2132, has subjected any other household member, as defined in R.S. 46:2132, to a history of family violence as defined in R.S. 9:364(A), or has willingly permitted such abuse to any of his or her children or stepchildren despite having the ability to prevent it, the court shall allow only supervised visitation between the abusive parent and the abused child or children until such parent proves by a preponderance of the evidence at a contradictory hearing that the abusive parent has successfully completed a court monitored domestic abuse intervention program, as defined in R.S. 9:362(3), since the last incident of domestic violence or family abuse. At the hearing, the court shall consider evidence of the abusive parent's current mental health condition and the possibility the abusive parent will again subject his children, stepchildren, or other household member to family violence or domestic abuse, or willingly permit such abuse to any of his or her children or stepchildren despite having the ability to prevent it. The court shall order visitation only if the abusive parent proves by a preponderance of the evidence that visitation would be in the best interest of the child, considering the factors in Civil Code Article 134, and would not cause physical, emotional, or psychological damage to the child. Should visitation be allowed, the court shall order such restrictions, conditions, and safeguards necessary to minimize any risk of harm to the child, including continued supervision. All costs incurred in compliance with the provisions of this Section shall be borne by the abusive parent.

B. Whenever the court finds by clear and convincing evidence that a parent has subjected any of his children, stepchildren, or any household member as defined in R.S. 46:2132, to sexual abuse, as defined in R.S. 14:403(A)(4)(b), or has willingly permitted such abuse to any of his or her children, stepchildren, or a household member, despite having the ability to prevent the abuse, the court shall prohibit all visitation and contact between the abusive parent and the children until such parent proves by a preponderance of the evidence at a contradictory hearing that he has successfully completed a treatment program designed for such sexual abusers. At the hearing, the court shall consider evidence of the abusive parent's current mental health condition and the possibility the abusive parent will repeat such conduct in the future. The court shall order visitation only if the abusive parent proves by a preponderance of the evidence that visitation would be in the best interest of the child, and that visitation would not cause physical, emotional, or psychological damage to the child. Should visitation be allowed, the court shall order such restrictions, conditions, and safeguards necessary to minimize any risk of harm to the child, including supervision of the visitation. All costs incurred in compliance with the provisions of this Section shall be the responsibility of the abusive parent.

C. When visitation has been restricted by the court pursuant to Subsections A or B of this Section, and the court subsequently authorizes further restricted visitation, the parent whose visitation has been restricted shall not remove the child from the jurisdiction of the court except for good cause shown and with the prior approval of the court.

R.S. 9:342. Bond to secure child custody or visitation order

For good cause shown, a court may, on its own motion or upon the motion of any party, require the posting of a bond or other security by a party to insure compliance with a child visitation order and to indemnify the other party for the payment of any costs incurred.

R.S. 9:343. Return of child kept in violation of custody and visitation order

A. Upon presentation of a certified copy of a custody and visitation rights order rendered by a court of this state, together with the sworn affidavit of the custodial parent, the judge, who shall have jurisdiction for the limited purpose of effectuating the remedy provided by this Section by virtue of either the presence of the child or litigation pending before the court, may issue a civil warrant directed to law enforcement authorities to return the child to the custodial parent pending further order of the court having jurisdiction over the matter.

B. The sworn affidavit of the custodial parent shall include all of the following:

(1) A statement that the custody and visitation rights order is true and correct.

(2) A summary of the status of any pending custody proceeding.

(3) The fact of the removal of or failure to return the child in violation of the custody and visitation rights order.

(4) A declaration that the custodial parent desires the child returned.

R. S. 9:344. Visitation rights of grandparents and siblings

A. If one of the parties to a marriage dies, is interdicted, or incarcerated, and there is a minor child or children of such marriage, the parents of the deceased, interdicted, or incarcerated party without custody of such minor child or children may have reasonable visitation rights to the child or children of the marriage during their minority, if the court in its discretion finds that such visitation rights would be in the best interest of the child or children.

B. When the parents of a minor child or children live in concubinage and one of the parents dies, or is incarcerated, the parents of the deceased or incarcerated party may have reasonable visitation rights to the child or children during their minority, if the court in its discretion finds that such visitation rights would be in the best interest of the child or children.

C. If one of the parties to a marriage dies or is incarcerated, the siblings of a minor child or children of the marriage may have reasonable visitation rights to such child or children during their minority if the court in its discretion finds that such visitation rights would be in the best interest of the child or children.

D. If the parents of a minor child of the marriage have lived apart for a period of six months, in extraordinary circumstances, the grandparents or siblings of the child may have reasonable visitation rights to the child during his minority, if the court in its discretion finds that such visitation rights would be in the best interest of the child. In determining the best interest of the child, the court shall consider the same factors contained in Civil Code Article 136(D). Extraordinary circumstances shall include a determination by a court that a parent is abusing a controlled dangerous substance.

R.S. 9:345. Appointment of attorney in child custody or visitation proceedings

A. In any child custody or visitation proceeding, the court, upon its own motion, upon motion of any parent or party, or upon motion of the child, may appoint an attorney to represent the child if, after a contradictory hearing, the court determines such appointment would be in the best interest of the child. In determining the best interest of the child, the court shall consider:

(1) Whether the child custody or visitation proceeding is exceptionally intense or protracted.

(2) Whether an attorney representing the child could provide the court with significant information not otherwise readily available or likely to be presented to the court.

(3) Whether there exists a possibility that neither parent is capable of providing an adequate and stable environment for the child.

(4) Whether the interests of the child and those of either parent, or of another party to the proceeding, conflict.

(5) Any other factor relevant in determining the best interest of the child.

B. The court shall appoint an attorney to represent the child if, in the contradictory hearing, any party presents a prima facie case that a parent or other person caring for the child has sexually, physically, or emotionally abused the child or knew or should have known that the child was being abused.

C. The order appointing an attorney to represent the child shall serve as his enrollment as counsel of record on behalf of the child.

D. Upon appointment as attorney for the child, the attorney shall interview the child, review all relevant records, and conduct discovery as deemed necessary to ascertain facts relevant to the child's custody or visitation.

E. The appointed attorney shall have the right to make any motion and participate in the custody or visitation hearing to the same extent as authorized for either parent.

F. Any costs associated with the appointment of an attorney at law shall be apportioned among the parties as the court deems just, taking into consideration the parties' ability to pay. When the parties' ability to pay is limited, the court shall attempt to secure proper representation without compensation.

R.S. 9:346. Action for failure to exercise or to allow visitation, custody or time rights pursuant to court-ordered schedule; judgment and awards

A. An action for the failure to exercise or to allow child custody visitation, custody or time rights pursuant to the terms of a court-ordered schedule may be instituted against a parent. The action shall be in the form of a rule to show cause why such parent should not be held in contempt for the failure and why the court should not further render judgment as provided in this Section.

B. If the action is for the failure to exercise child visitation, custody or time rights pursuant to the terms of a court-ordered schedule, and the petitioner is the prevailing party, the defendant shall be held in contempt of court and the court shall award to the petitioner:

(1) All costs for counseling for the child which may be necessitated by the defendant’s failure to exercise visitation, custody or time rights with the child.

(2) A reasonable sum for any actual expenses incurred by the petitioner by reason of the failure of the defendant to exercise rights pursuant to a court-ordered visitation, custody or time schedule.

(3) A reasonable sum for a caretaker of the child, based upon the hourly rate for caretakers in the community; and

(4) All attorney fees and costs of the proceeding.

C. If the action is for the failure to allow child custody, visitation, or time rights pursuant to a court-ordered schedule, and the petitioner is the prevailing party, the defendant shall be held in contempt of court and the court shall award to the petitioner:

(1) A reasonable sum for any actual expenses incurred by the petitioner by the loss of his visitation, custody or time rights.

(2) Additional visitation, custody or time rights with the child equal to the time lost.

(3) Attorney fees and costs of the proceeding.

(4) All costs for counseling for the child which may be necessitated by the defendant’s failure to allow visitation, custody, or time rights with the child.

D. The court may award a reasonable penalty to the petitioner against the defendant upon a finding that the failure to allow or exercise visitation, time or custody rights pursuant to the terms of a court-ordered visitation schedule was intended to harass the petitioner.

E. The court may award attorney fees and costs to the defendant if he is the prevailing party, based upon actual expenses incurred.

F. The court may require the prevailing party to submit proof showing the amounts to be awarded pursuant to this Section.

G. It shall be a defense that the failure to allow or exercise child visitation rights pursuant to a court-ordered schedule was by mutual consent, beyond the control of the defendant, or for other good cause shown.

H. A pattern of willful and intentional violation of this Section, without good cause, may be grounds for a modification of a custody or visitation decree.

I. This Section applies to judicial orders involving sole or joint custody.

J. The action authorized by this Section shall be in addition to any other action authorized by law.

R.S. 9:348. Loss of visitation due to military service; compensatory visitation

A. As used in this Section, "active duty" shall mean a military service member under any of the following conditions:

(1) A service member on active duty pursuant to an executive order of the president of the United States, an act of the Congress of the United States, presidential recall, or the provisions of R.S. 29:7.

(2) A service member on orders including but not limited to annual training, active duty special work, or individual duty training.

(3) A service member on drill status.

(4) A service member subject to the Uniform Code of Military Justice or the Louisiana Code of Military Justice.

B. (1) When a service member on active duty is unable due to his military obligations to have visitation with a minor child as authorized by a court order, the service member may request a period of compensatory visitation with the child which shall be granted only if the court determines it is in the best interest of the child. Such compensatory visitation shall be negotiated, on a day-for-day basis for each day missed, for the number of compensatory days requested by the service member, not to exceed the total number of days missed. The custodial or domiciliary parent shall negotiate with the service member to develop an equitable schedule for the requested compensatory visitation.

(2)(a) If the parents cannot establish an equitable arrangement for compensatory visitation as required by this Section, the requesting parent may petition the court having jurisdiction to enforce the judicial order for visitation for a temporary alteration to the current visitation order by making an adjustment to require compensatory visitation for visitation days lost as a result of an obligation of active duty. The court may refer the parent to mediation under the provisions of R.S. 9:332.

(b) The court may render judgment for court costs against either party or may apportion such costs between the parties as it may consider equitable.

C. The provisions of this Section shall not apply if either party has a history of physically or sexually abusing a child.

Subpart D. Access to Records.

R.S. 9:351. Access to records of child

Notwithstanding any provision of law to the contrary, access to records and information pertaining to a minor child, including but not limited to medical, dental, and school records, shall not be denied to a parent solely because he is not the child's custodial or domiciliary parent.

Subpart E. Relocating a Child's Residence.

R.S. 9:355.1. et seq. Relocating a Child's Residence

R.S. 9:355.1. Definitions
As used in this Subpart:

(1) "Principal residence of a child" means:

(a) The location designated by a court to be the primary residence of the child.

(b) In the absence of a court order, the location at which the parties have expressly agreed that the child will primarily reside.

(c) In the absence of a court order or an express agreement, the location, if any, at which the child has spent the majority of time during the prior six months.

(2) "Relocation" means a change in the principal residence of a child for a period of sixty days or more but does not include a temporary absence from the principal residence.

R.S. 9:355.2. Applicability

A. This Subpart shall apply to an order regarding custody of or visitation with a child issued:

(1) On or after August 15, 1997.

(2) Before August 15, 1997, if the existing custody order does not expressly govern the relocation of the child.

B. This Subpart shall apply to a proposed relocation when any of the following exist:

(1) There is intent to establish the principal residence of a child at any location outside the state.

(2) There is no court order awarding custody and there is an intent to establish the principal residence of a child at any location within the state that is at a distance of more than seventy-five miles from the domicile of the other parent.

(3) There is a court order awarding custody and there is an intent to establish the principal residence of a child at any location within the state that is at a distance of more than seventy-five miles from the principal residence of the child at the time that the most recent custody decree was rendered

(4) If either no principal residence of a child has been designated by the court or the parties have equal physical custody, and there is an intent to establish the principal residence of a child at any location within the state that is at a distance of more than seventy-five miles from the domicile of a person entitled to object to relocation.

C. To the extent that this Subpart conflicts with an existing custody order, this Subpart shall not apply to the terms of that order that govern relocation.

D. This Subpart shall not apply when either of the following circumstances exist:

(1) The persons required to give notice of and the persons entitled to object to a proposed relocation have entered into an express written agreement for the relocation of the principal residence of the child.

(2) There is in effect an order issued pursuant to Domestic Abuse Assistance, R.S. 46:2131, et seq., Protection from Dating Violence, R.S. 46:2151, Part II of Chapter 28 of Title 46 or the Post-Separation Family Violence Relief Act or Injunctions and Incidental Orders, Parts IV and V of Chapter 1 of Code Title V of Code Book I of Title 9, except R.S. 9:372.1, all of the Louisiana Revised Statutes of 1950, Domestic Abuse Assistance, Chapter 8 of Title XV of the Children's Code, or any other restraining order, preliminary injunction, permanent injunction, or any protective order prohibiting a person from harming or going near or in the proximity of the other person.

> **NOTE:** The purpose of Paragraph (2) of Subsection D of this Section is to prevent the application of Louisiana's child relocation statutes, requiring the party proposing relocation to notify a person entitled to receive notice of the details of the proposed move, in situations involving family violence, domestic abuse, and the like. The reference to "Part V of Chapter 1 of Code Title V of Code Book I of Title 9," however, includes R.S. 9:372.1, which governs an injunction prohibiting harassment. When an injunction has been issued only under R.S. 9:372.1, there is insufficient justification for exempting the proposed relocation from the requirements of the child relocation statutes.

Cormier v. Cormier, 330 So.3d 681 (La. App. 3 Cir. 2021). Ex-wife was not required to advise ex-husband of her move out of state with couple's child, nor was she required to seek judicial approval prior to her relocation, where a valid order of protection against domestic abuse had been entered against ex-husband, and that order was still in effect at the time of ex-wife's relocation without notice to the court or to ex-husband, who subsequently filed motion to modify child custody, for contempt, and for civil warrant.

R.S. 9:355.3. Persons authorized to propose relocation of principal residence of a child

The following persons are authorized to propose relocation of the principal residence of a child by complying with the notice requirements of this Subpart:

(1) A person designated in a current court decree as the sole custodian.

(2) A person designated in a current court decree as a domiciliary parent in a joint custody arrangement.

(3) A person sharing equal physical custody under a current court decree.

(4) A person sharing equal parental authority under Chapter 5 of Title VII of Book I of the Louisiana Civil Code.

(5) A person who is the natural tutor of a child born outside of marriage.

R.S. 9:355.4. Notice of proposed relocation of child; court authorization to relocate

A. A person proposing relocation of a child’s principal residence shall notify any person recognized as a parent and any other person awarded custody or visitation under a court decree as required by R.S. 9:355.5.

B. If multiple persons have equal physical custody of a child under a court decree, the person proposing relocation shall notify the other of a proposed relocation of the principal residence of the child as required by R.S. 9:355.5, and before relocation shall obtain either court authorization to relocate, after a contradictory hearing, or the express written consent of the other person.

R.S. 9:355.5. Mailing notice of proposed relocation address

A. Notice of a proposed relocation of the principal residence of a child shall be given by registered or certified mail, return receipt requested, or delivered by commercial courier as defined in R.S. 13:3204(D), to the last known address of the person entitled to notice under R.S. 9:355.4 no later than any of the following:

(1) The sixtieth day before the date of the proposed relocation.

(2) The tenth day after the date that the person proposing relocation knows the information required to be furnished by Subsection B of this Section, if the person did not know and could not reasonably have known the information in sufficient time to provide the sixty-day notice, and it is not reasonably possible to extend the time for relocation of the child.

B. The following information shall be included with the notice of intended relocation of the child:

(1) The current mailing address of the person proposing relocation.

(2) The intended new residence, including the specific physical address, if known.

(3) The intended new mailing address, if not the same.

(4) The home and cellular telephone numbers of the person proposing relocation, if known.

(5) The date of the proposed relocation.

(6) A brief statement of the specific reasons for the proposed relocation of a child.

(7) A proposal for a revised schedule of physical custody or visitation with the child.

(8) A statement that the person entitled to object shall make any objection to the proposed relocation in writing by registered or certified mail, return receipt requested, within thirty days of receipt of the notice and should seek legal advice immediately.

C. A person required to give notice of a proposed relocation shall have a continuing duty to provide the information required by this Section as that information becomes known.

R.S. 9:355.6. Failure to give notice of relocation

The court may consider a failure to provide notice of a proposed relocation of a child as:

(1) A factor in making its determination regarding the relocation of a child.

(2) A basis for ordering the return of the child if the relocation has taken place without notice or court authorization.

(3) Sufficient cause to order the person proposing relocation to pay reasonable expenses incurred by the person objecting to the relocation.

R.S. 9:355.7. Objection to relocation of child

Except for a person with equal physical custody of a child under a court decree, a person who is entitled to object to a proposed relocation of the principal residence of a child shall make any objection within thirty days after receipt of the notice. The objection shall be made in writing by registered or certified mail, return receipt requested, or delivered by commercial courier as defined in R.S. 13:3204(D), to the mailing address provided for the person proposing relocation in the notice of proposed relocation.

A person with equal physical custody of a child under a court decree need not make an objection under this Section. The rights of persons with equal physical custody are governed by R.S. 9:355.4(B).

R.S. 9:355.8. Limitation on objection by non-parents

A non-parent may object to the relocation only if he has been awarded custody. A non-parent who has been awarded visitation may initiate a proceeding to obtain a revised visitation schedule.

R.S. 9:355.9. Effect of objection or failure to object to notice of proposed relocation

Except as otherwise provided by R.S. 9:355.4(B), the person required to give notice may relocate the principal residence of a child after providing the required notice unless a person entitled to object does so in compliance with R.S. 9:355.7.

If a written objection is sent in compliance with R.S. 9:355.7, the person proposing relocation of the principal residence of the child shall initiate within thirty days after receiving the objection a summary proceeding to obtain court approval to relocate. Court approval to relocate shall be granted only after a contradictory hearing.

R.S. 9:355.10. Burden of proof

The person proposing relocation has the burden of proof that the proposed relocation is made in good faith and is in the best interest of the child.

R.S. 9:355.11. Court authorization to relocate

If timely objection to a proposed relocation is made by a person entitled to object, the person proposing relocation shall not, absent express written consent of the objecting person, relocate the child pending resolution of the dispute by final order of the court, unless the person proposing relocation obtains a temporary order pursuant to R.S. 9:355.12.

R.S. 9:355.12. Temporary order

A. The court may grant a temporary order allowing relocation.

B. The court, upon the request of the moving party, may hold an expedited preliminary hearing on the proposed relocation but shall not grant authorization to relocate the child on an ex parte basis.

C. If the court issues a temporary order authorizing relocation, the court shall not give undue weight to the temporary relocation as a factor in reaching its final determination.

D. If temporary relocation of a child is permitted, the court may require the person relocating the child to provide reasonable security guaranteeing that the court-ordered physical custody or visitation with the child will not be interrupted or interfered with or that the relocating person will return the child if court authorization for the relocation is denied at trial.

E. An order not in compliance with the provisions of this Section is not enforceable and is null and void.

R.S. 9:355.13. Priority for trial

A trial on the proposed relocation shall be assigned within sixty days after the filing of the motion to obtain court approval to relocate.

R.S. 9:355.14. Factors to determine contested relocation

A. In reaching its decision regarding a proposed relocation, the court shall consider all relevant factors in determining whether relocation is in the best interest of the child, including the following:

(1) The nature, quality, extent of involvement, and duration of the relationship of the child with the person proposing relocation and with the non-relocating person, siblings, and other significant persons in the child's life.

(2) The age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development.

(3) The feasibility of preserving a good relationship between the non-relocating person and the child through suitable physical custody or visitation arrangements, considering the logistics and financial circumstances of the parties.

(4) The child's views about the proposed relocation, taking into consideration the age and maturity of the child.

(5) Whether there is an established pattern of conduct by either the person seeking or the person opposing the relocation, either to promote or thwart the relationship of the child and the other party.

(6) How the relocation of the child will affect the general quality of life for the child, including but not limited to financial or emotional benefit and educational opportunity.

(7) The reasons of each person for seeking or opposing the relocation.

(8) The current employment and economic circumstances of each person and how the proposed relocation may affect the circumstances of the child.

(9) The extent to which the objecting person has fulfilled his financial obligations to the person seeking relocation, including child support, spousal support, and community property, and alimentary obligations.

(10) The feasibility of a relocation by the objecting person.

(11) Any history of substance abuse, harassment, or violence by either the person seeking or the person opposing relocation, including a consideration of the severity of the conduct and the failure or success of any attempts at rehabilitation.

(12) Any other factors affecting the best interest of the child.

B. The court may not consider whether the person seeking relocation of the child may relocate without the child if relocation is denied or whether the person opposing relocation may also relocate if relocation is allowed.

R.S. 9:355.15. Mental health expert; appointment

The court, on motion of either party or on its own motion, may appoint an independent mental health expert to render a report to assist the court in determining the best interest of the child.

R.S. 9:355.16. Application of factors at initial hearing

If the issue of relocation is presented at the initial hearing to determine custody of and visitation with a child, the court shall consider also the factors set forth in R.S. 9:355.14 in making its initial determination.

R.S. 9:355.17. Modification of custody

Providing notice of a proposed relocation does not constitute a change of circumstance warranting a change of custody. Relocating without prior notice if there is a court order awarding custody or relocating in violation of a court order may constitute a change of circumstances warranting a modification of custody.

Any change in the principal residence of a child, including one not meeting the threshold distance set out in R.S. 9:355.2, may constitute a change of circumstances warranting a modification of custody.

R.S. 9:355.18. Posting security

If relocation of a child is permitted, the court may require the person relocating the child to provide reasonable security guaranteeing that the court-ordered physical custody or visitation with the child will not be interrupted or interfered with by the relocating party.

R.S. 9:355.19. Sanctions for unwarranted or frivolous proposal to relocate child or objection to relocation

A. After notice and a reasonable opportunity to respond, the court may impose a sanction on a person proposing or objecting to a proposed relocation of a child if it determines that the proposal or objection was made:

(1) For the purpose of harassing the other person or causing unnecessary delay or needless increase in the cost of litigation.

(2) Without a basis in existing law or on the basis of a frivolous argument.

(3) In violation of Code of Civil Procedure Article 863(B).

B. A sanction imposed under this Section shall be limited to what is sufficient to deter repetition of such conduct. The sanction may consist of reasonable expenses and attorney fees incurred as a direct result of the conduct.

Subpart F. Other Child Custody Provisions.

R.S. 9:356. Consideration of child support

In any proceeding for child custody or visitation, either party may raise any issue relating to child support and the court may hear and determine that issue if all parties consent. The child support

matters need not be specifically pleaded for the party to raise the issue, or the court to decide the issue.

R.S. 9:357. Use of technology

The court shall consider ordering persons awarded custody or visitation to use technology, including video calling, telephone, text messaging, Internet communications, or other forms of technology, to facilitate communication with the child when it is in the best interest of the child.

Subpart G. Parenting Coordinator.

R.S. 9:358.1. et seq. Parenting Coordinator

R.S. 9:358.1. Appointment of parenting coordinator; term; costs

A. On motion of a party or on its own motion, the court may appoint a parenting coordinator in a child custody case for good cause shown if the court has previously entered a judgment establishing child custody, other than an ex parte order. The court shall make the appointment on joint motion of the parties.

B. The initial term of the appointment of the parenting coordinator shall not exceed one year. For good cause shown, the court may extend the appointment of the parenting coordinator for additional one year terms.

C. The court shall order each party to pay a portion of the costs of the parenting coordinator. No parenting coordinator shall be appointed by the court if a party has been granted pauper status or is unable to pay his apportioned cost of the parenting coordinator.

R.S. 9:358.2. No appointment in family violence cases

Unless good cause is shown, the court shall not appoint a parenting coordinator if it finds that a party has a history of perpetrating family violence.

R.S. 9:358.3. Qualifications

A. A person appointed as a parenting coordinator shall meet all of the following qualifications:

(1) Possess a master's, Ph.D., or equivalent degree, in a mental health field, such as psychiatry, psychology, social work, marriage and family counseling, or professional counseling, hold a Louisiana license in the mental health profession, and have no less than three years of related professional post- degree experience.

(2) Be qualified as a mediator under R.S. 9:334.

(3) Complete a minimum of forty hours of specialized training on parent coordination. A maximum of fourteen hours of family mediation training may be used towards the total forty hours.

B. The training specified in Paragraph (A)(3) of this Section shall include instruction on all of the following:

(1) The Louisiana judicial system and judicial procedure in domestic cases.

(2) Ethical standards, including confidentiality and conflicts of interest.

(3) Child development, including the impact of divorce on development.

(4) Parenting techniques.

(5) Parenting plans and time schedules.
(6) Family systems theory.

(7) Communication skills.

(8) Domestic violence and its effects on children and families.

(9) The parenting coordination process and required documentation execution.

C. In order to remain qualified, a parenting coordinator shall complete, every two calendar years, a minimum of twenty hours of continuing education in parenting coordination.

D. A court may accept the initial certification of a parenting coordinator or the maintenance of that certification made by a legal or mental health association whose focus includes resolution of child-related conflicts.

E. Upon request of the court, a parenting coordinator shall furnish satisfactory evidence of his qualifications.

R.S. 9:358.4. Authority and duties of parenting coordinator

A. A parenting coordinator shall assist the parties in resolving disputes and in reaching agreements regarding children in their care including, but not limited to, the following types of issues:

(1) Minor changes or clarifications of access schedules from the existing custody plan.

(2) Exchanges of the children including date, time, place, means of transportation, and the transporter.

(3) Health care management including medical, dental, orthodontic, and vision care.

(4) Child-rearing issues.

(5) Psychotherapy or other mental health care including substance abuse or mental health assessment or counseling for the children.

(6) Psychological testing or other assessments of the children.

(7) Education or daycare including school choice, tutoring, summer school, participation in special education testing and programs, or other educational decisions.

(8) Enrichment and extracurricular activities including camps and jobs.

(9) Religious observances and education.

(10) Children's travel and passport arrangements.

(11) Clothing, equipment, and personal possessions of the children.

(12) Communication between the parties about the children.

(13) Means of communication by a party with the children when they are not in that party's care.

(14) Alteration of appearance of the children including hairstyle and ear and body piercing.
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(15) Role of and contact with significant others and extended families.

(16) Substance abuse assessment or testing of either or both parties or the child, including access to results.

(17) Parenting classes or referral for other services of either or both parties.

B. A parenting coordinator shall:
(1) Refrain from facilitating an agreement by the parties that would change legal custody from one party to the other or that would change the physical custody or visitation schedule in a way that may result in a change in child support.

(2) Notify the court of a conflict of interest of the parenting coordinator.

(3) Prepare interim and final reports as ordered by the court and other reports when necessary.

C. When the parties are unable to reach an agreement, the parenting coordinator may make a recommendation in a report to the court for resolution of the dispute.

R.S. 9:358.5. Testimony and report

A. The parenting coordinator shall not be called as a witness in the child custody proceeding without prior court approval.

B. The parenting coordinator shall distribute all reports to the court, the parties, and their attorneys.

R.S. 9:358.6. Communication with court

The parenting coordinator shall not communicate ex parte with the court, except in an emergency situation.

R.S. 9:358.7. Access to information

The court shall order the parties to cooperate with the parenting coordinator and to provide relevant non-privileged records and information requested by the parenting coordinator. The parenting coordinator may communicate with the child and other persons not a party to the litigation.

R.S. 9:358.8. Termination of appointment of parenting coordinator

For good cause shown, the court, on its own motion, on motion of a party, or upon request of the parenting coordinator, may terminate the appointment of the parenting coordinator
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R.S. 9:358.9. Limitation of liability

No parenting coordinator shall be personally liable for any act or omission resulting in damage, injury, or loss arising out of the exercise of his official duties and within the course and scope of his appointment by the court. However, this limitation of liability shall not be applicable if the damage, injury, or loss was caused by the gross negligence or willful or wanton misconduct of the parenting coordinator.

Subpart H. Military Parent and Child Custody Protection Act.

R.S. 9:359. et seq. Military Parent and Child Custody Protection Act

R.S. 9:359. Military parent and child custody protection act

This Subpart may be cited as the “Military Parent and Child Custody Protection Act”.

R.S. 9:359.1. Definitions

As used in this Subpart, the following terms shall have the following meanings:

(1) “Deploying parent” means a parent of a minor child whose parental rights have not been terminated and whose custody or visitation rights have not been restricted by court order to supervised visitation only, by a court of competent jurisdiction who is deployed or has received written orders to deploy with the United States military or any reserve component thereof.

(2) “Deployment” means military service in compliance with mandatory written orders, unaccompanied by any family member, for combat operations, contingency operations, peacekeeping operations, temporary duty, a remote tour of duty, or other active service.

(3) “Order” means any custody or visitation judgment, decree, or order issued by a court of competent jurisdiction in this state or any judgment of another state which has been made executory in this state.

R.S. 9:359.2. Final order; modification prohibited

The court shall not enter a final order modifying the existing terms of a custody or visitation order until ninety days after the termination of deployment; however, if the matter was fully tried by a court prior to deployment, the court may enter a final order at any time.

R.S. 9:359.3. Material change in circumstances

Deployment or the potential for future deployment alone shall not constitute a material change in circumstances for the permanent modification of a custody or visitation order.

R.S. 9:359.4. Temporary modification

A. An existing order of custody or visitation may be temporarily modified to reasonably accommodate the deployment of a parent. Any such order issued in accordance with the provisions of this Subpart shall be entered as a temporary order by the court.

B. Unless the court determines that it is not in the best interest of the child, a temporary modification order shall grant the deploying parent reasonable custody or visitation during periods of approved military leave if the existing order granted the deploying parent custody or visitation prior to deployment. All restrictions on the custody or visitation in the existing order shall remain in effect in the temporary modification order.

C. A temporary modification order shall specify that deployment is the reason for modification and shall require the other parent to provide the court and the deploying parent with written notice thirty days prior to a change of address or telephone number.

D. The court shall have an expedited hearing on any custody or visitation matters, upon the motion of a parent and for good cause shown, when military duties prevent the deploying parent from personally appearing at a hearing scheduled regularly on the docket.

R.S. 9:359.5. Termination of temporary modification order

A. A temporary modification order terminates by operation of law upon the completion of deployment, and the prior order shall be reinstated. If the other parent has relocated with the child in accordance with the provisions of R.S. 9:355.1 et seq., custody or visitation shall be exercised where the child resides, pending further orders of the court.

B. Notwithstanding the provisions of Subsection A of this Section, the court may, upon motion alleging immediate danger or irreparable harm to the child, grant an expedited hearing on the termination of the temporary modification order and the reinstatement of the prior order, or the court may grant an ex parte order of temporary custody prior to the reinstatement of the prior order. Any ex parte temporary order shall comply with the provisions of Code of Civil Procedure Article 3945.

R.S.9:359.6. Delegation of visitation

The court may delegate some or all of the deploying parent's visitation, upon motion of the deploying parent, to a family member with a substantial relationship to the child if the court determines it is in the best interest of the child. For the purposes of this Section, the court shall consider Civil Code Article 136 in determining the best interest of the child. Delegated visitation shall not create standing to assert separate visitation rights. Delegated visitation shall terminate by operation of law in accordance with the provisions of R.S. 9:359.5 or upon a showing that the delegated visitation is no longer in the best interest of the child.

R.S. 9:359.7. Testimony; evidence

The court shall permit the presentation of testimony and evidence by affidavit or electronic means, upon motion of a parent and for good cause shown, when military duties prevent the deploying parent from personally appearing.

R.S. 9:359.8. Lack of existing order of custody or visitation

When an order establishing custody or visitation has not been rendered and deployment is imminent, upon the motion of either parent, the court shall expedite a hearing to establish a temporary order in accordance with this Subpart.

R.S. 9:359.9. Duty to cooperate; disclosure of information

A. When military necessity precludes court adjudication prior to deployment, the parties shall cooperate in custody or visitation matters.

B. Within ten days of receipt, a copy of the deployment orders shall be provided to the other parent. When the deployment date is less than ten days after receipt of the orders, a copy shall immediately be provided.

R.S. 9:359.10. Appointment of counsel

When the court declines to grant or extend a stay of proceedings in accordance with the Servicemembers Civil Relief Act, 50 U.S.C. Appendix Section 521-522, upon motion of either parent or upon its own motion, the court shall appoint an attorney to represent the child in accordance with the provisions of R.S. 9:345.

R.S. 9:359.11. Jurisdiction

When a court of this state has issued a custody or visitation order, the absence of a child from this state during the deployment of a parent shall be a “temporary absence” for the purposes of the Uniform Child Custody Jurisdiction and Enforcement Act and this state shall retain exclusive continuing jurisdiction in accordance with the provisions of R.S. 13:1814. The deployment of a parent may not be used as a basis to assert inconvenience of the forum in accordance with the provisions of R.S. 13:1819.

R.S. 9:359.12. Attorney fees

The court may award attorney fees and costs when either party causes unreasonable delays, fails to provide information required in this Subpart, or in any other circumstance in which the court considers it to be appropriate.

R.S. 9:359.13. Applicability

The provisions of this Subpart shall not apply to any custody or visitation order requested in a verified petition alleging the applicability of the Domestic Abuse Assistance Act, R.S. 46:2131 et seq., Children's Code Article 1564 et seq., or the Post-Separation Family Violence Relief Act, R.S. 9:361 et seq.

Louisiana Revised Statutes – Title 13. Courts and Judicial Procedure

Part IV. Uniform Child Custody Jurisdiction and Enforcement Act.

R.S. 13:1801. et seq. Uniform Child Custody Jurisdiction and Enforcement Act

R.S. 13:1801. Short title

This Part may be cited as the Uniform Child Custody Jurisdiction and Enforcement Act.

R.S. 13:1802. Definitions

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision.

(2) "Child" means an individual who has not attained eighteen years of age.

(3) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

(4) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Subpart C of this Part.

(5) "Commencement" means the filing of the first pleading in a proceeding.

(6) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.

(7)(a) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

(b) When a parent or a person acting as a parent is required to evacuate this state with a minor child because of an emergency or disaster declared under the provisions of R.S. 29:721 et seq., or declared by federal authority, and for an unforeseen reason resulting from the effects of such emergency or disaster is unable to return to this state for an extended period of time, this state shall be determined to be the home state if the child lived with his parents, a parent, or a person acting as his parent for a period of at least twelve consecutive months immediately preceding the time involved.

(8) "Initial determination" means the first child custody determination concerning a particular child.

(9) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under this Act.

(10) "Issuing state" means the state in which a child custody determination is made.

(11) "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(13) "Person acting as a parent" means a person, other than a parent, who:

(a) Has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child custody proceeding; and

(b) Has been awarded legal custody by a court or claims a right to legal custody under the laws of this state.

(14) "Physical custody" means the physical care and supervision of a child.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) "Tribe" means an Indian tribe or band, or Alaskan Native village, which is recognized by federal law or formally acknowledged by a state.

(17) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

R.S. 13:1803. Proceedings governed by other law

This Part does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

R.S. 13:1804. Application to Indian tribes

A. A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. § 1901 et seq. is not subject to this Act to the extent that it is governed by the Indian Child Welfare Act.

B. A court of this state shall treat a tribe as if it were a state of the United States for the purpose of applying Subparts A and B of this Part.

C. A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this Act shall be recognized and enforced under Subpart C of this Part.

R.S. 13:1805. International application

A. A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying Subparts A and B of this Part.

B. Except as otherwise provided in Subsection C of this Section, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this Act shall be recognized and enforced under Subpart C of this Part.

C. A court of this state need not apply this Act if the child custody law of a foreign country violates fundamental principles of human rights.

R.S. 13:1806. Effect of child custody determination

A child custody determination made by a court of this state that had jurisdiction under this Act binds all persons who have been served in accordance with the laws of this state or notified in accordance with R.S. 13:1808 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

R.S. 13:1807. Priority

If a question of existence or exercise of jurisdiction under this Act is raised in a child custody proceeding, the question, upon request of a party, shall be given priority on the calendar and handled expeditiously.

R.S. 13:1808. Notice to person outside state

A. Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for service of process or by the law of the state in which the service is made. Notice shall be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

B. Proof of service may be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.

C. Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

R.S. 13:1809. Appearance and limited immunity

A. A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

B. A person who is subject to personal jurisdiction in this state on a basis other than physical presence is not immune from service of process in this state. A party present in this state who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

C. The immunity granted by Subsection A of this Section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this Act committed by an individual while present in this state.

R.S. 13:1810. Communication between courts

A. A court of this state may communicate with a court in another state concerning a proceeding arising under this Act.

B. The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they shall be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

C. Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

D. Except as otherwise provided in Subsection C of this Section, a record shall be made of a communication under this Section. The parties shall be informed promptly of the communication and granted access to the record.

E. For the purposes of this Section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

R.S. 13:1811. Taking testimony in another state

A. In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

B. A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

C. Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

R.S. 13:1812. Cooperation between courts; preservation of records

A court of this state may request the appropriate court of another state to:

(1) Hold an evidentiary hearing.

(2) Order a person to produce or give evidence pursuant to procedures of that state.

(3) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding.

(4) Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request.

(5) Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

B. Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in Subsection A of this Section.

C. Travel and other necessary and reasonable expenses incurred under Subsections A and B of this Section may be assessed against the parties according to the law of this state.

D. A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains eighteen years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

Subpart B. Jurisdiction

R.S. 13:1813. Initial child custody jurisdiction

A. Except as otherwise provided in R.S. 13:1816, a court of this state has jurisdiction to make an initial child custody determination only if:

(1) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state, or had been the child's home state within twelve months before commencement of the proceeding and the child is absent from the state because he was required to leave or was evacuated due to an emergency or disaster declared under the provisions of R.S. 29:721 et seq., or declared by federal authority, and for an unforeseen reason resulting from the effects of such emergency or disaster was unable to return to this state for an extended period of time.

(2) A court of another state does not have jurisdiction or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under R.S. 13:1819 or 1820; and

(a) The child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence.

(b) Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships.

(3) All courts having jurisdiction have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under R.S. 13:1819 or 1820; or

(4) No court of any other state would have jurisdiction under the criteria specified in Paragraph (1), (2), or (3) of this Subsection.

B. Subsection A of this Section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

C. Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

R.S. 13:1814. Exclusive, continuing jurisdiction

A. Except as otherwise provided in R.S. 13:1816, a court of this state which has made a child custody determination consistent with R.S. 13:1813 or 1815 has exclusive, continuing jurisdiction over the determination until:

(1) A court of this state determines that neither the child, nor the child and one parent, nor the child and a person acting as a parent have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or

(2) A court of this state or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state.

B. A court of this state which has made a child custody determination and does not have exclusive, continuing jurisdiction under this Section may modify that determination only if it has jurisdiction to make an initial determination under R.S. 13:1813.

R.S. 13:1815. Jurisdiction to modify determination

Except as otherwise provided in R.S. 13:1816, a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under R.S. 13:1813(A)(1) or (2) and:

(1) The court of the other state determines it no longer has exclusive, continuing jurisdiction under R.S. 13:1814 or that a court of this state would be a more convenient forum under R.S. 13:1819; or

(2) A court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

R.S. 13:1816. Temporary emergency jurisdiction

A. A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

B. If there is no previous child custody determination that is entitled to be enforced under this Act and a child custody proceeding has not been commenced in a court of a state having jurisdiction under R.S. 13:1813 through 1815, a child custody determination made under this Section remains in effect until an order is obtained from a court of a state having jurisdiction under R.S. 13:1813 through 1815. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under R.S. 13:1813 through 1815, a child custody determination made under this Section becomes a final determination, if it so provides and this state becomes the home state of the child.

C. If there is a previous child custody determination that is entitled to be enforced under this Act, or a child custody proceeding has been commenced in a court of a state having jurisdiction under R.S. 13:1813 through 1815, any order issued by a court of this state under this Section shall specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under R.S. 13:1813 through 1815. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

D. A court of this state which has been asked to make a child custody determination under this Section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by a court of a state having jurisdiction under R.S. 13:1813 through 1815, shall immediately communicate with the other court. A court of this state which is exercising jurisdiction pursuant to R.S. 13:1813 through 1815, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by a court of another state under a statute similar to this Section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

R.S. 13:1817. Notice; opportunity to be heard; joinder

A. Before a child custody determination is made under this Act, notice and an opportunity to be heard in accordance with the standards of R.S. 13:1808 shall be given to all persons entitled to notice under the laws of this state as in child custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

B. This Act does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

C. The obligation to join a party and the right to intervene as a party in a child custody proceeding under this Act are governed by the laws of this state as in child custody proceedings between residents of this state.

R.S. 13:1818. Simultaneous proceedings

A. Except as otherwise provided in R.S. 13:1816, a court of this state may not exercise its jurisdiction under this Subpart if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with this Act, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under R.S. 13:1819.

B. Except as otherwise provided in R.S. 13:1816, a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to R.S. 13:1821. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with this Act, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with this Act does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

C. In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

(1) Stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

(2) Enjoin the parties from continuing with the proceeding for enforcement; or

(3) Proceed with the modification under conditions it considers appropriate.

R.S. 13:1819. Inconvenient forum

A. A court of this state which has jurisdiction under this Act to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

B. Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(1) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child.

(2) The length of time the child has resided outside this state.

(3) The distance between the court in this state and the court in the state that would assume jurisdiction.

(4) The relative financial circumstances of the parties.

(5) Any agreement of the parties as to which state should assume jurisdiction.

(6) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child.

(7) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.

(8) The familiarity of the court of each state with the facts and issues in the pending litigation.

C. If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

D. A court of this state may decline to exercise its jurisdiction under this Act if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

R.S. 13:1820. Jurisdiction declined by reason of conduct

A. Except as otherwise provided in R.S. 13:1816, if a court of this state has jurisdiction under this Act because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(1) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(2) A court of the state otherwise having jurisdiction under R.S. 13:1813 through 1815 determines that this state is a more appropriate forum under R.S. 13:1819; or

(3) No court of any other state would have jurisdiction under the criteria specified in R.S. 13:1813 through 1815.

B. If a court of this state declines to exercise its jurisdiction pursuant to Subsection A of this Section, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under R.S. 13:1813 through 1815.

C. If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to Subsection A of this Section, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against this state unless authorized by law other than this Act.

R.S. 13:1821. Information to be submitted to court

A. Subject to local law providing for the confidentiality of procedures, addresses, and other identifying information in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit shall state whether the party:

(1) Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child custody determination, if any.

(2) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding.

(3) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

B. If the information required by Subsection A of this Section is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

C. If the declaration as to any of the items described in Paragraphs (1) through (3) of Subsection A is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

D. Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

E. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information shall be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

R.S. 13:1822. Appearance of parties and child

A. In a child custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.

B. If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to R.S. 13:1808 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

C. The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this Section.

D. If a party to a child custody proceeding who is outside this state is directed to appear under Subsection B of this Section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

Subpart C. Enforcement

R.S. 13:1823. Definitions

A. "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

B. "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

R.S. 13:1824. Enforcement under Hague Convention

Under this Subpart a court of this state may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

R.S. 13:1825. Duty to enforce

A. A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with this Act or the determination was made under factual circumstances meeting the jurisdictional standards of this Act and the determination has not been modified in accordance with this Act.

B. A court of this state may utilize any remedy available under other law of this state to enforce a child custody determination made by a court of another state. The remedies provided in this Subpart are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

R.S. 13:1826. Temporary visitation

A. A court of this state which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(1) A visitation schedule made by a court of another state; or

(2) The visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule

B. If a court of this state makes an order under Paragraph (2) of Subsection A of this Section, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Subpart B. The order remains in effect until an order is obtained from the other court or the period expires.

R.S. 13:1827. Registration of child custody determination

A. A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to the appropriate court in this state:

(1) A letter or other document requesting registration.

(2) Two copies, including one certified copy of the determination sought to be registered and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration, the order has not been modified.

(3) Except as otherwise provided in R.S. 13:1821, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

B. On receipt of the documents required by Subsection A of this Section, the registering court shall:

(1) Cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form.

(2) Serve notice upon the persons named pursuant to Paragraph (3) of Subsection A of this Section and provide them with an opportunity to contest the registration in accordance with this Section.

C. The notice required by Paragraph (2) of Subsection B of this Section shall state that:

(1) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state.

(2) A hearing to contest the validity of the registered determination shall be requested within twenty days after service of notice.

(3) Failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

D. A person seeking to contest the validity of a registered order shall request a hearing within twenty days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(1) The issuing court did not have jurisdiction under Subpart B;

(2) The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Subpart B; or

(3) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of R.S. 13:1808, in the proceedings before the court that issued the order for which registration is sought.

E. If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served shall be notified of the confirmation.

F. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

R.S. 13:1828. Enforcement of registered determination

A. A court of this state may grant any relief normally available under the law of this state to enforce a registered child custody determination made by a court of another state.

B. A court of this state shall recognize and enforce, but may not modify, except in accordance with Subpart B, a registered child custody determination of a court of another state.

R.S. 13:1829. Simultaneous proceedings

If a proceeding for enforcement under this Subpart is commenced in a court of this state and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under Subpart B, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

R.S. 13:1830. Expedited enforcement of child custody determination

A. A petition under this Subpart shall be verified. Certified copies of all orders sought to be enforced and of any order confirming registration shall be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

B. A petition for enforcement of a child custody determination shall state:

(1) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was.

(2) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision shall be enforced under this Act and, if so, identify the court, the case number, and the nature of the proceeding.

(3) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding.

(4) The present physical address of the child and the respondent if known.

(5) Whether relief in addition to the immediate physical custody of the child and attorney fees are sought, including a request for assistance from law enforcement officials and, if so, the relief sought.

(6) If the child custody determination has been registered and confirmed under R.S. 13:1827, the date and place of registration.

C. Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure

the safety of the parties and the child. The hearing shall be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

D. An order issued under Subsection C of this Section shall state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under R.S. 13:1834, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(1) The child custody determination has not been registered and confirmed under R.S. 13:1827 and that:

(a) The issuing court did not have jurisdiction under Subpart B;

(b) The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Subpart B; or

(c) The respondent was entitled to notice, but notice was not given in accordance with the standards of R.S. 13:1808, in the proceedings before the court that issued the order for which enforcement is sought; or

(2) The child custody determination for which enforcement is sought was registered and confirmed under R.S. 13:1827, but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Subpart B.

R.S. 13:1831. Service of petition and order

Except as otherwise provided in R.S. 13:1833, the petition and order shall be served, by any method authorized by Louisiana law, upon respondent and any person who has physical custody of the child.

R.S. 13:1832. Hearing and order

A. Unless the court issues a temporary emergency order pursuant to R.S. 13:1816, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(1) The child custody determination has not been registered and confirmed under R.S. 13:1827 and that:

(a) The issuing court did not have jurisdiction under Subpart B;

(b) The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Subpart B; or

(c) The respondent was entitled to notice, but notice was not given in accordance with the standards of R.S. 13:1808, in the proceedings before the court that issued the order for which enforcement is sought; or

(2) The child custody determination for which enforcement is sought was registered and confirmed under R.S. 13:1827 but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Subpart B.

B. The court shall award the fees, costs, and expenses authorized under R.S. 13:1834 and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

C. If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

D. A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this Subpart.

R.S. 13:1833. Warrant to take physical custody of child

A. Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this state.

B. If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this state, it may issue a warrant to take physical custody of the child. The petition shall be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant shall include the statements required by R.S. 13:1830(B).

C. A warrant to take physical custody of a child shall:

(1) Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based.

(2) Direct law enforcement officers to take physical custody of the child immediately.

(3) Provide for the placement of the child pending final relief.

D. The respondent shall be served with the petition, warrant, and order immediately after the child is taken into physical custody.

E. A warrant to take physical custody of a child is enforceable throughout this state. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

F. The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

R.S. 13:1834. Costs, fees, and expenses

A. The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

B. The court may not assess fees, costs, or expenses against a state unless authorized by law other than this Act.

R.S. 13:1835. Recognition and enforcement

A court of this state shall accord full faith and credit to an order issued by another state and consistent with this Act which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under Subpart B.

R.S. 13:1836. Appeals

An appeal may be taken from a final order in a proceeding under this Subpart in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency

order under R.S. 13:1816, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

R.S. 13:1837. Role of prosecutor or public official

A. In a case arising under this Part or involving the Hague Convention on the Civil Aspects of International Child Abduction, the prosecutor or other appropriate public official may take any lawful action, including resort to a proceeding under this Subpart or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

(1) An existing child custody determination;

(2) A request to do so from a court in a pending child custody proceeding;

(3) A reasonable belief that a criminal statute has been violated; or

(4) A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

B. A prosecutor or appropriate public official acting under this Section acts on behalf of the court and may not represent any party.

R.S. 13:1838. Role of law enforcement

At the request of a prosecutor or other appropriate public official acting under R.S. 13:1837, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a prosecutor or appropriate public official with responsibilities under R.S. 13:1837.

R.S. 13:1839. Costs and expenses

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the prosecutor or other appropriate public official and law enforcement officers under R.S. 13:1837 or 1838.

Subpart D. Miscellaneous Provisions

R.S. 13:1840. Application and construction

In applying and construing this Part, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

R.S. 13:1841. Severability clause

If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

R.S. 13:1842. Transitional provision

A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination which was commenced before August 15, 2007 is governed by the law in effect at the time the motion or other request was made.

Part V. Uniform International Child Abduction Prevention Act.

R.S. 13:1851. et seq. Uniform International Child Abduction Prevention Act

R.S. 13:1851. Short title

This Part may be cited as the Uniform International Child Abduction Prevention Act.

R.S. 13:1852. Definitions

For purposes of this Part, the following terms shall have the following meanings unless the context clearly indicates otherwise:

(1) Abduction means the wrongful removal or wrongful retention of a child beyond the territorial limits of the United States.

(2) Child means an unemancipated individual who is less than eighteen years of age.

(3) Child-custody determination means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order.

(4) Child-custody proceeding means a proceeding in which legal custody, physical custody, or visitation with respect to a child is at issue. The term includes a proceeding for divorce, dissolution of marriage, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, or protection from domestic violence.

(5) Court means an entity authorized under the law of a state to establish, enforce, or modify a child-custody determination.

(6) "Petition" includes a motion or its equivalent.

(7) Record means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(8) State means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe or nation.

(9) Travel document means records relating to a travel itinerary, including travel tickets, passes, reservations for transportation, or accommodations. The term does not include a passport or visa.

(10) Wrongful removal means the taking of a child that breaches rights of custody or visitation given or recognized under the law of this state.

(11) Wrongful retention means the keeping or concealing of a child that breaches rights of custody or visitation given or recognized under the law of this state.

R.S. 13:1853. Cooperation and communication among courts

The provisions of R.S. 13:1810 through 1812 apply to cooperation and communications among courts in proceedings under this Part.

R.S. 13:1854. Actions for abduction prevention measures

A. A court on its own motion may order abduction prevention measures in a child-custody proceeding if the court finds that the evidence establishes a credible risk of abduction of the child.

B. A party to a child-custody determination or another individual or entity having a right under the law of this state or any other state to seek a child-custody determination for the child may file a petition seeking abduction prevention measures to protect the child under this Part.

C. A prosecutor or public authority designated under R.S. 13:1837 may seek a warrant to take physical custody of a child under R.S. 13:1859 or other appropriate prevention measures.

R.S. 13:1855. Jurisdiction

A. A petition under this Part may be filed only in a court that has jurisdiction to make a child-custody determination with respect to the child at issue under the provisions of R.S. 13:1813 through 1816.

B. A court of this state has temporary emergency jurisdiction under the provisions of R.S. 13:1816, if the court finds a credible risk of abduction.

R.S. 13:1856. Contents of petition

A petition under this Part shall be verified and include a copy of any existing child-custody determination, if available. The petition shall specify the risk factors for abduction, including the relevant factors described in R.S. 13:1857. Subject to the provisions of R.S. 13:1821(E), if reasonably ascertainable, the petition shall contain:

(1) The name, date of birth, and gender of the child.

(2) The customary address and current physical location of the child.

(3) The identity, customary address, and current physical location of the respondent.

(4) A statement of whether a prior action to prevent abduction or domestic violence has been filed by a party or other individual or entity having custody of the child, and the date, location, and disposition of the action.

(5) A statement of whether a party to the proceeding has been arrested for a crime related to domestic violence, stalking, or child abuse or neglect, and the date, location, and disposition of the case.

(6) Any other information required to be submitted to the court for a child-custody determination under R.S. 13:1821.

R.S. 13:1857. Factors to determine risk of abduction

A. In determining whether there is a credible risk of abduction of a child, the court shall consider all of the following factors and any evidence that the petitioner or respondent:

(1) Has previously abducted or attempted to abduct the child.

(2) Has threatened to abduct the child.

(3) Has recently engaged in activities that may indicate a planned abduction, including any of the following:

(a) Abandoning employment.

(b) Selling a primary residence.

(c) Terminating a lease.

(d) Closing bank or other financial management accounts, liquidating assets, hiding or destroying financial documents, or conducting any unusual financial activities.

(e) Applying for a passport or visa or obtaining travel documents for the respondent, a family member, or the child.

(f) Seeking to obtain the child's birth certificate or school or medical records.

(4) Has engaged in domestic violence, stalking, or child abuse or neglect.

(5) Has refused to follow a child-custody determination.

(6) Lacks strong familial, financial, emotional, or cultural ties to the United States.

(7) Has strong familial, financial, emotional, or cultural ties to another country.

(8) Is likely to take the child to a country that either:

(a) Is not a party to the Hague Convention on the Civil Aspects of International Child Abduction and does not provide for the extradition of an abducting parent or for the return of an abducted child.

(b) Is a party to the Hague Convention on the Civil Aspects of International Child Abduction but either:

(i) The Hague Convention on the Civil Aspects of International Child Abduction is not in force between the United States and that country.

(ii) Is noncompliant according to the most recent compliance report issued by the United States Department of State.

(iii) Lacks legal mechanisms for immediately and effectively enforcing a return order under the Hague Convention on the Civil Aspects of International Child Abduction.

(c) Poses a risk that the child's physical or emotional health or safety would be endangered in the country because of specific circumstances relating to the child or because of human rights violations committed against children.

(d) Has laws or practices that would either:

(i) Enable the respondent, without due cause, to prevent the petitioner from contacting the child.

(ii) Restrict the petitioner from freely traveling to or exiting from the country because of the petitioner's gender, nationality, marital status, or religion.

(iii) Restrict the child's ability legally to leave the country after the child reaches the age of majority because of a child's gender, nationality, or religion.

(e) Is included by the United States Department of State on a current list of state sponsors of terrorism.

(f) Does not have an official United States diplomatic presence in the country.

(g) Is engaged in active military action or war, including a civil war, to which the child may be exposed.

(9) Is undergoing a change in immigration or citizenship status that would adversely affect the respondent's ability to remain in the United States legally.

(10) Has had an application for United States citizenship denied.

(11) Has forged or presented misleading or false evidence on government forms or supporting documents to obtain or attempt to obtain a passport, a visa, travel documents, a Social Security card, a driver's license, or other government-issued identification card or has made a misrepresentation to the United States government.

(12) Has used multiple names to attempt to mislead or defraud.

(13) Has engaged in any other conduct the court considers relevant to the risk of abduction.

B. In the hearing on a petition under this Part, the court shall consider any evidence that the respondent believed in good faith that his conduct was necessary to avoid imminent harm to the child or himself and any other evidence that may be relevant to whether he may be permitted to remove or retain the child.

R.S. 13:1858. Provisions and measures to prevent abduction

A. If a petition is filed under this Part, the court may enter an order that shall include:

(1) The basis for the court's exercise of jurisdiction.

(2) The manner in which notice and opportunity to be heard were given to the persons entitled to notice of the proceeding.

(3) A detailed description of each party's custody and visitation rights and residential arrangements for the child.

(4) A provision stating that a violation of the order may subject the party in violation to civil and criminal penalties.

(5) Identification of the child's country of habitual residence at the time of the issuance of the order.

B. If, at a hearing on a petition under this Part or on the court's own motion, the court after reviewing the evidence finds a credible risk of abduction of the child, the court shall enter an abduction prevention order. The order shall include the provisions required by Subsection A of this Section and measures and conditions, including those in Subsections C, D, and E of this Section, that are reasonably calculated to prevent abduction of the child, giving due consideration to the custody and visitation rights of the parties. The court shall consider the age of the child, the potential harm to the child from an abduction, the legal and practical difficulties of returning the child to the jurisdiction if abducted, and the reasons for the potential abduction, including evidence of domestic violence, stalking, or child abuse or neglect.

C. An abduction prevention order may include one or more of the following:

(1) An imposition of travel restrictions that require that a party traveling with the child outside the territorial limits of the United States provide the other party with the following:

(a) The travel itinerary of the child

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(b) A list of physical addresses and telephone numbers at which the child can be reached at specified times.

(c) Copies of all travel documents.

(2) A prohibition of the respondent directly or indirectly, either:

(a) Removing the child from the United States without permission of the court or the petitioner's written consent.

(b) Removing or retaining the child in violation of a child-custody determination.

(c) Removing the child from school or a child-care or similar facility.

(d) Approaching the child at any location other than a site designated for supervised visitation.

(3) With regard to the child's passport, all of the following:

(a) A direction that the petitioner is to place the child's name in the United States Department of State Children's Passport Issuance Alert Program.

(b) A requirement that the respondent surrender to the court or the petitioner's attorney any United States or foreign passport issued in the child's name, including a passport issued in the name of both the parent and the child.

(c) A prohibition upon the respondent from applying on behalf of the child for a new or replacement passport or visa.

(4) As a prerequisite to exercising custody or visitation, a requirement that the respondent provide all of the following:

(a) To the United States Department of State Office of Children's Issues and the relevant foreign consulate or embassy, an authenticated copy of the order detailing passport and travel restrictions for the child.

(b) To the court:

(i) Proof that the respondent has provided the information in Subparagraph (a) of this Paragraph.

(ii) An acknowledgment in a record from the relevant foreign consulate or embassy that no passport application has been made, or passport issued, on behalf of the child.

(c) To the petitioner, proof of registration with the United States Embassy or other United States diplomatic presence in the destination country and with the Central Authority for the Hague Convention on the Civil Aspects of International Child Abduction, if that convention is in effect between the United States and the destination country, unless one of the parties objects.

(d) A written waiver under the Privacy Act, 5 U.S.C. Section 552a, with respect to any document, application, or other information pertaining to the child authorizing its disclosure to the court and the petitioner.

(5) Upon the petitioner's request, a requirement that the respondent obtain an order from the relevant foreign country containing terms identical to the child-custody determination issued in the United States.

D. In an abduction prevention order, the court may impose conditions on the exercise of custody or visitation that:

(1) Limit visitation or require that visitation with the child by the respondent be supervised until the court finds that supervision is no longer necessary and order the respondent to pay the costs of supervision.

(2) Require the respondent to post a bond or provide other security in an amount sufficient to serve as a financial deterrent to abduction, the proceeds of which may be used to pay for the reasonable expenses of recovery of the child, including reasonable attorney fees and costs if there is an abduction.

(3) Require the respondent to obtain education on the potentially harmful effects to the child from abduction.

E. To prevent imminent abduction of a child, a court may either:

(1) Issue a warrant to take physical custody of the child under R.S. 13:1859 or the law of this state other than this Part.

(2) Direct the use of law enforcement to take any action reasonably necessary to locate the child, obtain return of the child, or enforce a custody determination under this Part or the law of this state other than this Part.

(3) Grant any other relief allowed under any law of this state other than this Part.

F. The remedies provided in this Part are cumulative and do not affect the availability of other remedies to prevent abduction.

R.S. 13:1859. Warrant to take physical custody of child

A. If a petition under this Part contains allegations, and the court finds that there is a credible risk that the child is imminently likely to be wrongfully removed, the court may issue an ex parte warrant to take physical custody of the child.

B. The respondent on a petition under Subsection A of this Section shall be afforded an opportunity to be heard at the earliest possible time after the ex parte warrant is executed, but not later than the next judicial day unless a hearing on that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible.

C. An ex parte warrant under Subsection A of this Section to take physical custody of a child shall:

(1) Recite the facts upon which a determination of a credible risk of imminent wrongful removal of the child is based.

(2) Direct law enforcement officers to take physical custody of the child immediately.

(3) State the date and time for the hearing on the petition.

(4) Provide for the safe interim placement of the child pending further order of the court.

D. If feasible, before issuing a warrant and before determining the placement of the child after the warrant is executed, the court may order a search of the relevant databases of the National Crime Information Center system and similar state databases to determine if either the petitioner or respondent has a history of domestic violence, stalking, child abuse or neglect.

E. The petition and warrant shall be served on the respondent when or immediately after the child is taken into physical custody.

F. A warrant to take physical custody of a child, issued by this state or another state, is enforceable throughout this state. If the court finds that a less intrusive remedy will not be effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances, the court may authorize law enforcement officers to make a forcible entry at any hour.

G. If the court finds, after a hearing, that a petitioner sought an ex parte warrant under Subsection A of this Section for the purpose of harassment or in bad faith, the court may award the respondent reasonable attorney fees, costs, and expenses.

H. This Part does not affect the availability of relief allowed under the laws of this state other than this Part.

R.S. 13:1860. Duration of abduction prevention order

An abduction prevention order remains in effect until the earliest of:

(1) The time stated in the order.

(2) The emancipation of the child.

(3) The child's attaining eighteen years of age.

(4) The time the order is modified, revoked, vacated, or superseded by a court with jurisdiction under the provisions of R.S. 13:1813 through 1815 and other applicable law of this state.

R.S. 13:1861. Uniformity of application and construction

In applying and construing this Part, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

R.S. 13:1862. Relation to electronic signatures in Global and National Commerce Act and the Louisiana Uniform Electronic Transactions Act

This Part modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., and the Louisiana Uniform Electronic Transactions Act, R.S. 9:2601 et seq., but does not modify, limit, or supersede Section 101(c) of the Act, 15 U.S.C. Section 7001(c), of that Act or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. Section 7003(b) or R.S. 9:2603(B)(4).

Louisiana Children's Code
Title VI. Child in Need of Care.
Chapter 5. Child Abuse Reporting and Investigation.

Ch. C. Art. 612. Assignment of reports for investigation and assessment

A. (1) Upon receiving a report of abuse or neglect of a child who is not in the custody of the state, the local child protection unit of the department shall promptly assign a level of risk to the child based on the information provided by the reporter.

(2) Reports of high and intermediate levels of risk shall be investigated promptly. This investigation shall include a preliminary investigation as to the nature, extent, and cause of the abuse or neglect and the identity of the person actually responsible for the child's condition. This preliminary investigation shall include an inquiry as to whether there is reason to know that the child is an Indian child. This preliminary investigation shall also include an interview with the child and the child's parents or other caretaker and shall include consideration of all available medical information provided to the department pertaining to the child's condition. This preliminary investigation shall also include an immediate assessment of any existing visitation or custody order or agreement involving the alleged perpetrator and the child. The department shall request a temporary restraining order pursuant to Article 617, a protective order pursuant to Article 618, or an instanter safety plan order pursuant to Article 619 or 620 if the department determines that any previously ordered visitation or custody would put the child's health, welfare, and safety at risk. Admission of the investigator on school premises or access to the child in school shall not be denied by school personnel. However, the request for a temporary restraining order or a protective order in accordance with this Article shall not independently confer exclusive jurisdiction on the juvenile court in accordance with Article 303.

(3) In lieu of an investigation, reports of low levels of risk may be assessed promptly through interviews with the family to identify needs and available match to community resources. If during this assessment, it is determined that a child is at immediate substantial risk of harm, the local child protection unit shall promptly conduct or participate in an intensive investigation.

(4) During the investigation of a report from a treating health care practitioner of physical abuse of a child who is not in custody of the state, at the request and expense of the child's parent or caregiver the department shall provide copies of all medical information pertaining to the child's condition or treatment obtained during the investigation to a board-certified child abuse pediatrician for purposes of conducting an independent review of the information. Any resulting report shall be provided to the department and to the child's parent or caretaker and shall be utilized in the department's ongoing assessment of risk and to determine what action may be necessary to protect the health, welfare, and safety of the child. Nothing in this Subparagraph shall be construed to prohibit granting an instanter removal order pursuant to Children's Code Article 615(B).

B. All persons, including without limitation mandatory and permissive reporters, shall cooperate fully with investigative procedures, including independent investigations and psychological evaluations of the child initiated by the parent on behalf of the child. The provisions of this Paragraph shall not require the disclosure of any communications between an attorney and his client or any confession or other sacred communication between priest, rabbi, duly ordained minister, or Christian Science practitioner and his communicant.

C. All interviews of the child or his parents conducted in the course of a child protective investigation shall be tape-recorded, if requested by the parent or parents.

D. Upon determination that there is reason to believe that the child has been abused or neglected, the local child protection unit shall conduct a more intensive investigation. If necessary, the investigator may apply for an evaluation order authorized by Article 614.

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E. When the report concerns a facility under the supervision of the department, the secretary of the department may assign the duties and powers enumerated herein to any office within the department to carry out the purposes of this Chapter or may enter into cooperative agreements with other state agencies to conduct investigations in accordance with this Article.

F. Violation of the duties imposed by this Article subjects the offender to criminal prosecution authorized by R.S. 14:403(A)(2).

G. The Department of Children and Family Services shall set priorities for case response and allocate staff resources to cases identified by reporters as presenting immediate substantial risk of harm to children. Absent evidence of willful or intentional misconduct or gross negligence in carrying out the investigative functions of the state child protection program, caseworkers, supervisors, program managers, and agency heads shall be immune from civil and criminal liability in any legal action arising from the department's decisions made relative to the setting of priorities for cases and targeting of staff resources.

OTHER RELATED LAWS

Louisiana Civil Code
Book I. Title II. Domicile

C.C. Art. 38. Domicile

The domicile of a natural person is the place of his habitual residence. The domicile of a juridical person may be either the state of its formation or the state of its principal place of business, whichever is most pertinent to the particular issue, unless otherwise specifically provided by law.

C.C. Art. 39. Domicile and residence

A natural person may reside in several places but may not have more than one domicile. In the absence of habitual residence, any place of residence may be considered one's domicile at the option of persons whose interests are affected.

C.C. Art. 40. Domicile of spouses

Spouses may have either a common domicile or separate domiciles.

C.C. Art. 41. Domicile of unemancipated minor

The domicile of an unemancipated minor is that of the parent or parents with whom the minor usually resides. If the minor has been placed by court order under the legal authority of a parent or other person, the domicile of that person is the domicile of the minor, unless the court directs otherwise.

The domicile of an unemancipated minor under tutorship is that of his tutor. In case of joint tutorship, the domicile of the minor is that of the tutor with whom the minor usually resides, unless the court directs otherwise.

C.C. Art. 44. Change of domicile

Domicile is maintained until acquisition of a new domicile. A natural person changes domicile when he moves his residence to another location with the intent to make that location his habitual residence.

C.C. Art. 45. Proof of intent to change domicile

Proof of one's intent to establish or change domicile depends on the circumstances. A sworn declaration of intent recorded in the parishes from which and to which he intends to move may be considered as evidence of intent.

C.C. Art. 46. Person holding temporary position

A person holding a temporary position away from his domicile retains his domicile unless he demonstrates a contrary intent.

Book I. Title IV. Husband and Wife.
Chapter 1. Marriage: General Principles

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C.C. Art. 90. Impediments of relationship

A. The following persons may not contract marriage with each other:

(1) Ascendants and descendants.

(2) Collaterals within the fourth degree, whether of the whole or of the half blood.

B. The impediment exists whether the persons are related by consanguinity or by adoption. Nevertheless, persons related by adoption, though not by blood, in the collateral line within the fourth degree may marry each other if they obtain judicial authorization in writing to do so.

C.C. Art. 90.1. Impediment of age

A minor under the age of sixteen may not contract marriage. A minor sixteen or seventeen years of age may not contract marriage with a person of the age of majority where there is an age difference of three years or greater between them.

* * *

Chapter 2. Nullity of Marriage.

C.C. Art. 96. Civil effects of absolutely null marriage; putative marriage

An absolutely null marriage nevertheless produces civil effects in favor of a party who contracted it in good faith for as long as that party remains in good faith. When the cause of the nullity is one party's prior undissolved marriage, the civil effects continue in favor of the other party, regardless of whether the latter remains in good faith, until the marriage is pronounced null or the latter party contracts a valid marriage. When the cause of the nullity is an impediment of age, the marriage produces civil effects in favor of a child of the parties. When the cause of the nullity is another reason, a marriage contracted by a party in good faith produces civil effects in favor of a child of the parties. A purported marriage between parties of the same sex does not produce any civil effects.

Chapter 3. Incidents and Effects of Marriage.

C.C. Art. 100. Surname of married persons

Marriage does not change the name of either spouse. However, a married person may use the surname of either or both spouses as a surname.

Book I. Title V. Divorce.
Chapter 1. The Divorce Action.

C.C. Art. 103. Judgment of divorce; other grounds

Except in the case of a covenant marriage, a divorce shall be granted on the petition of a spouse upon proof that:

(1) The spouses have been living separate and apart continuously for the requisite period of time, in accordance with Article 103.1, or more on the date the petition is filed.

(2) The other spouse has committed adultery.

(3) The other spouse has committed a felony and has been sentenced to death or imprisonment at hard labor.

(4) During the marriage, the other spouse physically or sexually abused the spouse seeking divorce or a child of one of the spouses, regardless of whether the other spouse was prosecuted for the act of abuse.

(5) After a contradictory hearing or consent decree, a protective order or an injunction was issued during the marriage against the other spouse to protect the spouse seeking the divorce or a child of one of the spouses from abuse.

Chapter 2. Provisional and Incidental Proceedings
Section 1. Spousal Support

C.C. Art. 112. Determination of final periodic support

A. When a spouse has not been at fault prior to the filing of a petition for divorce and is in need of support, based on the needs of that party and the ability of the other party to pay, that spouse may be awarded final periodic support in accordance with Paragraph B of this Article.

B. The court shall consider all relevant factors in determining the amount and duration of final support, including:

(1) The income and means of the parties, including the liquidity of such means.

(2) The financial obligations of the parties, including any interim allowance or final child support obligation.

(3) The earning capacity of the parties.

(4) The effect of custody of children upon a party's earning capacity.

(5) The time necessary for the claimant to acquire appropriate education, training, or employment.

(6) The health and age of the parties.

(7) The duration of the marriage.

(8) The tax consequences to either or both parties.

(9) The existence, effect, and duration of any act of domestic abuse committed by the other spouse upon the claimant or s child of one of the spouses, regardless of whether the other spouse was prosecuted for the act of domestic violence.

C. When a spouse is awarded a judgment of divorce pursuant to Article 103(2), (3), (4), or (5), or when the court determines that a party or a child of one of the spouses was the victim of domestic abuse committed by the other party during the marriage, that spouse is presumed to be entitled to final periodic support.

D. The sum awarded under this Article shall not exceed one-third of the obligor's net income. Nevertheless, when support is awarded after a judgment of divorce is rendered pursuant to Article 103(4) or (5), or when the court determines that a party or a child of one of the spouses was the victim of domestic abuse committed by the other party during the marriage, the sum awarded may exceed one-third of the obligor's net income.

C.C. Art. 113. Interim spousal support

A. Upon motion of a party, the court may award a party interim spousal support based on the needs of that party, the ability of the other party to pay, any interim or final child support obligation, and the standard of living of the parties during the marriage. An award of interim spousal support shall

terminate one hundred eighty days from the rendition of a judgment of divorce, except that the award may extend beyond one hundred eighty days but only for good cause shown.

B. An obligation to pay final periodic support shall not begin until after an interim spousal support award has terminated.

Book I. Title VIII. Of Minors, of Their Tutorship and Emancipation
Chapter 2. Emancipation

C.C. Art. 367. Emancipation by marriage

A minor sixteen or seventeen years of age is fully emancipated by marriage. Termination of the marriage does not affect emancipation by marriage. Emancipation by marriage may not be modified or terminated.

Book III. Title V. Obligations Arising Without Agreement
Chapter 3. Of Offenses and Quasi Offenses

C.C. Art. 2315.7. Liability for damages caused by criminal sexual activity occurring during childhood

In addition to general and special damages, exemplary damages may be awarded upon proof that the injuries on which the action is based were caused by a wanton and reckless disregard for the rights and safety of the person through criminal sexual activity which occurred when the victim was seventeen years old or younger, regardless of whether the defendant was prosecuted for his or her acts. The provisions of this Article shall be applicable only to the perpetrator of the criminal sexual activity.

C.C. Art. 2315.8. Liability for damages caused by domestic abuse

A. In addition to general and special damages, exemplary damages may be awarded upon proof that the injuries on which the action is based were caused by a wanton and reckless disregard for the rights and safety of a family or household member, as defined in R.S. 46:2132, through acts of domestic abuse resulting in serious bodily injury or severe emotional and mental distress, regardless of whether the defendant was prosecuted for his or her acts.

B. Upon motion of the defendant or upon its own motion, if the court determines that an action seeking damages under this Article is frivolous or fraudulent, the court shall award costs of court, reasonable attorney fees, and any other related costs to the defendant and any other sanctions and relief requested pursuant to Code of Civil Procedure Article 863.

C.C. Art. 2315.11. Liability for damages caused by sexual assault

A. In addition to general and special damages, exemplary damages may be awarded upon proof that the injuries on which the action is based were caused by an act or acts of sexual assault in the workplace.

B. The provisions of this Article shall be applicable only to the perpetrator of the sexual assault.

C. Upon motion of the defendant or upon its own motion, if the court determines that an action seeking damages under this Article is frivolous or fraudulent, the court shall award costs of court, reasonable attorney fees, and any other related costs to the defendant and any other sanctions and relief requested pursuant to Code of Civil Procedure Article 863.

D. An action under the provisions of this Article shall be subject to a liberative prescriptive period provided for in Article 3496.2.
E. As used in this Article, sexual assault is as defined in R.S. 46:2184.

III. Title VI. Matrimonial Regimes
Chapter 1. General Principles

C.C. Art. 2333. Minors

A minor under the age of sixteen may not enter into a matrimonial agreement. A minor sixteen or seventeen years of age may not enter into a matrimonial agreement without judicial authorization and the written concurrence of his father and mother, or of the parent having his legal custody, or of the tutor of his person.

Chapter 2. The Legal Regime of Community of Acquets and Gains
Section 3. Termination of the Community

C.C. Art. 2362.1. Obligation incurred in an action for divorce

A. An obligation incurred before the date of a judgment of divorce for attorney fees and costs in an action for divorce and in incidental actions is deemed to be a community obligation.

B. The obligation for attorney fees and costs incurred by the perpetrator of abuse or awarded against him in an action for divorce granted pursuant to Article 103(4) or (5) or in an action in which the court determines that a spouse or a child of one of the spouses was the victim of domestic abuse committed by the perpetrator during the marriage, and in incidental actions, shall be a separate obligation of the perpetrator.

Book III. Title XXIV. Prescription
Chapter 4. Liberative Prescription

Section 1-a. Two-Year Prescription

C.C. Art. 3493.10. Delictual actions; two-year prescription; criminal act

Delictual actions which arise due to damages sustained as a result of an act defined as a crime of violence under Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950, except as provided in Article 3496.2, are subject to a liberative prescription of two years. This prescription commences to run from the day injury or damage is sustained.

Section 2. Three-Year Prescription

C.C. Art. 3496.1. Action against a person for abuse of a minor

An action against a person for abuse of a minor is subject to a liberative prescriptive period of three years. This prescription commences to run from the day the minor attains majority, and this prescription, for all purposes, shall be suspended until the minor reaches the age of majority. This prescriptive period shall be subject to any exception of peremption provided by law.

C.C. Art. 3496.2. Action against a person for sexual assault

A delictual action against a person for any act of sexual assault, as defined in R.S. 46:2184, is subject to a liberative prescription of three years. This prescription commences to run from the day the injury or damage is sustained or the day the victim is notified of the identity of the offender by law enforcement or a judicial agency, whichever is later. This prescriptive period shall be subject to any exception of preemption provided by law.

Louisiana Code of Civil Procedure

Book I. Title I. Courts.
Chapter 4. Power and Authority.
Section 1. General Dispositions.

C.C.P. Art. 192.1. Interpreters for deaf and severely hearing-impaired persons

A. In all civil cases and in the taking of any deposition where a party or a witness is a deaf or severely hearing-impaired person, the proceedings of the trial shall be interpreted to him in a language that he can understand by a qualified interpreter appointed by the court. The qualification of an interpreter as an expert is governed by the Louisiana Code of Evidence.

B. In any case in which an interpreter is required to be appointed by the court under the provisions of this Article, the court shall not commence proceedings until the appointed interpreter is in court. The interpreter so appointed shall take an oath or affirmation that he will make a true interpretation to the deaf or severely hearing-impaired person of all the proceedings of the case in a language that he understands, and that he will repeat the deaf or severely hearing-impaired person's answer to questions to counsel, court or jury to the best of his skill and judgment.

C. (1) Interpreters appointed in accordance with the provisions of this Article shall be paid an amount determined by the judge presiding. In the event travel of the interpreter is necessary, all of the actual expenses of travel, lodging, and meals incurred by the interpreter in connection with the case at which the interpreter is appointed to serve shall be paid at the same rate applicable to state employees.

(2) The costs of such interpreter shall be borne by the court.

C.C.P. Art. 192.2. Appointment of interpreter for non-English-speaking persons

A. If a non-English-speaking person who is a party or a witness in a proceeding before the court has requested that the court appoint an interpreter for the proceeding, a judge shall appoint an interpreter in accordance with the Code of Evidence and the Rules of the Louisiana Supreme Court.

B. Notwithstanding any other provision of law to the contrary, the court shall order payment to the interpreter for his services at a fixed reasonable amount, and that amount shall be paid out of the appropriate court fund.

C. In a proceeding alleging abuse in accordance with R.S. 46:2134 et seq., an interpreter, if necessary. shall be appointed prior to a rule to show cause hearing.

Book I. Title III. Parties.
Chapter 2. Parties Plaintiff.

C.C.P. Art. 683. Unemancipated minor

A. An unemancipated minor has no procedural capacity to sue.

B. All persons having parental authority over an unemancipated minor must join as proper plaintiffs to sue to enforce a right of the minor, unless a joint custody implementation order otherwise applies. Nevertheless, with permission of the court, any person having parental authority may represent the minor whenever the other person having parental authority fails or refuses to do so.

C. During tutorship, the tutor is the proper plaintiff to sue to enforce a right of the unemancipated minor.

D. Notwithstanding the provisions of Paragraph A, B, or C of this Article, an attorney appointed by the court having jurisdiction over an unemancipated minor who is in the legal custody of the Department of Children and Family Services is the proper plaintiff to sue to enforce a right of an unemancipated minor. Upon application of the tutor or a person having parental authority who would otherwise be the proper plaintiff to sue pursuant to Paragraph B or C of this Article, the court shall appoint or substitute as the proper plaintiff the best qualified among the tutor, a person having parental authority, or the appointed attorney.

Book I. Title III. Parties.
Chapter 3. Parties Defendant.

C.C.P. Art. 732. Unemancipated minor

A. An unemancipated minor has no procedural capacity to be sued.

B. Any person having parental authority over an unemancipated minor is a proper defendant in an action to enforce an obligation against the minor.

C. During tutorship, the tutor is the proper defendant in an action to enforce an obligation against the unemancipated minor. If a minor has no tutor, the action may be brought against the minor, but the court shall appoint an attorney to represent him until a tutor is appointed for the minor.

D. Notwithstanding the provisions of Paragraph A, B, or C of this article, an attorney appointed by the court having jurisdiction over an unemancipated minor who is in the legal custody of the Department of Children and Family Services is the proper defendant in an action to enforce an obligation against an unemancipated minor. Upon application of the tutor or person having parental authority who would otherwise be the proper defendant to be sued pursuant to Paragraph B or C of this Article, the court shall appoint or substitute as the proper defendant the best qualified among the tutor, a person having parental authority, or the appointed attorney.

Book II. Title II. Citation and Service of Process.
Chapter 4. Persons authorized to Make Service.

C.C.P. Article 1292. Sheriff's return

A. The sheriff shall endorse on a copy of the citation or other process the date, place, and method of service and sufficient other data to show service in compliance with law. He shall sign and return the copy promptly after the service to the clerk of court who issued it. The return, when received by the clerk, shall form part of the record, and shall be considered prima facie correct. The court, at any time and upon such terms as are just, may allow any process or proof of service thereof to be amended, unless it clearly appears that material prejudice would result to the substantial rights of the party against whom the process issued.

B. In addition to the provisions of Paragraph A of this Article, when the citation or other process is a temporary restraining order, protective order, preliminary injunction, permanent injunction, or court-approved consent agreement as referenced in R.S. 46:2136.2(B), the person making the service, or his designee, shall transmit proof of service to the judicial administrator's office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after making service, exclusive of weekends and holidays. This proof shall include, at a minimum, the case caption, docket number, type of order, serving agency and officer, and the date and time service was made.

C.C.P. Article 1293. Service by private person

A. When the sheriff has not made service within ten days after receipt of the process or when a return has been made certifying that the sheriff has been unable to make service, whichever is earlier, on motion of a party the court shall appoint a person over the age of majority, not a party and residing within the state whom the court deems qualified to perform the duties required, to make service of process in the same manner as is required of sheriffs. Service of process made in this manner shall be proved like any other fact in the case. Any person who is a Louisiana licensed private investigator shall be presumed qualified to perform the duties required to make service.

B. In serving notice of a summary proceeding as provided by Article 2592 or a subpoena which is related to the proceeding, on motion of a party the court shall have the discretion to appoint any person over the age of majority, not a party and residing within the state, to make service of process, notices, and subpoenas in the same manner as is required of sheriffs, without first requiring the sheriff to attempt service. The party making such a motion shall include the reasons, verified by affidavit, necessary to forego service by the sheriff, which shall include but not be limited to the urgent emergency nature of the hearing, knowledge of the present whereabouts of the person to be served, as well as any other good cause shown.

C. In addition to those natural persons who the court may appoint to make service of process pursuant to Paragraph A or B of this Article, the court may also appoint a juridical person which may then select an employee or agent of that juridical person to make service of process, provided

the employee or agent perfecting service of process is a natural person who qualifies as an agent for service of process pursuant to Paragraph A or B of this Article.

D. In addition to the provisions of Paragraph A of this Article, when the citation or other process is a temporary restraining order, protective order, preliminary injunction, permanent injunction, or court-approved consent agreement as referenced in R.S. 46:2136.2(B), the person making the service, or his designee, shall transmit proof of service to the judicial administrator's office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after making service, exclusive of weekends and holidays. This proof shall include, at a minimum, the case caption, docket number, type of order, serving agency and officer, and the date and time service was made.

Book II. Ordinary Proceedings. Title V. Trial
Chapter 6. Default

C.C.P. Art 1702. Default judgment

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F. (1) Notwithstanding any other provisions of law to the contrary, when the demand is for divorce under Civil Code Article 103(1) or (5), whether or not the demand contains a claim for relief incidental or ancillary thereto, a hearing in open court shall not be required unless the judge, in his discretion, directs that a hearing be held. The plaintiff shall submit to the court an affidavit specifically attesting to and testifying as to the truth of all of the factual allegations contained in the petition, the original and not less than one copy of the proposed default judgment, a certification indicating the type of service made on the defendant and the date of service, and a certification by the clerk that the record was examined by the clerk, including the date of the examination, and a statement that no answer or other pleading has been filed. If the demand is for divorce under Civil Code Article 103(5), a certified copy of the protective order or injunction rendered after a contradictory hearing or consent decree shall also be submitted to the court. If no answer or other pleading has been filed by the defendant, the judge shall review the submitted affidavit, proposed default judgment, and certification and render and sign the proposed default judgment or direct that a hearing be held. The minutes shall reflect rendition and signing of the default judgment.

(2) If the demand is for divorce under Civil Code Article 103(1) and the defendant, by sworn affidavit, acknowledges receipt of a certified copy of the petition and waives formal citation, service of process, all legal delays, notice of trial, and appearance at trial, a default judgment of divorce may be entered against the defendant two days, exclusive of legal holidays, after the affidavit is filed. The affidavit of the defendant may be prepared or notarized by any notary public.

(3) The notice requirements contained in Paragraph A of this Article shall not apply when the plaintiff intends to obtain a default judgment for a demand for divorce as provided by this Paragraph.

Book II. Ordinary Proceedings. Title VI. Judgments
Chapter 3. Rendition
C.C.P. Art. 1911. Final judgment; partial final judgment; signing; appeals

A. Except as otherwise provided by law, every final judgment shall contain the typewritten or printed name of the judge and be signed by the judge. Any judgment that does not contain the typewritten or printed name of the judge shall not be invalidated for that reason. Judgments may be signed by the judge by use of electronic signature.

B. For the purpose of an appeal as provided in Article 2083, no appeal may be taken from a final judgment until the requirement of this Article has been fulfilled. No appeal may be taken from a partial final judgment under Article 1915(B) until the judgment has been designated a final judgment under Article 1915(B). An appeal may be taken from a final judgment under Article 1915(A) without the judgment being so designated.

Louisiana Revised Statutes – Title 9. Civil Code Ancillaries
Title IV. Husband and Wife
Chapter 1. Marriage

R.S. 9:221. Authority to issue marriage license

A. A license authorizing an officiant to perform a marriage ceremony must be issued by:

(1) The state registrar of vital records, or a judge of the city court, in the Parish of Orleans;

(2) The clerk of court, in any other parish; or

(3) A district judge, if the clerk of court is a party to the marriage.

B. No marriage license for a minor under the age of sixteen shall be issued. No marriage license for a minor of the age of sixteen or seventeen shall be issued where there is an age difference of three years or greater between the persons seeking the marriage license.

R.S. 9:253. Disposition and recordation of marriage certificates

A. The officiant shall give one copy of the marriage certificate to the married parties. Within ten days after the ceremony, he shall file the other two copies of the certificate of marriage with the clerk of court who issued the marriage license.

B. Upon receipt of these copies, this officer shall sign them and note thereon the date the certificate was recorded by him.

C. The clerk of court shall forward to the state registrar of vital records, on or before the fifteenth day of each calendar month, all of the following:

(1) One copy of each certificate of marriage filed with him during the preceding calendar month.
(2) A copy of the application of marriage which indicates the dates of birth of the husband and wife if either the husband or the wife is a minor.

R.S. 9:255. Tabulation of marriage statistics; annual report

A. The state registrar of vital records shall annually prepare, from the information filed with him under the provisions of R.S. 9:224, 252, and 253, abstracts and tabular statements of the facts relating to marriages in each parish, and embody them, with the necessary analysis, in his annual report to the state.

B. The annual state of marriage report shall include the number of minors married in each parish, the number of marriages approved by parental consent, and the number of marriages approved by judicial authorization.

C. The annual state of marriage report shall be submitted to the speaker of the House of Representatives and the president of the Senate.

R.S. 9:314. Attorney fees and court costs in domestic abuse cases

The court may assess against the perpetrator of domestic abuse all court costs, attorney fees, costs of enforcement and modification proceedings, costs of appeal, evaluation fees, and expert witness fees in an action for divorce granted pursuant to Civil Code Article 103(4) or (5), or in an action in which the court determines that a party to a divorce or a child of one of the spouses was the victim of domestic abuse committed by the perpetrator during the marriage, and in incidental actions.

R.S. 9:327. Determination of domestic abuse for spousal support

A. In awarding final spousal support pursuant to Civil Code Article 112(B), the court shall consider any criminal conviction of the obligor spouse for an offense committed against the claimant spouse during the course of the marriage.

B. In the absence of a criminal conviction, the court may order an evaluation of both parties that may be used to assist the court in determining the existence and nature of the alleged domestic abuse. The evaluation shall be conducted by an independent court-appointed licensed mental health professional who has experience in the field of domestic abuse. The licensed mental health professional shall have no family, financial, or prior medical relationship with either party or their attorneys of record. The licensed mental health professional shall provide the court and the parties with a written report of his findings.

Code Book III. Code Title IV.
Chapter 1. Louisiana Uniform Electronic Transactions Act

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R.S. 9:2603. Louisiana Uniform Electronic Transactions Act - Scope

A. Except as otherwise provided in Subsection B of this Section, this Chapter applies to electronic records and electronic signatures relating to a transaction.

B. This Chapter shall not apply to:

(1) A transaction to the extent it is governed by a law governing the creation and execution of wills, codicils, or testamentary trusts.

(2) A transaction to the extent it is governed by the provisions of Title 10 of the Louisiana Revised Statutes of 1950, other than R.S. 10:1-107.

(3) (Reserved).

(4)(a) Repealed by Acts 2021, No. 68, § 3, eff. Jan. 1, 2022.

(b) Any notice of any of the following:

(i) The cancellation or termination of utility services, including water, heat, and power.

(ii) Default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual.

(iii) The cancellation or termination of health insurance or benefits or life insurance benefits, excluding annuities.

(iv) Recall of a product, or material failure of a product, that risks endangering health or safety.

(c) Any document required to accompany any transportation or handling of hazardous materials, pesticides, or other toxic or dangerous materials.

(d) Publications required by law to be published in the official journals provided for in Chapter 2, 4, or 5 of Title 43 of the Louisiana Revised Statutes of 1950.

C. This Chapter applies to an electronic record or electronic signature otherwise excluded from the application of this Chapter under Subsection B of this Section to the extent it is governed by a law other than those specified by Subsection B of this Section.

D. A transaction subject to this Chapter is also subject to other applicable substantive law.

Louisiana Revised Statutes – Title 13. Courts and Judicial Procedure
Chapter 30. Contempt

R.S. 13:4611. Punishment for contempt of court; defenses

Except as otherwise provided for by law:

(1) The supreme court, the courts of appeal, the district courts, family courts, juvenile courts and the city courts may punish a person adjudged guilty of a contempt of court therein, as follows:

(a) For a direct contempt of court committed by an attorney at law, by a fine of not more than one hundred dollars, or by imprisonment for not more than twenty-four hours, or both; and, for any subsequent contempt of the same court by the same offender, by a fine of not more than two hundred dollars, or by imprisonment for not more than ten days, or both;

(b) For disobeying or resisting a lawful restraining order, or preliminary or permanent injunction, by a fine of not more than one thousand dollars, or by imprisonment for not more than six months, or both.

(c) For a deliberate refusal to perform an act which is yet within the power of the offender to perform, by imprisonment until he performs the act; and

(d)(i) For any other contempt of court, including disobeying an order for the payment of child support or spousal support or an order for the right of custody or visitation, by a fine of not more than five hundred dollars, or imprisonment for not more than three months, or both.

(ii) In addition to or in lieu of the penalties provided by this Paragraph, the court may order that the person perform litter abatement work or community service in a court-approved program for each day he was to be imprisoned, provided that the total days of jail, litter abatement work, and community service do not exceed the maximum sentence provided by this Paragraph.

(iii) It is a defense as provided by R.S. 9:311.1 to a charge of contempt of court for failure to comply with a court order of child support if an obligor can prove that he was incarcerated during the period of noncompliance. This defense applies only to the time period of actual incarceration.

(e) In addition to or in lieu of the above penalties, when a parent has violated a visitation order, the court may order any or all of the following:

(i) Require one or both parents to allow additional visitation days to replace those denied the noncustodial parent.

(ii) Require one or both parents to attend a parent education course.

(iii) Require one or both parents to attend counseling or mediation.

(iv) Require the parent violating the order to pay all court costs and reasonable attorney fees of the other party.

(f) A pattern of willful and intentional violation of this Section, without good cause, may constitute a material change in circumstances warranting a modification of an existing custody or visitation order.

(g) The court may award attorney fees to the prevailing party in a contempt of court proceeding provided for in this Section.

(2) Justices of the peace may punish a person adjudged guilty of a direct contempt of court by a fine of not more than fifty dollars, or imprisonment in the parish jail for not more than twenty-four hours, or both.

(3) The court or justice of the peace, when applicable, may suspend the imposition or the execution of the whole or any part of the sentence imposed and place the defendant on unsupervised probation or probation supervised by a probation office, agency, or officer designated by the court or justice of the peace, other than the division of probation and parole of the Department of Public Safety and Corrections. When the court or justice of the peace places a defendant on probation, the court or the justice of the peace may impose any specific conditions reasonably related to the defendant's rehabilitation, including but not limited to the conditions of probation as set forth in Code of Criminal Procedure Article 895. A term of probation shall not exceed the length of time a defendant may be imprisoned for the contempt, except in the case of contempt for disobeying an order for the payment of child support or spousal support or an order for the right of custody or visitation, when the term of probation may extend for a period of up to two years.

HEARING OFFICERS

Louisiana Revised Statutes – Title 46. Public Welfare and Assistance.
Chapter 3. Public Assistance. Part II. Family Assistance
Subpart B. Child Support Enforcement.

R.S. 46:236.5. Expedited process for establishment of paternity and establishment or enforcement of support; hearing officers

A. All actions to establish paternity or to establish or enforce a support obligation which are brought by the Department of Social Services, hereafter called "the department", on its own behalf or on behalf of any person for whom support has been ordered and whose support rights have been assigned to the department or for whom the department is providing support enforcement services, must be completed, from the time of service of process of the action to the time of disposition, within the following time frames:

(1) Seventy-five percent in six months.

(2) Ninety percent in twelve months.

B. (1) Any court with jurisdiction to establish paternity or to establish or enforce support obligations shall implement an expedited process for the establishment or enforcement thereof in accordance with existing judicial procedures or the provisions of Subsection C of this Section. "Expedited process" means administrative or expedited judicial processes or both which increase effectiveness and meet completion time frames specified in Paragraphs (1) and (2) of Subsection A of this Section. Such a court may collect and distribute support obligations and may, by court order or rule, assess and collect a sum payable by the obligor as a fee of not more than five percent of all existing and future support obligations to fund the administrative costs of a system for expedited process. The fee may be assessed and collected against existing and future arrearages as well as ongoing support payments, whether or not an arrearage exists. The fee shall be assessed only against the payor of support and such assessment shall not reduce the amount of child support owed the obligee.

(2) A court may assess a one-time fee in each case payable by the obligor not to exceed twenty-five dollars to fund the expenses incurred by the district public defender office in the representation of individuals ordered to pay support under Subsection A of this Section. The court may designate the district public defender office as agent for the collection of the assessed fee.

C. An expedited process for the establishment of paternity and the establishment and enforcement of support and other related family and domestic matters in district courts using hearing officers may be implemented as follows:

(1) The judge or judges of the appropriate court or courts for the establishment of paternity or the establishment and enforcement of support and other domestic and family matters may appoint one or more hearing officers to hear paternity, support, and other domestic and family related matters. Domestic and family matters shall include divorce and all issues ancillary to a divorce proceeding; all child-related issues such as paternity, filiation, custody, visitation, and support in non-marital cases; all protective orders filed in accordance with R.S. 46:2131 et seq.,

R.S. 46:2151 et seq., and the Children's Code and all injunctions filed in accordance with R.S. 9:361, 371, and 372 and Code of Civil Procedure Articles 3601 et seq., which involve personal abuse, terrorizing, stalking, or harassment; and enforcement of orders in any of these matters, including contempt of court.

(2) The hearing officer shall be a full-time or part-time employee of the court and shall be an attorney who has been in good standing with any state bar association for not less than five years and has prior experience in cases involving child support services.

(3) The hearing officer shall act as a finder of fact and shall make written recommendations to the court concerning any domestic and family matters as set forth by local court rule, including but not limited to the following matters:

(a) Hear and make recommendations on establishment and modification of child and spousal support, child custody and visitation.

(b) Hear and make recommendations on method of collection of child and spousal support.

(c) Hear and make recommendations on enforcement of child and spousal support, including but not limited to proceedings under Children's Code Articles 1352 through 1355, and on enforcement of child custody and visitation.

(d) Hear and make recommendations on contested and uncontested paternity cases.

(e) Hear and make recommendations on default orders or rules to show cause, if the absent parent does not respond to notice.

(f) Hear and make recommendations on the punishment by the court for the constructive contempt of an order of the court or hearing officer.

(g) Hear and make recommendations regarding confirmation of domestic and family default judgments, provided that no judgment shall be effective until signed by a district judge.

(h) Hear and make recommendations regarding the granting of uncontested divorces and approve domestic and family consent judgments provided that no judgment shall be effective until signed by a district judge.

(i) Hear and make recommendations regarding the resolution of disputes concerning discovery or the issuance of subpoenas.

(j) Hear and make recommendations regarding the referral of parties to mediation, medical and psychological evaluation, and drug testing in accordance with R.S. 9:306 and 331 et seq., and to make recommendations regarding the referral of parties to counseling and substance abuse treatment.

(k) Hear and make recommendations on all protective orders filed in accordance with R.S. 46:2131 et seq., R.S. 46:2151 et seq., R.S. 46:2171 et seq., R.S. 46:2181 et seq., and the Children's Code and on all injunctions filed in accordance with R.S. 9:361, et seq., 371, and 372 and Code of Civil Procedure Articles 3601 et seq., which involve personal abuse, terrorizing, stalking, or harassment; and hear and make recommendations on all motions for contempt of court and motions to extend, modify, or dissolve protective orders and injunctions.

(4) In furtherance of and in addition to making written recommendations as set forth in Paragraph (3), the hearing officer may do the following:

(a) Administer oaths.

(b) Compel the attendance of witnesses and issue subpoenas.

(c) Order blood and tissue tests for the determination of paternity in accordance with R.S. 9:396 et seq.

(d) Issue bench warrants for the failure to respond to summons or attend hearings or produce documents as ordered, or for the failure otherwise to appear in court or at hearings.

(e) Conduct hearings on bench warrants issued in accordance with this Section and recommend punishment to the court.

(f) Take testimony.

(g) Contemporaneously fine and punish direct contempt of court.

(h) Accept voluntary acknowledgments of support liabilities and stipulated agreements setting forth the amount of support to be paid.

(i) Make a record of the hearings authorized by this Section.

(j) Sign and issue all rules nisi, orders to appear and show cause, and other orders necessary to the performance of the duties of the office.

(5) The written recommendation of the hearing officer shall contain all of the following:

(a) A statement of the pleadings.

(b) A statement as to the findings of fact by the hearing officer.

(c) A statement as to the findings of law based on the pleadings and facts, including his opinion thereon.

(d) A proposed judgment.

(6) A copy of any written recommendations, orders, or uncontested judgments rendered by the hearing officer shall be provided to the parties and their counsel at the time of the hearing officer's ruling, if present. Any party who disagrees with a judgment or ruling of a hearing officer on a matter set forth in Paragraph (3) may file a written objection to the findings of fact or law of the hearing officer within the time and manner established by court rule. The objection shall be heard by the judge of the district court to whom the case is assigned. Upon filing of the objection, the court shall schedule a contradictory hearing where the judge shall accept, reject, or modify in whole or in part the findings of the hearing officer. If the judge in his discretion determines that additional information is needed, he may receive evidence at the hearing or remand the proceeding to the hearing officer.

(7) If no written objection is filed with the clerk of court within the time and manner established, the order shall become a final judgment of the court and shall be signed by a judge and appealable as a final judgment. The judgment after signature by a district judge shall be served upon the parties in accordance with law.

> Porter v. Porter, 2024 WL 2307620 (La. App. 2 Cir. 2024). Hearing officer's failure to provide husband with notice of his rights to a full hearing and the procedure by which to object amounted to denial of due process, in proceeding on wife's petition for order of protection under the Domestic Abuse Assistance Act; there was no evidence that the completed form containing the hearing officer's findings of fact and recommendation was provided to the parties at the conclusion of the hearing, hearing officer did not provide a written statement and left that section of the form completely blank, and husband was not properly served with the protective order granted against him.
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> Rung v. Bessard, 381 So.3d 1000 (La.App. 3 Cir.2024). Blank space left on form containing hearing officer's findings and recommendations, which failed to identify what the husband "agree[d] to abide by," did not invalidate husband's signature on the form as an acknowledgement of his right to object to hearing officer's recommendation, which was to grant wife's petition for order of protection from domestic abuse, or invalidate husband's waiver of that right; hearing officer's recommendation referenced only a protective order, husband made no argument that hearing officer failed to comply with applicable statutory procedures for protective orders, and husband and wife both affixed their signatures to the proposed protective-order judgment prior to its submission to the appropriate judge for signature.
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> Willrige v. Willrige, 373 So.3d 731 (La. App. 3 Cir. 2023). Local district court rule providing that party who failed to appear at hearing officer conference waived the right to

file an objection to hearing officer's recommendations on child custody, child support, or other family-related matter conflicted with statute that limited hearing officer's authority to making recommendations when an absent parent failed to respond to notice on default orders and rules to show cause and which contemplated that district court judge would ultimately review hearing officer's findings, and thus the local court rule was null and not enforceable; the local court rule impermissibly expanded authority of hearing officer to issue judgments without proper oversight by district court judge where party timely filed objection to recommendations of hearing officer..

Landry v. Landry, 323 So.3d 456 (La. App. 2 Cir. 2021). The failure of a hearing officer report to include any one of the items described in the statute governing the written recommendations of a hearing officer in certain domestic matters, including protective orders based on domestic abuse or dating violence, is fatal to the proceedings and requires a remand. Lack of written recommendations of hearing officer in record required reversal of judgment and remand in proceeding on husband's petition for protection, although extract of minutes stated that hearing officer hearing was held and protective order recited that judgment was recommended by the hearing officer; as a result, reviewing court could not tell whether wife, against whom protective order was issued, received reasonable notice and opportunity to be heard, as was guaranteed by statute.

Fairbanks v. Beninate, 308 So.3d 1222 (La. App. 5 Cir. 2020), writ denied (La. 3/23/2021). Procedures set forth by statute establishing expedited process for certain family and domestic matters using hearing officers satisfied constitutional due process requirements, and thus statute was facially constitutional, although it potentially affected parent's interest in having a relationship with his or her children; under expedited process, parties, upon request, had opportunity to be heard before both hearing officer and trial judge, all parties received notice of initial hearing before hearing officer and, if requested, hearing before trial judge, and both hearings followed well-established procedures.

State in Interest of Harper v. Harper, 296 So.3d 1163 (La. App. 2 Cir. 2020). District court was entitled to engage in a de novo review of child support hearing officer's recommendations denying father's request to decrease child support without deferring to recommendations, where father timely objected to hearing officer's recommendations.

Dugue v. Dugue, 250 So.3d 1174 (La. App. 5 Cir. 2018). Because husband timely objected to the hearing officer's child and spousal support recommendations, the recommendations did not become a final judgment, and thus, husband was entitled to a de novo review of the hearing officer's findings by the trial court.

Man Ching Ho v. Nee, 249 So.3d 1002 (La. App. 5 Cir. 2018). Stipulations and recommendations made by domestic hearing officer in divorce proceeding were made the judgment of the court, where no party made objection.

Beaudion v. Beaudion, 83 So.3d 355 (La. App. 5 Cir. 2011). The hearing officer's recommendation, which recommended the termination of the parties' shared custody arrangement and that one of the parents be designated as domiciliary parent, did not became a final judgment until at least three days after it was entered, and thus the trial court acted within its discretion when it conducted a hearing and ruled on the issue of whether to continue shared custody, in post-divorce child custody modification proceeding. Statute provides that a trial court judge shall conduct a hearing on any objection to a hearing officer's recommendation and accept, reject, or modify the findings of the hearing officer.

Crawford v. Crawford, 833 So.2d 361 (La. App. 3 Cir. 2002). A trial court cannot alter hearing officer's child-support recommendations, on motion to reduce child support obligation, without giving parties an opportunity to be heard.

Piccione v. Piccione, 824 So.2d 427 (La. App. 3 Cir. 2002). Local rule providing that, if hearing officer's recommendation was objected to, hearing officer's recommendations became interim order pending final disposition of the claims by the court could not be applied to give hearing officer's spousal and child support recommendations the effect of court order so as to support contempt finding against husband; statute governing use of hearing officers for establishment and enforcement of support did not contemplate giving recommendation of hearing officers the effect of court order.

Louisiana Children's Code
Title IV. Juvenile Court Administration.
Chapter 4. Court Personnel.
Ch. C. Art. 423. Hearing officers

A. (1) The judge or judges of the court may appoint one or more hearing officers to hear child support and support-related matters and to conduct preadjudication hearings and resolve matters preliminary to adjudication in any proceeding authorized by this Code. The judge or judges

of the court may request that the clerk of court supply additional personnel, subject to approval of the local governing authority, to support the functions of the additional hearing officers, the cost of which shall be paid by the court.

(2) Notwithstanding any other provisions to the contrary, the judge or judges of the court may authorize one or more hearing officers to accept any agreement reached in a mediation ordered by the court, pursuant to Chapter 6 of Title IV of this Code, regardless of the stage of the case which said agreement would adjudicate. In accepting the mediated agreement from the parties, the hearing officer shall be authorized to perform any duties described in Paragraph C of this Article, including but not limited to making such findings as may be required by law.

(3) No state funds shall be expended to cover the cost of hearing officers or additional personnel provided by the clerk of court.

B. The hearing officer shall be a full-time or part-time employee of the court and shall be an attorney who has practiced for five or more years before the juvenile court and is a member in good standing of the Louisiana State Bar Association. If a part-time employee, the limitations upon the hearing officer's practice of law shall be resolved by local rules.

C. The hearing officer shall perform such duties as are assigned in accordance with local rules not inconsistent with this Article or with the constitution and laws of the state, including:

(1) Administering oaths.

(2) Compelling the attendance of witnesses and issuing subpoenas.

(3) Taking testimony.

(4) Making a record of the hearings.

(5) Summarizing testimony, making findings of fact, and submitting a written recommendation to the court concerning the disposition of the assigned matter.

(6) Hearing and making recommendations on all restraining orders and protective orders filed in accordance with Articles 1569 and 1570.

D. In the performance of any judicial assignment, the hearing officer shall be bound by the provisions of this Code governing the authority and responsibility of a juvenile court judge.

E. The hearing officer shall file his report and recommendations with the court, and a copy shall be promptly provided to all parties or their counsel of record either at the hearing or by mail.

F. Within ten days after transmittal of the hearing officer's report and recommendation, any aggrieved party may serve and file objections in writing to findings or recommendations. The court will then hear the case de novo and enter judgment. For hearings utilizing the expedited process for establishment of paternity and establishment or enforcement of support, the delay for serving and filing objections shall be established pursuant to local rule as provided in R.S. 46:236.5.

G. If no objection has been timely filed and if the court approves the hearing officer's findings and recommendations, the court shall enter the proposed order as the judgment of the court which thereafter may be appealed in the same manner as any other appeal from any other judgment of the court.

> State, Dept. of Social Services, Office of Family Sec. v. Sensley, 63 So.3d 229 (La. App. 1 Cir. 2011). Provision of medical insurance coverage for child was encompassed in definition of child support and, therefore, hearing officer's recommendation in expedited child support proceeding that father provide medical insurance for child through his employer was encompassed within hearing officer's authority to set recommended child support, without need for specific request for provision of medical insurance, and recommendation became final order of court which trial court lacked authority to unilaterally modify, where neither party objected to hearing officer's recommendation or filed motion for contradictory hearing within three days of filing of recommendation.

CONFIDENTIALITY; PRIVACY

Louisiana Revised Statutes – Title 44. Public Records and Recorders.
Chapter 1. Public Records
Part I. Scope

R.S. 44:3. Records of prosecutive, investigative, and law enforcement agencies and communications districts

A. Nothing in this Chapter shall be construed to require disclosures of records, or the information contained therein, held by the offices of the attorney general, district attorneys, sheriffs, police departments, Department of Public Safety and Corrections, marshals, investigators, public health investigators, correctional agencies, communications districts, intelligence agencies, Council on Peace Officer Standards and Training, Louisiana Commission on Law Enforcement and Administration of Criminal Justice, or publicly owned water districts of the state, which records are:

(1) Records pertaining to pending criminal litigation or any criminal litigation which can be reasonably anticipated, until such litigation has been finally adjudicated or otherwise settled, except as otherwise provided in Subsection F of this Section; or

(2) Records containing the identity of a confidential source of information or records which would tend to reveal the identity of a confidential source of information; or

(3) Records containing security procedures, investigative training information or aids, investigative techniques, investigative technical equipment or instructions on the use thereof, criminal intelligence information pertaining to terrorist-related activity, or threat or vulnerability assessments collected or obtained in the prevention of terrorist-related activity, including but not limited to physical security information, proprietary information, operational plans, and the analysis of such information, or internal security information; or

(4)(a) The records of the arrest of a person, other than the report of the officer or officers investigating a complaint, until a final judgment of conviction or the acceptance of a plea of guilty by a court of competent jurisdiction. However, the initial report of the officer or officers investigating a complaint, but not to apply to any followup or subsequent report or investigation, records of the booking of a person as provided in Code of Criminal Procedure Article 228, records of the issuance of a summons or citation, and records of the filing of a bill of information shall be a public record.

(b) The initial report shall set forth:

(i) A narrative description of the alleged offense, including appropriate details thereof as determined by the law enforcement agency.
(ii) The name and identification of each and every person who is a witness to, a suspect charged with or arrested for the alleged offense, unless prohibited or protected by federal or state law not contained in this Title.
(iii) The time and date of the alleged offense.
(iv) The location of the alleged offense.
(v) The property involved.
(vi) The vehicles involved.
(vii) The names of investigating officers.

(c) Nothing herein shall be construed to require the disclosure of information which would reveal undercover or intelligence operations.

(d) Repealed by Act 309 of the 2018 Regular Session of the Louisiana Legislature.

(5) Records containing the identity of an undercover police officer or records which would tend to reveal the identity of an undercover police officer; or

(6) Records concerning status offenders as defined in the Children’s Code.

(7) Collected and maintained by the Louisiana Bureau of Criminal Identification and Information, provided that this exception shall not apply to the central registry of sex offenders maintained by the bureau.

(8) Video or audio recordings generated by law enforcement officer body-worn cameras that are found by the custodian to violate an individual's reasonable expectation of privacy.

(a) A body-worn camera is a camera worn on an individual law enforcement officer's person that records and stores audio and video.

(b) Body-worn camera video or audio recordings that are determined by the custodian to violate an individual's reasonable expectation of privacy shall be disclosed upon a determination and order from a court of competent jurisdiction pursuant to R.S. 44:35.

(c) All costs of production associated with a court-ordered disclosure shall be set by the court.

(d) Notwithstanding any provision of this Chapter to the contrary, body-worn camera video or audio recordings generated while the law enforcement officer is not acting in the scope of his official duties shall not be subject to disclosure when the disclosure would violate a reasonable expectation of privacy.

B. All records, files, documents, and communications, and information contained therein, pertaining to or tending to impart the identity of any confidential source of information of any of the state officers, agencies, or departments mentioned in Subsection A of this Section, shall be privileged, and no court shall order the disclosure of same except on grounds of due process or constitutional law. No officer or employee of any of the officers, agencies, or departments mentioned in Subsection A of this Section shall disclose said privileged information or produce said privileged records, files, documents, or communications, except on a court order as provided above or with the written consent of the chief officer of the agency or department where he is employed or in which he holds office, and to this end said officer or employee shall be immune from contempt of court and from any and all other criminal penalties for compliance with this Subsection.

C. Whenever the same is necessary, judicial determination pertaining to compliance with this Section or with constitutional law shall be made after a contradictory hearing as provided by law. An appeal by the state or an officer, agency, or department thereof shall be suspensive.

D. Nothing in this Section shall be construed to prevent any and all prosecutive, investigative, and law enforcement agencies and communications districts from having among themselves a free flow of information for the purpose of achieving coordinated and effective criminal justice.

E. Nothing in this Section shall be construed as forbidding the release of all or part of investigative files of fires classified as arson, incendiary, or suspicious unless, after consultation with the appropriate law enforcement agency, any sheriff, district attorney, or other law enforcement agency directs that the records not be disclosed because of pending or anticipated criminal adjudication.

F. Notwithstanding any other provision of law to the contrary, after a period of ten years has lapsed from the date of death of a person by other than natural causes, and upon approval by the district court having jurisdiction over any criminal prosecution which may result due to the death of such person, any prosecutive, investigative, and other law enforcement agency, or any other governmental agency in possession of investigative files or evidence or potential evidence, or any other record, document, or item relating to said death shall, upon request, provide copies of all such files, records, and documents to immediate family members of the victim and shall provide unlimited access for any and all purposes to all such evidence, potential evidence, and other items to any member of the immediate family and to any person or persons whom any member of the immediate family has designated for such purposes. The access granted shall include but not be limited to the examination, inspection, photographing, copying, testing, making impressions, and the use in any court proceeding of and conducting forensic studies on such evidence, potential evidence, and other items. For the purposes of this Subsection, the term “immediate family” shall mean the surviving spouse, children, grandchildren, and siblings of the victim.

G. Nothing in this Chapter shall be construed to require disclosures of certificates of official driving records in the custody and control of the Department of Public Safety and Corrections, office of motor vehicles, except as specifically provided for in R.S. 15:521.

H. Nothing in this Section shall be construed as prohibiting the release of any report resulting from a request for an investigation of an alleged violation of the crime of identity theft as defined under the provisions of R.S. 14:67.16 to the victim of such alleged crime. However, the information which shall be released to such victim shall be limited to that information required to be released under the provisions of R.S. 14:67.16(G)(2).

I. All requests for production of video or audio recordings generated by law enforcement officer body-worn cameras shall be incident specific and shall include reasonable specificity as to the date, time, location, or persons involved. A request for multiple incidents shall include reasonable specificity as to the date, time, location, or persons involved in each incident requested. The custodian may deny a request not containing reasonable specificity.

J.(1) Nothing in this Chapter shall be construed to require the disclosure of information which would reveal the name, address, contact information, or identity of a victim of a sex offense or a human trafficking-related offense as those terms are defined in R.S. 46:1844.

(2) Nothing in this Chapter shall be construed to require the disclosure of information which would reveal the name, address, contact information, or identity of a crime victim who at the time of the commission of the offense is a minor under eighteen years of age.

(3) Nothing in this Chapter shall be construed to require the disclosure of information which would reveal the address or contact information of a victim of a crime against a family member, household member, or dating partner. "Family member" and "household member" shall have the same definitions as in R.S. 46:2132 and "dating partner" shall have the same definition as in R.S. 46:2151.

K.(1) Unless prohibited by federal law or state law not contained in this Title, if a victim of an offense or his designated family member requests an opportunity to review or copy any portion of records related to the offense against the victim, the agency shall allow the victim or his designated family member to review and copy the records unless the agency certifies in writing that the matter is subject to actual or reasonably anticipated criminal litigation.

(2) Any document that an agency provides to any defendant after prosecution of an offense has been initiated shall, upon request from the victim or a designated family member, also be made available for review and copying by the requestor unless the agency certifies in writing that the records are being withheld because information in them could materially affect the prosecution or a related investigation.

(3) Nothing in this Subsection shall be construed to prohibit an agency from in its discretion allowing a victim of an offense or his family member to review or copy any record related to the offense, provided the agency determines it would not reasonably impair any ongoing investigation or prosecution.

(4) For purposes of this Subsection, "designated family member" and "victim" have the same meanings as that provided by R.S. 46:1842.

R.S. 44:4. Applicability

This chapter shall not apply:

. . .
(63) To any information, documents, or records received by the Louisiana Domestic Abuse Fatality Panel, or any local or regional panel of the Louisiana Domestic Abuse Fatality Review Panel defined as confidential under the provisions of R.S. 40:2024.5.

R.S. 44:4.1. Exceptions

A. The legislature recognizes that it is essential to the operation of a democratic government that the people be made aware of all exceptions, exemptions, and limitations to the laws pertaining to public records. In order to foster the people's awareness, the legislature declares that all exceptions, exemptions, and limitations to the laws pertaining to public records shall be provided for in this Chapter or the Constitution of Louisiana. Any exception, exemption, and limitation to the laws pertaining to public records not provided for in this Chapter or in the Constitution of Louisiana shall have no effect.

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

. . .
(26) R.S. 40:3.1, 31.14, 31.27, 39.1, 41, 73, 95, 96, 526, 528, 1007, 1061.21, 1079.18, 1081.10, 1105.6, 1105.8, 1133.8, 1171.4, 1203.4, 1231.4, 1379.1.1(D), 1379.3, 2009.8, 2009.14, 2010.5, 2017.9, 2018, 2018.5, 2019, 2020, 2106, 2138, 2175.7(B)(1), 2532, 2845.1.

. . .

(28) R.S. 42:17, 57, 355, 1111, 1141.4, 1158, 1161, 1193, 1194.

. . .

(31) R.S. 46:56, 236.1.1 through 238, 284, 286.1, 439.1, 446.1, 1073, 1355, 1806, 1844, 1862, 1923, 2124.1, 2134, 2187, 2356, 2416, 2597, 2603, 2625.
. . .

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

Part III. Address Confidentiality Act
R.S. 44:51. et seq. Address Confidentiality Act

R.S. 44:51. Definitions

As used in this Part, the following terms shall have the meanings hereinafter ascribed to each, unless the context clearly indicates another meaning:

(1) "Abuse" means causing or attempting to cause physical harm, placing another person in fear of physical harm, or causing another person to engage involuntarily in sexual activity by force, threat of force, or duress, when committed by any of the following:

(a) A person against such person's spouse.

(b) A person against such person's former spouse.

(c) A person residing with the victim if such person and the victim are or were in a dating relationship.

(d) A person who formerly resided with the victim if such person and the victim are or were in a dating relationship.

(e) A person against a parent of such person's child, whether or not such person and the victim have been married or resided together at any time.

(f) A person against a person with whom such person is in a dating relationship.

(g) A person against a person with whom such person formerly was in a dating relationship.

(h) A person related to the victim by consanguinity or affinity.

(2) "Dating relationship" means an intimate or sexual relationship.

(3) "Physical address" means a residential street address, school address, or work address of a program participant.

(4) "Program participant" means a person currently certified as a program participant under R.S. 44:52.

(5) "Sexual assault" means any of the acts defined as crimes in R.S. 14:41, 42, 42.1, 43, 43.1, 43.2, 43.3, and 43.5.

(6) "Stalking" means the acts defined as crimes in R.S. 14:40.2.

(7) "Substitute address" means an address designated to a program participant by the secretary of state.

R.S. 44:52. Address confidentiality program; application; certification; substitute address; renewal; prohibited acts; penalties

A. (1) The Louisiana Department of State Address Confidentiality Program is hereby established to provide for the confidentiality of the physical addresses of program participants who are victims of abuse, sexual assault, or stalking.

(2) The secretary of state shall promulgate and adopt rules as necessary to effectuate the provisions and purposes of this Part. Any act or omission of the secretary of state in the implementation of the provisions of this Part shall be reviewable upon filing a petition for judicial review in the Nineteenth Judicial District Court. However, the secretary of state, his employees, application assistance agencies or organizations designated under R.S. 44:56, and the employees or volunteers of such agencies or organizations shall not be liable for any injury, loss, or damage resulting from any act or omission under this Part, except when such injury, loss, or damage is caused by an act or omission described in Paragraph (3) or (4) of Subsection B of this Section that is criminal, grossly negligent, intentional, or willful.

(3) The following persons may make application to the secretary of state to participate in the address confidentiality program:

(a) Any person who is a victim of abuse, sexual assault, or stalking and fears for his or her safety.

(b) A parent on behalf of his minor child, which child is the victim of abuse, sexual assault, or stalking, and for whom the parent fears for the safety.

(c) A guardian on behalf of a minor or incapacitated person in his care, which minor or incapacitated person is a victim of abuse, sexual assault, or stalking, and for whom the guardian fears for the safety.

(4) An application to the secretary of state for certification to participate in the address confidentiality program shall include the following:

(a) A sworn statement by the applicant attesting that the applicant has good reason to believe:

(i) That the applicant or the minor or incapacitated person on whose behalf the application is made is a victim of abuse, sexual assault, or stalking; and

(ii) That the applicant fears for his or her safety, or the safety of the minor or incapacitated person on whose behalf the application is made.

(b) A designation of the secretary of state as agent for purposes of service of process and receipt of mail.

(c) The mailing address and the telephone number or numbers where the applicant can be contacted by the secretary of state.

(d) The physical address or addresses that the applicant requests not be disclosed for the reason that disclosure will increase the risk of abuse, sexual assault, or stalking.

(e) A statement attesting that the applicant understands that as program participant, if he is a registered voter, he voluntarily waives his right to vote in person during early voting or at the polls on election day, but is eligible to vote absentee by mail.

(f) The signature of the applicant and the signature of any person who assisted the applicant in completing the application, as authorized in R.S. 44:56.

B. (1) Applications shall be filed in the office of the secretary of state.

(2) Upon the filing of a properly completed application, the secretary of state shall certify the applicant as a program participant. Such certification shall be valid for four years following the date of filing unless the certification is canceled. The secretary of state may establish a renewal procedure for program participants by administrative rule in accordance with the Administrative Procedure Act. The secretary of state shall designate a substitute address to each program participant. The secretary of state shall forward all first-class mail to each program participant's physical address.

(3) A person who falsely attests in an application that the applicant or the minor or incapacitated person on whose behalf the application is made is a victim of abuse, sexual assault, or stalking, or falsely attests that the applicant fears for his or her safety, or the safety of the minor or incapacitated person on whose behalf the application is made, or who knowingly provides false or incorrect information upon making an application, is guilty of a misdemeanor and shall be fined not more than one thousand dollars or be imprisoned for not more than one year, or both. On a second offense, or any succeeding offense, the penalty shall be a fine of not more than two thousand five hundred dollars or imprisonment for not more than five years, or both.

(4) No person shall intentionally, and knowing that he is not authorized to do so, obtain or cause the release of a program participant's physical address from the secretary of state, a state agency, a parish or local governmental agency, a law enforcement agency, or an application assistance agency or organization designated pursuant to R.S. 44:56. Whoever violates the provisions of this Paragraph is guilty of a misdemeanor and shall be fined not more than two thousand dollars or imprisoned for not more than one year, or both. On a second offense, or any succeeding offense, the penalty shall be a fine of not more than three thousand five hundred dollars or imprisonment for not more than five years, or both.

R.S. 44:53. Cancellation of certification

A. (1) If a program participant or the minor or incapacitated person on whose behalf the application is made legally changes his name, he shall notify the secretary of state's office within seven days of the approval of the name change and provide documentation of the legal name change. If the applicant fails to timely notify the secretary of state's office or cannot provide documentation of the legal name change, the secretary of state may cancel his certification as a program participant.

(2) If a program participant or the minor or incapacitated person on whose behalf the application is made changes any of his physical addresses, he shall notify the secretary of state's office within seven days of the change. If the applicant fails to timely notify the secretary of state's office of the address change, the secretary of state may cancel his certification as a program participant.

(3) The secretary of state may cancel certification of a program participant if mail forwarded to the program participant's physical address is returned as undeliverable.

(4) The secretary of state shall cancel the certification of a program participant who makes a false attestation or provides false information on his or her application.

(5) The secretary of state shall cancel the certification of a program participant if such participant qualifies as a candidate for an office pursuant to the provisions of R.S. 18:461.

B. Prior to cancelling the certification of a program participant, the secretary of state shall attempt to notify the program participant in writing of such action.

R.S. 44:54. Substitute address; use

A. (1) A program participant may inform any state or local agency that he is a program participant and request that such agency use the substitute address designated by the secretary of state as the participant's address of record for such agency. If any agency refuses to accept the substitute address, such agency shall submit its refusal to the secretary of state's office.

(2) If the secretary of state's office determines that there is a bona fide statutory or administrative requirement which makes necessary the use of the program participant's physical address, and that such address will not become a public record in the custody of the agency, then the secretary of state may provide the physical address of the program participant to the agency, after notifying the program participant in writing that his or her physical address will be released to the agency.

(3) If the secretary of state's office determines that there is not a bona fide statutory or administrative requirement which makes necessary the use of the program participant's physical address, or that such address will become a public record in the custody of the agency, then the secretary of state shall not provide the physical address of the program participant to the agency.

B. The secretary of state's office shall notify the appropriate registrar of voters of the identity of any program participant within the parish and provide the program participant's substitute address. The Department of State and the registrars of voters shall use the substitute address for all purposes related to voter registration and voting for a period of four years from the date that the program participant's application was filed or until the program participant's certification is canceled, whichever occurs first. The program participant's name and physical address contained in the voter registration records of the secretary of state and registrars of voters are confidential and shall not be made available for public inspection or copying.

R.S. 44:55. Secretary of state; use of substitute address; exceptions

The secretary of state shall not make any records in a program participant's file available for inspection or copying, other than the substitute address designated by the secretary of state, except under any of the following circumstances:

(1) If requested of the secretary of state by the chief commanding officer of a law enforcement agency or the officer's designee in the manner provided for by rules adopted and promulgated by the secretary of state in accordance with the Administrative Procedure Act.

(2) To a person identified in a court order upon the receipt by the secretary of state of that court order which specifically orders the disclosure of a particular program participant's address and the reasons stated therefore.

(3) To verify the participation of a specific program participant, in which case the secretary of state may only confirm or deny information supplied by the requestor.

R.S. 44:56. Program participants; application assistance

The secretary of state shall designate state and local agencies and nonprofit organizations which may assist victims of abuse, sexual assault, or stalking in making application to the secretary of state's office for certification as program participants.

R.S. 44:57. Service of process

A. Service of citation or other process on a program participant shall be made on the secretary of state. If a person makes service of citation or other process on a program participant at the program participant's physical address or personally on the program participant, knowing that he is a program participant, such service of citation or other process shall be invalid and shall have no effect.

B. All legal delays for service of citation or other process on a program participant shall be extended ten days.

Louisiana Revised Statutes – Title 18. Louisiana Election Code.
Chapter 7. Absentee by Mail and Early Voting.

R.S. 18:1303. Persons entitled to vote in compliance with this chapter

. . .

H. A person who is a program participant in the Department of State Address Confidentiality Program pursuant to R.S. 44:52 may vote absentee by mail upon meeting the requirements of this Chapter. The program participant's substitute address shall be used for all purposes relative to voter registration and voting. A program participant's name and physical address shall not be included on any list of registered voters available to the public. A program participant shall not vote during early voting or in person at the polls on election day.

. . .

Louisiana Revised Statutes – Title 46. Public Welfare and Assistance.
Chapter 28. Protection from Family Violence Act.
Part I. Family Violence Shelters.

. . .

R.S. 46:2124.1. Privileged communications and records

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

(1) "Community shelter" means a community shelter or other program established in accordance with R.S. 46:2124.

(2) "Privileged communication" means a communication made to a representative or employee of a community shelter by a victim. It also means a communication not otherwise privileged made by a representative or employee of a community shelter to a victim in the course of rendering services authorized by R.S. 46:2124.

(3) "Victim" means a victim or potential victim of an act of family or domestic violence and his or her children.

B. Except as provided in Subsection D, no person shall be required to disclose, by way of testimony or otherwise, a privileged communication or to produce, under subpoena, any records, documentary evidence, opinions, or decisions relating to such privileged communication:

(1) In connection with any civil or criminal case or proceeding.

(2) By way of any discovery procedure.

C. The records relating to a privileged communication kept by a community shelter or other agency or department shall not be public records. Such records may be used for the compilation of statistical data if the identity of the victim or the contents of any privileged communication are not disclosed.

D. The prosecuting attorney or any person who is a party in a civil proceeding or who has been arrested or charged with a criminal offense may petition the court for an in-camera inspection of the records of a privileged communication concerning such person. The petition shall allege

facts showing that such records would provide admissible evidence favorable to the person and, in criminal proceedings, are relevant to the issue of guilt or punishment and shall be verified. If the court determines that the person is entitled to all or any part of such records, it may order production and disclosure as it deems appropriate.

OTHER PROTECTIVE LAWS

Louisiana Revised Statutes – Title 9. Civil Code Ancillaries.
Chapter 1. Leases

R.S. 9:3261.1. Lease agreements for certain residential dwellings; domestic abuse victims

A. This Section shall apply only to a lease agreement for a residential dwelling within a building or structure consisting of six or more separate residential dwellings. The provisions of this Section shall not apply when the structure consists of ten or fewer units and one of the units is occupied by the owner or lessor.

B. Definitions

(1) "Accommodation" means the granting by the lessor to a domestic abuse victim the right to execute, renew, or terminate a lease, as applicable under the circumstances, pursuant to the requirements of this Section.

(2) "Domestic abuse" means domestic abuse battery as defined in R.S. 14:35.3 provided that the domestic abuse was committed on the leased premises.

(3) "Domestic abuse offender" means a lessee or household member who has been named as a defendant in a Uniform Abuse Prevention Order or has been identified as a perpetrator of domestic abuse in a Certification of Domestic Abuse.

(4) "Domestic abuse victim" means a lessee or household member who has been named as a petitioner in a Uniform Abuse Prevention Order or has completed a Certification of Domestic Abuse.

(5) "Household member" means a household member as defined in R.S. 14:35.3.

(6) "Qualified third party" means the executive director, program director, or another employee of a community-based shelter contracted with the Department of Children and Family Services pursuant to R.S. 46:2124, provided the employee is a Licensed Clinical Social Worker (LCSW) or possesses a masters degree in Social Work (MSW).

(7) "Reasonable documentation" shall be exclusively confined to mean any of the following documents:

(a) A completed Certification of Domestic Abuse form as set forth in this Section, signed under oath by a qualified third party as defined in this Section.

(b) A Uniform Abuse Prevention Order.

C. (1) No lease agreement shall:

(a) Limit the lessee's right to summon, or any other person's right to summon, a law enforcement officer or other emergency assistance in response to an emergency or following an incident of domestic abuse on the leased premises.

(b) Assess monetary penalties or other penalties under the lease for the lessee summoning, or for any other person summoning, a law enforcement officer or other emergency assistance in response to an emergency or following an incident of domestic abuse on the leased premises.

(2) A lease provision prohibited under this Subsection shall be null, void, and unenforceable.

D. (1) A lessor shall not:
(a) Refuse to enter into the lease agreement solely on the basis that an applicant, or that applicant's household member, is or has been a victim of domestic abuse, or, except as provided by Subparagraph (b) of this Paragraph, on the basis of activity directly related to domestic abuse, if that applicant provides reasonable documentation and otherwise qualifies to enter into a lease agreement. The provisions of this Subparagraph shall not apply to an applicant who has previously been evicted by the lessor for any reason.

(b) Terminate the lease agreement, fail to renew the lease agreement, or issue an eviction notice or notice to vacate on the basis that an act of domestic abuse or activity directly related to domestic abuse has occurred on the leased premises and the victim is a lessee or a lessee's household member. However, if the continued presence of a domestic abuse offender in, or in close proximity to, the lessee's residential dwelling or apartment results in one or more additional violent disturbances or altercations and those disturbances or altercations pose a threat to the safety or peaceable possession of the premises by the lessee or other residents, then the lessor may evict the lessee, even if the presence of the domestic abuse offender is uninvited or unwelcome by the lessee. In such evictions, at the lessor's sole discretion, the lessor may permit the lessee to relocate to a different residential dwelling or apartment, provided that another residential dwelling or apartment is available and the lessee otherwise meets the lessor's qualification standards.

(2) An applicant, lessee, or any household member of an applicant or lessee who is or was the victim of domestic abuse, and who seeks protection under this Section, shall produce to the lessor reasonable documentation of the domestic abuse on or before the date of the lease application, lease termination, lease nonrenewal, or before the judgment or order of eviction is rendered. Failure of the applicant, lessee, or household member of any applicant or lessee to timely produce such reasonable documentation shall preclude and act as a complete bar to that applicant, lessee, or household member asserting claims or causes of action against the lessor for violation of this Subsection.

(3)(a) A lessor who has not yet been given reasonable documentation of the abuse by the lessee and who issues an eviction notice or a notice to vacate to any lessee for any reason allowed under an existing lease agreement, including damage to leased premises, shall not be penalized under this Section.

(b) However, if the sole reason the eviction notice or notice to vacate was issued was a single act of domestic abuse and not an additional act of domestic abuse under Paragraph (D)(1), no breach of the lease has been alleged, and the lessor receives reasonable documentation of domestic abuse before the judgment or order of eviction is rendered, then the lessor shall rescind the eviction notice or notice to vacate.

E. Only a lessee or a household member of the lessee's residential dwelling unit may be considered a domestic abuse victim such that the lessee may request an accommodation under this Section. In order for a lessee to receive an early termination as provided in this Section, the lessee shall do all of the following:

(1) Assert in writing to the lessor that the lessee, or the lessee's household member, is a domestic abuse victim and that the lessee seeks the particular accommodation afforded under Subsection F of this Section.

(2) Provide to the lessor reasonable documentation that the lessee seeking an accommodation, or that lessee's household member, was a victim of an act of domestic abuse on the leased premises within the past thirty days.

(3) Assert in writing that the lessee seeking the accommodation will not knowingly voluntarily permit the domestic abuse offender further access to, visitation on, or occupancy of the lessee's residential dwelling unit and acknowledging that any violation of this Section may result in eviction or termination of the lease.

(4) Otherwise meet or agree to fulfill all requirements of a lessee under the lease agreement.

(5) If requested by the lessor, provide in writing the name and address of the person named as the defendant, perpetrator or abuser in a Uniform Abuse Prevention Order or Certification of Domestic Abuse form.

F. If a lessee fulfills all of the requirements of Subsection E of this Section, the lessor shall grant the lessee the requested early termination of the lease, as provided by this Subsection:

(1) If the lessee requests early termination of the lease agreement, the lessor shall terminate the lease agreement as a matter of law on a mutually agreed-upon date within thirty days of the written request for accommodation. The lessee requesting the accommodation shall vacate the residential dwelling by that date to avoid liability for future rent.

(2) In such cases, the lessee requesting the accommodation is liable only for rent paid through the early termination date of the lease and any previous obligations to the lessor outstanding on that date. The amount due from the lessee shall be paid to the lessor on or before the date the lessee vacates the dwelling. The lessor may withhold the lessee's security deposit only for any reason permitted under R.S. 9:3251. If the lessee or an additional lessee is a domestic abuse offender named on reasonable documentation presented to the lessor in a lessee's request for an accommodation under this Section, the lessor shall be entitled to an immediate eviction of the domestic abuse offender upon presenting the court with reasonable documentation of the abuse.

(3) When there are multiple lessees who are parties to a lease agreement for which the accommodation of early termination is requested by one or more lessees, and upon the lessee's timely providing to the lessor reasonable documentation of the abuse as required in this Section, the entire lease shall terminate on the mutually agreed-upon date, and the lessor shall be entitled to an immediate eviction of all lessees upon presenting the court with reasonable documentation of the abuse.

G. Nothing in this Section shall be construed to limit a lessor's right to refuse to enter into a lease agreement, terminate a lease agreement, fail to renew a lease agreement, or issue an eviction notice or notice to vacate to a lessee or tenants pursuant to Code of Civil Procedure Article 4701, et seq., for actions unrelated to the act of domestic abuse. Further, a lessor shall be entitled to an immediate eviction of the domestic abuse offender upon presenting the court with reasonable documentation of the abuse, and nothing in this Section shall limit a lessee's obligation as required by a lease agreement between the lessor and lessee.

H. A Certification of Domestic Abuse form as provided for in this Section shall read substantially the same as follows:

(Name of qualified third party and, if applicable, the name of their shelter, office or agency)

I and/or my *(family or household member)* have suffered domestic abuse as defined in R.S. 9:3261.1.

Briefly describe the incident giving rise to the claim of domestic abuse:

The incident(s) that I rely on in support of this declaration occurred on the following date(s) and time(s): _____
and at at the following location(s): _____
_____

The incident(s) that I rely on in support of this declaration was/were committed by the following person(s), if known: _____

I state under penalty of perjury under the laws of the state of Louisiana that the foregoing is true and correct. By submitting this statement I do not waive any legally recognized privilege protecting any communications that I may have with the agency or representative whose name appears below or with any other person or entity. I understand that my obligation to pay rent does not end until the early termination date of my lease as decided by the lessor or until I vacate the premises upon receiving agreement by the lessor to terminate my obligations under the lease early. I understand that my lessor may keep my security deposit or other amounts as permitted under law.

Dated at _____, Louisiana, this _____day of 20_____ .

(*Signature of Lessee or Lessee's family or household member)*

PRINTED NAME

I verify under penalty of perjury under the laws of the state of Louisiana that I have provided services to the person whose signature appears above and that, based on information communicated to me by the person whose signature appears above, the individual or his or her family or household member has suffered domestic abuse as defined by R.S. 9:3261.1, and that the individual informed me of the name of the alleged perpetrator of the actions, giving rise to the claim, if known. This verification does not waive any legally recognized privilege that I, my agency, or any of its representatives have with the person whose signature appears above.

Dated this _____ day of _____ , 20_____ .

(Signature of qualified third party)

PRINTED NAME
(License number or organizational tax identification number)
(Organization name)
(Printed address)

I. A civil action for enforcement of rights granted pursuant to this Section may be commenced in state district court by a domestic abuse victim within one year of an alleged violation of this Section. In the civil action, the court may only grant as relief any permanent or temporary injunction, temporary restraining order, or other similar order, as the court deems appropriate.

J. Upon motion of the defendant or upon the court's own motion, if the court determines that a civil action brought under this Section is frivolous, the court shall award appropriate sanctions pursuant to Code of Civil Procedure Article 863.

K. No civil action may be commenced under this Section if the plaintiff or the plaintiff's household member has knowingly voluntarily permitted the domestic abuse offender access to, visitation on, or occupancy of the lessee's residential dwelling unit at any time after having requested an accommodation from the lessor under this Section.

L. Notwithstanding 24 Code of Federal Regulations Part 5.2011 and any other provision of law to the contrary, the provisions of this Section shall not supersede 24 CFR Part 5 Subpart L, as amended from time to time, including the programs provided for in 24 CFR Part 5.2009.

M. Lessors or owners of residential dwellings who institute eviction proceedings against domestic abuse offenders under this Section shall be immune from any and all lawsuits, claims, demands, or causes of action filed by or on behalf of domestic abuse offenders for wrongful eviction, breach of contract, termination of the lease in violation of this Section, discrimination under state or federal law, or any other claims or causes of actions arising in any way out of the eviction.

R.S. 9:3261.2. Lease agreements for certain residential dwellings; sexual assault victims

A. Definitions

(1) “Qualified third party” means a program director of a sexual assault center as defined in R.S. 46:2187, a sexual assault advocate as defined in R.S. 46:2186(C), provided the advocate is a licensed clinical social worker or licensed professional counselor, any healthcare provider that conducted a forensic medical examination as defined in R.S. 15:622, or a prosecuting attorney or investigating law enforcement officer who has personal involvement in the investigation or prosecution of any criminal case relative to the sexual assault.

(2) “Reasonable documentation” shall be exclusively confined to mean any of the following documents:

(a) A completed certification of sexual assault as set forth in this Section, signed under oath by a qualified third party as defined in this Section.

(b) A Uniform Abuse Prevention Order.

(3) “Sexual assault” means any nonconsensual sexual contact including but not limited to any act provided in R.S. 15:541(24). Sexual assault also means obscenity, as provided in R.S. 14:106, or voyeurism, as provided in R.S. 14:283.1, provided that the obscenity or voyeurism occurred on the leased premises.

(4) “Sexual assault victim” means a victim of sexual assault as defined in R.S. 46:1842.

B. In order for a lessee to receive an early termination as provided in this Section, the lessee shall do all of the following:

(1) Assert in writing to the lessor that the lessee is a victim of sexual assault and that the lessee seeks early termination under Subsection C of this Section.

(2) Provide to the lessor reasonable documentation that the lessee seeking an early termination was a victim of an act of sexual assault in Louisiana within the past sixty days, provided that the sexual assault occurred after the execution of the lease agreement. If the sexual assault did not occur on the leased premises, then the lessee shall give a declaration of why continuing to reside in the leased premises may pose a threat to the victim's safety in the certification provided in Subsection D of this Section.

(3) Assert in writing that the lessee will not knowingly and voluntarily permit the sexual offender further access to, visitation on, or occupancy of the lessee's residential dwelling unit and acknowledging that any violation of this Section may result in eviction or termination of the lease.

(4) Otherwise meet or agree to fulfill all requirements of a lessee under the lease agreement.

B. If a lessee fulfills all the requirements of Subsection D of this Section, the lessor shall grant the lessee the requested early termination of the lease, as provided by this Subsection.

(1) If the lessee requests early termination of the lease agreement, the lessor shall terminate the lease agreement as a matter of law on a mutually agreed-upon date within thirty days of the written request for early termination. The lessee requesting the early termination shall vacate the residential dwelling by the date to avoid liability for future rent.

(2) In such cases, the lessee requesting the early termination is liable only for rent paid through the early termination date of the lease and any previous obligations to the lessor outstanding on that date. The amount due from the lessee shall be paid to the lessor on or before the date the lessee vacates the dwelling. The lessor may withhold the lessee's security deposit only for any reason permitted under R.S. 9:3251. If the lessee or an additional lessee is a sexual assault offender named on reasonable documentation presented to the lessor, the lessor shall be entitled to an immediate eviction of the sexual assault offender upon presenting the court with reasonable documentation of the assault.

(3) When there are multiple lessees who are parties to a lease agreement for which the accommodation of early termination is requested by one or more lessees, and upon the lessee's timely providing to the lessor reasonable documentation of the sexual assault as required in this Section, the entire lease shall terminate on the mutually agreed-upon date, and the lessor shall be entitled to an immediate eviction of all lessees upon presenting the court with reasonable documentation of the sexual assault. If the lessee or an additional lessee is a sexual assault offender named on the reasonable documentation presented to the lessor, then the lessor shall be entitled to an immediate eviction of the sexual assault offender upon presenting the court with reasonable documentation of the assault. Lessors shall be immune from any and all lawsuits, claims, demands, or causes of action filed by or on behalf of lessees.

D. A certification of sexual assault form as provided by this Section shall read substantially the same as follows:

“(Name of qualified third party and, if applicable, the name of their sexual assault center, office, or agency)

I have suffered sexual assault as defined in R.S. 9:3261.2.

Briefly describe the incident giving rise to the claim of sexual assault:

The incident(s) that I rely on in support of this declaration occurred on the following date(s) and time(s): _____ and at the following location(s):
_____.

The incident(s) that I rely on in support of this declaration was/were committed by the following person(s) (if known): _____.

I state under the penalties provided in R.S. 14:125 that the foregoing is true and correct. By submitting this statement, I do not waive any legally recognized privilege protecting any communications that I have with the agency or representative whose name appears below or with any other person or entity. I understand that my obligation to pay rent does not end until the early termination date of my lease as decided by the lessor or until I vacate the premises upon receiving agreement by the lessor to terminate my obligations under the lease early.

Dated at _____, Louisiana, this _____ day of ____ 20 ___.

Signature of Lessee

I verify under the penalties provided in R.S. 14:125 that I have provided services to the person whose signature appears above and that, based on information communicated to me by the person whose signature appears above, the individual has suffered sexual assault as defined by R.S. 9:3261.2, and that the individual informed me of the name of the alleged perpetrator of the actions (if known), giving rise to the claim, if known. This verification does not waive any legally recognized privilege that I, my agency, or any of its representatives have with the person whose signature appears above.

Dated this day of ___, 20___.
(Signature of qualified third party)

PRINTED NAME

(License number or organizational tax identification number)

(Organization name)

(Printed address)"

E. The provisions of this Section may not be waived or modified by the agreement of the parties under any circumstances.

Louisiana Revised Statutes – Title 15. Criminal Procedure.
Chapter 2. Evidence

R.S. 15:440.2. Authorization

A. (1) A court with original criminal jurisdiction or juvenile jurisdiction may require that a statement of a protected person be recorded on videotape by any of the following:

(a) Motion of the court or motion of the district attorney, a parish welfare unit or agency, the Department of Children and Family Services, or a child advocacy center operating in the judicial district.

(b) Adoption of a local court rule that authorizes the videotaping of any protected person without the necessity of the issuance of an order by the court in any individual case.

(c) Execution of a written protocol between the court and law enforcement agencies, a parish welfare unit or agency, the Department of Children and Family Services, or a child advocacy center operating in the judicial district that authorizes the videotaping of any protected person without the necessity of the issuance of an order by the court in any individual case.

(2) Further, the coroner may, in conjunction with the district attorney and appropriate hospital personnel and pursuant to their duties in R.S. 40:2109.1 and 2113.4, provide for the videotaping of protected persons who are rape victims or who have been otherwise physically or sexually abused.

(3) Such videotape shall be available for introduction as evidence in a juvenile proceeding or adult criminal proceeding.

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

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

(1) Under the age of eighteen years.

(2) Has a developmental disability as defined in R.S. 28:451.2(12).

(3) An adult as defined in R.S. 15:1503 who is eligible for protective services pursuant to the Adult Protective Services Act.

D. For the purposes of this Part, "civilian investigator" shall mean any person who performs investigative work as a noncertified employee of a law enforcement agency and who has completed training required by that law enforcement agency. Required training shall include but not be limited to basic investigative training and specific training on investigation of crimes involving a protected person.

R.S. 15:469.1. Receipt of testimony from victims of certain crimes who are fifteen years of age or younger; closed session of court or in chambers; procedure

In cases of simple or third degree rape, attempted simple or third degree rape, aggravated or first degree rape, attempted aggravated or first degree rape, forcible or second degree rape, attempted forcible or second degree rape, or carnal knowledge of a juvenile in which the victim is a child of fifteen years of age or younger, the court, upon its own motion or that of the defendant or state, may order that the testimony of such victim be heard either in closed session of court or in the judge's chambers, in the presence of the judge or jury, the defendant, counsel for the defendant, the family of the defendant, the parents or parent of the victim, the attorney for the state, a reasonable but limited number of members of the public which the court may allow in its discretion under these circumstances, and any other party which the court determines has a valid interest in the proceedings.

Chapter 6. Louisiana Bureau of Criminal Identification and Information

R.S. 15:587.3. Volunteers and employees in youth-serving institutions or organizations; other youth coaches; criminal background information

A. (1) A religious, charitable, scientific, educational, athletic or youth-serving institution or organization may require any person who applies to work with children as a volunteer or as a paid employee to do the following:

(a) Agree to release all investigative records to such religious, charitable, scientific, educational, athletic, or youth-service institution or organization for examination for the purpose of verifying the accuracy of criminal violation information contained on an application to work for such institution or organization.

(b) Supply fingerprint samples and submit to a criminal history records check to be conducted by the Louisiana Bureau of Criminal Identification and Information.

(2) Any head coach of youth athletes in an organized sports or recreational athletic contest, not as part of a religious, charitable, scientific, educational, athletic, or youth-serving institution or organization to which Paragraph (1) of this Subsection would apply and is not a parent of the child, legal guardian of the child, or is otherwise not a family member of the child, shall do the following:
(a) Agree to release all investigative records for examination for the purpose of verifying the accuracy of criminal violation information.

(b) Supply fingerprint samples and submit to a criminal history records check to be conducted by the Louisiana Bureau of Criminal Identification and Information.

(c) Make available criminal history record information.

(B) In addition to Subsection A, any volunteer, paid employee, or head coach may be required to attend a comprehensive youth protection training program which includes adult training on recognition, disclosure, reporting, and prevention of abuse and submit to character, employment, education, and reference checks.

C. Any person who is requested to comply with the requirements set forth in Subsection A, and refuses to do so, shall be prohibited from working with children as a volunteer or as a paid employee.

D. When a criminal history records check is requested pursuant to Subsection A of this Section, the Louisiana Bureau of Criminal Identification and Information shall provide the requestor with the state criminal history record information of the individual subject to the inquiry. In addition, the bureau shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history records check and shall provide the requestor with the national criminal history record information of the individual subject to the inquiry.

E.(1) The costs of providing the information required under this Section shall be charged by the bureau, as specified in R.S. 15:587(B), to the individual subject to the inquiry for furnishing information contained in the bureau's criminal history and identification files, including any additional costs of providing the national criminal history records check which pertains to the individual.

(2) Notwithstanding Paragraph (1) of this Subsection, for paid employees of a youth-serving institution or organization, the costs of providing the information required under this Section shall be charged by the bureau, as specified in R.S. 15:587(B), to the institution or organization.

R.S. 15:587.7. Volunteer and employee criminal history system

A. The Louisiana Bureau of Criminal Identification and Information shall implement a volunteer and employee criminal history system to allow qualified entities to access state and federal criminal history records on certain individuals in the absence of specific statutory provisions regarding access to criminal history record information. For purposes of this Section, the following definitions shall apply:

(1) “Bureau” means the Louisiana Bureau of Criminal Identification and Information located within the Department of Public Safety and Corrections, public safety services, office of state police.

(2) “Care” means treatment, education, training, instruction, supervision, or recreation services provided to children, the elderly, or individuals with disabilities.

(3) “Individual” means a person who has, seeks to have, or may have access to children, the elderly, or individuals with disabilities, served by a qualified entity who meets either of the following requirements:

(a) Is employed by or volunteers with, or seeks to be employed by or volunteer with, a qualified entity.

(b) Owns or operates, or seeks to own or operate, a qualified entity.

(c) Is a contractor with, or seeks to be a contractor with, a qualified entity.

(4) “Individuals with disabilities” means persons with a mental or physical impairment who require assistance to perform one or more daily living tasks.

(5) “Qualified entity” means a business or organization, whether public or private, operated for profit, operated not-for-profit, or voluntary, which provides care or care placement services, including a business or organization that licenses or certifies individuals to provide care or care placement services.

B. (1) A qualified entity must register with the bureau before submitting a request for criminal history records under this Section.

(2) Each qualified entity may require an individual to submit to a criminal history records check to be conducted by the bureau. Fingerprints and other identifying information from the individual shall be submitted to the bureau by the individual.

(3) When a criminal history records check is requested by a qualified entity pursuant to Paragraph (1) of this Subsection, the bureau shall provide the qualified entity with the state criminal history record information of the individual subject to the inquiry. In addition, when the qualified entity requests national criminal history records checks, the bureau shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history records check and shall provide the qualified entity with the national criminal history record information of the individual subject to the inquiry.

C. National and state criminal history records checks are to be used by the qualified entity to determine the suitability of the individual to have access to children, the elderly, or individuals with disabilities served by the qualified entity. The determination of suitability shall be solely made by the qualified entity. This Section does not require the bureau to make a determination on behalf of any qualified entity.

D. The cost of providing the information required under this Section shall be charged by the bureau, as specified in R.S. 15:587(B), to the individual subject to the inquiry or the qualified entity, subject to the provisions of R.S. 22:897,for furnishing information contained in the bureau's criminal history and identification files, including any additional costs of providing the national criminal history records check which pertain to the individual.

E. The qualified entity shall maintain the confidentiality of the federal and state criminal history information in accordance with applicable federal and state laws.

F. A qualified entity shall not be liable for damages solely for failing to obtain the information authorized under this Section. Except in instances of gross negligence or willful and wanton misconduct, the state, any political subdivision of the state, or any agency, officer, or employee of the state or a political subdivision shall not be liable for damages for providing the information requested under this Section.

G. The bureau is hereby authorized to adopt and promulgate rules and regulations in accordance with the Administrative Procedure Act to carry out the provisions of this Section for those qualified entities who choose to obtain federal and state criminal history record information pursuant to this Section.

R.S. 15:587.8. Access to criminal history system for victims of domestic abuse, victims of human trafficking, victims of dating violence, and victims of sexual assault.

A. In order to protect the integrity and the security of the family court and civil court system and in order to obtain evidence in furtherance of Code of Evidence Article 412.5, a licensed attorney who is counsel of record in a case involving a victim of domestic abuse, human trafficking, dating violence, or sexual assault shall be allowed to access state criminal history records on a certain individual who is a party or a witness in the civil cases in which the attorney is counsel of record.

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

(1) "Attorney" means an attorney who is licensed by the Louisiana State Bar Association and who is the counsel of record in a civil case as defined in Paragraph (3) of this Subsection.
(2) "Bureau" means the Louisiana Bureau of Criminal Identification and Information located within the Department of Public Safety and Corrections, public safety services, office of state police.

(3) "Civil case" means a case filed in family court or other court of competent jurisdiction where civil cases are heard related to allegations of domestic abuse, dating violence, family violence, violence against a child, violence against a spouse, sexual assault, or human trafficking, including but not limited to all of the following:

(a) A civil case for an injunction or protective order sought pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2161 et seq., R.S. 46:2171 et seq., or R.S. 46:2181 et seq., Children's Code Article 1564 et seq., or Code of Civil Procedure Articles 3604 or 3607.1.

(b) A civil case whereby evidence is admissible, pursuant to Louisiana Code of Evidence Article 412.5, related to acts of domestic abuse as defined in R.S. 46:2132, family violence as defined in R.S. 9:362, dating violence as defined in R.S. 46:2151, or sexual abuse as defined in R.S. 9:362.

(c) A civil case to obtain recovery and damages for a victim of human trafficking, pursuant to 18 U.S.C. 1595, or any other civil proceeding involving he victims of human trafficking.

(d) A civil case filed pursuant to Title V of Book I of the Louisiana Civil Code.

(4) "Criminal history records" means the state criminal history records maintained by the bureau.

(5) "Individual" means a person who is a party to or a witness in a civil case provided for in Paragraph (3) of this Subsection.

(6) "Witness" means a person who is not a party to the case but who may be awarded custody or visitation of the child or who has had contact or may have future contact with the child, the alleged victim, or the alleged perpetrator of domestic abuse, human trafficking, dating violence, or sexual assault.

(7) "Pro se litigant" is a party representing himself.

C. (1) An attorney, or his licensed investigator who is assigned to the case and who is subject to the provisions of R.S. 15:587(A)(1)(c), may submit a request for a criminal history records check to be conducted by the sheriff related to a case in which the attorney is counsel of record in a civil case. The attorney, or his licensed investigator, shall submit identifying information related to the individual to the sheriff including the full legal name, date of birth, or any other identifying information that the attorney may possess.

(2)(a) In addition to the individual's identifying information, the attorney shall submit in his letter of request to the sheriff all of the following information related to the case:

(i) The name and the Louisiana State Bar Association bar roll number of the attorney making the request.

(ii) The name of the case, the suit number, and the judicial district of the court for which the attorney is making the request.

(b) If the attorney or his licensed investigator willfully or intentionally misrepresents the civil case information required in this Paragraph, the attorney or his licensed investigator shall be subject to criminal prosecution for filing false public records pursuant to R.S. 14:133.

D.(1) In order to ensure equal protection under the law, a pro se litigant may obtain the same information that an attorney may obtain in Subsection C of this Section so long as the pro se litigant obtains an ex parte court order from the judge assigned to the civil case, in which the pro se litigant

is a party, authorizing the pro se litigant to obtain criminal history information on an individual. The pro se litigant may then submit the judge's order for a request for a criminal history records check to be conducted by the sheriff related to the civil case in which the pro se litigant is a party to the civil case. The pro se litigant shall submit identifying information related to the individual to the sheriff including the full legal name, date of birth, and any other identifying information that the pro se litigant may possess.

(2) In addition to the individual's identifying information, the pro se litigant shall submit in his letter the name of the case, the suit number, and the judicial district of the court for which the pro se litigant is making the request along with the judge's order.

(3) If the pro se litigant willfully or intentionally misrepresents the civil case information required in this Paragraph, the pro se litigant shall be subject to criminal prosecution for filing false public records pursuant to R.S. 14:133.

E. When a criminal history records check is requested by an attorney, a licensed investigator, or a pro se litigant pursuant to this Section, the sheriff shall provide the attorney, the licensed investigator, or the pro se litigant with the state criminal history record information of the individual subject to the inquiry.

F. State criminal history records checks, obtained pursuant to this Section, are to be used by the attorney or pro se litigant in conjunction with the civil case to which the information is sought and may be disclosed only to the court or opposing counsel or in court proceedings related to the civil case.

G. (1) The cost of providing the information required under this Section shall be charged by the sheriff to the requesting person as that amount is specified in R.S. 15:587(D).

(2) When the sheriff performs the criminal history records check pursuant to this Section, he shall enter the code "D" in the question space concerning the purpose of the inquiry so that the bureau may record the nature of the inquiry for auditing purposes.

H. The attorney, licensed investigator, pro se litigant, and any other person with access to the information shall maintain the confidentiality of the state criminal history information and shall use the information only for those purposes provided for in this Section.

I. No person shall maintain a cause of action for liability against the state, the sheriff, any political subdivision of the state, or any agency, officer, deputy, or employee of the state, the sheriff, or a political subdivision for providing the information requested in accordance with this Section.

R.S. 15:590. Obtaining and filing fingerprint and identification data

The bureau shall obtain and file the name, fingerprints, description, photographs, and any other pertinent identifying data as the deputy secretary deems necessary, of any person who meets any of the following:

. . .

(8) Has been arrested, or has been issued a summons and subsequently convicted, for a violation of any state law or local ordinance that prohibits the use of force or a deadly weapon against any family member or household member as those terms are defined by R.S. 14:35.3 or that prohibits the use of force or violence against a dating partner as defined by R.S. 14:34.9.

Chapter 14. Adult Protective Services Act.

R.S. 15:1501. et seq. Adult Protective Services Act

R.S. 15:1501. Citation

This Chapter shall be known and may be cited as the “Adult Protective Services Act.”

R.S. 15:1502. Legislative findings and declaration

A. The purpose of this Section is to protect adults who cannot physically or mentally protect themselves and who are harmed or threatened with harm through action or inaction by themselves or by the individuals responsible for their care or by other parties, by requiring mandatory reporting of suspected cases of abuse or neglect by any person having reasonable cause to believe that such a case exists. It is intended that, as a result of such reports, protective services shall be provided by the adult protection agency. Such services shall be available as needed without regard to income.

B. It is the further intent of the legislature to authorize only the least possible restriction on the exercise of personal and civil rights consistent with the person's need for services and to require that due process be followed in imposing such restrictions.

R.S. 15:1503. Definitions

For the purposes of this Chapter, the following terms shall have the following meanings, unless the context clearly indicates a different meaning:

(1) “Abandonment” means the desertion or willful forsaking of an adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

(2) “Abuse” means the infliction of physical or mental injury, or actions which may reasonably be expected to inflict physical injury, on an adult by other parties, including but not limited to such means as sexual abuse, abandonment, isolation, exploitation, or extortion of funds or other things of value.

(3) “Adult” means any individual eighteen years of age or older, or an emancipated minor who, due to a physical, mental, or developmental disability or the infirmities of aging, is unable to manage his own resources, carry out the activities of daily living, or protect himself from abuse, neglect, or exploitation.

(4)(a) “Adult protection agency” means the office of elderly affairs in the office of the governor, for any individual sixty years of age or older in need of adult protective services as provided in this Chapter.

(b) “Adult protection agency” means the Department of Health for any individual between the ages of eighteen and fifty-nine years of age in need of adult protective services as provided in this Chapter. The secretary of the Department of Health and Hospitals may assign the duties and powers provided in this Chapter to any office of the department for provision of adult protective services, as provided in this Chapter.

(5) “Capacity to consent” means the ability to understand and appreciate the nature and consequences of making decisions concerning one's person, including but not limited to provisions for health or mental health care, food, shelter, clothing, safety, or financial affairs. This determination may be based on assessment or investigative findings, observation, or medical or mental health evaluations.

(6) “Caregiver” means any person or persons, either temporarily or permanently, responsible for the care of a person who is aged or an adult with a physical or mental disability. “Caregiver” includes but is not limited to adult children, parents, relatives, neighbors, daycare personnel, adult foster home sponsors, personnel of public and private institutions and facilities, adult congregate living facilities, and nursing homes which have voluntarily assumed the care of a person who is aged or an adult with a disability, have assumed voluntary residence with a person who is aged or an adult with a disability, or have assumed voluntary use or tutelage of the assets, funds, or property of a person who is aged or a person with a disability, and specifically shall include city, parish, or state law enforcement agencies.

(7) “Exploitation” means the illegal or improper use or management of the funds, assets, or property of a person who is aged or an adult with a disability, or the use of power of attorney or guardianship of a person who is aged or an adult with a disability for one's own profit or advantage.

(8) “Extortion” is the acquisition of a thing of value from an unwilling or reluctant adult by physical force, intimidation, or abuse of legal or official authority.

(9) “Isolation” includes:

(a) Intentional acts committed for the purpose of preventing, and which do serve to prevent, an adult from having contact with family, friends, or concerned persons. This shall not be construed to affect a legal restraining order.

(b) Intentional acts committed to prevent an adult from receiving his mail or telephone calls.

(c) Intentional acts of physical or chemical restraint of an adult committed for the purpose of preventing contact with visitors, family, friends, or other concerned persons.

(d) Intentional acts which restrict, place, or confine an adult in a restricted area for the purposes of social deprivation or preventing contact with family, friends, visitors, or other concerned persons. However, medical isolation prescribed by a licensed physician caring for the adult shall not be included in this definition.

(10) “Neglect” means the failure, by a caregiver responsible for an adult's care or by other parties, to provide the proper or necessary support or medical, surgical, or any other care necessary for his well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall for that reason alone be considered to be neglected or abused.

(11) “Protective services” includes but is not limited to:

(a) Conducting investigations and assessments of complaints of possible abuse, neglect, or exploitation to determine if the situation and condition of the adult warrant further action.

(b) Preparing a social services plan utilizing community resources aimed at remedying abuse, neglect, and exploitation.

(c) Case management to assure stabilization of the situation.

(d) Referral for legal assistance to initiate any necessary extrajudicial remedial action.

(12) “Self-neglect” means the failure, either by the adult's action or inaction, to provide the proper or necessary support or medical, surgical, or any other care necessary for his own well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall for that reason alone be considered to be self-neglected.

(13) “Sexual abuse” means abuse of an adult, as defined in this Section, when any of the following occur:

(a) The adult is forced, threatened, or otherwise coerced by a person into sexual activity or contact.

(b) The adult is involuntarily exposed to sexually explicit material, sexually explicit language, or sexual activity or contact.

(c) The adult lacks the capacity to consent, and a person engages in sexual activity or contact with that adult.

R.S. 15:1504. Mandatory reports and immunity

A. Any person, including but not limited to a health, mental health, and social service practitioner, having cause to believe that an adult's physical or mental health or welfare has been or may be further adversely affected by abuse, neglect, or exploitation shall report in accordance with R.S. 15:1505.

B. No cause of action shall exist against any person who in good faith makes a report, cooperates in an investigation by an adult protective agency, or participates in judicial proceedings authorized under the provisions of this Chapter, or any adult protective services caseworker who in good faith conducts an investigation or makes an investigative judgment or disposition, and such person shall have immunity from civil or criminal liability that otherwise might be incurred or imposed. This immunity shall not be extended to:

(1) Any alleged principal, conspirator, or accessory to an offense involving the abuse or neglect of the adult.

(2) Any person who makes a report known to be false or with reckless disregard for the truth of the report.

(3) Any person charged with direct or constructive contempt of court, any act of perjury as defined in Subpart C of Part VII of Chapter 1 of Title 14, or any offense affecting judicial functions and public records as defined in Subpart D of Part VII of Chapter 1 of Title 14.

R.S. 15:1505. Contents of report and agency to receive report

A. Reports reflecting the reporter's belief that an adult has been abused or neglected shall be made to any adult protection agency or to any local or state law enforcement agency. These reports need not name the persons suspected of the alleged abuse or neglect.

B. All reports shall contain the name and address of the adult, the name and address of the person responsible for the care of the adult, if available, and any other pertinent information.

R.S. 15:1506. Receipt of reports

A. All reports received by a local or state law enforcement agency shall be referred to the appropriate adult protection agency.

B. When the appropriate adult protection agency receives a report of sexual or physical abuse, whether directly or by referral, the agency shall notify the chief law enforcement agency of the parish in which the incident is alleged to have occurred of such report. Such notification shall be made prior to the end of the business day subsequent to the day on which the adult protection agency received the report. For the purposes of this Subsection, the chief law enforcement agency of Orleans Parish shall be the New Orleans Police Department.

C. Upon receipt of a report from an adult protection agency, the chief law enforcement agency shall initiate an incident report and shall notify the referring adult protection agency of the disposition of the report.

R.S. 15:1507. Investigation of reports, assessment, actions taken, and court orders

A. The adult protection agency shall make prompt investigation and assessment. When the report concerns care in a facility or program under the supervision of the Department of Health and Hospitals, the secretary of the department may assign the duties and powers enumerated in Subsection B of this Section to any office or entity within the department to carry out the purposes of this Chapter.

B. The investigation and assessment shall include the nature, extent, and cause of the abuse and neglect, the identity of the person or persons responsible for the abuse and neglect, if known, and an interview with the adult and a visit to the adult's home, if possible. Consultation with others having knowledge of the facts of the particular case shall also be included in the investigation.

C. In the event that admission to the adult's home or access to the adult for purposes of conducting the investigation, including a face-to-face private interview with the adult and with other members of the household and inspection of the home is refused, the adult protection agency may apply to a court of competent civil jurisdiction for an order to be granted access to the adult and to the location where the alleged abuse or neglect occurred to make such an investigation.

D. To secure further information and coordinate community service efforts, the adult protection agency shall contact other appropriate local or state agencies.

E. The adult protection agencies shall convene a regional level coordinating council composed of representatives of both public and private agencies providing services, with the objectives of identifying resources, increasing needed supportive services, avoiding duplication of effort, and assuring maximum community coordination of effort.

F. If it appears after investigation that an adult has been abused and neglected by other parties and that the problem cannot be remedied by extrajudicial means, the adult protection agency may refer the matter to the appropriate district attorney's office or may initiate judicial proceedings as provided in R.S. 15:1508. Evidence that abuse or neglect has occurred must be presented together with an account of the protective services given or available to the adult and a recommendation as to what services, if ordered, would eliminate the abuse or neglect.

G. Protective services may not be provided in cases of self-neglect to any adult having the capacity to consent, who does not consent to such service or who, having consented, withdraws such consent. Nothing herein shall prohibit the adult protection agency, the district attorney, the coroner, or the judge from petitioning for interdiction pursuant to Civil Code Articles 389 through 399 or petitioning for an order for protective custody or for judicial commitment pursuant to R.S. 28:50 et seq., seeking an order for emergency protective services pursuant to R.S. 15:1511, or from seeking an order for involuntary protective services pursuant to R.S. 15:1508(B)(5).

H. (1) The adult protection agency shall have access to any records or documents, including client-identifying information and medical, psychological, criminal or financial records necessary to the performance of the agency's duties under this Chapter. The duties include the provision of protective services to an adult, or the investigation of abuse, neglect, exploitation or extortion of an adult. A person or agency that has a record or document that the adult protection agency needs to perform its duties under this Chapter shall, without unnecessary delay, make the record or document available to the agency.

(2) The adult protection agency is exempt from the payment of a fee otherwise required or authorized by law to obtain a record if the request for a record is made in the course of an investigation or in the provision of protective services by the agency.

(3) If the adult protection agency is unable to obtain access to a record or document that is necessary to properly conduct an investigation or to provide protective services, the agency may petition a court of competent jurisdiction for access to the record or document. The person or agency in possession of this necessary record or document and the patient, in the case of a medical record, is entitled to notice and a hearing on the petition.

(4) Upon a showing by the adult protection agency that the record or document is necessary, the court shall order the person or agency who denied access to a record or document to allow the adult protection agency to have access under the terms and conditions prescribed by the court.

(5) Access to a confidential record under this Chapter does not constitute a waiver of confidentiality. No cause of action shall exist against any person or agency who in good faith provides a record or document to the adult protection agency under the provisions of this Chapter.

I. (1) Information contained in the case records of the adult protection agency shall be confidential and shall not be released without a handwritten authorization from the adult or his legal representative, except that the information may be released to law enforcement agencies pursuing enforcement of criminal statutes related to the abuse of the adult or the filing of false reports of abuse or neglect, or to social service agencies, licensed health care providers, and appropriate local or state agencies where indicated for the purpose of coordinating the provision of services or treatment necessary to reduce the risk to the adult from abuse, neglect, exploitation, or extortion and to state regulatory agencies for the purpose of enforcing federal or state laws and regulations relating to abuse, neglect, exploitation, or extortion by persons compensated through state or federal funds.

(2) The identity of any person who in good faith makes a report of abuse, neglect, exploitation, or extortion shall be confidential and shall not be released without the handwritten authorization of the person making the report, except that the information may be released to law enforcement agencies pursuing enforcement of criminal statutes related to the abuse of the adult or to the filing of false reports of abuse or neglect.

(3) Prior to releasing any information, except information released to law enforcement agencies as provided herein, the adult protection agency shall edit the released information to protect the confidentiality of the reporter's identity and to protect any other individual whose safety or welfare may be endangered by disclosure.

R.S. 15:1508. Petition for hearing, criminal proceedings, and subpoenas

A. The district attorney or adult protective services agency may petition a court of competent civil jurisdiction for a hearing with respect to the alleged abuse or neglect. The petitioner shall notify the adult of the hearing and the proposed action. The adult shall be advised of his right to be represented by an attorney.

B. The district attorney or adult protective services agency may apply for an order to:

(1) Provide mandatory counseling for the parties involved to prevent further abuse or neglect of the adult.

(2) Enjoin the parties contributing to the abuse or neglect of the adult from continuing such acts.

(3) Have the adult receive a medical examination or psychiatric/psychological evaluation which will help to determine the least restrictive setting the adult may need.

(4) Enjoin any party interfering with the provision of protective services to an adult from continuing such interference.

(5) Provide protective services, if the adult lacks the capacity to consent to services, and the adult is suffering harm or deterioration or is likely to suffer harm or deterioration from abuse, neglect, or self-neglect, if protective services are not provided, and no other person authorized by law or by court order to give consent for the adult is available or willing to arrange for protective services. Such an order shall specify the services needed to protect the adult, which may include medical treatment, social services, placement in a safer living situation, the services of law enforcement or emergency medical services to transport the adult to a treatment facility or safe living location and other services needed to protect the adult. Such an order shall be effective for a period of one hundred eighty days, but an order may be renewed one time for another one hundred eighty days and thereafter annually upon a showing to the court that continuation of the order is necessary to prevent further harm to the adult. However, admission to a mental health treatment facility shall be made only in accordance with the provisions of R.S. 28:1 et seq.

C. The district attorney may likewise institute any criminal proceedings he deems appropriate in accordance with existing laws.

D. Pursuant to Code of Criminal Procedure Article 66, the district attorney or the attorney general may cause to be issued a subpoena or subpoena duces tecum for the purpose of requiring a person having knowledge, written material, or other evidence pertinent to alleged abuse, neglect, or exploitation of the adult to produce such evidence to the district attorney, attorney general or the adult protection agency.

R.S. 15:1509. Hearing

A. Upon application under the provisions of R.S. 15:1508, the court shall fix a date for a hearing to be held not more than twenty days, excluding Saturdays, Sundays, and legal holidays, from receipt of the petition. If the alleged abused or neglected adult has no attorney, the court shall appoint an attorney to represent him. The adult's attorney shall be granted access to all records of the adult.

B. The court shall cause the alleged abused or neglected adult and his attorney to be served with notice of the appointment and of the time, date, and place of the hearing no later than five days prior to the hearing. The notice shall inform such respondent that he has a right to be present at the hearing, that he has a right to choose his own privately retained and paid counsel or have a court-appointed attorney if he cannot afford one, that he has a right to subpoena witnesses to testify on his behalf, and that he has a right to cross-examine any witness testifying against him. The alleged abused or neglected adult shall have the right to attend the hearing; however, this may be waived by his attorney for cause with approval of the court.

C. In order to protect the confidentiality and dignity of the alleged abused or neglected adult, any hearing conducted by the court may be closed and the record of the hearing may be sealed.

D. In any proceeding concerning the abuse, neglect, or self-neglect of an adult, evidence may not be excluded on any ground of privilege, except in the case of communications between an attorney and his client or between a priest, rabbi, duly ordained minister, or Christian Science practitioner and his communicant.

R.S. 15:1510. Implementation

A. The adult protection agency may adopt such rules and regulations as may be necessary in carrying out the provisions of this Chapter. Specifically, such rules shall provide for cooperation with local agencies, including but not limited to hospitals, clinics, and nursing homes, and cooperation with other states. The adult protection agency shall also be responsible for ongoing inservice training for its staff which assures adequate performance.

B. The adult protection agencies may enter into cooperative agreements with other state agencies or contractual agreements with private agencies to carry out the purposes of this Chapter. The immunity granted to the staff of the adult protection agencies shall extend to the staff of those agencies carrying out the provisions of this Chapter through cooperative or contractual agreement.

C. The adult protection agencies shall implement adult protective services for persons who are aged and adults with disabilities in accordance with an agency plan and shall submit an annual funding request in accordance with its plan. No funds shall be expended to implement the plan until the budget is approved by the commissioner of administration and by the legislature in the annual state appropriations act.

D. When the adult protection agency's staff is not sufficient to respond promptly to all reported cases, the adult protection agency shall set priorities for case response and allocate staff resources to cases in accordance with the rules and regulations promulgated in accordance with Subsection A of this Section. Absent evidence of willful or intentional misconduct or gross negligence in carrying out the investigative functions of the adult protective services program, caseworkers, supervisors, program managers, and agency heads shall be immune from civil or criminal liability in any legal action arising from any decision by the adult protection agency relative to the setting of priorities for cases and targeting of staff resources.

R.S. 15:1511. Emergency protective services; ex parte order

A.(1) If the adult protection agency has reasonable cause to believe that an adult is at immediate and present risk of substantial harm or deterioration from abuse, neglect, or self-neglect, and the adult lacks the capacity to consent, or with the consent of an adult who has capacity, the agency or any entity named in R.S. 15:1507(G) may petition a court of competent civil jurisdiction for an ex parte order to provide emergency protective services. The petition shall contain an affidavit setting forth the facts upon which the agency relied in making the determination.

(2) When the circumstances placing the adult at risk are such that there is insufficient time to file a petition for emergency protective services, the facts supporting an ex parte order to provide emergency protective services may be relayed to the court orally or telephonically and the court may issue its order orally. In such cases, a written verified petition for ex parte order shall be filed with the court by the close of the following business day and a written order shall be issued.

B. The ex parte order shall specify the services needed to protect the adult, which may include medical treatment, social services, placement in a safer living situation, the services of law enforcement or emergency medical services to transport the adult to a treatment facility or safe living location, and other services needed to protect the adult and may contain any remedy outlined in R.S. 15:1508 or any remedy deemed by the court as needed to protect the adult. However, admission to a mental health treatment facility shall be made only in accordance with the provisions of R.S. 28.1 et seq.

C. The ex parte order shall be effective for fifteen days but may be extended one time for another fifteen days upon a showing to the court that continuation of the order is necessary to prevent further harm to the adult.

D.(1) There shall be a hearing held by the court before the expiration of the ex parte order or the extension thereof but no earlier than fifteen days from the effective date of the ex parte order.

(2) The adult has the right to be represented by an attorney. If the alleged abused or neglected adult has no attorney, the court shall appoint an attorney to represent him.

(3) At the hearing, the adult protection agency has the burden to prove that the adult lacks the capacity to consent, and that the adult is at immediate and present risk of substantial harm or deterioration from abuse, neglect, or self-neglect.

(4) The adult shall have the right to present evidence, call witnesses, be heard on his own behalf, and cross-examine witnesses called by the adult protection agency.

(5) Reasonable notice of the hearing and rights set forth in this Chapter shall be given to the adult.

(6) After the hearing, if the court grants an order in favor of the adult protection agency, the court's order shall specify the services needed to protect the adult, which may include medical treatment, social services, temporary placement in a safer living situation, and other services needed to protect the adult and may contain any remedy outlined in R.S. 15:1508 or any remedy deemed by the court as needed to protect the adult. However, admission to a mental health treatment facility shall be made only in accordance with the provisions of R.S. 28.1 et seq.

(7) The order shall be effective for a period of one hundred eighty days, but the order may be renewed one time for another one hundred eighty days and thereafter annually upon a showing to the court that continuation of the order is necessary to prevent further harm to the adult.

Chapter 15. Witness Protection Services.

R.S. 15:1601. et seq. Witness Protection Services Act – repealed by Act 434 of the 2019 Legislative Session

Title 22. Insurance Code.
Chapter 4. Insurance and Insurance Contract Requirements by Type of Insurance.
Part III. Health and Accident Coverage.
Subpart C. Assuring Portability, Availability, Renewability of Health Insurance Coverage

R.S. 22:1078. Protections required for victims of the crime of domestic violence

A. As used in this Section, the following terms shall be defined as follows:

(1) “Abuse” means bodily injury as a result of battery or any offense against the person as defined in the Louisiana Criminal Code, except negligent injury and defamation, when such battery or offense is committed by one family or household member against another. “Abuse” shall also mean abuse of adults as defined in R.S. 15:1503 when committed by an adult child or adult grandchild.

(2) “Abuse status” means the fact or perception that a person is, has been, or may be a subject of abuse, irrespective of whether the person has sustained abuse-related medical conditions.

(3) “Confidential abuse information” means information about acts of abuse or the abuse status of a subject of abuse, the fact that a person's medical condition is abuse-related if the issuer knows or has reason to know it is abuse-related, the home and work address and telephone number of a subject of abuse, or the status of an applicant or insured as a family member, employer, or associate of a subject of abuse, or as a person in a relationship with a subject of abuse.

(4) “Insurance professional” means an agent, broker, adjuster, or third party administrator as defined in this Title.

(5) “Subject of abuse” means a person against whom an act of abuse has been directed; who has current or prior injuries, illnesses, or disorders that result from abuse; or who seeks, may

have sought, or had reason to seek medical or psychological treatment for abuse or protection, court-ordered protection, or shelter from abuse.

B. No health insurance issuer or nonfederal governmental plan shall engage in any of the following acts or practices on the basis of the abuse status of an applicant or insured:

(1) Restricting, excluding, or limiting health benefit plan coverage solely as a result of abuse status.

(2) Adding a rate differential solely because of abuse status.

(3) Denying or limiting payment of a claim incurred by an insured, enrollee, member, subscriber, or dependent solely because the claim was incurred as a result of abuse status.

C. A spouse who is the subject of domestic abuse and who, together with any other dependents, is covered as a dependent on an individual policy or subscriber agreement naming an abusive spouse as the policyholder shall have the right to convert such individual dependent coverage to an individual policy without medical underwriting upon the judgment of divorce or judgment of legal separation from the abusive spouse. The converted policy shall be on the same policy form and shall provide the same benefits, including deductibles, coinsurance, and copayments, as the policy from which coverage is being converted. The spouse converting coverage shall thereafter have the same right to change benefits upon the anniversary date of the policy as in the policy from which coverage is being converted. The right to convert coverage shall become effective upon receipt of notice of termination of coverage under an abusive spouse's policy or subscriber agreement, only if the abused spouse gives written notice within thirty days and provides the health insurance issuer with a copy of the divorce decree or separation order.

D. No health insurance issuer, nonfederal governmental plan, or person employed by or contracting with such entities shall disclose or transfer information related to the abuse status of an applicant or insured for any purpose or to any person except:

(1) To the subject of abuse or an individual specifically designated in writing by the subject of abuse.

(2) To a health care provider for the direct provision of health care services.

(3) To a licensed physician identified and designated by the subject of abuse.

(4) When ordered by a court of competent jurisdiction or otherwise required by law.

(5) When necessary for a valid business purpose to transfer information that includes confidential abuse information that cannot reasonably be segregated without undue hardship. Confidential abuse information may be disclosed only if the recipient has executed a written agreement to be bound by the prohibitions of this Section in all respects and to be subject to the enforcement of this Section by the courts of this state for the benefit of the applicant or the insured and only to the following persons:

(a) A reinsurer that seeks to indemnify or indemnifies all or any part of a policy covering a subject of abuse and that cannot underwrite or satisfy its obligations under the reinsurance agreement without that disclosure.

(b) A party to a proposed or consummated sale, transfer, merger, or consolidation of all or part of the business of the health insurance issuer or insurance professional.

(c) Medical or claims personnel contracting with the health insurance issuer or insurance professional, but only when necessary to process an application, to perform the health insurance issuer's or the insurance professional's duties under the policy, or to protect the safety or privacy of a subject of abuse. For purposes of this Paragraph, a health insurance issuer or insurance professional shall include a parent or affiliate company of the health insurance issuer or an insurance professional who has a service agreement with the health insurance issuer or insurance professional.

(d) With respect to the address and telephone number of a subject of abuse, to entities with whom the health insurance issuer or insurance professional transacts business when the business cannot be transacted without the address and telephone number.

(6) To an attorney who needs the information to represent the health insurance issuer or insurance professional effectively only if the health insurance issuer or insurance professional notifies the attorney of its obligations under this Section and requests that the attorney exercise due diligence to protect the confidential abuse information consistent with the attorney's obligation to represent the health insurance issuer or insurance professional.

(7) To the policyowner or assignee, in the course of delivery of the policy, if the policy contains information about abuse status.

(8) To any other entities authorized by regulations adopted by the commissioner of insurance pursuant to the Administrative Procedure Act.

E. Nothing in this Section shall prohibit a health insurance issuer or a nonfederal governmental plan from asking about a medical condition or from using medical information to underwrite or to carry out its duties under the policy, even if the medical information is related to a medical condition that the insurer or insurance professional knows or has reason to know is abuse-related, to the extent otherwise permitted under this Section and other applicable laws.

Title 23. Labor and Workers Compensation
Chapter 9. Miscellaneous Provisions
Part XIV. Sexually Oriented Business

R.S. 23:1019.1. Definitions

As used in this Part, the following terms have the meaning ascribed as follows:

(1) "Adult arcade" means any place to which the public is permitted or invited in which coin-operated, slug-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and in which the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas.

(2) "Adult bookstore," "adult novelty store," or "adult video store" means a commercial establishment that, for any form of consideration, has as a significant or substantial portion of its stock-in-trade in, derives a significant or substantial portion of its revenues from, devotes a significant or substantial portion of its interior business or advertising to, or maintains a substantial section of its sales or display space for the sale or rental of any of the following:

(a) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations, that are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

(b) Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of self or others.

(3) "Adult cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, gentleman's club, strip club, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features any of the following:

(a) Persons who appear in a state of nudity or seminudity for the purpose of enticing sexual arousal or otherwise sexually excite a patron or customer.

(b) Live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities.

(c) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

(4) "Adult motion picture theater" means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

(5) "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or seminudity or live performances that are characterized by their emphasis upon the exposure of specified anatomical areas or specified sexual activities.

(6) "Employee" means any individual employed by a sexually oriented business for remuneration pursuant to a contract for hire but does not include an independent contractor.

(7) "Independent contractor" means an individual contracted to perform services for a sexually oriented business on a non-exclusive basis pursuant to a written agreement specifying that the individual is a contractor and not an employee of the sexually oriented business.

(8) "Nudity" means the exposure of the vulva, penis, testicles, anus, female nipples, or female areola with less than a fully opaque covering.

(9) "Operator" means any individual on the premises of a sexually oriented business authorized to manage the business, exercise overall operational control of the premises, or cause the business to function.

(10)(a) "Seminudity" means any of the following:

(i) Exposure of the female breast below a horizontal line across the top of the areola and extending across the width of the breasts at that point including the lower portion of the breasts.

(ii) Exposure of a majority of the male or female buttocks.

(iii) The outline of human male genitals when the penis is in a discernibly erect state, even if completely and opaquely covered.

(b) "Seminudity" shall not include any portion of the cleavage of the female breast exhibited by swim wear, dance wear, or clothing, provided that the areola is not exposed in whole or in part.

11) "Sexually oriented business" means any business that is part of the sex industry that offers services that include the exposure of specified anatomical areas or specified sexual activities, or the purchase of erotic paraphernalia. Sexually oriented business includes any adult arcade, adult book store, adult novelty store, adult video store, adult cabaret, adult motion picture theater, or adult theater.

(12) "Specified anatomical area" means genitals, buttocks, or female nipple or areola.

(13)(a) "Specified sexual activity" means any of the following:

(ii) Oral, anal, or vaginal sexual intercourse.

(iii) Fondling, oral touching, or other stimulation of the genitals, anus, or female breasts.

(iv) Masturbation.

(b) Emission is not necessary to constitute "specified sexual activity".

R.S. 23:1019.2. Employee and independent contractor eligibility verification

A.(1) The operator of a sexually oriented business shall verify the age and work eligibility status of each employee and potential employee by using either the United States Citizenship and Immigration Services E-Verify program or by ensuring proper completion of Form I-9, Employment Eligibility Verification, for each employee or potential employee.

(2) The operator of a sexually oriented business shall verify the age and work eligibility status of each independent contractor by requiring him to submit one United States Citizenship and Immigration Services Form I-9 List A document or one United States Citizenship and Immigration Services Form I-9 List B document in combination with a completed and signed Internal Revenue Service Form W-9 with a verified social security number or taxpayer identification number.

B. (1) The operator shall retain the employment eligibility verification documents in his records for at least three years after the last day of the employee's employment with the sexually oriented business.

(2) Proof of employment eligibility verification shall be available for inspection by the executive director of the Louisiana Workforce Commission, the attorney general of Louisiana, the commissioner of alcoholic beverage control of the office of alcohol and tobacco control within the Louisiana Department of Revenue, a law enforcement agency of the state or its political subdivisions when jurisdiction is appropriate, and authorized United States government officials.

R.S. 23:1019.3. Questionnaire

A. Before hiring an employee or independent contractor, the operator shall require the potential employee or independent contractor to submit in writing answers to a questionnaire which includes all of the following questions:

(1) Is your freedom of movement restricted?
(2) How do you learn about job opportunities?
(3) Did you come to this country for a specific job that you were promised?
(4) To what forms of media or telecommunication do you have access?
(5) Do you or does someone else retain your identification documents?
(6) Were you provided with false documents or identification?
(7) How was payment for your travel handled?
(8) Do you owe your employer any money?

B. After the questionnaire is complete, the potential employee or independent contractor shall sign affirming the accuracy of the answers and the operator shall sign to acknowledge receipt. The operator shall retain a copy of the questionnaire for his records in a locked or otherwise secure location for at least three years after the last day of the employee's or independent contractor's work with the sexually oriented business.

C. The Louisiana Workforce Commission shall prepare a standard form questionnaire to implement the provisions of this Section.

R.S. 23:1019.4. Mandatory reporting

If, at any time during the application process or subsequent hiring of an employee or independent contractor, an operator of a sexually oriented business believes that the potential employee, employee, or independent contractor may be a victim of human trafficking, he shall, as soon as possible, but within twenty-four hours, contact law enforcement or call the National Human Trafficking Resource Center Hotline to coordinate with local resources.

R.S. 23:1019.5. Notices to be posted

Every operator of a sexually oriented business shall post and keep posted in conspicuous places upon the business premises, including any restroom and dressing room, a notice, in both English and Spanish, prepared by the office of alcohol and tobacco control setting forth information regarding human trafficking and the telephone number to the National Human Trafficking Resource Center Hotline.

R.S. 23:1019.6. Enforcement; penalties

A. (1) The executive director of the Louisiana Workforce Commission, the commissioner of alcoholic beverage control of the office of alcohol and tobacco control within the Louisiana Department of Revenue, or a law enforcement agency of the state or its political subdivisions with appropriate jurisdiction may conduct an investigation as necessary to ensure enforcement of this Part.

(2) Upon a determination that any operator has violated, neglected, or refused to comply with any provision of this Part, the executive director, the commissioner of alcoholic beverage control, or a law enforcement officer representing an agency with appropriate jurisdiction may notify the attorney general who may pursue civil charges against the operator in the Nineteenth Judicial District Court.

B. If the court finds an operator to be in violation of the provisions of this Part, the court shall issue penalties as follows:
(1) For a first violation, a fine of one thousand dollars.

(2) For a second violation, a fine of five thousand dollars.

(3) For a third and any subsequent violation, a fine of ten thousand dollars.

Title 26. Liquors – Alcoholic Beverages
Chapter 8. Responsible Vendor Program

R.S. 26:933. Establishment of responsible vendor program
. . .

C. The server training courses shall include but not be limited to the following subject areas:

(1) Classification of alcohol as a depressant and its effect on the human body, particularly on the ability to drive a motor vehicle.

(2) Effects of alcohol when taken with commonly used prescription and nonprescription drugs.

(3) Absorption rate, as well as the rate at which the human body can dispose of alcohol and how food affects the absorption rate.

(4) Methods of identifying and dealing with underage and intoxicated persons, including strategies for delaying and denying sales and service to intoxicated and underage persons.

(5) State laws and regulations regarding the sale and service of alcoholic beverages for consumption on and off premises.

(6) Parish and municipal ordinances and regulations, including but not limited to the hours of operation, noise, litter, and other ordinances that affect the sale and service of alcoholic beverages for consumption on or off premises.

(7) State and federal laws and regulations related to the lawful age to purchase tobacco products and age verification procedures and requirements.

(8) The health risks and consequences associated with the consumption of tobacco products including but not limited to their addictive nature.

D. Security personnel training courses shall include training on the subject matter as required by the provisions of Subsection C of this Section as well as specific curriculum approved by the program administrator including but not limited to handling disruptive customers and customer altercations.

E. (1) The commissioner and the Louisiana Department of Health shall consult with appropriate governmental and nongovernmental agencies statewide in the development and distribution of an informational pamphlet. The commissioner shall include the informational pamphlet in the updated version of the responsible vendor handbook. The informational pamphlet shall include information based upon evidence-based practices and the following subject areas:

(a) Methods of identifying and responding to sexual assault, rape, sexual harassment, and sex trafficking.

(b) Definitions of rape, sexual assault, sexual harassment, and sex trafficking.

(c) Potential responses of vendors in the event a sexual assault, rape, sexual harassment, or sex trafficking occurs on the premises.

(d) Effects of rape, sexual assault, sexual harassment, and sex trafficking on primary and secondary victims.

(e) Updated information on the physical appearance of drugs, the effects of drugs, street names for drugs, and methods of delivery as it relates to rape, sexual assault, sexual harassment, and sex trafficking.

(2) Employers who are considered responsible vendors may provide the informational pamphlet to each existing or newly hired bartender, server, or security personnel.

F. (1) A person subject to the provisions of Subsection C or D of this Section is immune from all civil and administrative liability for reporting or failing to report a sexual assault, rape, sexual harassment, or sex trafficking incident, and nothing in this Section shall be construed to create any duty, obligation, or mandate for a person subject to the provisions of Subsection C or D of this Section.

(2) The immunity provided by this Subsection shall not extend to any person subject to the provisions of Subsection C or D of this Section in a case when such person is a principal, conspirator, or an accessory after the fact to an offense involving a sexual assault, rape, sexual harassment, or sex trafficking incident.

G. The commissioner, upon recommendation of the program administrator, may promulgate rules and regulations to effectuate the program in accordance with the Administrative Procedure Act, including but not limited to rules and regulations related to the development, establishment, and maintenance of the entire program.

H. The commissioner shall provide a system for vendors to verify the validity of individual server permits.

Title 33. Municipalities and Parishes
Chapter 48. Ensuring Access to Emergency Services for Victims of Domestic Abuse and other Crimes

R.S. 33:9701. Ensuring access to emergency services for victims of domestic abuse and other crimes; parishes and municipalities; prohibited ordinances

A. This Chapter shall be known and may be cited as the "Ensuring Access to Emergency Services for Victims of Domestic Abuse and other Crimes Act".

B. (1) The legislature hereby finds and declares that an increasing number of citizens of the state of Louisiana are becoming victims of crime, particularly domestic abuse, and that the trauma of repeated victimization can produce family disharmony, promote a pattern of escalating violence, and create an emotional atmosphere that is not conducive to healthy living.

(2) The legislature also finds that it is necessary to support the efforts of crime victims in seeking the assistance of law enforcement and other emergency officials so that crime victims do not

refrain from contacting such officials due to the fear of retaliation, including financial penalties and the loss of accessible housing.

(3) The legislature finds it necessary to prohibit parishes and municipalities in the state from enacting ordinances that discourage crime victims from contacting law enforcement or other emergency officials for needed assistance.

C. As used in this Section, the following words and phrases shall have the meaning ascribed to them in this Subsection, except as otherwise may be provided or unless a different meaning is plainly required by the context:

(1) "Crime" means an act or omission to act as provided in R.S. 46:1805.

(2) "Domestic abuse" has the same meaning as provided in R.S. 46:2132.

(3) "Penalty" means a charge, fine, fee, or other monetary assessment.

D. Notwithstanding any other provision of law to the contrary, no parish or municipality shall enact any ordinance that imposes a penalty on any person for contacting law enforcement or other emergency officials to request assistance with an incident involving domestic abuse or any other crime in which such person, or other persons, suffered a property loss, personal injury, or death or had a reasonable belief that assistance was needed in order to prevent property loss, personal injury, or death.

E. Notwithstanding any other provision of law to the contrary, no parish or municipality shall enact any ordinance that imposes a penalty on any property owner of a leased premise if a tenant of the property owner, or someone acting on behalf of the tenant, contacts law enforcement or other emergency officials to request assistance at such leased premise with an incident involving domestic abuse or any other crime in which such tenant, or other persons, suffered a property loss, personal injury, or death or had a reasonable belief that assistance was needed in order to prevent property loss, personal injury, or death.

F. Notwithstanding any other provision of law to the contrary, no parish or municipality shall adopt any ordinance that authorizes the eviction of a tenant by a property owner of a leased premise or the termination or suspension of a rental agreement signed by a tenant as result of such tenant, or persons acting on behalf of such tenant, contacting law enforcement or other emergency officials to request assistance at such leased premise with an incident involving domestic abuse or any other crime in which such tenant, or other persons, suffered a property loss, personal injury, or death or had a reasonable belief that assistance was needed in order to prevent property loss, personal injury, or death.

G. If a parish or municipality takes action against any person pursuant to an ordinance enacted in violation of this Section, such person may bring a civil action and seek an order from a court of competent jurisdiction for any of the following remedies:

(1) An order requiring the parish or municipality to cease and desist the unlawful action.

(2) Payment of compensatory damages, provided that such person shall make a reasonable effort to mitigate any damages.

(3) Payment of court costs.

(4) Other equitable relief.

Louisiana Revised Statutes – Title 40. Public Health and Safety.
Chapter 3. Housing Authorities and Slum Clearance.
Part I. Housing Authorities Law.
Subpart E. Operation of Housing Authorities.

R.S. 40:506. Termination of tenancy

A. Except as expressly provided herein, the landlord tenant relationship, and the termination thereof, is governed by state law applicable to privately owned, residential property.

B. Without limiting the foregoing, a local housing authority may terminate the tenancy of a household or a resident or terminate any other assistance provided by the authority for either:

(1) Any unlawful drug-related activity or other criminal behavior on the part of a recipient or head of household or any member of the household, including any child who is a member thereof, or on the part of any guest or invitee of a member of the household, notwithstanding that the head of household or any other member of the household either:

(a) Was unaware of the misconduct constituting the ground for termination of tenancy.

(b) Did not approve or participate in such misconduct.

(c) Was not personally at fault in connection with such misconduct.

(2) Commission of any fraud or any misrepresentation or omission on the part of any recipient of assistance or member of a resident household in connection with any application for assistance or any determination or redetermination of eligibility therefor, or in connection with any investigation or determination of the local housing authority regarding compliance by the household with the terms of any lease or the authority's rules and regulations.

(3) Any other violation of one or more provisions of any lease, or agreement with the local housing authority to which a recipient of assistance or a resident is a party, or any of the authority's rules or regulations, duly promulgated.

C. Criminal conviction shall not be a requirement or prerequisite to any termination of lease, tenancy, or other assistance which termination is based upon criminal misconduct, nor shall any standard of proof greater than a preponderance of the evidence be applicable in any proceeding involving such termination of lease, tenancy, or other assistance.

D. (1) The local housing authority may not terminate the tenancy of a household or a resident or terminate any other assistance provided by the authority under Paragraph(B)(1) of this Section for reasons of domestic abuse, dating violence, or family violence committed against the head of household, a member of household, or a resident. The local housing authority may terminate the tenancy of or any other assistance provided to the perpetrator of the domestic abuse, dating violence, or family violence.

(2) For purposes of Paragraph (B)(1) of this Section, no person may be considered a guest or invitee of a member of a household without the consent of the head of household or a member of household. Consent is automatically withdrawn when a guest or invitee is a perpetrator of an act of domestic abuse, dating violence, or family violence.

(3) As used in this Subsection:

(a) "Domestic abuse" has the meaning as defined in R.S. 46:2132(3).

(b) "Dating violence" has the meaning as defined in R.S. 46:2151(C).

(c) "Family violence" has the meaning as defined in R.S. 9:362(3).

Chapter 21. Crime Victims Reparations

R.S. 46:1801. et seq. Crime Victims Reparations Act

R.S. 46:1801. Short title

This Chapter may be cited as the Crime Victims Reparations Act.

R.S. 46:1802. Definitions

As used in this Chapter:

(1) “Accessory” includes an accessory after the fact and also a principal, as those terms are defined by the Louisiana Criminal Code.

(2) “Board” means the Crime Victims Reparations Board.

(3) “Child” means an unmarried person under eighteen years of age, and includes a natural child, adopted child, stepchild, child born outside of marriage, any of the above who is a student not over twenty-three years of age, and a child conceived prior to but born after the personal injury or death of the victim.

(4) “Claimant” means a victim or a dependent of a deceased victim, or the legal representative of either, an intervenor, the healthcare provider who provides healthcare services associated with a forensic medical examination as defined in RS. 15:622, or in the event of a death, a person who legally assumes the obligation or who voluntarily pays the medical or the funeral or burial expenses incurred as a direct result of the crime.

(5) “Collateral source” means a source of benefits for pecuniary loss awardable, other than under this Chapter, which the claimant has received or which is readily available to him or her from any or all of the following:

(a) The offender under an order of restitution to the claimant imposed by a court as a condition of probation or otherwise.

(b) The United States or a federal agency, a state or any of its political subdivisions, or an instrumentality of two or more states.

(c) Social Security, Medicare, and Medicaid.

(d) Workers' compensation.

(e) Wage continuation programs of an employer.

(f) Proceeds of a contract of insurance payable to the claimant for pecuniary loss sustained by the claimant by reason of the crime.

(g) A contract providing prepaid hospital and other health care services, or benefits for disability.

(6) “Dependent” means a spouse or any person who is a dependent of a victim within the meaning of Section 152 of the United States Internal Revenue Code (26 USC § 152).

(7) “Healthcare facility” means a facility or institution providing healthcare services, including but not limited to a hospital or other licensed inpatient center; ambulatory surgical or treatment center; skilled nursing facility; inpatient hospice facility; residential treatment center; diagnostic, laboratory, or imaging center; or rehabilitation or other therapeutic health setting.

(8) “Healthcare provider” means a physician or other healthcare practitioner licensed, certified, registered, or otherwise authorized to perform specified healthcare services consistent with state law.

(9) “Healthcare services” means services, items, supplies, or drugs for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease ancillary to a sexually-oriented offense.

(10) “Intervenor” means a person who goes to the aid of another and is killed or injured in the good faith effort to prevent a crime covered by this Chapter, to apprehend a person reasonably suspected of having engaged in such a crime, or to aid a peace officer. “Peace officer” shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers, constables, wildlife enforcement agents, and probation and parole officers.

(11) “Pecuniary loss” means the amount of expense reasonably and necessarily incurred by reason of personal injury, as a consequence of death, or a catastrophic property loss, and includes:

(a) For personal injury:

(i) Medical, hospital, nursing, or psychiatric care or counseling, and physical therapy.

(ii) Actual loss of past earnings and anticipated loss of future earnings because of a disability resulting from the personal injury or the receipt of medically indicated services by a victim related to the personal injury.

(iii) Care of a child or dependent.

(iv) Counseling or therapy for the parents or siblings of a child who is the victim of a sexual crime.

(v) Loss of support for a child victim of a sexual crime not otherwise compensated for as a pecuniary loss for personal injury.

(vi) Relocation for claimants who have to relocate as a result of the crime for reasons of personal safety or other reason reasonably related to the crime.

(b) As a consequence of death:

(i) Funeral, burial, or cremation expenses.

(ii) Loss of support to one or more dependents not otherwise compensated for as a pecuniary loss for personal injury.

(iii) Care of a child or children enabling the surviving spouse of a victim or the legal custodian or caretaker of the deceased victim's child or children to engage in lawful employment, where that expense is not otherwise compensated for as a pecuniary loss for personal injury.

(iv) Counseling or therapy for any surviving family member of the victim or any person in close relationship to such victim.

(v) Crime scene cleanup.

(vi) Relocation for claimants who have to relocate as a result of the crime due to the death of the victim.

(c) As to catastrophic property loss, the loss must be so great as to cause overwhelming financial effect on the victim or other claimant and shall be restricted to loss of abode.

(d) Any other expense associated with the collection and securing of crime scene evidence.

(12) “Pecuniary loss” does not include loss attributable to pain and suffering.

(13) “Reparations” means payment of compensation in accordance with the provisions of this Chapter for pecuniary loss resulting from physical injury, death, or catastrophic property loss by reason of a crime enumerated in this Chapter.

(14) “Sexually-oriented criminal offense” shall have the same meaning as sex offense as defined in R.S. 15:541(24).

(15) “Victim” means:

(a) Any person who suffers personal injury, death, or catastrophic property loss as a result of a crime committed in this state and covered by this Chapter. This includes any person who is a victim of human trafficking as defined by R.S. 14:46.2, a victim of trafficking of children for sexual purposes as defined by R.S. 14:46.3, or a victim of any offense involving commercial sexual exploitation including but not limited to R.S. 14:81.1, 81.3, 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 282.

(b) A Louisiana resident who is a victim of an act of terrorism, as defined in 18 U.S.C. 2331, occurring outside the United States.

(c) A Louisiana resident who suffers personal injury or death as a result of a crime described in R.S. 46:1805, except that the criminal act occurred outside of this state. The resident shall have the same rights under this Chapter as if the act had occurred in this state upon a showing that the state in which the act occurred does not have an eligible crime victims reparations program and the crime would have been compensable had it occurred in Louisiana. In this Subparagraph, "Louisiana resident" means a person who maintained a place of permanent abode in this state at the time the crime was committed for which reparations are sought.

R.S. 46:1803. Crime Victims Reparations Board

A. The Crime Victims Reparations Board is created and established under the jurisdiction of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice in the office of the governor. The board shall be domiciled in Baton Rouge.

B. The board shall be composed of the executive director of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice or his designee, one person, who shall be chosen and appointed by the governor, from a list of three recommendations submitted to the governor by any victim's rights advocacy organization which is recognized as a nonprofit with the Internal Revenue Service, incorporated or organized in the state of Louisiana and in good standing, and does not engage in political activity, with each organization submitting a list of three names, and nine members who shall be appointed by the governor for a term concurrent with that of the governor. However, no person nominated by any victim's rights advocacy organization shall be appointed to serve as a member of the board who has previously been confirmed by the Senate and has served as a member of the board. Each appointment shall be submitted to the Senate for confirmation. At least one member shall be appointed from each of the congressional districts in the state. Of the governor's nine appointees, at least one shall be a full voting member who shall be sixty years of age or over and shall serve as a representative of the elderly population of Louisiana.

C. A vacancy in the membership of the board shall be filled by appointment by the governor.

D. Members shall serve without compensation, but shall be paid a per diem not in excess of seventy-five dollars and shall be reimbursed for travel expenses incurred in attendance at meetings of the board and other expenses incurred on business of the board at its direction.

E. A majority of the members of the board shall constitute a quorum for the transaction of all business.

F. The members of the board shall annually elect from their membership a chairman and a vice chairman.

R.S. 46:1804. Eligibility to apply for reparations

A. A person who believes he is a victim of a crime enumerated in R.S. 46:1805, or his legal representative, or in the case of death, a dependent or the legal representative of a dependent, or the rightful claimant as defined in R.S. 46:1802(4), shall be eligible to make application to the board for reparations and shall be eligible for an award of reparations in accordance with the provisions of this Chapter.

B. During the sentencing for a crime, the judge shall inform the victim of the crime, or his legal representative, or in the case of death, a dependent or the legal representative of a dependent or the rightful claimant, of the potential eligibility for an award of reparations. The judge shall also provide the contact information for the Crime Victims Reparations Board to such persons for submitting an application to the board for an award of reparations.

R.S. 46:1805. Crimes to which Chapter applies

A. The board may make an award and order the payment of reparations for pecuniary loss in accordance with the provisions of this Chapter for personal injury, death, or catastrophic property loss resulting from any act or omission to act that is defined as a misdemeanor under any local

ordinance or as a crime under state or federal law and involves the use of force or the threat of the use of force or any human trafficking-related offense.

B. (1) For the purposes of this Chapter, the operation of a motor vehicle, boat, or aircraft that results in personal injury or death shall not constitute a crime unless the personal injury or death was intentionally inflicted through the use of such vehicle, boat, or aircraft, or was caused by an operator in violation of R.S. 14:98, 98.1, 100.

(2) “Intentionally inflicted” includes, but is not limited to personal injury or death resulting due to operation of a motor vehicle, boat, or aircraft used to flee the scene of a crime in which the operator of the motor vehicle, boat, or aircraft knowingly participated.

(3) "Human trafficking-related offense" shall include the perpetration or attempted perpetration of R.S. 14:46.2 or 46.3 or any other crime involving commercial exploitation including R.S. 14:81.1, 81.3, 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 282.

C. For the purposes of this Chapter, a person shall be deemed to have committed a criminal act or omission notwithstanding that by reason of age, insanity, drunkenness, or other reason he was legally incapable of committing a crime.

R.S. 46:1806. Application; requirements; confidentiality

A.(1)(a) An application for reparations shall be filed in writing with the board within one year after the date of the personal injury, death, or catastrophic property loss or within such longer period as the board determines is justified by the circumstances. The application shall be valid only if reasonable documentation of the crime resulting in the personal injury, death, or catastrophic property loss is submitted with the application.

(b) For the purposes of this Subsection, "reasonable documentation" means any of the following:

(i) A police report documenting the commission of the crime.

(ii) Court records evidencing the criminal prosecution of a crime relevant to the application.

(iii) A certification of the crime signed under oath by any licensed clinical social worker, professional counselor, or healthcare provider that conducted an examination of the injuries resulting from the commission of the crime.

(iv) A certification of the crime signed under oath by a prosecuting attorney or investigating law enforcement officer who has personal involvement in the prosecution or investigation of any criminal case relative to the application.

(v) Any other documentation the board deems sufficient to show the commission of a crime relevant to the application.

(2) (a) Notwithstanding the provisions of paragraph (1) of this Subsection and except as provided in subparagraph (b) of this Paragraph, an application filed by a dependent or legal representative of a deceased victim of a homicide offense, or filed by a claimant as defined in R.S. 46:1802(4), shall be filed within five years after the date on which the judgment of conviction becomes final or within five years after the date on which the supreme court denies the defendant’s first application for appeal.

(b) Notwithstanding the provisions of Paragraph (1) of this Subsection, when the death of the offender occurs prior to a conviction for a homicide offense, an application filed by a dependent or legal representative of a deceased victim of a homicide offense, or filed by a claimant as defined in R.S. 46:1802(4), shall be filed within five years after the date of the death of the offender.

B. (1) An application for reparations related to a sexually-oriented criminal offense shall be filed in writing with the board within one year after the date on which the person injury, death, or

catastrophic property loss occurred or within such longer period as the board determines is justified by the circumstances.

(2) A victim of a sexually-oriented criminal offense shall not be required to report a sexually-oriented criminal offense to any law enforcement officer for purposes of a claimant filing a valid application for reparations pursuant to this Subsection.
(3) A claimant that files an application for reparations for personal injury or death resulting from a sexually-oriented criminal offense shall submit certification from a healthcare provider or coroner that a forensic medical examination of the victim was conducted and an itemized billing statement for all related services provided by the healthcare provider or coroner.

(4) The coroner shall provide certification to the healthcare provider that a forensic medical examination was conducted.

(5) The healthcare provider shall submit certification to the board that a forensic medical examination was conducted when requested by a clamant.

C. Application shall be made on a form prescribed and provided by the board, which shall contain at least the following:

(1) A description of the date, nature, and circumstances of the act or acts resulting in the physical injury, death, or catastrophic property loss, and of the crime, if known.

(2) A complete financial statement including the cost of medical care or funeral, burial, or cremation expenses, the loss of wages or support, and the extent of the property loss, if any, which the claimant has incurred or will incur and the extent to which the claimant has been indemnified for these expenses from any collateral source.

(3) Where appropriate, a statement indicating the extent of any disability resulting from the injury incurred.

(4) An authorization permitting the board or its representatives to verify the contents of the application.

(5) Such other information as the board may require.

D. The following information, when submitted to the board as part of an application, shall be confidential:

(1) Documents submitted by a claimant which relate to medical treatment including any itemized billing statements.

(2) Law enforcement investigative reports.

(3) Forensic medical examination.

E. Records, documents, and information in the possession of the board received pursuant to a law enforcement investigation or a verification of application by a law enforcement agency shall be considered investigative records of a law enforcement agency as described in R.S. 44:3 and shall not be disseminated under any condition without the permission of the agency providing the record or information to the board.

F. A victim who was owed restitution as a condition of an offender's parole pursuant to R.S. 15:574.4.2(C)(1)(a) but whose restitution payments were directed to the Crime Victims Reparations Fund pursuant to R.S. 15:574.4.2(C)(1)(b) may file an application for recovery of the restitution in a written format developed by the board.

R.S. 46:1807. Powers and duties of board; staff

A. The board shall administer the provisions of this Chapter and Chapter 21-A of this Title and shall be responsible, in accordance with this Chapter and Chapter 21-A of this Title, for determining all matters pertaining to applications for reparations, investigations, and

determinations based upon its findings, the granting or rejecting of claims, and fixing the amounts of such grants or payments and the methods of their payment.

B. In the performance of its powers and duties the board shall:

(1) Prescribe, distribute, and otherwise make available forms for use in making application for reparations and, where appropriate, recovery of restitution funds directed to the Crime Victims Reparations Fund pursuant to R.S. 15:574.4.2(C)(1)(b).

(2) Prepare and distribute pamphlets, informational materials, and application forms, and otherwise assist in making the residents of the state aware of the provisions of this Chapter.

(3) Receive, verify, and process applications for reparations and, where appropriate, recovery of restitution funds directed to the Crime Victims Reparations Fund pursuant to R.S. 15:574.4.2(C)(1)(b).

(4) Hold such hearings, take such testimony, and make such investigations as are necessary with respect to any application received by it.

(5) Make a written decision with respect to each application received by it and order payment of reparations or, where appropriate, recovery of restitution funds to victims in accordance with this Chapter.

(6) Take such other actions and perform such other functions as are required by this Chapter or necessary to accomplish its purposes.

(7) Develop, adopt, and promulgate rules in the manner provided in the Administrative Procedure Act and in accordance with the provisions of R.S. 46:1806(B). The rules shall contain specific guidelines which shall establish the reasonable costs to be reimbursed for all healthcare services or expenses ancillary to a forensic medical examination.

(8) Take such actions and perform such other functions as are required by Chapter 21-A of this Title or necessary to perform its purposes.

C. The board also may:

(1) Promulgate rules and regulations necessary to carry out its business or the provisions of this Chapter.

(2) Through its chairman or acting chairman administer oaths or affirmations to persons appearing before it, send for papers, documents, and records, and subpoena witnesses.

(3) Appoint committees, including advisory committees.

(4) Use the services, personnel, facilities, and information, including recommendations, estimates, and statistics, of federal agencies and those of state and local public agencies and private institutions, with or without reimbursement therefor.

(5) Request such information, data, and reports from any federal agency as the board may require and as may be produced consistent with law.

D. (1) The Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall provide the office space and personnel necessary to carry out the functions of the board and effectuate the purposes of this Chapter. In addition, to the extent that funds are appropriated or otherwise available therefor, the board may employ personnel including experts required in connection with particular applications before it.

(2) The sheriff of each parish and the criminal sheriff of the parish of Orleans shall carry out the policies, decisions, and orders of the board and shall provide the office space and personnel in their respective parishes necessary to effectuate the purposes of this Chapter.

E. Upon request of the board, each state agency or institution shall make available, to the greatest practical extent, its services, equipment, personnel, facilities, and information, including recommendations, estimates, and statistics.

F. The board shall maintain a current record of the laws relating to crime victims reparations in other states and territories of the United States. The board need not keep a current record of laws in other countries. Upon request, the board shall assist Louisiana residents to determine if they meet the criteria specified in R.S. 46:1802(10)(b).

R.S. 46:1808. Procedure by the board; public hearings; right to counsel

A. Upon receipt of one or more applications for reparations resulting from the same crime, the board shall examine the application to determine that it is complete and shall schedule all of such claims for consideration at the same time. If the board determines that a hearing is necessary to a decision in the matter, it shall fix the day, time, and place thereof and shall notify the claimant or claimants and such other persons as have indicated a desire to be present or that the board desires to hear. The notice shall be in writing and shall be mailed by certified mail at least ten days prior to the day fixed for the hearing.

B. Hearings shall be open to the public unless in a particular case the board determines that all or part of the hearing should be closed, taking into consideration the fact that an accused has not been convicted or that a closed hearing is in the best interest of the victim. The applicant may appear and be heard and present evidence on his own behalf or through counsel or legal representative. Any person who has a substantial interest in the proceedings, as determined by the board, may appear before the board and shall have the right to introduce evidence and cross examine witnesses.

C. The members of the board and the attorney representing the board, if any, may question and cross examine witnesses. The board may bring before it physicians or other experts to examine any claimant. The board may receive in evidence any statement, document, information, or matter that it believes may contribute to the purposes of the hearing or to any of its deliberations, whether or not a hearing is held and whether or not any of them would be admissible in court.

R.S. 46:1809. Criteria for making awards; prohibitions; authority to deny or reduce awards

A. The board shall order the payment of reparations in an amount determined by it if, with or without hearings, it finds by a preponderance of the evidence that pecuniary loss was sustained by the victim or other claimant by reason of personal injury, death, or catastrophic property loss suffered by the victim and that such loss was proximately caused by a crime enumerated in R.S. 46:1805 and that such pecuniary loss has or will not be compensated from any collateral or other source.

B. In making its determination, the following provisions shall apply:

(1) A finding by the board, for purposes of considering an application for award under this Chapter, that the commission of a crime enumerated in R.S. 46:1805(A) resulted in a pecuniary loss covered by this Chapter shall be a sufficient finding with respect to the crimes giving rise to the application for a reparations award. However, the board may make a partial eligibility determination on an application prior to the incurring of a pecuniary loss by the victim or other claimant. When one part of an award is denied, the board shall favor a partial award over the 14 total denial. An order for reparations may be made whether or not any person is arrested, prosecuted, or convicted of the crime giving rise to the application for reparations. The board may suspend proceedings in the interest of justice if a civil or criminal action arising from such act or omission constituting the crime is pending or imminent.

(2) Conviction of an offender of a crime giving rise to the application for reparations under this Chapter shall be conclusive evidence that the crime was committed.

(3) (a) No award of reparations shall be made if the board finds that:

(i) The claimant failed or refused to cooperate substantially with the reasonable requests of appropriate law enforcement officials.

(ii) A totality of the circumstances indicate that the claimant was the offender or an accessory, or that an award to the claimant would unjustly benefit any of them. However, such ineligibility shall not apply if the claimant is a victim of human trafficking or trafficking of children for sexual purposes.

(b) The ineligibility provisions provided for in Items (a)(i) and (ii) of this paragraph shall not apply if the claim for reparations results from a sexually-oriented criminal offense.

(4) The board may deny or reduce an award:

(a) If it finds that the behavior of the victim at the time of the crime giving rise to the claim was such that the victim bears some measure of responsibility for the crime that caused the physical injury, death, or catastrophic property loss or for the physical injury, death, or catastrophic property loss. However, such ineligibility shall not apply if the claimant is a victim of a human trafficking-related offense as defined by R.S. 46:1805 or a sexually-oriented criminal offense as defined by R.S. 15:622.

(b) To the extent that the pecuniary loss is recouped from collateral or other sources.

(c) If it finds that the vehicle operated by the victim was without security as required by R.S. 32:861.

(d) If it finds that the victim was not wearing a safety belt in compliance with R.S. 32:295.1.

(e) If it finds that the victim was a willing passenger in a motor vehicle, boat, or aircraft that was operated by an individual who was in violation of R.S. 14:98 or 98.1.

(5) No reparations of any kind shall be awarded under this Chapter to a victim who is injured or killed while confined in any state, parish, or city jail, prison, or other correctional facility as a result of a conviction of any crime. However, if, prior to a conviction, the victim was injured or killed while incarcerated, the board may deny reparations if it is subsequently determined that the victim was guilty of the offense which resulted in his incarceration.

C. No victim or dependent shall be denied reparations solely because he or she is a relative of the offender or was living with the offender at the time of the injury or death. However, reparations may be awarded to a victim or dependent who is a relative, family or household member of the offender at the time of the award only if it can be reasonably determined that the offender will receive no substantial economic benefit or unjust enrichment from the award.

D. (1) When a victim applies for the recovery of restitution pursuant to R.S. 46:1806(F) the board shall order the payment of the restitution to the victim if all of the following conditions apply:

(a) The board determines that an offender was ordered to pay restitution to the victim as a condition of the offender's release on parole pursuant to R.S. 15:574.4.2(C)(1)(a).

(b) The restitution payments were directed to the Crime Victims Reparations Fund pursuant to R.S. 15:574.4.2(C)(1)(b).

(2) When the board orders payment pursuant to the provisions of Paragraph (1) of this Subsection, the provisions of Subsections A and B of this Section regarding criteria for and determinations of eligibility for reparations and determinations of the amount of reparations do not apply.

E. No victim or claimant shall be denied or otherwise deemed ineligible for reparations pursuant to this Chapter, nor shall any award for reparations pursuant to this Chapter be reduced, on the basis that the victim or claimant has any conviction or adjudication of delinquency, on the basis that the victim or claimant is currently on probation or parole, or on the basis that the victim or claimant has previously served any sentence of incarceration, probation, or parole unrelated to the offense for which reparations would otherwise be awarded pursuant to this Chapter.

R.S. 46:1810. Amount of reparations award

A. Awards payable under this Chapter shall not exceed fifteen thousand dollars in the aggregate for all claims arising out of the same crime except for those victims who are permanently, totally, or permanently and totally disabled as a result of the crime, the aggregate award shall not exceed twenty-five thousand dollars.

B. In no case shall the total aggregate of awards given during any fiscal year to claimants residing in the same parish exceed the total amount of costs levied, collected, and remitted by that parish to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice as required by R.S. 46:1816(D) for the preceding two fiscal years prior to the date of the crime to which this Chapter applies, or ten thousand dollars, whichever is greater. This Subsection shall not apply if the board determines that a qualified claimant would suffer severe and undue hardship if economic relief is not provided.

R.S. 46:1811. Reparation order; terms and conditions

A. The board may order the payment of an award in a lump sum or in installments. That part of an award equal to the amount of the pecuniary loss accrued to the date of the award shall be paid in a lump sum. In all other respects the board shall determine all matters respecting the payment of awards, consistent with the provisions of this Chapter.

B. (1) The board shall deduct from any payments it orders any amounts received from any collateral source.

(2) If a claimant receives payment from a collateral source after receiving an award from the Crime Victims Reparations Fund, then to the extent the total amount received exceeds the actual loss experienced the claimant shall reimburse the Crime Victims Reparations Fund, through the board.

C. The state treasurer shall pay to the person named in the order of payment of reparations the amount named therein in accordance with the provisions of such order.

D. The board shall not be subject to garnishment, execution, or attachment on any award.

R.S. 46:1812. Finality of decision

A decision or order of the board with respect to any application or claim for reparations shall be subject to review in accordance with the provisions of Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

R.S. 46:1813. Emergency awards

A. If it appears to the board prior to its taking action on a claim that an award likely will be made and that undue hardship will result to the claimant if no immediate economic relief is provided, the board may make an emergency award to the claimant pending its final decision in the case. The amount of an emergency award shall not exceed one thousand dollars.

B. The amount of any emergency award shall be deducted from any final award made to the claimant receiving the emergency award. The claimant shall repay to the board the excess of the emergency award over the final award, or the full amount if no final award is made. However, the board may waive all or part of the repayment if in its judgment repayment would cause severe financial hardship.

R.S. 46:1814. Effect of reparations award on right to recover damages in civil action; repayment of award

A. An order for reparations payments under this Chapter shall not affect the right of any person to institute a civil suit to recover damages for the personal injury, death, or catastrophic property loss from any other person. However, if damages in a civil action are recovered, from the offender or any other third party, the person shall reimburse the Crime Victims Reparations Fund, through the board, in an amount equal to the amount of the reparations award or such lesser amount as is recovered in damages in the civil action.

B. When any person who has received an award from the board files a civil action to recover damages, he shall, at the time of the filing of the suit, notify the board and the attorney general.

R.S. 46:1815. Recovery from the criminal

A. Whenever any person is convicted of a crime and an order for the payment of reparations is or has been made under this Chapter for a personal injury, death, or catastrophic property loss resulting from the act or omission constituting the crime for which conviction was had, the attorney general, within one year after the date on which the judgment of conviction becomes final, may institute a civil action against the convicted person for the recovery of all or any part of the reparations payment. The suit shall be instituted in the district court having jurisdiction in the parish in which such person resides or is found or, in Orleans Parish, in the civil district court for that parish. The court shall have jurisdiction to hear, determine, and render judgment in any such action. Any amount recovered under this Subsection shall be deposited in the state treasury and, after meeting the requirements of Article VII, Section 9 of the Constitution of Louisiana, credited to the Crime Victims Reparations Fund hereinafter created. If an amount greater than that paid pursuant to the order for payment of reparations is recovered and collected in any such action, the board shall pay the balance to the claimant.

B. The board shall provide the attorney general with such information, data, and reports as he may require to institute actions in accordance with this Section.

R.S. 46:1816. Crime Victims Reparations Fund; creation; sources of funds; uses

A. The Crime Victims Reparations Fund, hereinafter referred to as “the fund,” is hereby created in the state treasury.

B. The fund shall be composed of:

(1) Monies derived from appropriations by the legislature.

(2) All monies paid as a cost levied on criminal actions, as provided by R.S. 46:1816(D) and (E).

(3) Any federal monies made available to the state for victim compensation.

(4) All monies received from any action to recover damages for a crime which was the basis of a reparations award under this Chapter.

(5) Any restitution paid by an offender to a victim for damages for a crime which was the basis of a reparations award under this Chapter, and any restitution payments owed to a victim as a condition of an offender's release on parole but directed to the fund pursuant to R.S. 15:574.4.2(C)(1)(b).

(6) Any monies paid into the fund from a defendant’s escrow account, as provided by Chapter 21-C of this Title.

(7) Any gift, grant, devise or bequest of monies or properties of any nature or description.

(8) Monies deposited by the state treasurer from the collection of unclaimed prize money as provided for in R.S. 4:176 and R.S. 27:94, 252, 394 and 609, which shall be used exclusively to pay the expenses associated with health care services of victims of sexually oriented criminal offenses, including forensic medical examinations as defined in R.S. 15:622.

C. (1) Except as provided in Paragraph (2) of this Subsection, all monies deposited in the fund shall be used solely to pay reparation awards to victims pursuant to this Chapter and disbursements therefrom shall be made by the state treasurer upon written order of the board, signed by the chairman, or a court.

(2)(a) Monies received from the collection of unclaimed prize money as provided for in R.S. 4:176 and R.S. 27:94, 252, and 394 shall be used exclusively to pay the expenses associated with

healthcare services of victims of sexually oriented criminal offenses, including forensic medical examinations as defined in R.S. 15:622.

(b) Notwithstanding Subparagraph (a) of this Paragraph, for state Fiscal Years 2020-2021, 2021-2022, and 2022-2023, monies received from the collection of unclaimed prize money as provided for in R.S. 4:176 and R.S. 27:94, 252, and 394 shall be used exclusively to pay the expenses associated with healthcare services of victims of sexually-oriented criminal offenses, including forensic medical examinations as defined in R.S. 15:622, lost earnings, and the reasonable costs of administering this Section. Such reasonable costs include salary for one full-time employee, salary for one part-time employee, equipment, operating expenses, and software support.

(3) Monies directed to the fund pursuant to R.S. 15:574.4.2(C)(1)(b) may be used to pay restitution owed to a victim pursuant to R.S. 15:574.4.2(C)(1)(a) who applies for recovery of the restitution funds pursuant to the provisions of this Chapter.

D. (1)(a) In addition to any other costs otherwise imposed by law, a cost of not less than fifty dollars for felonies and seven dollars and fifty cents for misdemeanors and violations of municipal and parish ordinances is hereby levied in each criminal action, except traffic violations other than those driving offenses defined in Title 14 of the Louisiana Revised Statutes of 1950, which results in a conviction. These costs shall be paid by the defendant. No court may suspend or waive the imposition of the costs provided for in this Section unless the defendant is found to be indigent, all other court costs are suspended or waived and no other costs, fines or assessments are levied, whether provided by law or imposed by the court, or unless restitution is ordered.

(b) The recipient of the costs shall remit all costs so collected to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice on or before the first day of each calendar month to be deposited in the state treasurer's account for credit to the Crime Victims Reparations Fund after meeting the requirements of Article VII, Section 9 of the Constitution of Louisiana. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to the fund following compliance with the requirement of Article VII, Section 9(B) relative to the Bond Security and Redemption Fund.

(2) Notwithstanding the provisions of R.S. 46:1816(C), monies deposited in the Crime Victims Reparations Fund may be used to pay reasonable costs of administering this Chapter.
Disbursement of funds to pay such costs shall be made only on written authorization of the chairman or vice chairman of the board.

E. (1) In addition to other costs provided for in this Section, a person convicted of a felony, a misdemeanor, or a violation of an ordinance of any local government shall be assessed an additional two dollars as special costs. Such special costs shall be imposed by all courts, including mayor's courts and magistrate courts, and shall be used for the purpose of training local law enforcement officers as directed by the Peace Officer Standards and Training Council. The proceeds of the special costs shall be paid to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice to be used to train local law enforcement agencies. The court, public office, or local governing body collecting the special costs imposed herein shall retain two percent of such costs to defray the administrative expenses of collecting and remitting the special costs.

(2) The recipient of the costs shall remit all costs so collected pursuant to this Subsection and other provisions of this Section to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice on or before the first day of each calendar month to be deposited in the state treasurer's account for credit to the Crime Victims Reparations Fund after meeting the requirements of Article VII, Section 9 of the Constitution of Louisiana. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to the fund following compliance with the requirement of Article VII, Section 9(B) of the Constitution of Louisiana, relative to the Bond Security and Redemption Fund. The amount of money generated by the two dollar fee included in the Crime Victims Reparation Fund shall be used by the Louisiana Commission on Law Enforcement and Administration of Criminal Justice to train local law enforcement officers and to provide assistance to local law enforcement agencies.

R.S. 46:1817. Notification to potential applicants

A. (1) Every hospital licensed under the laws of this state shall display prominently in its emergency room posters giving notification of the existence of the crime victims reparations program. The board shall set standards for the location of the display and shall provide posters and general information regarding this Chapter to each hospital.

(2) Every hospital and healthcare provider licensed under the laws of this state shall make available to hospitals and healthcare providers a pamphlet containing an explanation of the billing process for services rendered pursuant to the provisions of R.S. 40:1216.1.

B. Application forms provided by the board shall be made available to individuals upon request at the parish sheriff's office.

C. The failure of any hospital, law enforcement agency, or agent or employee thereof to comply with the requirements of this Section shall not give rise to a cause of action by any person against such hospital, law enforcement agency or agent or employee thereof; nor shall such failure in any way affect the time limitations provided for in this Chapter.

R.S. 46:1818. Report to legislature and governor

The board shall submit an annual written report to the legislature and the governor detailing its activities during the preceding year. The report shall be made available electronically on the website of the Louisiana Commission on Law Enforcement. A sufficient number of copies shall be printed for distribution to the governor, the chairman of the House Committee on Judiciary, the chairman of the Senate Committee on Judiciary C, and to as many others as may be requested.

R.S. 46:1819. Penalty for fraud

No person shall procure or counsel another person to procure reparations under the provisions of this Chapter by any fraud. The penalty for the violation of the provisions of this Section shall be a fine of not more than five hundred dollars or imprisonment for not more than one year, or both.

R.S. 46:1820. Attorney fees

As part of an order resulting from a hearing, the board shall determine and award reasonable attorney's fees, commensurate with services rendered, to be paid from the fund in accordance with rules adopted by the board. Additional attorney's fees may be awarded by a court in the event of a review by the court in which the claimant prevails. Attorney's fees may be denied on a finding that the claim or appeal is frivolous. Awards of attorney's fees shall be in addition to awards of reparations and may be made whether or not compensation is awarded. In no event shall an award of attorney's fees be in excess of a rate of fifty dollars per hour.

R.S. 46:1821. Limited liability of the state

The state shall not be liable for the claim of any applicant in excess of the funds appropriated for the payment of claims under this Chapter.

R.S. 46:1822. Forensic medical exams; reimbursement

A. The board shall reimburse a healthcare provider who performs a forensic medical exam in the amount of six hundred dollars. The board shall reimburse the healthcare facility at which a forensic medical exam was conducted for the cost of performing the exam in the amount of one thousand dollars.

B. In order to be reimbursed for the costs of performing a forensic medical exam, the healthcare provider or the healthcare facility seeking reimbursement shall submit to the board an attestation that a forensic medical exam was conducted. The attestation shall contain only sufficient information to identify the victim, the date that the exam was performed, and the address to which payment can be made for the healthcare provider or healthcare facility. The board shall not require any billing documentation or medical records from the healthcare provider or the healthcare facility as a condition of payment under the provisions of this Section.

C. A request for reimbursement by a healthcare provider or healthcare facility for the performance of a forensic medical exam shall not constitute reparations and therefore shall be immediately payable and not require approval from the board as a condition of payment**.** The board shall direct payment to be made to a healthcare provider or healthcare facility no later than thirty calendar days from the date the attestation is submitted to the board by the healthcare provider or healthcare facility.

Chapter 21-B. Rights of Crime Victims and Witnesses

R.S. 46:1841. et seq. Rights of Crime Victims and Witnesses Act

R.S. 46:1841. Legislative intent

In recognition of the civic and moral duty of victims and witnesses of crime to cooperate fully and voluntarily with law enforcement and prosecutorial agencies, and in further recognition of the continuing importance of such citizen cooperation to state and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this state, the legislature declares its intent, in this Chapter, to ensure that all victims and witnesses of crime are treated with dignity, respect, courtesy, and sensitivity, and that the rights extended in this Chapter to victims and witnesses of crime are honored and protected by the law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protection afforded the criminal defendants.

R.S. 46:1842. Definitions

In this Chapter:

(1) "Crime" means an act defined as a felony, misdemeanor, or delinquency under state law.

(2) “Crime lab” means a laboratory that conducts a forensic analysis of physical evidence in criminal matters.

(3) "Crime victim who is a minor" means a person under the age of eighteen against whom any of the following offenses have been committed:

(a) Any homicide, or any felony offense defined or enumerated in R.S. 14.2(B).

(b) Any sex offense or human trafficking-related offense as defined or enumerated in R.S. 46:1844(W).

(c) The offenses of vehicular negligent injuring (R.S. 14:39.1) and first degree vehicular negligent injuring (R.S. 14:39.2).

(d) Any offense against the person as defined in R.S. 14:29 through R.S. 14:63.3.

(e) Any offense committed against a family or household member as defined in R.S. 46:2132 or dating partner as defined in R.S. 46:2151.

(f) The offense of violation of protective orders (R.S. 14:79).

(g) The offenses of voyeurism (R.S. 14:283.1), Peeping Tom (R.S. 14:284), and unlawful communications (R.S. 14:285).

(h) Any other offense which is a felony committed against any natural person.

(4) "Critical stage" means any judicial proceeding at which there is a disposition of the charged offense or a lesser offense, or a sentence imposed pursuant thereto.

(5) "Designated family member" means a family member or legal guardian of the victim who is a minor, a homicide victim, or victim who is unable to exercise his rights hereunder due to a serious disability. The designated family member shall be selected by a majority of the victim's family members and shall be afforded all of the rights accruing to victims under this Chapter. A substitution of the designated family member may be made upon agreement by the majority of the

victim's family members. In specific cases, the court or the district attorney may allow more than one designated family member.

(6) “Forensic medical examination” has the same meaning as provided in R.S. 15:622.

(7) “Healthcare provider” has the same meaning as provided in R.S. 40:1216.1.

(8) "Inmate" means a person convicted of a felony.

(9) "Judicial agency" means the district court and officers thereof, including the judge, the prosecutor, and the clerk of court, the Crime Victims Reparations Board, the Department of Public Safety and Corrections, and the division of probation and parole.

(10) "Judicial proceeding" means any contradictory proceeding held in open court.

(11) "Law enforcement agency" means the sheriff, constable, or police force as defined by law, and the Department of Public Safety and Corrections.

(12) "Registration" means the completion of a form which is filed with the law enforcement agency investigating the offense of which the person is a victim, as specified in R.S. 46:1844(T), which shall include an address and telephone number at which the victim or designated family member may be notified. Such forms shall be promulgated by the Louisiana Commission on Law Enforcement in accordance with R.S. 46:1844(R).

(13) “Sexual assault advocate” has the same meaning as provided in R.S. 46:2186.

(14) “Sexual assault collection kit” has the same meaning as provided in R.S. 15:624.

(15) "Victim" means a person against whom any of the following offenses have been committed:

(a) Any homicide, or any felony offense defined or enumerated in R.S. 14:2(B).

(b) Any sex offense or human trafficking-related offense as defined or enumerated in R.S. 46:1844(W).

(c) The offenses of vehicular negligent injuring (R.S. 14:39.1)and first degree vehicular negligent injuring (R.S. 14:39.2).

(d) Any offense against the person as defined in R.S. 14:29 through R.S. 14:63.3.

(e) Any offense committed against a family or household member as defined in R.S. 46:2132 or dating partner as defined in R.S. 46:2151.

(f) The offense of violation of protective orders (R.S. 14:79).

(g) The offenses of voyeurism (R.S. 14:283.1), Peeping Tom(R.S. 14:284), and unlawful communications (R.S. 14:285).

(h) Any other offense which is a felony committed against any natural person.

(16) "Victim notice and registration form" means a form promulgated by the Louisiana Commission on Law Enforcement in accordance with R.S. 46:1844(R) and distributed by a judicial or law enforcement agency on which a victim or witness or a family member of a victim or witness may indicate a request that he be afforded the rights prescribed in this Chapter or other criminal statutes relative to a crime of which he or a family member was a victim or witness.

(17) “Victim of sexual assault” means any natural person who presents as a victim of sexual assault as defined in R.S. 46:2184, or the family member of such person if the victim is under eighteen years of age, incompetent, or deceased, provided that in no instance does the term include a family member identified as the perpetrator.

(18) "Victim's family" includes a spouse, parent, child, stepchild, sibling, or legal representative of the victim, except when the person is in custody for an offense or is the defendant.

(19) "Witness" means any person who has been 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 been commenced.

R.S. 46:1843. Eligibility of victims

A victim has the rights and is eligible for the services under this Chapter regardless of when the victim reported the crime to law enforcement authorities.

R.S. 46:1844. Basic rights for victim and witness

A. Services and information concerning services available to victims and witnesses of a crime.

(1) The appropriate law enforcement agency shall ensure that crime victims and witnesses receive emergency, social, and medical services as soon as possible. The appropriate law enforcement agency shall also distribute to the victim or to the family of a homicide victim a victim notice and registration form promulgated by the Louisiana Commission on Law Enforcement and Administration of Criminal Justice, in conformity with Subsection R of this Section.

(2) The Department of Public Safety and Corrections shall maintain the Crime Victims Services Bureau presently in operation. The bureau shall publicize and provide a way for crime victims and their family members to be kept informed about the following:

(a) Successful court appeals.

(b) Committee on parole or pardon board hearings or other release hearings.

(c) Information regarding dates of possible release from physical custody, escape, apprehension, or otherwise.

(d) Beginning August 1, 2018, information regarding the process by which a victim may provide a reentry statement to request that the inmate be subject to certain proximity or contact restrictions as part of the inmate's parole conditions, if the inmate appeared before the committee on parole and was granted parole by the committee, and information on the availability of assistance to the victim in completing the reentry statement.

(e) Inquiries concerning the department's policies and programs for inmates.

(3) All law enforcement agencies having custody of those accused or convicted of the offenses enumerated in R.S. 46:1842(9) shall, pursuant to Article I, Section 25 of the Constitution of Louisiana, notify crime victims or designated family members who have properly registered concerning an accused's or a defendant's arrest, release on recognizance, posting of bond, release pending charges being filed, release due to rejection of charges by the district attorney, escape, or re-apprehension.

B. Advance notification to victim, or designated family member concerning judicial proceedings or probation hearing; right to be present. If requested by registering with the appropriate law enforcement or judicial agency as outlined in Subsection T of this Section, the clerk of court shall provide reasonable notice to a victim, or a designated family member of judicial proceedings relating to their case. The notice required pursuant to this Subsection may be made by any method reasonably calculated to notify the victim or designated family member of the judicial proceeding or a probation hearing in a timely manner.

C. Interviewing the victim and witness of a crime.

(1) The district attorney, prior to trial, shall make reasonable efforts to interview the victim or designated family member to determine the facts of the case and whether the victim or the family is requesting restitution.

(2) All law enforcement or judicial agencies shall provide a private setting for all interviewing of victims of crime. "Private setting" shall mean an enclosed room from which the occupants are not visible or otherwise identifiable and whose conversations cannot be heard from outside such room. Only those persons directly and immediately related to the interviewing of the victim, specifically the victim, a social worker, psychologist, or other professional, the victim advocate designated by the sheriff's office, or a representative from a not-for-profit victim service organization, including but not limited to rape crisis centers, domestic violence advocacy groups, and alcohol abuse or substance abuse groups providing emotional support to the victim, shall be present, unless the victim requests the exclusion of such person from the interview, and, when appropriate, the parent or parents of the victim.

(3) The victim and the victim's family may refuse any requests for interviews with the attorney for the defendant or any employee or agent working for the attorney for the defendant. If the victim is a minor, the parent or guardian of the victim may refuse to permit the minor to be interviewed by the attorney for the defendant or any employee or agent working for the attorney for the defendant. Before any victim may be subpoenaed to testify on behalf of a defendant at any pretrial hearing, the defendant shall show good cause at a contradictory hearing with the district attorney why the subpoena should be issued. Willful disregard of the rights of victims and witnesses as enumerated in this Paragraph may be punishable as contempt of court.

D. Consultation with the victim or the designated family member.

(1) The victim or the designated family member shall have the right to retain counsel to confer with law enforcement and judicial agencies regarding the disposition of the victim's case. The prosecutor may confer with the counsel retained by the victim or designated family member in the prosecution of the case. "Case" herein shall mean a criminal matter in which formal charges have been filed by the district attorney's office.

(2) Upon written notification to the district attorney's office received from the victim, or the designated family member, the district attorney's office shall, within a reasonable period of time following such notification, contact the victim and schedule a conference with the victim or a designated family member in order to obtain their view, either orally or in writing, regarding:

(a) The disposition of the criminal case by dismissal, plea, or trial.

(b) The use of available sentencing alternatives such as incarceration, probation, community service, and the payment of restitution to the victim.

E. Notification to employers. The victim or witness who so requests shall be assisted by judicial and law enforcement agencies in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of the victim or witness from work.

F. Notification of scheduling changes. Each victim or witness who has been scheduled to attend a criminal justice proceeding shall be notified as soon as possible by the agency scheduling his or her appearance of any change in scheduling which shall affect his or her appearance.

G. The victim and witness in the court setting. The court shall provide, whenever possible, a secure waiting area during court proceedings which does not require victims, witnesses, or homicide victims' families to be in close proximity to the defendants or their families or friends, and shall provide a secure waiting area in cases involving violent crimes. Upon request of a victim, victim's family, or witness, the court shall also provide, whenever possible, designated seating in a courtroom for victims, victims' families, and witnesses separate from defendants, defendants' families, or witnesses for defendants. The designated seating area should be positioned, whenever possible, in the courtroom in a way that does not require victims, victims' families, and witnesses to be in close proximity to defendants, defendants' families, or witnesses for defendants.

H. Presentence or postsentence reports. The victim or designated family member shall have the right to review and comment on the presentence or postsentence reports relating to the crime against the victim. The trial court shall regulate when and how the presentence report is provided to the victim or designated family member. The Department of Public Safety and Corrections shall regulate how the postsentence report is provided to the victim or designated family member.

I. Rules governing evidence and criminal procedure. The victim shall be protected at all times by all rules and laws governing the criminal procedure and the admissibility of evidence applicable to criminal proceedings.

J. Speedy disposition. The victim shall have the right to a speedy disposition and prompt and final conclusion of the case after conviction and sentencing. When ruling on a defense motion for continuance, the court shall consider the impact on the victim.
K. Right of victim or designated family member to be present and heard at all critical stages of the proceedings.

(1)(a) At all critical stages of the prosecution, if the victim or designated family member has is present, the court shall determine if the victim or designated family member wishes to make a victim impact statement. If the victim is not present, the court shall ascertain whether the victim or designated family member has requested notification and, if so, whether proper notice has been issued to the victim or designated family member, in accordance with Subsection B of this Section, by the clerk of court or by the district attorney's office. If notice has been requested and proper notice has not been issued, the court shall continue the proceedings until proper notice is issued.

(b) The victim and victim's family members shall have the right to make a written and oral victim impact statement as follows:

(i) Any written statement shall be made available to the state and the defendant and shall be made part of the record. The statement may be submitted by the district attorney upon request of the victim or designated family member. Upon request of the victim or designated family member, any such written statement may be sealed by the court after review by the parties.

(ii)The hearing at which an oral statement is provided to the court shall be subject to the limitations of relevance. In any case where the number of victim's family members exceeds three, the court may limit the in-court statements it receives from them to a fewer number of statements. The court may otherwise reasonably restrict the oral statement in order to maintain courtroom decorum. The defendant must be present for the victim impact statement. Upon motion of the state, the court may hear any such statement in camera.

(2) The statement of the victim or the victim's family may:

(a) Identify the victim of the offense.

(b) Itemize any economic loss that has been or may be reasonably suffered by the victim as a result of the offense.

(c) Identify any physical injury suffered by the victim as a result of the offense, along with its seriousness and permanence.

(d) Describe any change in the victim's personal welfare or familial relationships as a result of the offense.

(e) Identify any request for medical or counseling services needed by the victim or the victim's family as a result of the offense.

(f) Contain any other information related to the impact of the offense upon the victim or the victim's family that the trial court requires.

(g) Contain any other information that the victim or victim's family wishes to share with the court regarding the overall effect of the crime upon the victim and the victim's family.

(3)(a) Prior to the sentencing hearing, the court shall provide the counsel for the defendant, the victim, and the attorney for the state with notice of the maximum and minimum sentence allowed by law. The court shall allow the victim, or designated family member, and the prosecutor the opportunity to review any presentence investigation reports that have been prepared relating to the victim's case. The review of the presentence report shall be conducted under the supervision of the court.

(b) At the sentencing hearing, the court shall afford the counsel for the defendant, the attorney for the state, and the victim or designated family member an opportunity to comment upon matters relating to the appropriate sentence. Before imposing sentence, the court shall verify that the victim or designated family member was notified of the sentencing hearing and address the victim or designated family member personally, if the victim or designated family member is present at the sentencing hearing, to determine if the victim or designated family member wishes to present a written and oral impact statement pursuant to this Chapter.

L. Return of property to victim or family of victim. All judicial and law enforcement agencies shall expeditiously return any stolen or other personal property to victims or victims' families when no longer needed as evidence, at no cost to victims or their families.

M. Victims' right to seek restitution.

(1) If the defendant is found guilty, the court or committee on parole shall require the defendant to pay restitution to the appropriate party in an amount and manner determined by the court. In addition, the court or committee on parole may require the defendant to perform community service work in an amount and according to a schedule determined by the court.

(2) One of the conditions of work release shall be a requirement that an inmate pay from his earnings all restitution ordered by the court or the committee on parole. Even if no restitution has been ordered, the sheriff or director of the program shall have the right to require payment of restitution as a condition of work release.

(3) A victim shall not be required to pay recording fees for the filing of a restitution order with the clerk of court. The defendant shall be responsible for all costs associated with this action.

N. Duties of the Department of Public Safety and Corrections.

(1) In cases where the sentence is the death penalty, the victim's family shall have the right to be notified by the Department of Public Safety and Corrections of the time, date, and place of the execution, and a minimum of two representatives of the victim's family shall have the right to be present.

(2)(a) Upon filing of a victim notice and registration form by a victim or a family member, or a witness, it shall be the duty of the Department of Public Safety and Corrections, corrections services, at the time of the appeal, discharge, or parole of an inmate including a juvenile inmate, to notify all registered persons by mail or electronic communications of such appeal or release. Such form shall be included in the prisoner's commitment documents to be delivered to the warden of any state correctional facility where such prisoner has been committed or transferred.

(b) When an inmate who has been convicted of a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541 is eligible for release pursuant to R.S. 15:571.3, the Department of Public Safety and Corrections shall notify the victim or the victim's family, all persons who have filed a victim registration and notification form, the appropriate law enforcement agency, and the appropriate district attorney no later than sixty days prior to the inmate's release.

(c) Notice by electronic communications is allowed only in instances where the victim has opted-in to such form of notification during the registration process and is complete upon transmission.

(3)(a) In the event of an escape or absconding by an inmate including a juvenile inmate, from any facility under the jurisdiction of the Department of Public Safety and Corrections, corrections services, it shall be the duty of the department to immediately notify the victim, family member of the victim, or witness, at the most current address or phone number on file with the department and via electronic mail or communication of the escape by the most reasonable and expedient means possible. If the inmate is recaptured, the department shall send notice within forty-eight hours of regaining custody of the inmate. In no case shall the state be held liable for damages for any failure to provide notice pursuant to this Section.

(b) Notice by electronic mail communications is complete upon transmission.

(4) When an inmate in physical custody is within three months of his earliest projected release date, a registered victim may contact the Crime Victims Services Bureau of the Department of

Public Safety and Corrections, corrections services, to request a current photograph of the inmate. The department shall take all reasonable steps to provide a photograph to the registered victim as least ten days prior to the inmate's actual release.

O. Notification of pardon or parole. The Board of Pardons or the committee on parole, respectively, shall notify the victim or the victim's family and all persons who file a victim registration and notification form and the appropriate district attorney that a hearing has been set for the person convicted of the crime. The victim or victim's family shall have the right to make written and oral statements as to the impact of the crime at any hearing before the board or committee and to rebut any statements or evidence introduced by the inmate or defendant. The victim or the victim's family, a victim advocacy group, and the district attorney or his representative may also appear before the board or committee in person or by means of teleconference or telephone communication.

(2) Beginning August 1, 2018, when an inmate in physical custody is within three months of his earliest projected release date, a registered victim may contact the Crime Victim Services Bureau to submit a reentry statement to the committee on parole requesting that the inmate be subject to certain proximity or contact restrictions, as part of the inmate's parole conditions, that the victim believes are necessary for the victim's protection. The committee on parole may consider the victim's reentry statement only for the purpose of determining the inmate's parole conditions and not for the purpose of determining whether to order the release of the inmate on parole. A victim's reentry statement is not binding on the committee on parole, but shall be considered in concert with other relevant information when setting parole conditions. The provisions of this Paragraph apply only to those persons who are to appear at a hearing before the committee on parole to determine whether the person should be granted parole.

P. Notification concerning missing children. All law enforcement agencies shall expeditiously investigate all reports of missing children and shall inform the family members of such children of the status of the investigation.

Q. Victim assistance education and training. Victim assistance education and training shall be offered to persons taking courses at law enforcement training facilities.

R. Preparation of victim notice and registration forms.

(1) The Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall cause to be promulgated uniform victim notice and registration forms which outline and explain the rights and services established by this Chapter. This information shall be updated as necessary. The costs of developing the victim notice and registration form shall be funded by the Louisiana Commission on Law Enforcement and Administration of Criminal Justice.

(2) To the extent that funding is available for such purposes, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall develop and provide, by August 1, 2018, a system by which an agency may choose to complete and submit the uniform victim notice and registration form electronically and by which a victim may choose to receive all notices electronically.

S. Failure to comply. No sentence, plea, conviction, or other final disposition shall be invalidated because of failure to comply with the provisions of this Section.

T. Registration with the appropriate law enforcement or judicial agency.

(1) In order for a victim or designated family member to be eligible to receive notices hereunder, the victim or designated family member may complete a form promulgated by the Louisiana Commission on Law Enforcement and Administration of Criminal Justice. The form shall be completed by the victim or designated family member and shall be filed with the law enforcement agency investigating the offense of which the person is a victim, as defined in this Chapter. The completed victim notice and registration form shall be included in the documents sent by the law enforcement agency to the district attorney for prosecution. The district attorney shall include the completed victim notice and registration form with any subsequent bill of information or indictment that is filed with the clerk of court. Upon conviction, the victim notice and registration form shall be included in the documents sent by the clerk of court to the Department of Public

Safety and Corrections, the law enforcement agency having custody of the defendant, or the division of probation and parole.

(2) All victim notice and registration forms, and the information contained therein, shall be kept confidential by all law enforcement and judicial agencies having possession. The information shall be used only for the purposes required by this Chapter and shall be released only upon court order after contradictory hearing.
(3) The victim and designated family member shall have the right to register with the appropriate agency at any time and exercise prospectively the rights guaranteed by this Chapter. However, a victim or designated family member who does not register with the appropriate agency shall nevertheless be permitted to exercise the rights guaranteed by this Chapter insofar as possible.

U. No cause of action. Nothing in this Section shall be construed as creating a cause of action by or on behalf of any person for an award of costs or attorney fees, for the appointment of counsel for a victim, or for any cause of action for compensation or damages against the state of Louisiana, a political subdivision, a public agency, or a court, or any officer, employee, or agent thereof. Nothing in this Chapter precludes filing for a writ of mandamus as provided in the Code of Civil Procedure to compel the performance of a ministerial duty required by law.

V. Crime victim's assistance hotline. In furtherance of the purposes of this Section, a statewide crime victim's assistance hotline may be established. The Crime Victims Reparations Board along with the Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall jointly operate the hotline and periodically review the criteria and implementation procedures of said hotline.

W. Confidentiality of crime victims who are minors, victims of sex offenses, and victims of human trafficking-related offenses.

(1)(a) In order to protect the identity and provide for the safety and welfare of crime victims who are minors under the age of eighteen years and of victims of sex offenses or human trafficking-related offenses, notwithstanding any provision of law to the contrary, all public officials and officers and public agencies, including but not limited to all law enforcement agencies, sheriffs, district attorneys, judicial officers, clerks of court, the Crime Victims Reparations Board, and the Department of Social Services or any division thereof, shall not publicly disclose the name, address, contact information, or identity of crime victims who at the time of the commission of the offense are minors under eighteen years of age or of victims of sex offenses or human trafficking-related offenses, regardless of the date of commission of the offense. The confidentiality of the identity of the victim who at the time of the commission of the offense is a minor under eighteen years of age or the victim of a sex offense or human trafficking-related offense may be waived by the victim. The public disclosure of the name of the juvenile crime victim by any public official or officer or public agency is not prohibited by this Subsection when the crime resulted in the death of the victim. Nothing in this Subsection shall be construed to require the redaction of a victim's name when the named victim is the one requesting such documents, reports, or any other records.

(b) In order to protect the identity and provide for the safety and welfare of crime victims who are minors under the age of eighteen years and of victims of sex offenses or human trafficking-related offenses, notwithstanding any provision of law to the contrary, all attorneys shall not publicly disclose, except during trial, the name, address, contact information, or identity of crime victims who at the time of the commission of the offense are minors under eighteen years of age or of victims of sex offenses or human trafficking-related offenses, regardless of the date of commission of the offense. An attorney may lawfully utilize initials, abbreviations, or other forms of indefinite descriptions on documents used in the performance of their duties to prevent the public disclosure of the name, address, contact information, or identity of such crime victims. If the name, address, contact information, or identity of such a crime victim must be disclosed in a motion or pleading, that motion or pleading shall be filed with the court under seal. Failure to comply with this Subsection shall be punished as contempt of court.

(c) Notwithstanding the provisions of Subparagraphs (a) and (b) of this Paragraph, all information regarding juvenile crime victims that is required by a child abduction alert system which assists law enforcement in the successful resolution of child abduction cases, such as the AMBER Alert network, shall be made available to such alert system as quickly as possible.

(2) For purposes of this Section:

(a) "Human trafficking-related offense" shall include the perpetration or attempted perpetration of R.S. 14:46.2 or 46.3 or any other crime involving commercial sexual exploitation including R.S. 14:81.1, 81.3, 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 282.

(b) "Sex offense" shall include the perpetration or attempted perpetration of stalking (R.S. 14:40.2), misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1), obscenity (R.S. 14:106), or any offense listed in R.S. 15:541(24).

(3) Notwithstanding any other provision of law to the contrary, all public officials, officers, and public agencies, including but not limited to all law enforcement agencies, sheriffs, district attorneys, judicial officers, clerks of court, the Crime Victims Reparations Board, and the Department of Social Services or any division thereof, charged with the responsibility of knowing the name, address, contact information, and identity of crime victims who are minors or of crime victims of a sex offense or a human trafficking-related offense as a necessary part of their duties shall have full and complete access to this information regarding a crime victim who is a minor or a victim of a sex offense or a human trafficking-related offense. Either prior to or at the time of a request for information, the public official or officer or public agency shall take measures to prevent the public disclosure of the name, address, contact information, or identity of such a crime victim who is a minor or a victim of a sex offense or a human trafficking-related offense, which may include the use of initials, abbreviations, or any other form of concealing the identity of the victim on all public documents.

(4) The provisions of this Subsection shall not apply to the requirement of promptly informing a defendant or his attorney of the name of the victim of a sexual crime during pretrial discovery.

(5)(a) In order to provide for the safety and welfare of victims of crimes against family members, household members, or dating partners, notwithstanding any provision of law to the contrary, all public officials and officers and public agencies, including but not limited to all law enforcement agencies, sheriffs, district attorneys, judicial officers, clerks of court, the Crime Victims Reparations Board, and the Department of Children and Family Services or any division thereof, shall not publicly disclose the address or contact information of victims of crimes against family members, household members, or dating partners. The confidentiality of the address and contact information of the victim of a crime against a family member, household member, or dating partner may be waived by the victim.

(b) In order to provide for the safety and welfare of victims of crimes against family members, household members, or dating partners, notwithstanding any provision of law to the contrary, an attorney for any party shall be prohibited from publicly disclosing, except during trial, the address and contact information of victims of crimes against family members, household members, or dating partners. If the address and contact information of such a crime victim must be disclosed in a motion or pleading, that motion or pleading shall be filed with the court requesting that it be kept under seal. Failure to comply with the provisions of this Subparagraph shall be punishable as contempt of court.

(c) Notwithstanding any other provision of law to the contrary, all public officials, officers, and public agencies, including but not limited to all law enforcement agencies, sheriffs, district attorneys, judicial officers, clerks of court, the Crime Victims Reparations Board, and the Department of Children and Family Services or any division thereof, charged with the responsibility of knowing the address and contact information of victims of crimes against family members, household members, or dating partners as a necessary part of their duties shall have full and complete access to this information regarding a victim of a crime against a family member, household member, or dating partner. Either prior to or at the time of a request for information, the public official or officer or public agency shall take measures to prevent the public disclosure of the address and contact information of a victim of a crime against a family member, household member, or dating partner.

(d) For the purposes of this Section, "family member" and "household member" shall have the same definitions as in R.S. 46:2132 and "dating partner" shall have the same definition as in R.S. 46:2151.

X. All victims of violent crime shall have the right to access and obtain a copy of their initial police report at no cost to them.

Y. Notification when the defendant is found not competent to stand trial or not guilty by reason of insanity.

(1) When the defendant has been adjudicated as not competent to stand trial or has been found not guilty by reason of insanity and has been committed to the custody of the Louisiana Department of Health pursuant to Title XXI of the Code of Criminal Procedure, the Louisiana Department of Health shall notify the appropriate court of criminal jurisdiction and the district attorney if any of the following occur:

(a) The defendant is transferred to another facility.

(b) The defendant is placed on conditional release, including any material changes that are made to the conditions of his release.

(c) The defendant is released from custody.

(2)(a) Upon filing of a victim notice and registration form by a victim, a family member of a victim, or a witness, the district attorney's office shall notify by mail or electronic communications the victim or the victim's family and all persons who have filed a victim registration and notification form within thirty days of the receipt of notification.

(b) Notice by electronic communication shall be allowed only in instances where the registered person has opted in to such form of notification during the registration process and is complete upon transmission.

(3)(a) In the event of an escape or absconding of a defendant, including a juvenile defendant, from any facility under the jurisdiction of the Louisiana Department of Health or from a private mental institution where the defendant has been committed, the Louisiana Department of Health or the private mental institution shall immediately notify all of the following of the escape by the most reasonable and expedient means possible:

(i) The appropriate court of criminal jurisdiction.
(ii) The district attorney.
(iii) The victim, family member of the victim, or witness, if known to the department, at the most current address or phone number on file with the department.

(b) If the defendant is recaptured, the Louisiana Department of Health or the private mental institution shall send notice within forty-eight hours of regaining custody of the defendant.

(4) In no case shall the state be held liable for damages for any failure to provide notice pursuant to this Section.

> State v. Conerly, 989 So.2d 84 (La. 8/27/08). In this per curiam opinion, the Louisiana Supreme Court found that the right to confrontation contained in the United States Constitution is not implicated in this particular pre-trial matter wherein the defendant merely recited his "right to confront" the crime victim. The Louisiana Supreme Court recognized the right of a defendant to confront his accuser before trial as provided in Louisiana Constitutional Article I, Section 13 but also noted that the Louisiana Constitution protects the rights of crime victims to refuse to be interviewed by the accused pursuant to Louisiana Constitutional Article I, Section 25. In addition, the Louisiana Supreme Court found that Louisiana R.S. 46:1844(D)(3) provides that a defendant must show "good cause" at a contradictory hearing with the District Attorney why a crime victim should be subpoenaed to testify at any pre-trial hearing. The Court found that the "mere recitation of the defendant's confrontation rights" does not constitute "good cause" under the statute.

R.S. 46:1845. Sexual Assault Survivor Bill of Rights

A. (1) The legislature hereby finds and declares the urgent need to establish a comprehensive sexual assault survivor bill of rights. A bill of rights is of paramount importance in addressing the

alarming under-reporting of sexual assault cases and ensuring that survivors receive the support, protection, and justice they deserve.

(2) The legislature further finds that transparency is a core principle that our justice system should uphold. By enacting a Sexual Assault Survivor Bill of Rights, barriers that prevent survivors from coming forward and seeking justice can be eliminated. Transparency allows survivors to share their experiences openly, without fear of judgment or retribution. Transparency empowers survivors to reclaim their narratives and break free from the chains of shame and secrecy. Access to records is essential for transparency and for survivors to navigate the often complex and overwhelming legal process. It is a matter of justice and fairness that survivors have the right to access their records, including medical reports, forensic evidence, and legal documentation. This access enables survivors to make informed decisions about their healthcare, legal options, and support services. Granting survivors access to records empowers them to actively participate in their healing and seek the justice they so rightfully deserve.

(3) The recognition of rights for survivors is crucial in ensuring their well-being and recovery. The legislature finds that the experiences of survivors are valid, their voices matter, and they deserve to be treated with dignity, respect, and compassion.

(4) Subsection C of this Section shall be known and may be cited as the Sexual Assault Survivor Bill of Rights.

B. (1) The rights provided to sexual assault survivors contained in this Section attach whether a survivor seeks the assistance of law enforcement. A sexual assault survivor retains all the rights of these provisions regardless of whether the survivor receives a forensic medical examination or whether a sexual assault collection kit is administered.

(2) Notwithstanding any other provision of law to the contrary, nothing in this Section shall be construed to negate or impair any provision of law relative to the mandatory reporting of crimes against children under the age of eighteen years or to negate or impair the investigation or prosecution of any crime against children under the age of eighteen.

(3) Notwithstanding any other provision of law to the contrary, a defendant or person accused or convicted of a crime against a survivor does not have standing to seek to have their conviction or sentence set aside for any violation of the Sexual Assault Survivors' Bill of Rights.

B. A sexual assault survivor shall have the following rights:

(1) The right not to be prevented from, or charged for, receiving a forensic medical exam as provided in R.S. 40:1216.1.

(2) The right to have an unreported sexual assault collection kit preserved, without charge, for at least twenty years.

(3) The right to be informed of any results, updates, status, location, and tracking as provided in R.S. 15:624.1.

(4) The right to be informed in writing of policies governing the collection and preservation of a sexual assault collection kit.

(5) The right to be informed in writing from the appropriate official not later than sixty days before the date of the intended destruction or disposal of a sexual assault collection kit, and upon written request, the ability to be granted further preservation of the kit or its probative contents.

(6) The right to be notified of the ability to request the presence of a sexual assault advocate before the administration of a forensic medical examination or a scheduled interview by a law enforcement official if a sexual assault advocate is reasonably available.

(7) The right to have access to and obtain a copy of their forensic medical examination report at no cost to them pursuant to R.S. 40:1216.1(G).

(8) The right not to be requested or required to submit to a polygraph examination as a condition of an investigation or prosecution as provided in R.S. 15:241.

(9) The right to receive, at no cost, a copy of any records or investigative reports from law enforcement when those records are provided to the defendant through discovery or a year after the offense was reported, whichever is sooner.

(10) The right to have privileged communications with a representative or employee of a sexual assault center as provided in R.S. 46:2187.

(11) The right not to have the survivor's DNA obtained from a sexual assault collection kit compared with other DNA records to investigate the survivor as provided in R.S. 15:622.1.

(12) The right to retain any other rights that a survivor may have under any other law of this state.

D. Any complaint about a violation of this Section may be submitted directly to the Senate Select Committee on Women and Children for legislative oversight.

R.S. 46:1846. Communication between offender and victim prohibited; exceptions

A. A person who has been charged by bill of information or indictment with any crime of violence as defined in R.S. 14:2 committed upon any person, any felony sex offense as defined in R.S. 46:1844(W) committed upon any person, any felony human trafficking-related offense as defined in R.S. 46:1844(W) committed upon any person, or any offense, that is a felony, committed upon a family member, household member, or dating partner, as those terms are defined by R.S. 46:2132, or any immediate family member of such person, shall be prohibited from communicating, either by electronic communication, in writing, or orally, with a victim of the offense, or any of his immediate family members for which the person has been charged or for which disposition of the case is pending.

B. The provisions of Subsection A of this Section shall apply to communication between the offender or his immediate family member and the victim, or any of his immediate family members, unless the provisions of Paragraphs (1) and (2) of this Subsection are satisfied.

(1) The victim consents to the communication through the local prosecuting agency.

(2) The communication is made through the counsel of the offender, counsel’s staff or representative, or the offender himself if he is representing himself at trial.

C. A person who has been sentenced or found not guilty by reason of insanity for a crime of violence as defined in R.S. 14:2 committed upon any person, any felony sex offense as defined in R.S. 46:1844(W) committed upon any person, any felony human trafficking-related offense as defined in R.S. 46:1844(W) committed upon any person, or any offense, that is a felony, committed upon a family member, household member, or dating partner, as those terms are defined by R.S. 46:2132, or any immediate family member of such person, or any immediate family member of such person, shall be prohibited from communicating, either by electronic communication, in writing, or orally, with a victim of the offense, or any of his immediate family members, for which the person has been sentenced unless the victim or his immediate family members initiate the communication through the Department of Public Safety and Corrections, and it is agreed that the victim and the offender participate in a formally defined restorative justice program administered through the department. Any sentencing order issued pursuant to this Subsection shall be reflected in the sentencing minutes of the issuing court. The issuing court shall notify the Department of Public Safety and Corrections of the issuance of the sentencing order.

D. For purposes of this Section, “immediate family member” means the spouse, mother, father, aunt, uncle, sibling, or child of the offender, whether related by blood, marriage, or adoption.

E. (1) When a person is prohibited from communicating with another person pursuant to the provisions of this Section, a judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), to protect, at a minimum, a victim and the children of the victim, shall sign such order, and shall immediately forward it to the clerk of court for filing, on the next business day after the order is issued. The clerk of the issuing court shall transmit the Uniform

Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.

(2) If an order is issued pursuant to the provisions of this Section, it shall be presumed that the defendant poses a credible threat to the physical safety of the person or persons protected by the order, and the court shall order that the defendant be prohibited from possessing a firearm for the duration of the Uniform Abuse Prevention Order.

F. Whoever violates the provisions of this Section shall be subject to the provisions of R.S. 14:79.

Chapter 21-D. Family Justice Centers

R.S. 46:1860 et seq. Family Justice Centers

R.S. 46:1860. Purpose

The purpose of this Chapter is to provide multiagency and multidisciplinary support and services to victims of abuse, sexual assault, stalking, cyberbullying, and human trafficking, to ensure that victims are able to access all needed services, to enhance victim safety, to increase offender accountability, and to reduce to a minimum the number of times the victim is questioned and examined and the number of places a victim must go to receive assistance.

R.S. 46:1861. Family justice centers

A. (1) A family justice center may be established in any judicial district to provide support, services, and assistance to victims of the following types of offenses:

(a) Domestic abuse as defined by R.S. 46:2132(3) and dating violence as defined in R.S. 46:2151(C).

(b) Sexual assault which includes the commission of or the attempt to commit any offense listed in R.S. 15:541(24).

(c) Abuse of a person protected by the Adult Protective Services Act pursuant to R.S. 15:1501 et seq.

(d) Stalking including any action prohibited by R.S. 14:40.2 and 40.3.

(e) Cyberbullying as defined by R.S. 14:40.7.

(f) Human trafficking as defined by R.S. 14:46.2 and trafficking of children for sexual purposes as defined by R.S. 14:46.3.

(2) A family justice center may be established in one judicial district to serve those victims listed in Paragraph (1) of this Subsection from one or more geographically contiguous judicial districts.

B. (1) Each family justice center established pursuant to the provisions of this Chapter is authorized to consult with, contract with, work with, or be staffed, on a full- or part-time basis, by personnel from any of the following public, private, or nonprofit entities providing services within any of the judicial districts served by and participating in the family justice center:

(a) Federal or state law enforcement agencies.

(b) Health care provider as defined by R.S. 40:1237.1and 1231.1.

(c) Office of a district attorney or city prosecutor.

(d) Any agency or entity providing victim advocacy services.

(e) Community shelter for crime victims.

(f) Social service agency.

(g) Child welfare agency.

(h) Civil legal service providers.

(2) The list of entities provided in Paragraph (1) of this Subsection is not exclusive and each family justice center is authorized to consult with, contract with, work with, or be staffed by personnel from any other public, private, or nonprofit entity not specifically provided for in this Chapter that is necessary for providing services and assistance consistent with the purposes of this Chapter.

(3) Any person described in the provisions of this Subsection who is providing services to a family justice center shall comply with all laws, rules, or regulations governing their respective professions.

C. Each family justice center shall:

(1) Establish procedures for the ongoing input, feedback, and evaluation of the operations of the family justice center by survivors of violence and abuse and community-based crime victims service providers and advocates.

(2) Develop policies and procedures to ensure coordinated services are provided to victims and to enhance the safety of victims and personnel at the family justice center.

(3) Maintain a formal process for receiving feedback, complaints, and input from those persons receiving services at the family justice center and for addressing any concerns about services provided or the operations of any family justice center.

D. No family justice center shall:

(1) Deny services to any victim on the grounds of the victim's criminal history.

(2) Request the criminal history of a victim without the victim's written consent unless pursuant to a criminal investigation.

(3) Require a victim to participate in the criminal justice system or cooperate with law enforcement in order to receive counseling, medical care, or any other services at a family justice center.

(4) Require a victim to sign a consent form to share information in order to access services at the family justice center.

R.S. 46:1862. Confidentiality; information sharing

A. If a multi-disciplinary team (MDT) conference is formed under this statute and the district attorney and chief law enforcement agency in the parish participate, the MDT may obtain information from any public agency, department, or other organization, including material otherwise made confidential or privileged. Any confidential or privileged material or information obtained by an MDT member shall be disclosed only as necessary to other persons providing services to the same victim, and shall not be disclosed to an agency or individual outside of the family justice center unless otherwise required by law or court order.

B. The files, reports, records, communications, working papers, or any other material or information used or developed in providing services to a victim at the family justice center are confidential and not subject to the Public Records Law. Disclosure may be made only to another person providing services at the family justice center to the same victim and who needs access to the information or material in order to perform his duties and provide services to the victim consistent with the provisions of this Chapter.

C. (1) Each family justice center shall maintain a client consent policy and shall comply with all state and federal laws protecting the confidentiality rights and identity of the victim. Each family justice center shall have a designated privacy officer to develop and oversee privacy policies and procedures consistent with state and federal privacy laws.

(2) Each family justice center is required to obtain informed, written, and reasonably time-limited consent from the victim before sharing information obtained from the victim with any staff member, agency partner, or personnel providing services at the family justice center except as provided by the following:

(a) A family justice center is not required to obtain consent from the victim before sharing information obtained from the victim with any staff member, agency partner, or personnel who is also a mandatory reporter, a peace officer, or a member of the prosecuting team who is required by law to report or disclose specific information or incidents.

(b) Each family justice center is required to inform the victim that the information shared with staff members, partner agencies, or other personnel at the family justice center may be shared with law enforcement professionals without the victim's consent if there is a mandatory duty to report as required by law or the victim is a danger to himself or others. Each family justice center shall obtain written acknowledgment from the victim that the victim has been informed of this policy.

(3) Consent by the victim to share information within a family justice center pursuant to the provisions of this Section is not a universal waiver of any existing evidentiary privilege or confidentiality provision provided by law.

(4) Any oral or written communication or any document authorized by the victim to be shared for the purposes of enhancing safety and providing more effective and efficient services to the victim shall not be disclosed to any third party, unless that third-party disclosure is authorized by the victim, or required by other state or federal law or by court order.

D. Each family justice center shall maintain a formal training program with mandatory training of not less than eight hours per year for all persons providing services at the family justice center, including but not limited to training on evidentiary privileges, confidentiality provisions, information sharing, risk assessment, safety planning, victim advocacy, and high-risk case response.

R.S. 46:1863. Immunity from liability

A. A person providing services to a victim at a family justice center pursuant to the provisions of this Chapter shall not be liable for civil damages while acting in the official scope of his duties if the person, in good faith, makes a recommendation, gives an opinion, or releases or uses information for the purposes of protecting or providing services to the victim.

B. This limitation of civil liability does not apply if the person acted with gross negligence or in bad faith.

Chapter 28-B. Human Trafficking
Part I. Human Trafficking Victims

R.S. 46:2161. Human trafficking victims services plan; children

A. With respect to children found to be victims of human trafficking, the Department of Children and Family Services, in conjunction with the Louisiana Department of Health, shall develop a plan for the delivery of services to victims of human trafficking. Such plan shall include provisions for:

(1) Identifying victims of human trafficking in Louisiana.

(2) Assisting victims of human trafficking with applying for federal and state benefits and services to which they may be entitled.

(3) Coordinating the delivery of health, mental health, housing, education, job training, child care, victims' compensation, legal, and other services to victims of human trafficking.

(4) Preparing and disseminating educational and training programs and materials to increase awareness of human trafficking and services available to victims of human trafficking among local departments of social services, public and private agencies and service providers, and the public.

(5) Referring child victims to the appropriate community-based services for victims of human trafficking.

(6) Assisting victims of human trafficking with family reunification or return to their place of origin, if the victims so desire.

B. In developing the plan, the departments shall work together with such other state and federal agencies, public and private entities, and other stakeholders as they deem appropriate.

C. (1) Each private entity that provides services to victims pursuant to the provisions of this Section shall submit to the governor’s office of human trafficking prevention and to the Department of Children and Family Services an annual report on their operations including information on the services offered, geographic areas served, the number of persons served, and individual status updates on each person served. This information shall not include the name, address, or other identifying information of the person served. The governor’s office of human trafficking prevention shall compile the data from all the reports submitted pursuant to the provisions of this Subsection and shall provide this information to the legislature on or before the first day of February each year.

(2) Each statewide and local law enforcement entity that investigates cases of human trafficking or related sexual offenses and that provides services to victims pursuant to the provisions of this Section shall submit to the governor's office of human trafficking prevention and to the Department of Children and Family Services an annual report on their operations including information on type of investigation, outcome of the investigation, and any services offered to victims, and demographic information related to the case and services offered.

(3) Each district attorney who prosecutes cases of human trafficking or related sexual offenses or that provides services to victims pursuant to the provisions of this Section shall submit to the governor's office of human trafficking prevention and to the Department of Children and Family Services an annual report on their operations including the prosecuting agency's name, parish, disposition of case, statute under which the offense was prosecuted, sentencing date, restitution ordered, restitution paid, value of assets from civil asset forfeiture, and any services offered to victims.

R.S. 46:2161.1. Human trafficking victims services plan; adults

A. With respect to any person referred to the Department of Children and Family Services who is eighteen years of age or older and who is found to be a victim of human trafficking in which the trafficking activity included commercial sexual activity or any sexual conduct constituting a crime under the laws of this state, the department shall refer the person to the appropriate department, agency, or entity to provide the person with the following:

(1) Assistance in applying for federal and state benefits and services to which the victim may be entitled.

(2) Coordination of the delivery of health care, mental health care, housing, education, job training, childcare, victims' compensation, legal, and other services available to victims of human or sex trafficking.

(3) Referral to the appropriate community-based services to the extent that such services are available.

(4) Assistance with family reunification or returning to the victim's place of origin, if the victim so desires.

B. In coordinating these services for the victim, the department shall work together with such other state and federal agencies, public and private entities, and other stakeholders as they deem appropriate.

C. (1) Each private entity that provides services to victims pursuant to the provisions of this Section shall submit to the governor's office of human trafficking prevention and to the Department of Children and Family Services an annual report on their operations including information on the services offered, training or certifications received specific to human trafficking, geographic areas served, the number of persons served, and individual status updates on each person served. This information shall not include the name, address, or other identifying information of the person served. The governor's office of human trafficking prevention shall compile the data from all the reports submitted pursuant to the provisions of this Subsection and shall provide this information to the legislature on or before the first day of February each year.

(2) Each statewide and local law enforcement entity that investigates cases of human trafficking or related sexual offenses and that provides services to victims pursuant to the provisions of this Section shall submit to the governor's office of human trafficking prevention and to the Department of Children and Family Services an annual report on their operations including information on the type of investigation, outcome of the investigation, and any services offered to victims, and demographic information related to the case and services offered.

(3) Each district attorney who prosecutes cases of human trafficking or related sexual offenses or that provides services to victims pursuant to the provisions of this Section shall submit to the governor's office of human trafficking prevention and to the Department of Children and Family Services an annual report on their operations including the prosecuting agency's name, parish, disposition of case, statute under which the offense was prosecuted, sentencing date, restitution ordered, restitution paid, value of assets from civil asset forfeiture, and any services offered to victims.

R.S. 46:2162. Assistance to victims of human trafficking

A. Classification of victims of human trafficking. As soon as practicable after the initial encounter with a person who reasonably appears to a law enforcement agency, a district attorney's office, or the office of the attorney general to be a victim of human trafficking, such agency or office shall:

(1) Notify the Louisiana Victim Outreach of the Department of Public Safety and Corrections that such person may be eligible for services under this Chapter.

(2) Make a preliminary assessment of whether such victim or possible victim of human trafficking appears to meet the criteria for certification as a victim of a severe form of trafficking as defined in the federal Trafficking Victims Protection Act (22 U.S.C. 7101 et seq.) or appears to be otherwise eligible for any federal, state, or local benefits and services.

(a) If it is determined that the victim or possible victim appears to meet such criteria, then the agency or office shall report the finding to the victim and shall refer the child victim to appropriate services available, including legal services providers.

(b) If the victim or possible victim is under the age of eighteen or is an adult in need of protective services pursuant to the provisions of the Adult Protective Services Act, the agency or office shall also notify the appropriate protective service agency.

B. Law enforcement assistance with respect to immigration.

(1) After the agency or office makes a preliminary assessment pursuant to Paragraph (A)(2) of this Section that a victim or possible victim of human trafficking appears to meet the criteria for certification as a victim of a severe form of trafficking as defined in the federal Trafficking Victims Protection Act, and upon the request of such victim, the agency or office shall provide the victim or possible victim of human trafficking with a completed and executed United States Citizenship and Immigration Services (USCIS) Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Human Trafficking in Persons, or a USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification, or both. These forms shall be completed by the certifying officer in accordance with the forms' instructions and applicable rules and regulations.

(2) The victim or possible victim of human trafficking may choose which form to have the certifying officer complete.

R.S. 46:2163. Civil cause of action for victims of human trafficking

An individual who is a victim of human trafficking shall have a civil cause of action in district court for injunctive relief and to recover actual damages, compensatory damages, punitive damages, and for any other appropriate relief. A prevailing plaintiff shall also be awarded court costs and attorney fees. Treble damages shall be awarded on proof of actual damages where the defendant's actions were willful and malicious.

Part II. Human Trafficking Prevention Commission
R.S. 46:2165. Louisiana Human Trafficking Prevention Commission

A. The Louisiana Human Trafficking Prevention Commission is hereby created within the office of the governor and placed within the office of human trafficking prevention.

B. The commission shall do the following:

(1) Assist state and local leaders in developing and coordinating human trafficking prevention programs.

(2) Conduct a continuing comprehensive review of all existing public and private human trafficking victim assistance programs to identify gaps in prevention and intervention services.

(3) Increase coordination among public and private programs to strengthen prevention and intervention services.

(4) Make recommendations with respect to human trafficking prevention and intervention.

(5) Develop a state needs assessment and a comprehensive and integrated service delivery approach that meets the needs of all human trafficking victims.

(6) Establish a method to transition human trafficking victim assistance service providers toward evidence-based national best practices focusing on outreach and prevention.

(7) Develop a plan that ensures that Louisiana laws on human trafficking are properly implemented and provide training to law enforcement, the judiciary, and service providers.

(8) Review the statutory response to human trafficking, analyze the impact and effectiveness of strategies contained in Louisiana law, and make recommendations on legislation to further anti-trafficking efforts.

(9) Develop mechanisms to promote public awareness of human trafficking, including promotion of the national twenty-four-hour toll-free hotline telephone service on human trafficking.

(10) Promote training courses and other educational materials for use by persons required to undergo training on the handling of, and response procedures for, suspected human trafficking activities.

(11) Develop a framework to collect and integrate data and measure program outcomes.

(12) Receive reports and recommendations from the Human Trafficking Prevention Commission Advisory Board.

(13) Do all other things reasonably necessary to accomplish the purposes for which the commission is created.

C. In order to carry out its purposes and functions, the commission may request data and assistance from state departments and agencies. When the commission requests a state department or agency to provide needed data or assistance, the department or agency shall give priority to the request and shall provide the data or assistance as requested. The commission shall maintain the

confidentiality of any information or records provided to it by state departments and agencies, as required by laws relative to such information and records.

D. The commission shall annually issue a report of its findings and recommendations to the governor, the speaker of the House of Representatives, and the president of the Senate. The commission shall issue its initial report on or before February 1, 2018, and shall issue annual reports no later than the first day of February each year thereafter. The report may include any recommendations for legislation that the commission deems necessary and appropriate. Legislation may be recommended by the commission only upon approval by a two-thirds vote of the commission members present.

R.S. 46:2166. Composition of the commission

A. The commission shall be composed of the following members:
(1) The president of the Louisiana Senate or his designee.
(2) The speaker of the Louisiana House of Representatives or his designee.
(3) The attorney general of the state of Louisiana or his designee.
(4) The secretary of the Louisiana Workforce Commission or his designee.
(5) The state superintendent of education or his designee.
(6) The deputy secretary of the office of juvenile justice of the Department of Public Safety and Corrections or his designee.
(7) The secretary of the Department of Children and Family Services or his designee.
(8) The secretary of the Louisiana Department of Health or his designee.
(9) The secretary of the Department of Public Safety and Corrections or his designee.
(10) The superintendent of the Louisiana State Police or his designee.
(11) The president of the Louisiana Association of Chiefs of Police or his designee.
(12) The executive director of the Louisiana Sheriffs' Association or his designee.
(13) The chief justice of the Louisiana Supreme Court or his designee.
(14) A representative of the Human Trafficking Prevention Commission Advisory Board selected by its members.
(15) The executive director of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice.
(16) The state public defender or his designee.
(17) The executive director of the Louisiana District Attorneys Association or his designee.
(18) The executive director of the governor's office of human trafficking prevention.

B. At the first meeting, the members of the commission shall elect from their membership a chairman and a secretary and such other offices as the commission may deem advisable. The president of the Senate or his designee shall preside over the commission until a chairman is elected by the commission.

C. Each member of the commission shall serve for a term concurrent with that of the governor.

D. (1) Each member shall be entitled to designate a single individual as his proxy for the duration of the member's term to serve on any occasion that the member is unable to attend a meeting of the commission. The term of the designated proxy shall be the same as that of the member. A member appointing a designated proxy shall make his appointment known to the chairperson and to the secretary of the commission.

(2) The proxy appointed by a member shall not be subject to the same nominating and appointment procedures that are required for the member for whom he is serving.

(3) No individual shall serve as proxy pursuant to the provisions of this Subsection for more than one member of the commission.

E. Legislative members of the commission shall receive the same per diem and reimbursement of travel expenses as is provided for legislative committees under the rules of the respective houses in which they serve. Nonlegislative commission members shall serve without compensation or per diem.

R.S. 46:2167. Meetings

A. The commission shall hold public meetings quarterly except as otherwise provided by vote of the commission or by order of the chairperson. The governor shall call the first meeting by August 1, 2017.

B. A simple majority of the commission membership shall constitute a quorum for the transaction of business.

C. The commission may establish subcommittees within the commission and appoint members to those subcommittees, including persons outside of the commission membership, as it deems necessary and appropriate to accomplish its goals.

D. The office of human trafficking prevention within the office of the governor shall provide to the commission such clerical, administrative, and technical assistance and support as may be necessary to enable the commission to accomplish its goals.

R.S. 46:2168. Human Trafficking Prevention Commission Advisory Board

A. The Human Trafficking Prevention Commission Advisory Board, hereinafter referred to as "advisory board", is hereby created. The purpose of the advisory board shall be to provide information and recommendations from the perspective of advocacy groups, service providers, and victims. Primary responsibilities of the Human Trafficking Prevention Commission Advisory Board are the following:

(1) To ensure information sharing between governmental and nongovernmental entities serving victims of human trafficking.

(2) To make recommendations to the Human Trafficking Prevention Commission as requested by the commission.

(3) To make recommendations to the Human Trafficking Prevention Commission as determined to be necessary by the advisory board.

(4) To make recommendations by August thirty-first of each year to the Human Trafficking Prevention Commission as to the budget priorities for the coming year.

(5) To make recommendations by November thirtieth of each year to the Human Trafficking Prevention Commission as to specific budget items to be supported in the Children's Budget.

(6) To make an annual report by January thirty-first of each year to the legislature, Senate Committee on Health and Welfare, the House Committee on Health and Welfare, Select Committee on Women and Children, and any other legislative committee requesting a copy of the annual report, which shall summarize the well-being of Louisiana's children, the accomplishments of the past year, and specific goals and priorities for the next fiscal year.

B. The advisory board shall be composed of the following members appointed by the governor:

(1) A public defender nominated by the Louisiana Public Defender Board or its designee.

(2) A member nominated by the Louisiana District Attorneys Association.

(3) A member nominated by the Louisiana Association of Juvenile and Family Court Judges.

(4) A member nominated by the Louisiana Chapter, American College of Emergency Physicians.

(5) A member nominated by the Louisiana Chapter, National Association of Social Workers.

(6) An individual with expertise in advocacy for adult victims of human trafficking.

(7) The executive director of a residential program for victims of human trafficking.

(8) The executive director of a direct service program for victims of human trafficking.

(9) An individual with expertise in advocacy for child victims of human trafficking, nominated by the executive director of the Children's Cabinet or his designee.

(10) At least two individuals who are adult survivors of human trafficking, nominated by nonprofit organizations serving victims.

(11) A member nominated by Prevent Child Abuse Louisiana.
(12) A member nominated by the Juvenile Justice and Delinquency Prevention Advisory Board.

(13) A member nominated by the Louisiana Families In Need of Services Association.

(14) A member nominated by LouisianaChildren.org.

(15) A member nominated by the Louisiana Association of Nonprofit Organizations.

(16) A member with experience related to exploitation, nominated by the Louisiana Council of Child and Adolescent Psychiatry or its designee.

(17) A member nominated by the Louisiana School Counselors Association.

(18) A member nominated by the Louisiana Association of Children and Family Agencies.

(19) A member nominated by Louisiana Children's Advocacy Centers.

(20) A licensed psychologist with experience related to exploitation, nominated by the Louisiana State Board of Examiners of Psychologists.

(21) A member nominated by the Foundation Against Sexual Assault.

(22) A member nominated by the Louisiana Chapter of the American Academy of Pediatrics or its designee.

C. Each member shall serve for a term concurrent with that of the governor. All members shall serve without compensation.

D. The advisory board shall be invited to all commission meetings and may participate in its discussions but shall have no vote on any matter brought before the commission.

E. The advisory board shall elect as officers a chairperson, vice chairperson, and secretary from its membership and shall meet as needed. The advisory board shall create its own bylaws. Unless the bylaws provide for a greater quorum requirement, the presence in person or by proxy of one-third of the members who have been appointed by the governor shall constitute a quorum at the meetings of the advisory board.

F. The advisory board may appoint from time to time, to serve at its pleasure, additional members to serve on matters about which such additional members have expertise or experience. In the consideration of those matters for which an additional member is appointed, he shall have the same powers and duties during the period of his service as are enjoyed by the membership provided by Subsection B of this Section.

R.S. 46:2169. Office of human trafficking prevention

A. The office of human trafficking prevention is hereby created within the office of the governor for the purpose of coordinating resources of public and private entities that develop, manage, operate, and support services and programs for human trafficking victims. The office shall exercise the powers and duties provided in this Part or otherwise provided by law.

B. The office shall be administered by an executive director who shall be appointed by the governor, subject to confirmation by the Senate, to serve at his pleasure.

C. The executive director shall employ necessary staff to carry out the duties and functions of the office as provided in this Part or as otherwise provided by law.

R.S. 46:2169.1. Powers and duties

The office shall have the following powers and duties:

(1) To collect all relevant information including facts and statistics related to human trafficking.

(2) To conduct studies of human trafficking activity in Louisiana.

(3) To identify and make available to state agencies and other stakeholders the information on the best practices related to human trafficking activities and the prevention thereof in Louisiana and throughout the nation.

(4) To develop and implement a comprehensive strategic plan to prevent 6 human trafficking and address the needs of human trafficking victims, which shall be provided to the legislature, the Department of Children and Family Services, and any entity required to submit a report under the provisions of R.S. 9 46:2161(C) and Children's Code Article 725.2(B) by February 1, 2022.

(5) To assist state agencies in reducing duplication of effort in the prevention of human trafficking and the provision of services to human trafficking victims.

(6) To monitor availability of funds from federal and other sources for financing the provision of services to and programs for human trafficking victims and seek funding where appropriate.

(7) To assist state departments and agencies and other stakeholders in drafting plans to maximize the impact of the use of funds identified in Paragraph (6) of this Section.

(8) To maintain a current list of public and private stakeholders providing services to and programs for human trafficking victims.

(9) To monitor and evaluate the effectiveness and efficiency of programs that provide services to and programs for human trafficking victims, and annually report its findings and recommendations to the legislature, the Department of Children and Family Services, and any entity required to submit a report under the provisions of R.S. 46:2161(C) and Children's Code Article 725.2(B).

(10) To provide the leadership and clerical, administrative, and technical assistance and support necessary for the Louisiana Human Trafficking Prevention Commission and the Human Trafficking Prevention Commission Advisory Board to fulfill their duties.

(11) To create and submit reports as required by law.

(12) To compile and submit data to the legislature as provided by law.

(13) To perform all functions reasonably necessary to accomplish the purposes for which the office is created

CRIMINAL ORDERS OF PROTECTION

Louisiana Code of Criminal Procedure

Title I. Preliminary Provisions and General Powers of Court

C.Cr.P. Art. 26. et seq. Peace Bonds

C.Cr.P. Art. 26. Power to order peace bonds
A magistrate may order a peace bond in conformity with the provisions of this Chapter.

C.Cr.P. Art. 27. Application for peace bond; examination

An applicant for a peace bond shall file an affidavit charging that the defendant has threatened or is about to commit a specified breach of the peace. The magistrate with whom the application is filed may examine under oath the complainant and any witnesses produced.

C.Cr.P. Art. 28. Issuance of summons or warrant of arrest

If the magistrate is satisfied that there is just cause to fear that the defendant is about to commit the threatened offense, he shall issue a summons ordering the defendant to appear before him at a specified time and date. The magistrate may issue a warrant of arrest when imminent and serious harm is threatened.

C.Cr.P. Art. 29. Peace bond hearing; costs

A. When a defendant appears before the magistrate, a contradictory hearing to determine the validity of the complaint shall be held immediately either in chambers or in open court. If the magistrate determines that there is just cause to fear that the defendant is about to commit the threatened offense, he may order the defendant to give a peace bond. Otherwise, he shall discharge the defendant.

B. The applicant for a peace bond shall pay as advanced court costs a fee of fifteen dollars for each defendant summoned to a hearing. If the magistrate discharges the defendant, the costs shall be paid by the applicant. If the magistrate orders the defendant to give a peace bond, the costs shall be paid instead by the defendant. However, the court may assess those costs, or any part thereof, against any party, as it may consider equitable. An applicant for a peace bond who is seeking protection from domestic abuse, dating violence, stalking, or sexual assault shall not be required to prepay or be cast with court costs or cost of service or subpoena for the issuance of a peace bond.

C. Costs may be waived for an indigent applicant or defendant who complies with the provisions of Chapter 5 of Book IX of the Louisiana Code of Civil Procedure. The proceeds derived from these costs shall be deposited and used by the court in accordance with the provisions of R.S. 13:1899(B).

C.Cr.P. Art. 30. The peace bond

A. The peace bond shall be for a specified period, not to exceed six months, and its condition shall be that the defendant will not commit the threatened or any related breach of the peace. The bond shall be for a sum fixed by the magistrate. When fixed by a justice of the peace, the maximum amount of the bond shall not exceed one thousand dollars.

B. If the peace bond is for the purpose of preventing domestic abuse or dating violence, the magistrate shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall immediately forward it to the clerk of court for filing on the day that the order is issued. The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside by facsimile transmission or direct electronic input 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. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.

C. The peace bond obligation shall run in favor of the clerk or judge of the court ordering the bond, in favor of the city when ordered by the mayor of a mayor's court, or in favor of the police jury when the bond is ordered by a justice of the peace. The proceeds shall be disposed of in the manner provided by law.

D. The types of security for a peace bond shall be governed by the bail bond rules set forth in Title VIII, as far as applicable.

C.Cr.P. Art. 31. Failure to give peace bond; effect

If the defendant fails to give the peace bond required under Articles 29 and 30, he shall be committed to jail. The defendant may be discharged by the committing or some other magistrate upon giving bond as ordered. The committing magistrate may revoke or modify his order for a peace bond.

A defendant who has been committed for failure to give a peace bond ordered by a justice of the peace may not be held longer than five days.

C.Cr.P. Art. 32. Forfeiture of peace bond

When the magistrate determines that a breach of peace in violation of a peace bond has been committed, he shall order a forfeiture of the bond and send notice of the forfeiture by certified mail to the defendant and to his surety. If neither the defendant nor his surety appears within fifteen days to contest the forfeiture, the order shall become final and executory.

C.Cr.P. Art. 33. Automatic discharge

A peace bond is automatically discharged at the end of thirty days from the expiration of the period specified therein, unless a proceeding to declare a forfeiture has been brought within that time.

Title VIII. Bail

C.Cr.P. Art. 313. Gwen's Law; bail hearings; detention without bail

A. (1) This Paragraph may be cited as and referred to as “Gwen's Law”.

(2) A contradictory bail hearing, as provided for in this Paragraph, may be held prior to setting bail for a person in custody who is charged with domestic abuse battery, violation of protective orders, stalking, or any felony offense involving the use or threatened use of force or a deadly weapon upon the defendant's family member, as defined in R.S. 46:2132 or upon the defendant's household member as defined in R.S. 14:35.3, or upon the defendant's dating partner, as defined in R.S. 46:2151. If the court orders a contradictory hearing, the hearing shall be held within five days from the date of determination of probable cause, exclusive of weekends and legal holidays. At the contradictory hearing, the court shall determine the conditions of bail or whether the defendant should be held without bail pending trial. If the court decides not to hold a contradictory hearing, it shall notify the prosecuting attorney prior to setting bail.

(3) In addition to the factors listed in Article 316, in determining whether the defendant should be admitted to bail pending trial, or in determining the conditions of bail, the judge or magistrate shall consider the following:

(a) The criminal history of the defendant.

(b) The potential threat or danger the defendant poses to the victim, the family of the victim, or to any member of the public, especially children.

(c) Documented history or records of any of the following: substance abuse by the defendant; threats of suicide by the defendant; the defendant's use of force or threats of use of force against any victim; strangulation, forced sex, or controlling the activities of any victim by the defendant; or threats to kill. Documented history or records may include but are not limited to sworn affidavits, police reports, and medical records.

(4) Following the contradictory hearing and based upon the judge's or magistrate's review of the factors set forth in Subparagraph(A)(3) of this Article, the judge or magistrate may order that the defendant not be admitted to bail, upon proof by clear and convincing evidence either that the defendant might flee, or that the defendant poses an imminent danger to any other person or the community.

(5) If bail is granted, with or without a contradictory hearing, the judge or magistrate shall comply with the provisions of Article 320, as applicable. The judge or magistrate shall consider, as a

condition of bail, a requirement that the defendant wear an electronic monitoring device and be placed under active electronic monitoring and house arrest. The conditions of the electronic monitoring and house arrest shall be determined by the court and may include but are not limited to limitation of the defendant's activities outside the home and a curfew. The defendant may be required to pay a reasonable supervision fee to the supervising agency to defray the cost of the required electronic monitoring and house arrest. A violation of the conditions of bail may be punishable by revocation of the bail undertaking and the issuance of a bench warrant for the defendant's arrest or remanding of the defendant to custody or a modification of the terms of bail.

B. Upon motion of the prosecuting attorney, the judge or magistrate may order the temporary detention of a person in custody who is charged with the commission of an offense, for a period of not more than five days, exclusive of weekends and legal holidays, pending the conducting of a contradictory bail hearing. Following the contradictory hearing, upon proof by clear and convincing evidence either that there is a substantial risk that the defendant might flee or that the defendant poses an imminent danger to any other person or the community, the judge or magistrate may order the defendant held without bail pending trial.

C. (1) A contradictory bail hearing, as provided for in this Paragraph, shall be held prior to setting bail for a person in custody who is charged with the commission of a sex offense and who has been previously convicted of a sex offense.

(2) The court, after having been given notice of an applicable prior conviction as described in Subparagraph (5) of this Paragraph, shall order a contradictory hearing to be held within five days of receiving notice of the prior conviction, exclusive of weekends and legal holidays.

(3) At the contradictory hearing the court, in addition to hearing whatever evidence it finds relevant, shall, on motion of the prosecuting attorney, perform an in camera examination of the evidence against the accused.

(4) In addition to the factors listed in Article 316, the court shall take into consideration the previous criminal record of the defendant; any potential threat or danger the defendant poses to the victim, the family of the victim, or to any member of the public, especially children; and the court shall give ample consideration to any statistical evidence prepared by the United States Department of Justice relative to the likelihood of the defendant, or any person in general who has been convicted of sexually inappropriate conduct with a prepubescent child under the age of thirteen, to commit similar offenses against juvenile victims in the future.

(5) For purposes of this Paragraph, “sex offense” means any offense as defined as a sex offense in R.S. 15:541 when the victim is under the age of thirteen at the time of commission of the offense and less than ten years have elapsed between the date of the commission of the current offense and the expiration of the maximum sentence of the previous conviction.

D. (1) A person charged with the commission of a capital offense shall not be admitted to bail if the proof is evident and the presumption great that he is guilty of the capital offense. When a person charged with the commission of a capital offense makes an application for admission to bail, the judge shall hold a hearing contradictorily with the state.

(2) The burden of proof at the contradictory bail hearing:

(a) Prior to indictment is on the state to show that the proof is evident and the presumption great that the defendant is guilty of the capital offense.

(b) After indictment is on the defendant to show that the proof is not evident or the presumption is not great that he is guilty of the capital offense.

C.Cr.P. Art. 320. Conditions of bail undertaking

A. Definitions. For the purpose of this Article:

(1) “Firearm” means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle that 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) “Global positioning monitoring system” means a system that electronically determines and reports the location of an individual by means of an ankle bracelet transmitter or similar device worn by the individual that transmits latitude and longitude data to monitoring authorities through global positioning satellite technology but does not contain or operate any global positioning system technology or radio frequency identification technology or similar technology that is implanted in or otherwise invades or violates the corporeal body of the individual.

(3) “Immediate family member” means the spouse, mother, father, aunt, uncle, sibling, or child of the victim, whether related by blood, marriage, or adoption.

(4) “Informed consent” means that the victim was given information concerning all of the following before consenting to participate in global positioning system monitoring:

(a) The victim's right to refuse to participate in global positioning system monitoring and the process for requesting the court to determine the victim's participation after it has been ordered.

(b) The manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements.

(c) The boundaries imposed on the defendant during the global positioning system monitoring.

(d) Sanctions that the court may impose on the defendant for violating an order issued under this Article.

(e) The procedure that the victim is to follow if the defendant violates an order issued under this Article or if global positioning monitoring system equipment fails.

(f) Identification of support services available to assist the victim to develop a safety plan to use if the court's order issued under this Article is violated or if the global positioning monitoring system equipment fails.

(g) Identification of community services available to assist the victim in obtaining shelter, counseling, education, childcare, legal representation, and other help in addressing the consequences and effects of domestic violence or stalking.

(h) The nonconfidential nature of the victim's communications with the court concerning global positioning system monitoring and the restrictions to be imposed upon the defendant's movements.

B. Conditions of bail generally. The condition of the bail undertaking in district, juvenile, parish, and city courts shall be that the defendant will appear at all stages of the proceedings to answer the charge before the court in which he may be prosecuted, will submit himself to the orders and process of the court, and will not leave the state without written permission of the court. The court may impose any additional conditions of release that are reasonably related to assuring the appearance of the defendant before the court and guarding the safety of any other individual or the community.

*** * ***

G. (1) Domestic offenses, stalking, and sex offenses. In determining conditions of release of a defendant who is alleged to have committed an offense against the defendant's family or household member, as defined in R.S. 46:2132(4), or against the defendant's dating partner, as defined in R.S. 46:2151, or who is alleged to have committed the offense of domestic abuse battery under the provisions of R.S. 14:35.3, or who is alleged to have committed the offense of stalking under the provisions of R.S. 14:40.2, or who is alleged to have committed the offense of cyberstalking under the provisions of R.S. 14:40.3, or who is alleged to have committed the offense of violation of protective orders under the provisions of R.S. 14:79, or who is alleged to have committed the offense of unlawful communications under the provisions of R.S. 14:285, or who is alleged to have committed a sexual assault as defined in R.S. 46:2184, the court shall consider the previous

criminal history of the defendant and whether the defendant poses a threat or danger to the victim. If the court determines that the defendant poses such a threat or danger, it shall require as a condition of bail that the defendant refrain from going to the residence or household of the victim, the victim's school, and the victim's place of employment or otherwise contacting the victim in any manner whatsoever, and shall refrain from having any further contact with the victim. The court shall also require as a condition of bail that the defendant be prohibited from communicating, by electronic communication, in writing, or orally, with a victim of the offense or with any of the victim's immediate family members. This condition shall not apply if the victim consents by way of a request to the court and the court issues an order permitting the communication. If an immediate family member of the victim consents by way of a request to the court and the court issues an order permitting the communication, then the defendant may contact that person. The court shall also consider any statistical evidence prepared by the United States Department of Justice relative to the likelihood of such defendant or any person in general who has raped or molested victims under the age of thirteen years to commit sexual offenses against a victim under the age of thirteen in the future.

(2) If the defendant is alleged to have committed any of the offenses included in Subparagraph (1) of this Paragraph and is denied bail or is unable to post bail and is therefore incarcerated prior to trial, the court may issue an order under this Paragraph prohibiting the defendant from communicating, by electronic communication, in writing, or orally, with a victim of the offense, or with any of the victim's immediate family members. This condition shall not apply if the victim consents by way of a request to the court and the court issues an order permitting the communication. If an immediate family member of the victim consents by way of a request to the court and the court issues an order permitting the communication, then the defendant may contact that person.

(3) In all cases, the court shall issue and shall file into the record any order issued pursuant to this Paragraph and shall serve the defendant with the order by personal service. The court shall also comply with the provisions of Paragraph H of this Article

H. Uniform Abuse Prevention Order.

(1) If the court issues any order pursuant to any of the provisions of this Article prohibiting the defendant from contacting or communicating with the victim or the victim’s immediate family members, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall immediately forward it to the clerk of court for filing, on the next business day after the order is issued. The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.

(2) If, as part of any order issued pursuant to any of the provisions of this Article, enumerated in Paragraph G or J of this rticle, an order is issued pursuant to the provisions of this Paragraph, the court shall also order that the defendant be prohibited from possessing a firearm for the duration of the Uniform Abuse Prevention Order.

I. Global positioning monitoring. (1)(a) In addition, the court shall order a defendant who is alleged to have committed the offense of first degree rape under the provisions of R.S. 14:42 and may order a defendant who is alleged to have committed an offense enumerated in Paragraph G or J of this Article, to be equipped with a global positioning monitoring system as a condition of release on bail.

(b) In determining whether to order a defendant, as a condition of release on bail, to participate in global positioning system monitoring, the court shall consider the likelihood that the defendant's participation in global positioning system monitoring will deter the defendant from seeking to harm, injure, or otherwise threaten the victim prior to trial.

(c) The defendant shall be released on bail pursuant to the provisions of this Article only if he agrees to pay the cost of the global positioning monitoring system and monitoring fees associated with the device, or agrees to perform community service in lieu of paying such costs.

(2) If the court orders the defendant to be equipped with a global positioning monitoring system as a condition of release on bail, the court may order the defendant, with the informed consent of the victim, to provide the victim of the charged crime with an electronic receptor device which is capable of receiving the global positioning system information and which notifies the victim if the defendant is located within an established proximity to the victim. The court, in consultation with the victim, shall determine which areas the defendant shall be prohibited from accessing and shall establish the proximity to the victim within which a defendant shall be excluded. In making this determination, the court shall consider a list, provided by the victim, which includes those areas from which the victim desires the defendant to be excluded.

(3) The victim shall be furnished with telephone contact information for the local law enforcement agency in order to request immediate assistance if the defendant is located within that proximity to the victim. The court shall order the global positioning monitoring system provider to program the system to notify local law enforcement if the defendant violates the order. The victim, at any time, may request that the court terminate the victim's participation in the global positioning monitoring system of the defendant. The court shall not impose sanctions on the victim for refusing to participate in global positioning system monitoring provided for in this Paragraph.

(4) In addition to electronic monitoring, the court shall consider house arrest. The conditions of the electronic monitoring and house arrest shall be determined by the court, and may include but are not be limited to limitation of the defendant's activities outside of the home and a curfew.

J. (1) Crimes of violence. Notwithstanding the provisions of Paragraph G of this Article and notwithstanding any other provision of law to the contrary, if the defendant is alleged to have committed a crime of violence as defined in R.S. 14:2(B), the court shall require as a condition of bail that the defendant refrain from going to the residence or household of the victim, the victim's school, and the victim's place of employment or otherwise contacting the victim in any manner whatsoever, and shall refrain from having any further contact with the victim. The court shall also require as a condition of bail that the defendant be prohibited from communicating, by electronic communication, in writing, or orally, with a victim of the offense, or with any of the victim's immediate family members. This condition does not apply if the victim consents by way of a request to the court and the court issues an order permitting the communication. If an immediate family member of the victim consents by way of a request to the court and the court issues an order permitting the communication, then the defendant may contact that person.

(2) Notwithstanding the provisions of Paragraph G of this Article and notwithstanding any other provision of law to the contrary, if a defendant alleged to have committed an offense included in Subparagraph (1) of this Paragraph is denied bail or is unable to post bail and is therefore incarcerated prior to trial, the court shall nevertheless issue an order under this Paragraph prohibiting the defendant from communicating, by electronic communication, in writing, or orally, with a victim of the offense, or with any of the victim's immediate family members. This condition shall not apply if the victim consents by way of a request to the court and the court issues an order permitting the communication. If an immediate family member of the victim consents by way of a request to the court and the court issues an order permitting the communication, then the defendant may contact that person.

(3) In all cases, the court shall issue and shall file into the record any order issued pursuant to this Paragraph and shall serve the defendant with the order by personal service. The court shall also comply with the provisions of Paragraph H of this Article.

K. Violations. Violation of any condition by the defendant shall be considered as a constructive contempt of court, and shall result in the revocation of bail and issuance of a bench warrant for the defendant's arrest or remanding the defendant to custody. The court may also modify bail by either increasing the amount of bail or adding additional conditions of bail.

L**.** Under no circumstances shall any court deny the issuance of a protective order pursuant to any provision of this Article on the ground that a protective order has already been issued under any

other provision of law. Any protective order issued pursuant to this Article shall remain in effect for the time that the criminal case is pending until sentencing unless the person protected by the protective order moves the court to dissolve the protective order as to that person and the court grants the motion to dissolve the protective order as to that person.

Title XXX. Sentence.

C.Cr.P. Art. 871.1. Sentencing orders to be sent to Louisiana Protective Order Registry

If part of the sentence contains an order for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to, another person in order to prevent domestic abuse or dating violence, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall immediately forward it to the clerk of court for filing on the day that the order is issued. The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside by facsimile transmission or direct electronic input 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. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.

C.Cr.P. Art. 895. Conditions of probation

A. When the court places a defendant on probation, it shall require the defendant to refrain from criminal conduct and to pay a supervision fee to defray the costs of probation supervision, and it may impose any specific conditions reasonably related to his rehabilitation, including any of the following. That the defendant shall:

(1) Make a full and truthful report at the end of each month;

(2) Meet his specified family responsibilities, including any obligations imposed in a court order of child support;

(3) Report to the probation officer as directed;

(4) Permit the probation officer to visit him at his home or elsewhere;

(5) Devote himself to an approved employment or occupation;

(6) Refrain from owning or possessing firearms or other dangerous weapons;

(7) Make reasonable reparation or restitution to the aggrieved party for damage or loss caused by his offense in an amount to be determined by the court;

(8) Refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;

(9) Remain within the jurisdiction of the court and get the permission of the probation officer before making any change in his address or his employment; and
(10) Devote himself to an approved reading program at his cost if he is unable to read the English language.

(11) Perform community service work.

(12) Submit himself to available medical, psychiatric, mental health, or substance abuse examination or treatment or both when deemed appropriate and ordered to do so by the probation and parole officer.

(13)(a) Agree to searches of his person, his property, his place of residence, his vehicle, or his personal effects, or any or all of them, at any time, by the probation officer or the parole officer assigned to him, with or without a warrant of arrest or with or without a search warrant, when the probation officer or the parole officer has reasonable suspicion to believe that the person who is on probation is engaged in or has been engaged in criminal activity.

(b) For those persons who have been convicted of a "sex offense" as defined in R.S. 15:541, agree to searches of his person, his property, his place of residence, his vehicle, or his personal effects, or any or all of them, at any time, by a law enforcement officer, duly commissioned in the parish or municipality where the sex offender resides or is domiciled, designated by his agency to supervise sex offenders, with or without a warrant of arrest or with or without a search warrant, when the officer has reasonable suspicion to believe that the person who is on probation is engaged in or has been engaged in criminal activity for which the person has not been charged or arrested while on probation.

B. (1) In felony cases, an additional condition of the probation may be that the defendant shall serve a term of imprisonment without hard labor for a period not to exceed two years.

(2) In felony cases assigned to the drug division probation program pursuant to the provisions of R.S. 13:5304, the court may impose as a condition of probation that the defendant successfully complete the intensive incarceration program established pursuant to R.S. 15:574.4.1. If the defendant is not accepted into the intensive incarceration program or fails to successfully complete the intensive incarceration program, the court shall reconsider the sentence imposed as provided in Article 881.1.

(3) In felony cases, an additional condition of the probation may be that the defendant be ordered to be committed to the custody of the Department of Public Safety and Corrections and be required to serve a sentence of not more than twelve months without diminution of sentence in the intensive incarceration program pursuant to the provisions of R.S. 15:574.4.4. Upon successful completion of the program, the defendant shall return to supervised probation for a period of time as ordered by the court, subject to any additional conditions imposed by the court and under the same provisions of law under which the defendant was originally sentenced. If an offender is denied entry into the intensive incarceration program for physical or mental health reasons or for failure to meet the department's suitability criteria, the department shall notify the sentencing court, and the offender shall be resentenced in accordance with the provisions of Code of Criminal Procedure Article 881.1.

C. In cases of violations of the Uniform Controlled Dangerous Substances Law, the court may order the suspension or restriction of the defendant's driving privileges, if any, for all or part of the period of probation. In such cases, a copy of the order shall be forwarded to the Department of Public Safety and Corrections, which shall suspend the defendant's driver's license or issue a restricted license in accordance with the orders of the court. Additionally, the court may order the defendant to:

(1) Submit to and pay all costs for drug testing by an approved laboratory at the direction of his probation officer.

(2) Perform not less than one hundred sixty hours nor more than nine hundred sixty hours of community service work.

D. The court may, in lieu of the monthly supervision fee provided for in Paragraph A, require the defendant to perform a specified amount of community service work each month if the court finds the defendant is unable to pay the supervision fee provided for in Paragraph A.

E. Before the court places a sexual offender on probation, it shall order the offender who has not previously been tested to submit to a blood and saliva test in accordance with R.S. 15:535. All costs shall be paid by the offender. Serial sexual offenders sentenced pursuant to R.S. 15:537(B) shall not be eligible for parole or probation.

F. In cases of any violation of Subpart (A)(1) of Part V of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950 or R.S. 14:92(7), the court may order the defendant to submit to psychological evaluation and, if indicated, order him to obtain psychiatric or psychological counseling for all or part of the period of probation. All costs shall be paid by the defendant.

G. Before the court places the defendant on probation, it shall determine if the defendant has a high school degree or its equivalent and, if the defendant does not, it shall order the defendant to take a reading proficiency test. If the defendant scores below a sixth grade level on the reading proficiency test, the court shall condition probation upon the defendant's enrolling in and attending an adult education or reading program until he attains a sixth grade reading level or until his term of probation expires, whichever occurs first. All costs shall be paid by the defendant. If the court finds that there are no adult education or reading programs in the parish in which the defendant is domiciled, the defendant is unable to afford such a program, or attendance would create an undue hardship on the defendant, the court may suspend this condition of probation. The provisions of this Paragraph shall not apply to those defendants who are mentally, physically, or by reason of age, infirmity, dyslexia or other such learning disorders unable to participate.

H. (1) In cases where the defendant has been convicted of or adjudication has been deferred or withheld for the perpetration or attempted perpetration of a sex offense as defined in R.S. 15:541, and probation is permitted by law and when the court places a defendant on probation, the court shall order the offender to register as a sex offender and to provide notification in accordance with the provisions of R.S. 15:540 et seq.

(2) The defendant must state under oath where he will reside after sentencing and that he will advise the court of any subsequent change of address during the probationary period.

(3) No offender who is the parent, stepparent, or has legal custody and physical custody of the child who is the victim shall be released on probation unless the victim has received psychological counseling prior to the offender's release if the offender is returning to the residence or community in which the child resides. Such psychological counseling shall include an attempt by the health care provider to ease the psychological impact upon the child of the notice required under Subparagraph (1) of this Paragraph, including assisting the child in coping with potential insensitive comments and actions by the child's neighbors and peers. The cost of such counseling shall be paid by the offender.

(4) Repealed by Acts 2007, No. 460, § 3, eff. Jan. 1, 2008.

(5) The court may order that the conditions of probation as provided for in Subparagraph (1) of this Paragraph shall apply for each subsequent change of address made by the defendant during the probationary period.

I. (1) In cases where the defendant has been convicted of or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of a sex offense as defined in R.S. 15:541 and the victim of that offense is a minor, the court may, if the department has the equipment and appropriately trained personnel, as an additional condition of probation, authorize the use of truth verification examinations to determine if the defendant has violated a condition of probation. If ordered by the court as a condition of probation, the Department of Public Safety and Corrections, division of probation and parole, is hereby authorized to administer a truth verification examination pursuant to the court order and the provisions of this Paragraph.

(2) Any examination conducted pursuant to the provisions of this Paragraph shall be subsequent to an allegation that the defendant has violated a condition of probation or at the discretion of the probation officer who has reason to believe that the defendant has violated a condition of probation.

(3) The truth verification examination shall be conducted by a trained and certified polygraphist or voice stress examiner.

(4) The results of the truth verification examination may be considered in determining the level of supervision and treatment needed by the defendant and in the determination of the probation officer as to whether the defendant has violated a condition of probation; however, such results shall not be used as evidence in court to prove that a violation of a condition of probation has occurred.

(5) The sexual offender may request a second truth verification examination to be conducted by a trained and certified polygraphist or voice stress examiner of his choice. The cost of the second examination shall be borne by the offender.

(6) For purposes of this Article:

(a) “Polygraph examination” shall mean an examination conducted with the use of an instrument or apparatus for simultaneously recording cardiovascular pressure, pulse and respiration, and variations in electrical resistance of the skin.

(b) “Truth verification examination” shall include a polygraph examination or a voice stress analysis.
(c) “Voice stress analysis” shall mean an examination conducted with the use of an instrument or apparatus which records psychophysiological stress responses that are present in a human voice when a person suffers psychological stress in response to a stimulus.

J. The defendant shall be given a certificate setting forth the conditions of his probation and shall be required to agree in writing to the conditions.

K. In cases where the defendant has been convicted of an offense involving criminal sexual activity, the court shall order as a condition of probation that the defendant successfully complete a sex offender treatment program. As part of the sex offender treatment program, the offender shall participate with a victim impact panel or program providing a forum for victims of criminal sexual activity and sex offenders to share experiences on the impact of the criminal sexual activity in their lives. The Department of Public Safety and Corrections shall establish guidelines to implement victim impact panels where, in the judgment of the licensed professional responsible for the sexual treatment program, appropriate victims are available, and shall establish guidelines for other programs where such victims are not available. All costs for the sex offender treatment program shall be paid by the offender.

L. A conviction for any offense involving criminal sexual activity as provided for in Paragraph H of this Article, includes a conviction for an equivalent offense under the laws of another state. Criminal sexual offenders under the supervision and legal authority of the Department of Public Safety and Corrections pursuant to the terms and conditions of the interstate compact agreement provided for in R.S. 15:574.31 et seq. shall be notified of the registration requirements provided for in this Article at the time the department accepts supervision and has legal authority of the individual.

M. (1) In all cases where the defendant has been convicted of an offense of domestic abuse as provided in R.S. 46:2132(3) to a family or household member as provided in R.S. 46:2132(4), or of an offense of dating violence as provided in R.S. 46:2151(C) to a dating partner as provided in R. S. 46:2151(B), the court shall order that the defendant submit to and successfully complete a court-approved course of counseling or therapy related to family or dating violence, for all or part of the period of probation. If the defendant has already completed such a counseling program, said counseling requirement shall be required only upon a finding by the court that such counseling or therapy would be effective in preventing future domestic abuse or dating violence.

(2) All costs for the counseling or therapy shall be paid by the offender. In addition, the court may order that the defendant pay an amount not to exceed one thousand dollars to a family violence program located in the parish where the offense of domestic abuse occurred.

N. If a defendant is injured or suffers other loss in the performance of community service work required as a condition of probation, neither the state nor any political subdivision, nor any officer, agent, or employee of the state or political subdivision shall be liable for any such injury or loss, unless the injury or loss was caused by the gross negligence or intentional acts of the officer, agent, or employee of the state or political subdivision. No provision of this Paragraph shall negate any requirement that an officer, agent, or employee secure proper and appropriate medical assistance for a defendant who is injured while performing community service work and in need of immediate medical attention.

O. (1) Any mentor of an offender on probation under the supervision of any court division created pursuant to R.S. 13:5304, 5354, 5366, or 5401 shall not be liable for any injury or loss caused or suffered by an offender that arises out of the performance of duties as a mentor, unless the injury or loss was caused by the gross negligence or intentional acts of the mentor.

(2) Neither the court nor any officer, agent, or employee of the court shall be liable for any injury or loss to the offender, the mentor, or any third party for the actions of the mentor or the offender.

(3) As provided in this Subsection, “mentor” means a person approved by the court who volunteers to provide support and personal, educational, rehabilitation, and career guidance to the offender during probation and who has either completed a court-approved mentor training program or who has successfully completed his sentence pursuant to R.S. 13:5304, 5354, 5366, or 5401.

(4) Nothing in this Subparagraph shall affect the vicarious liability of the employer pursuant to Civil Code Article 2320 or the ability of an employee to file a claim for workers' compensation.

P. (1) When a defendant who is on probation is employed by another person or entity, the probation officer who supervises the defendant shall schedule meetings, which are required as a condition of the defendant's probation, at such times and locations that take into consideration and accommodate the work schedule of the defendant.

(2) To comply with the provisions of Subparagraph (1) of this Paragraph, in lieu of requiring the defendant to appear in-person for the required reporting or meetings, the probation officer may utilize technology portals, including cellular telephone and other electronic communication devices, that allow simultaneous voice and video communication in real time between the defendant and the probation officer. Such technology may also be used for required reporting or meetings of a defendant on probation who is self-employed at the discretion of the defendant's probation officer and in accordance with any rules promulgated by the Department of Public Safety and Corrections pursuant to this Paragraph.

(3) The Department of Public Safety and Corrections shall promulgate rules in accordance with the Administrative Procedure Act to implement the provisions of this Paragraph. The rules promulgated by the department pursuant to this Paragraph shall include but are not limited to minimum standards and guidelines for the authorized technology and how it may be used as well as standards for determining the eligibility and suitability of defendants on probation to meet their reporting requirements through the use of such technology. The eligibility and suitability standards shall include consideration of the severity of the defendant's underlying criminal conviction, criminal history, supervision level, and past supervision history.

LOUISIANA DOMESTIC ABUSE, DATING VIOLENCE, STALKING AND SEXUAL ASSAULT (and related) LAWS, Part 2

OTHER RELATED CRIMINAL LAW

Louisiana Code of Criminal Procedure (selected articles)

Louisiana Revised Statutes – Title 14. Criminal Law
Criminal Code (selected statutes)

Louisiana Code of Evidence (selected articles)

OTHER LAWS

LOUISIANA DOMESTIC ABUSE, DATING VIOLENCE, STALKING AND SEXUAL ASSAULT (and related) LAWS, Part 2

OTHER RELATED CRIMINAL LAW

Louisiana Code of Criminal Procedure

Title I. Preliminary Provisions and General Powers of Courts

C.Cr.P. Art. 25.1. Appointment of interpreter for non-English-speaking persons

A. The court shall appoint an interpreter in accordance with the Code of Evidence and the Rules of the Louisiana Supreme Court for any person who is a party or witness upon a determination that the person is a limited English proficient or deaf individual.

B. The cost of providing a qualified court interpreter shall be paid out of the appropriate court fund.

> State v. Ramirez, 154 So.3d 636 (La. App. 4 Cir. 2014), writ denied 178 So.3d 1000 (La. 2015). Translator for Spanish-speaking defendant was not required to be formally certified or otherwise qualified. See also State v. Santos, 40 So.3d 167 (La. App. 5 Cir. 2010). Interpreters, other than interpreters who translate for the hearing impaired, are not required to be certified.
>
> State v. Nguyen, 88 So.3d 511 (La. App. 5 Cir. 2011). An interpreter during a trial should be a neutral and detached individual whose abilities are screened by the court.

Title V. Arrest

C.Cr.P. Art. 211. Summons by officer instead of arrest and booking

A. (1) When it is lawful for a peace officer to arrest a person without a warrant for a misdemeanor, or for a felony charge of theft as defined by R.S. 14:67 or illegal possession of stolen things as provided in R.S. 14:69(B)(4), he may issue a written summons instead of making an arrest if all of the following conditions exist:

(a) The officer has reasonable grounds to believe that the person will appear upon summons.

(b) The officer has no reasonable grounds to believe that the person will cause injury to himself or another or damage to property or will continue in the same or a similar offense unless immediately arrested and booked.

(c) There is no necessity to book the person to comply with routine identification procedures.

(d) If an officer issues a summons for a felony described in this Paragraph, the officer issuing the summons has ascertained that the person has no prior criminal convictions.

(2) In any case in which a summons has been issued, a warrant of arrest may later be issued in its place.

B. (1) When a peace officer has reasonable grounds to believe a person has committed the offense of issuing worthless checks as defined by R.S. 14:71, he may issue a written summons instead of making an arrest if both of the following conditions exist:

(a) He has reasonable grounds to believe that the person will appear upon summons.

(b) He has no reasonable grounds to believe that the person will cause injury to himself or another or damage to property unless immediately arrested.

(2) In any case in which a summons has been issued, a warrant of arrest may later be issued in its place.

C. (1) When a peace officer has reasonable grounds to believe a person has committed an offense of driving without a valid driver's license, whether physical or electronic, in his possession, the officer shall make every practical attempt based on identifying information provided by the person to confirm that the person has been issued a valid driver's license. If the officer determines that the person has been issued a valid driver's license which is not under revocation, suspension, or cancellation, but that the physical or electronic license is not in his possession, the officer shall issue a written summons to the offender in accordance with law, commanding him to appear and answer the charge.

(2) The provisions of this Article shall in no way limit a peace officer from issuing a citation for operating a motor vehicle without possession of a valid driver's license.

D. When a peace officer has reasonable grounds to believe a person has committed an offense of driving with a driver's license that is under revocation, suspension, or cancellation, the officer may use his discretion to make a custodial arrest or issue a written summons to the offender, in accordance with law, commanding him to appear and answer the charge.

E. When the officer has reasonable grounds to believe a person committed the offense of domestic abuse battery, battery of a dating partner, violation of a protective order, stalking, or any other offense involving the use or threatened use of force or a deadly weapon upon the defendant's family members, as defined in R.S. 46:2132, upon the defendant's household member, as defined in R.S. 14:35.3, or upon the defendant's dating partner, as defined in R.S. 46:2151, the officer shall make a custodial arrest.

* * *

C.Cr.P. Art. 211.1. Persons with outstanding warrant; arrest or release of person

A. Notwithstanding the provisions of Article 203, or any other provision of law to the contrary, when a peace officer stops a person who has an outstanding warrant or an attachment for failing to comply with a summons to appear in court on a misdemeanor offense, including a traffic offense, the officer in his discretion, may issue a summons based on such warrant or attachment in lieu of making an arrest if the warrant or attachment is issued in the jurisdiction where the detention occurs, or release the person or arrest the person pursuant to the provisions of Article 207, if the warrant or attachment was issued outside the jurisdiction where the detention occurs.

B. Any summons issued pursuant to this Article shall be in writing and shall be issued and signed by a magistrate or a peace officer in the name of the state. It shall state the offense charged and the name of the alleged offender and shall command him to appear before the court designated in the summons at the time and place stated in the summons and to show proof that the obligation of the outstanding warrant has been fulfilled. A duplicate original of the summons shall be forwarded by the peace officer or a designee of the officer's employing agency to the court that issued the initial warrant within seventy-two hours, excluding weekends, of the issuance of the summons.

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

(1) When the information available to the officer indicates that the warrant or attachment was issued for any of the following offenses:

(a) Any offense involving the operation of a vehicle while intoxicated.

(b) Any offense involving the use or possession of a weapon.

(c) Any offense involving the use of force or violence, except the crime of simple battery unless the warrant or attachment indicates that the battery was prosecuted as a domestic abuse battery as defined in R.S. 14:35.3.

(d) Any offense or bench warrant issued involving the failure to pay a legal child support obligation.

(2) When the offender has an outstanding felony warrant.

D. In addition to any other legal remedies provided by law, any officer of the court may seek the collection of past due court costs, fines, or fees associated with the judicial system from state or federal tax refunds by sending notice to the federal secretary of the treasury or to the state treasurer that a person owes past due court costs, fines, or fees associated with the judicial system. The officer of the court shall comply with all rules and regulations imposed by the federal secretary of the treasury or the state treasurer including payment of any fee assessed by the secretary of the treasury or the state treasurer for the cost of applying the offset procedure.

C.Cr.P. Art. 213. Arrest by officer without warrant; when lawful

A. A peace officer may, without a warrant, arrest a person when any of the following occur:

(1) The person to be arrested has committed an offense in his presence; and if the arrest is for a misdemeanor, it must be made immediately or on close pursuit.

(2) The person to be arrested has committed a felony, although not in the presence of the officer.

(3) The peace officer has reasonable cause to believe that the person to be arrested has committed an offense, although not in the presence of the officer.

(4) The peace officer has received positive and reliable information that another peace officer from this state holds an arrest warrant, or a peace officer of another state or the United States holds an arrest warrant for a felony offense.

B. A peace officer making an arrest pursuant to this Article who is in close pursuit of the person to be arrested may enter another jurisdiction in this state and make the arrest.

*** * ***

C.Cr.P. Art. 225. Duty of peace officer as to weapons and incriminating articles

A peace officer making an arrest shall take from the person arrested all weapons and incriminating articles which he may have about his person. He shall deliver these articles and all other evidence seized incidental to the arrest to the sheriff, chief of police, or other officer before whom the person arrested is taken.

C.Cr.P. Art. 230.1. Maximum time for appearance before judge for the purpose of appointment of counsel; court discretion to fix bail at the appearance; extension of time limit for cause; effect of failure of appearance

A. The sheriff or law enforcement officer having custody of an arrested person shall bring him promptly, and in any case within seventy-two hours from the time of the arrest, before a judge for the purpose of appointment of counsel. Saturdays, Sundays, and legal holidays shall be excluded in computing the seventy-two-hour period referred to herein. The defendant shall appear in person unless the court by local rule provides for such appearance by telephone or audio-video electronic equipment. However, upon a showing that the defendant is incapacitated, unconscious, or otherwise physically or mentally unable to appear in court within seventy-two hours, then the defendant's presence is waived by law, and a judge shall appoint counsel to represent the defendant within seventy-two hours from the time of arrest.

B. At this appearance, if a defendant has the right to have the court appoint counsel to defend him, the court shall assign counsel to the defendant. The court may also, in its discretion, determine or review a prior determination of the amount of bail.

C. If the arrested person is not brought before a judge in accordance with the provisions of Paragraph A of this Article, he shall be released on his own recognizance.

D. The failure of the sheriff or law enforcement officer to comply with the requirements herein shall have no effect whatsoever upon the validity of the proceedings thereafter against the defendant.

C.Cr.P. Art. 230.2. Probable cause determinations; persons arrested without a warrant and continued in custody; bail

A. A law enforcement officer effecting the arrest of a person without a warrant shall promptly complete an affidavit of probable cause supporting the arrest of the person and submit it to a magistrate. Persons continued or remaining in custody pursuant to an arrest made without a warrant shall be entitled to a determination of probable cause within forty-eight hours of arrest. The probable cause determination shall be made by a magistrate and shall not be an adversary proceeding. The determination may be made without the presence of the defendant and may be made upon affidavits or other written evidence, which may be transmitted to the magistrate by means of facsimile transmission or other electronic means. A magistrate's determination of probable cause hereunder shall not act as a waiver of a person's right to a preliminary examination

B. (1) If a probable cause determination is not timely made in accordance with the provisions of Paragraph A of this Article, the arrested person shall be released on his own recognizance.

(2) Nothing in this Paragraph shall preclude the defendant's rearrest and resetting of bond for the same offense or offenses upon the issuance of an arrest warrant based upon a finding of probable cause by a magistrate.

C.Cr.P. Art. 233. Electronic signature of offender; requirements

A. Law enforcement agencies are authorized to utilize the electronic signature of any offender. The signature may be captured by any generally accepted method or process of electronic signature capture, including the use of devices which capture and convert analog writing to electronic or digital form.

B. If any provision of law requires a signature or any record, bail undertaking, summons, or affidavit to be signed, acknowledged, verified, or made under oath by a criminal offender, the requirement is satisfied if the electronic signature of the offender, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

C. For purposes of this Section, “electronic signature” shall mean an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

C.Cr.P. Art. 234. Booking photographs

A. As used in this Article:

(1) “Booking photograph” means a photograph or still, nonvideo image of an individual generated by a law enforcement agency for identification purposes after arrest or while in the agency's custody.

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

B. (1) A remove-for-pay publication or website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within seven calendar days from the day that the individual makes the request if both of the following conditions exist:

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

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

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

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

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

Title VIII. Bail

C.Cr.P. Art. 313.1. Detention of noncitizen defendant pending bail hearing

A. A contradictory bail hearing, as provided for in this Article, shall be held prior to setting bail for any person in custody who is not a citizen of the United States or not lawfully admitted for permanent residence and who is charged with the commission of an offense in which there was a fatality. The hearing shall be held within five days from the date of determination of probable cause, exclusive of weekends and legal holidays. At the contradictory hearing, the court shall determine the conditions of bail or whether the defendant should be held without bail pending trial.

B. In determining whether the defendant should be admitted to bail pending trial, or in determining the conditions of bail, the judge or magistrate shall consider the following:

(1) The criminal history of the defendant.

(2) The nature and seriousness of the danger to any other person or the community that would be posed by the defendant's release.

(3) Documented history or records of substance abuse by the defendant.

(4) The seriousness of the offense charged and the weight of the evidence against the defendant.

(5) The risk that the defendant might flee.

C. Following the contradictory hearing and based upon the judge's or magistrate's review of the factors set forth in Paragraph B of this Article, the judge or magistrate may order that the defendant not be admitted to bail, upon proof by clear and convincing evidence that the defendant might flee, or that the defendant poses an imminent danger to any other person or the community.

D. If bail is granted, the judge or magistrate may consider, as a condition of bail, a requirement that the defendant wear an electronic monitoring device and be placed under active electronic monitoring and house arrest. The conditions of the electronic monitoring and house arrest shall be determined by the court and may include but are not limited to limitation of the defendant's activities outside the home and a curfew. The defendant may be required to pay a reasonable supervision fee to the supervising agency to defray the cost of the required electronic monitoring and house arrest.

E. Any violation of the conditions of bail may be punishable by revocation of the bond and the issuance of a bench warrant for the defendant's arrest or remanding of the defendant to custody or a modification of the terms of bail.

C.Cr.P. Art. 316. Factors in fixing amount of bail

The amount of bail shall be fixed in an amount that will ensure the presence of the defendant, as required, and the safety of any other person and the community, having regard to:

(1) The seriousness of the offense charged, including but not limited to whether the offense is a crime of violence or involves a controlled dangerous substance.

(2) The weight of the evidence against the defendant.

(3) The previous criminal record of the defendant.

(4) The ability of the defendant to give bail.

(5) The nature and seriousness of the danger to any other person or the community that would be posed by the defendant's release.

(6) The defendant's voluntary participation in a pretrial drug testing program.

(7) The absence or presence in the defendant of any controlled dangerous substance.

(8) Whether the defendant is currently out on a bail undertaking on a previous felony arrest for which he is awaiting institution of prosecution, arraignment, trial, or sentencing.

(9) Any other circumstances affecting the probability of defendant's appearance.

(10) The type or form of bail.

C.Cr.P. Art. 319. Modifications of bail

A. The court having trial jurisdiction over the offense charged, on its own motion or on motion of the prosecuting attorney or defendant, for good cause, may either increase or reduce the amount of bail, or require new or additional security. For purposes of this Article, good cause for increase of bail specifically includes but is not limited to the rearrest of the defendant on offenses alleged to have been committed while out on a bail undertaking. The modification of any bail order wherein a bail undertaking has been posted by a criminal defendant and his sureties shall upon the modification terminate the liability of the defendant and his sureties under the previously existing bail undertaking. A new bail undertaking must be posted in the amount of the new bail order.

B. The defendant or his surety may, at any time before a breach of the bail undertaking and with approval of the court in which the prosecution is pending, substitute another form of security authorized by this Code. The original security, including a surety, shall be released when the substitution of security is made.

C.Cr.P. Art. 321. Types of bail; restrictions

A. The types of bail are:

(1) Bail with a commercial surety.

(2) Bail with a secured personal surety.

(3) Bail with an unsecured personal surety.

(4) Bail without surety.

(5) Bail with a cash deposit.

B. All bail must be posted in the full amount fixed by the court. When the court fixes the amount of bail, a secured bail undertaking may be satisfied by a commercial surety, a cash deposit, or with the court's approval, by a secured personal surety or a bail undertaking secured by the property of the defendant, or by any combination thereof. When the court elects to release the defendant on an unsecured personal surety or a bail without surety, that election shall be expressed in the bail order.

C. Any defendant who has been arrested for any of the following offenses shall not be released on his personal undertaking or with an unsecured personal surety:

(1) A crime of violence as defined by R.S. 14:2(B).

(2) A felony offense, an element of which is the discharge, use, or possession of a firearm.

(3) A sex offense as defined by R.S. 15:541 when the victim is under the age of thirteen at the time of commission of the offense and less than ten years have elapsed between the date of the commission of the current offense and the expiration of the maximum sentence of the previous conviction.

(4) R.S. 14:32.1 (vehicular homicide).

(5) R.S. 14:35.3 (domestic abuse battery) or R.S. 14:34.9 (battery of a dating partner).

(6) R.S. 14:37.7 (domestic abuse aggravated assault) or R.S. 14:34.9.1 (aggravated assault upon a dating partner).

(7) R.S. 14:40.3 (cyberstalking), if the person has two prior convictions for the same offense.

(8) R.S. 14:44.2 (aggravated kidnapping of a child).

(9) R.S. 14:46 (false imprisonment).

(10) R.S. 14:46.1 (false imprisonment while the offender is armed with a dangerous weapon).

(11) R.S. 14:87.1 (killing a child during delivery).

(12) R.S. 14:87.2 (human experimentation).

(13) R.S. 14:93.3 (cruelty to persons with infirmities), if the person has a prior conviction for the same offense.

(14) R.S. 14:98 (operating a vehicle while intoxicated), if the person has a prior conviction for the same offense.

(15) R.S. 14:102.1(B) (aggravated cruelty to animals).

(16) R.S. 14:102.8 (injuring or killing of a police animal).

(17) R.S. 14:110.1 (jumping bail).

(18) R.S. 14:110.1.1 (out-of-state bail jumping).

(19) Violation of an 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 30, 320, and 871.1.

(20) The production, manufacturing, distribution, or dispensing or the possession with the intent to produce, manufacture, distribute or dispense a controlled dangerous substance in violation of R.S. 40:966(B), 967(B), 968(B), 969(B), or 970(B) of the Uniform Controlled Dangerous Substances Law.

D. There shall be a presumption that any defendant who has either been arrested for a new felony offense or has at any time failed to appear in court on the underlying felony offense after having been notified in open court shall not be released on his own recognizance or on the signature of any other person. This presumption may be overcome after contradictory hearing in open court only if the judge determines by clear and convincing evidence that the relevant factors warrant this type of release.

Title X. Instituting Criminal Prosecutions

C.Cr.P. Art. 387. Additional information required when prosecuting certain offenses

A. When instituting the prosecution of an offense involving a violation of any state law or local ordinance that prohibits the use of force or a deadly weapon against any family member or household member as defined by R.S. 14:35.3 or that prohibits the use of force or violence against a dating partner as defined by R.S. 14:34.9, the district attorney, or city prosecutor for criminal prosecutions in city court, shall include the following information in the indictment, information, or affidavit:

(1) Date of the offense.

(2) The state identification number of the defendant, if one has been assigned to the defendant for this offense or for any prior offenses.

B. Failure to comply with the provisions of this Article shall not constitute grounds for a motion to quash.

C.Cr.P. Art 388. Additional information provided when prosecuting offenses

A. When instituting the prosecution of an offense involving a violation of any state law or local ordinance, the prosecuting agency, when authorized to provide information, shall include the following information in the indictment, information, or affidavit, if provided by the booking agency:

(1) Date of the offense.

(2) Date of arrest or summons, if a summons was issued in lieu of an arrest.

(3) The state identification number of the defendant, if one has been assigned to the defendant for the offense or for any prior offenses.

(4) Defendant demographic data to include sex, race, and date of birth, if known.

B. The information provided in Paragraph A of this Article may be provided in a separate document submitted with the bill of information, bill of indictment, or summons to the clerk of court.

C. The booking agency shall provide the information provided in Paragraph A of this Article to the prosecuting agency.

D. The clerk of court shall report the information provided in Paragraph A of this Article, along with the disposition and disposition date, to the supreme court.

E. The supreme court is authorized to report the information provided in Paragraph A of this Article, along with the disposition and disposition date, to the Louisiana Bureau of Criminal Identification and Information.

F. Failure to comply with the provisions of this Article shall not constitute grounds for a motion to quash.

C.Cr.P. Art. 390. Burden of proof; justification of self-defense raised; probable cause

A. In any criminal proceeding in which the justification of self-defense is raised pursuant to R.S. 14:19 or 20, the state shall have the burden to prove beyond a reasonable doubt that the defendant did not act in self-defense.

B. Any defendant intending to assert the justification of self-defense pursuant to R.S. 14:19 or 20 shall provide written notice to the district attorney within ten days after the state has moved for discovery under Article 724. Thereafter, the court may, for good cause shown, allow a defendant to provide such notice at any time before the commencement of the trial.

C. A peace officer shall consider evidence of self-defense in accordance with R.S. 14:19 or 20 when determining if probable cause exists to conduct an arrest.

Title XVII. Time Limitations

C.Cr.P. Art. 571. Crimes for which there is no time limitation

There is no time limitation upon the institution of prosecution for any crime for which the punishment may be death or life imprisonment or for the crime of forcible or second degree rape (R.S. 14:42.1) or molestation of a juvenile or a person with a physical or mental disability (R.S. 14:81.2).

C.Cr.P. Art. 571.1. Time limitation for certain sex offenses

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

C.Cr.P. Art. 572. Limitation of prosecution of noncapital offenses

A. Except as provided in Articles 571 and 571.1, no person shall be prosecuted, tried, or punished for an offense not punishable by death or life imprisonment, unless the prosecution is instituted within the following periods of time after the offense has been committed:

(1) Six years, for a felony necessarily punishable by imprisonment at hard labor.

(2) Four years, for a felony not necessarily punishable by imprisonment at hard labor.

(3) Two years, for a misdemeanor punishable by a fine, or imprisonment, or both.

(4) Six months, for a misdemeanor punishable only by a fine or forfeiture.

B. (1) Notwithstanding the provisions of Article 571.1 and Paragraph A of this Article, prosecutions for any sex offense may be commenced beyond the time limitations set forth in this Title if the identity of the offender is established after the expiration of such time limitation through the use of a DNA profile or newly discovered photographic or video evidence.

(2) A prosecution under the exception provided by this Paragraph shall be commenced within three years from the date on which the identity of the suspect is established by DNA testing or by the use of newly discovered photographic or video evidence.

(3) For purposes of this Article, “DNA” means deoxyribonucleic acid, which is located in cells and provides an individual's personal genetic blue print and which encodes genetic information that is the basis of human heredity and forensic identification.

(4) This Paragraph shall have retroactive application to crimes committed prior to June 20, 2003.

C. Upon expiration of the time period in which a prosecution may be instituted, any bail bond applicable to that prosecution which bond has not been forfeited shall also expire, and all obligations of that bail undertaking shall be extinguished as a matter of law.

C.Cr.P. Art. 573. Running of time limitations; exception
The time limitations established by Article 572 shall not commence to run as to the following offenses until the relationship or status involved has ceased to exist when:

(1) The offense charged is based on the misappropriation of any money or thing of value by one who, by virtue of his office, employment, or fiduciary relationship, has been entrusted therewith or has control thereof.

(2) The offense charged is extortion or false accounting committed by a public officer or employee in his official capacity.

(3) The offense charged is public bribery.

(4) The offense charged is a felony crime of violence as defined in R.S. 14:2(B) or cruelty to juveniles as defined in R.S. 14:93 and the victim is under eighteen years of age, unless a longer period of limitation is established by Article 571.1 or any other provision of law.

C.Cr.P. Art. 573.1. Running of time limitations; exception; persons with infirmities

A. The time limitations established by Article 572 of this Code shall not commence to run as to any crime wherein the victim is a person with infirmities until the crime is discovered by a competent victim, or in the case of an incompetent victim, by a law enforcement officer. This shall include but is not limited to the crimes of simple battery of persons with infirmities (R.S. 14:35.2), cruelty to persons with infirmities (R.S. 14:93.3), exploitation of persons with infirmities (R.S. 14:93.4), sexual battery of persons with infirmities (R.S. 14:93.5), and abuse of persons with infirmities through electronic means (R.S. 14:283.3).

B. (1) "Law enforcement officer" shall mean any employee of the state, a political subdivision, a municipality, a sheriff, or other public agency whose permanent duties include the making of arrests, the performing of searches and 7 seizures, or the execution of criminal warrants, and who is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, or highway laws of this state.

(2) "Person with infirmities" shall mean a person who suffers from a mental or physical disability, including those associated with advanced age, which renders the person incapable of adequately providing for his personal care. The term "person with infirmities" may include but is not limited to any individual who is an outpatient or resident of a nursing home, facility for persons with intellectual disabilities, mental health facility, hospital, or other residential facility, or a recipient of home or community-based care or services.

C.Cr.P. Art. 573.2. Running of time limitations; exception; video voyeurism

The time limitations established by Article 572 shall not commence to run as to the crime of video voyeurism (R.S. 14:283) until the crime is discovered by the victim.

C.Cr.P. Art. 573.4. Running of time limitations; exception; third degree rape

The time limitations established by Article 572 shall not commence to run as to the crime of third degree rape (R.S. 14:43) until the crime is discovered by the victim.

Title XXI. Insanity Proceedings

C.Cr.P.Art. 648. Procedure after determination of mental capacity or incapacity

A. The criminal prosecution shall be resumed unless the court determines by a preponderance of the evidence that the defendant does not have the mental capacity to proceed. If the court determines that the defendant lacks mental capacity to proceed, the proceedings shall be suspended and one of the following dispositions made:

(1) If the court determines that the defendant's mental capacity is likely to be restored within ninety days by outpatient care and treatment at a treatment facility as defined by R.S. 28:2 while remaining in the custody of the criminal authorities, and if the person is not charged with a felony

or a misdemeanor classified as an offense against the person and is considered by the court to be unlikely to commit crimes of violence, then the court may order outpatient care and treatment at any institution as defined by R.S. 28:2.

(2)(a) Except as otherwise provided for in Subsubparagraph (b) of this Subparagraph, if the person is charged with a felony or with a misdemeanor violation of R.S. 14:35.3, and is considered by the court to be likely to commit crimes of violence, and the court determines that his mental capacity is likely to be restored within ninety days as a result of treatment, the court may order immediate jail-based treatment by the Department of Health and Hospitals not to exceed ninety days. Otherwise, if his capacity cannot be restored within ninety days and inpatient treatment is recommended, the court shall commit the defendant to the Feliciana Forensic Facility.

(b) If a person is charged with a felony violation of the Uniform Controlled Dangerous Substances Law, except for violations punishable under the provisions of R.S. 40:966(D) and (F) and R.S. 40:967(F)(1)(b) and (c), (2), and (3), and the court determines that his mental capacity cannot be restored within ninety days, the court shall release the person for outpatient competency restoration or other appropriate treatment.

(c) If a person is charged with a misdemeanor classified as an offense against a person, except for a misdemeanor violation of R.S. 14:35.3, and the court determines that his mental capacity cannot be restored within ninety days, the court shall release the person for outpatient competency restoration or other appropriate treatment.

(d) If a defendant committed to the Feliciana Forensic Facility is held in a parish jail for one hundred eighty days after the court's determination that he lacks the mental capacity to proceed, the court shall order a status conference to be held with the defense and the district attorney present, and for good cause shown and on motion of the defendant or the district attorney or on the court's own motion, the court shall order a contradictory hearing to determine whether there has been a change in the defendant's condition or other circumstances sufficient to warrant a modification of the previous order.

(e) If a defendant committed to the Feliciana Forensic Facility is held in a parish jail for one hundred eighty days after the initial status conference provided in Item (d) of this Subparagraph, the court shall order a contradictory hearing to determine whether to release the defendant or to order the appropriate authorities to institute civil commitment proceedings pursuant to R.S. 28:54. The defendant shall remain in custody pending such civil commitment proceedings. If the defendant is civilly committed to a treatment facility pursuant to Title 28 of the Louisiana Revised Statutes of 1950, the director of the institution designated for the patient's treatment shall, in writing, notify the court and the district attorney when the patient is to be discharged or conditionally discharged, as long as the charges are pending.

B. (1) In no instance shall such custody, care, and treatment exceed the time of the maximum sentence the defendant could receive if convicted of the crime with which he is charged. At any time after commitment and on the recommendation of the director or administrator of the treatment facility that the defendant will not attain the capacity to proceed with his trial in the foreseeable future, the court shall, within sixty days and after at least ten days notice to the district attorney, defendant's counsel and the bureau of legal services of the Department of Health, conduct a contradictory hearing to determine whether the defendant is, and will in the foreseeable future be, incapable of standing trial and whether he is a danger to himself or others.

(2) Repealed by Acts 2008, No. 861, § 2, eff. July 9, 2008.

(3) If, after the hearing, the court determines that the incompetent defendant is unlikely in the foreseeable future to be capable of standing trial, the court shall order the defendant released or remanded to the custody of the Department of Health which, within ten days exclusive of weekends and holidays, may institute civil commitment proceedings pursuant to Title 28 of the Louisiana Revised Statutes of 1950, or release the defendant. The defendant shall remain in custody pending such civil commitment proceedings. If the defendant is committed to a treatment facility pursuant to Title 28 of the Louisiana Revised Statutes of 1950, the director of the institution designated for the patient's treatment shall, in writing, notify the court and the district attorney when the patient is to be discharged or conditionally discharged, as long as the charges are pending. If not dismissed without prejudice at an earlier trial, charges against an unrestorable incompetent defendant shall be dismissed on the date upon which his sentence would have expired had he been convicted and

received the maximum sentence for the crime charged, or on the date five years from the date of his arrest for such charges, whichever is sooner, except for the following charges:

(a) Charges of a crime of violence as defined in R.S. 14:2(B).

(b) R.S. 14:46 (false imprisonment).

(c) R.S. 14:46.1 (false imprisonment; offender armed with dangerous weapon).

(d) R.S. 14:52 (simple arson).

(e) R.S. 14:62 (simple burglary).

(f) R.S. 14:62.3 (unauthorized entry of an inhabited dwelling).

(g) R.S. 14:80 (carnal knowledge of a juvenile).

(h) R.S. 14:81 (indecent behavior with juveniles).

(i) R.S. 14:81.1 (pornography involving juveniles).

(j) R.S. 14:81.2 (molestation of a juvenile or a person with a physical or mental disability).

(k) R.S. 14:89(A)(2) (crime against nature).

(l) R.S. 14:89.1(A)(2) (aggravated crime against nature).

(m) R.S. 14:92 (contributing to the delinquency of juveniles).

(n) R.S. 14:92.1 (encouraging or contributing to child delinquency, dependency, or neglect).

(o) R.S. 14:93 (cruelty to juveniles).

(p) R.S. 14:93.2.3 (second degree cruelty to juveniles).

(q) R.S. 14:93.3 (cruelty to persons with infirmities).

(r) R.S. 14:93.4 (exploitation of persons with infirmities).

(s) R.S. 14:93.5 (sexual battery of persons with infirmities).

(t) R.S. 14:102 (cruelty to animals).

(u) R.S. 14:106 (obscenity).

(v) R.S. 14:283 (video voyeurism).

(w) R.S. 14:284 (Peeping Tom).

(x) Charges against a defendant who has been convicted of a felony offense within ten years prior to the date on which he was charged for the current offense.

C. The superintendent of the forensic unit of the Feliciana Forensic Facility shall admit only those persons specified in R.S. 28:25.1 and those persons found not guilty by reason of insanity on conditional release who have a physician's emergency certificate or who seek voluntary admission pursuant to Article 658(B)(4).

C.Cr.P. Art. 657.3. Active supervised release for dangerous but not mentally ill committed persons

A. Notwithstanding any other provision of law to the contrary, the state may seek active supervised release by the Department of Public Safety and Corrections, office of probation and parole, of a

committed person based upon the committed person's continued dangerousness even if the committed person does not have a mental illness as defined by this Article, if both of the following conditions are satisfied:

(1) The committed person was found not guilty by reason of insanity for any of the following offenses or attempts to commit any of them:

(a) Any crime punishable by death or by life imprisonment.

(b) Any crime that is either a crime of violence as defined by R.S. 14:2(B) or a sex offense as defined by R.S. 15:541.

(2) The state proves by clear and convincing evidence that the committed person is dangerous to others or dangerous to himself as defined by R.S. 28:2. In satisfying its burden of proof, the state may not rely solely upon the nature of the crime for which the committed person was found not guilty by reason of insanity and may not rely solely upon the diagnosis of any personality disorder.

B. Upon satisfaction of the criteria for active supervised release provided in Paragraph A of this Article and consideration of any report filed pursuant to Articles 655 and 656, the court shall order the committed person to be placed on active supervised release with any special conditions recommended to the court as well as any conditions of probation provided in Article 895 et seq. for a period not to exceed three years. Such period may be extended in three-year increments upon motion of the district attorney and proof that the committed person still satisfies the criteria for active supervised release under this Article. Under no circumstances shall a committed person who is on active supervised release pursuant to this Article be subject to a probation period that is longer than the maximum term that the committed person would have received if the committed person had been convicted of the offense.

C. When the committed person is placed on active supervised release, the clerk of court shall deliver a certificate to him setting forth the conditions of his release. The committed person shall be required to agree in writing to the conditions of his release.

D. When the committed person has violated or is suspected of violating the conditions of his release, the committed person may be arrested and detained pursuant to Article 899.

E. Nothing in this Article shall be construed as abrogating or negating any other provision of this Chapter or any other provision of law relative to the continued commitment, discharge, or conditional release of a person committed pursuant to Article 654.

F. For the purposes of this Title, “mental illness” means a psychiatric disorder which has substantial adverse effects on a person's ability to function and requires care and treatment. It does not refer to a person with, solely, an intellectual disability, or who suffers solely from epilepsy or a substance-related or addictive disorder.

Title XXIV. Procedures Prior to Trial
Chapter 5. Discovery and Inspection

C.Cr.P. Art. 718.1. Evidence of obscenity, video voyeurism, pornography involving juveniles, or unlawful posting of criminal activity for notoriety and publicity; prohibition on reproduction of pornography involving juveniles

A. In any criminal proceeding, any property or material that is alleged to constitute evidence of obscenity as defined in R.S. 14:106(A)(2) that is unlawfully possessed, video voyeurism as defined in R.S. 14:283, pornography involving juveniles as defined in R.S. 14:81.1, or unlawful posting of criminal activity for notoriety and publicity as defined in R.S. 14:107.4, shall remain in the care, custody, and control of the investigating law enforcement agency, the court, or the district attorney.

B. Notwithstanding any other provision of law to the contrary, the court shall deny any request by the defendant to copy, photograph, duplicate, or otherwise reproduce any property or material that is alleged to constitute evidence of obscenity as defined in R.S. 14:106(A)(2) that is unlawfully possessed, video voyeurism as defined in R.S. 14:283, or pornography involving juveniles as defined in R.S. 14:81.1, or unlawful posting of criminal activity for notoriety and publicity as

defined in R.S. 14:107.4, provided that the district attorney makes the property or material reasonably available to the defendant.

C. For purposes of this Article, the property or material shall be deemed reasonably available to the defendant if the district attorney provides ample opportunity for the inspection, viewing, and examination at the office of the district attorney of the property or material by the defendant, the defendant's attorney, and any individual the defendant may seek to qualify to furnish expert testimony at trial.

D. Any material described in Paragraph A of this Article shall be contraband and shall not be disseminated or viewed by anyone other than as provided for in this Article or for the purposes of prosecution of the related criminal offenses. The court may issue any orders it deems appropriate to ensure that the privacy concerns of the victim are addressed.

Title XXVI. Trial Procedure

C.Cr.P. Art. 779. Trial of misdemeanors

A. A defendant charged with a misdemeanor in which the punishment, as set forth in the statute defining the offense, may be a fine in excess of one thousand dollars or imprisonment for more than six months shall be tried by a jury of six jurors, all of whom must concur to render a verdict.

B. The defendant charged with any other misdemeanor shall be tried by the court without a jury.

C.Cr.P. Art. 780. Right to waive trial by jury

A. A defendant charged with an offense other than one punishable by death may knowingly and intelligently waive a trial by jury and elect to be tried by the judge.

B. The defendant shall exercise his right to waive trial by jury in accordance with Article I, Section 17 of the Constitution of Louisiana. The waiver shall be by written motion filed in the district court not later than forty-five days prior to the date the case is set for trial. The motion shall be signed by the defendant and shall also be signed by defendant's counsel unless the defendant has waived his right to counsel.

C. With the consent of the district attorney the defendant may waive trial by jury within forty-five days prior to the commencement of trial.

D. A waiver of trial by jury is irrevocable and cannot be withdrawn by the defendant.

Title XXX. Sentence

C.Cr.P. Art. 871. Sentence defined; pronouncing and recording of sentence; certification of conviction

A. A sentence is the penalty imposed by the court on a defendant upon a plea of guilty, upon a verdict of guilty, or upon a judgment of guilt. Sentence shall be pronounced orally in open court and recorded in the minutes of the court.

B. (1)(a) In every judgment of guilty of a felony or of one of the misdemeanors enumerated in Subparagraph (2) of this Paragraph, the sheriff shall cause to be attached to the bill of information or indictment the fingerprints of the defendant against whom such judgment is rendered.

(b)(i) Beneath such fingerprints shall be appended a certificate to the following effect:
“I hereby certify that the above and foregoing fingerprints on this bill are the fingerprints of the defendant, and that they were placed thereon by said defendant this _____ day of _____, _____.”

(ii) The certificate shall be signed by the sheriff or other law enforcement officer who has custody of the defendant.

(2) In addition to judgments of guilty of a felony, the sheriff shall cause the fingerprints of the defendant to be so attached for every judgment of guilty of the following misdemeanors:

(a) First or second offense operating a vehicle while intoxicated in violation of R.S. 14:98.

(b) First offense possession of marijuana, tetrahydrocannabinol, or chemical derivatives thereof, pursuant to a sentence imposed under R.S. 40:966(D)(1).

(c) A first or second offense involving drug paraphernalia pursuant to a sentence imposed under R.S. 40:1035(A) and (B).

(d) First or second offense theft pursuant to a sentence imposed under R.S. 14:67(B)(3) and first or second offense theft of goods pursuant to a sentence imposed under R.S. 14:67.10(B)(3).

(e) First offense prostitution pursuant to a sentence imposed under R.S. 14:82(B)(1).

(f) First or second offense of domestic abuse battery in violation of R. S. 14:35.3.

(g) First offense of failure to pay a child support obligation in violation of R.S. 14:75.

(h) A conviction for violation of protective orders (R.S. 14:79).

C. The certificate required by Paragraph B of this Article shall be admissible in evidence in the courts of this state as prima facie evidence that the fingerprints appearing thereon are the fingerprints of the defendant against whom the judgment of guilty of a felony or one of the enumerated misdemeanors was rendered.

C.Cr.P. Art. 875.1. Determination of substantial hardship to the defendant

A. The purpose of imposing financial obligations on an offender who is convicted of a criminal offense is to hold the offender accountable for his action, to compensate victims for any actual pecuniary loss or costs incurred in connection with a criminal prosecution, to defray the cost of court operations, and to provide services to offenders and victims. These financial obligations should not create a barrier to the offender's successful rehabilitation and reentry into society. Financial obligations in excess of what an offender can reasonably pay undermine the primary purpose of the justice system which is to deter criminal behavior and encourage compliance with the law. Financial obligations that cause undue hardship on the offender should be waived, modified, or forgiven. Creating a payment plan for the offender that is based upon the ability to pay, results in financial obligations that the offender is able to comply with and often results in more money collected. Offenders who are consistent in their payments and in good faith try to fulfill their financial obligations should be rewarded for their efforts.

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

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

(2) The defendant or the court may waive the judicial determination of a substantial financial hardship required by the provisions of this Paragraph. If the court waives the hearing on its own motion, the court shall provide reasons, entered upon the record, for its determination that the

defendant is capable of paying the fines, fees, and penalties imposed without causing a substantial financial hardship.

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

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

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

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

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

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

(3) If, after the initial determination of the defendant's ability to fulfill his financial obligations, the defendant's circumstances and ability to pay his financial obligations change, the state, the defendant or the defendant’s attorney may file a motion with the court to reevaluate the defendant's circumstances and determine, in the same manner as the initial determination, whether a modification of the monthly financial obligation imposed pursuant to this Section is appropriate under the circumstances.

E. Notwithstanding any other provision of this Article or any other provision of law to the contrary, a court may not waive nor forgive restitution due to a crime victim unless the victim to whom restitution is due consents to such an action.

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

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

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

C.Cr.P. Art. 883.2. Restitution to victim

A. In all cases in which the court finds an actual pecuniary loss to a victim, or in any case where the court finds that costs have been incurred by the victim in connection with a criminal prosecution, the trial court shall order the defendant to provide restitution to the victim as a part of any sentence that the court shall impose.

B. Additionally, if the defendant agrees as a term of a plea agreement, the court shall order the defendant to provide restitution to other victims of the defendant's criminal conduct, although those persons are not the victim of the criminal charge to which the defendant pleads. Such restitution to other persons may be ordered pursuant to Article 895 or 895.1 of this Code or any other provision of law permitting or requiring restitution to victims.

C. The court shall order that all restitution payments be made by the defendant to the victim through the court's designated intermediary, and in no case shall the court order the defendant to deliver or send a restitution payment directly to a victim, unless the victim consents.

D. Notwithstanding any other provision of law to the contrary, if the defendant is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court may order a periodic payment plan pursuant to the provisions of Article 875.1.

C.Cr.P. Art. 884. Sentence of fine with imprisonment for default

A. If a sentence imposed includes a fine or costs, the sentence shall provide that in default of payment thereof the defendant shall be imprisoned for a specified period not to exceed one year; provided that where the maximum prison sentence which may be imposed as a penalty for a misdemeanor is six months or less, the total period of imprisonment upon conviction of the offense, including imprisonment for default in payment of a fine or costs, shall not exceed six months for that offense.

B. The provisions of this Article do not apply if the court has determined, pursuant to the provisions of Article 875.1, that payment in full of the aggregate amount of all financial obligations imposed upon the defendant would cause substantial financial hardship to the defendant or his dependents. In such cases, the provisions of Article 875.1 shall apply.

C.Cr.P. Art. 885.1. Suspension of driving privileges; failure to pay criminal fines

A. When a fine is levied against a person convicted of any felony criminal offense including any violation of the Louisiana Highway Regulatory Act or any municipal or parish ordinance regulating traffic and the court grants the defendant an extension of time to pay the fine, if at the expiration of the extended period granted by the court, the defendant shows that he is financially unable to pay the fine, the judge of the court having jurisdiction shall grant the person an extension of time, not to exceed one hundred eighty days, in which to pay the fine, or offer the person, in lieu of paying the fine, the alternative of performing community service as set by the judge.

B. If, at the expiration of the one-hundred-eighty-day period granted by the judge pursuant to Paragraph A of this Article, the judge determines that the defendant has either willfully not paid the fine or has not performed the community service, the judge may do either of the following:

(1) For any offense that involves the operation of any motor vehicle, aircraft, watercraft, or other means of conveyance as a necessary element of proof in the commission of the offense, order the person's driver's license to be surrendered to the sheriff or official of the court collecting fines, and the sheriff or official of the court designated to collect fines shall forward the license to the Department of Public Safety and Corrections.

(2) Grant the person an extension of time to either pay the fine or perform the community service.

C. If the person’s license is surrendered pursuant to Paragraph (B)(1) of this Article, upon receipt of the defendant's surrendered driver's license, the department shall suspend the driver's license of the defendant. The suspension shall begin when the department receives written notification from the court, and the department shall send immediate written notification to the defendant informing him of the suspension of driving privileges.

D. The department shall reinstate, return, reissue, or renew a driver's license in its possession pursuant to this Section upon payment of the fine and any additional administrative cost, fee, or penalty required by the judge having the jurisdiction and any other cost, fee, or penalty required by the department in accordance with R.S. 32:414(H) or other applicable cost, fee, or penalty provision.

E. Notwithstanding any provision of law to the contrary, if the person against whom the fine is levied is financially unable to pay the fine, the provisions of this Article shall not apply and the judge of the court shall not order that the person's driver's license be surrendered for failure to pay such fine, unless the court determines that the defendant is financially able but has willfully refused to pay the fine, or to perform the community service ordered as an alternative to the fine pursuant to the provisions of this Article.

C.Cr.P. Art. 886. Enforcement of fine by civil process; offset of tax refund

A. In the event of nonpayment of a fine, nonpayment of restitution to the victim, or nonpayment of a fine and costs, within sixty days after the sentence was imposed, and if no appeal is pending, the court which imposed the sentence may sign a judgment against the defendant in a sum equal to the fine or restitution plus judicial interest to begin sixty days after the sentence was imposed plus all costs of the criminal proceeding and subsequent proceedings necessary to enforce the judgment in either civil or criminal court, or both. Collection of the judgment may be enforced in either criminal or civil court, or both, in the same manner as a money judgment in a civil case. In addition, particular courts may provide by court rule for enforcement by the filing of an offset claim against the defendant, in accordance with R.S. 47:299.1 through 299.20.

B. The provisions of Paragraph A of this Article shall apply to all fines and costs due and owing, regardless of whether they become due and owing prior to September 6, 1991.

C.Cr.P. Art. 886.1. Judgment for fines and costs declared executory; required notice

If a civil judgment is signed in accordance with Article 886, the judgment shall be executory upon rendition by the court provided the defendant was notified at the time of sentencing of the possible rendition of a civil judgment in the event of his failure to pay the fine and costs. In all other cases, the judgment shall be executory immediately upon service of the notice of judgment upon the defendant in accordance with Code of Civil Procedure Article 1913.

C.Cr.P. Art. 890.1. Waiver of minimum mandatory sentences; procedure; exceptions

A. Notwithstanding any other provision of law to the contrary, if a felony or misdemeanor offense specifies a sentence with a minimum term of confinement or a minimum fine, or that the sentence shall be served without benefit of parole, probation, or suspension of sentence, the court, upon conviction, in sentencing the offender shall impose the sentence as provided in the penalty provisions for that offense, unless one of the following occurs:

(1) The defendant pled guilty pursuant to a negotiated plea agreement with the prosecution and the court, which specifies that the sentence shall be served with benefit of parole, probation, or suspension of sentence or specifies a reduced fine or term of confinement.

(2) In cases resulting in trial, the prosecution, the defendant, and the court entered into a post-conviction agreement, which specifies that the sentence shall be served with benefit of parole, probation, or suspension of sentence or specifies a reduced fine or term of confinement.

B. If such agreements are entered into between the prosecution and the defendant, the court, at sentencing, shall not impose a lesser term of imprisonment, lesser fine, or lesser period of sentence served without benefit of parole, probation, or suspension of sentence than that expressly provided for under the terms of the plea or post-conviction agreement.

C. No plea or post-conviction agreement shall provide parole eligibility at a time earlier than that provided in R.S. 15:574.4.

D. The provisions of this Article shall not apply to a sex offense as defined in R.S. 15:541 or to any of the following crimes of violence:

(1) R.S. 14:28.1 (Solicitation for murder).
(2) R.S. 14:30 (First degree murder).
(3) R.S. 14:30.1 (Second degree murder).
(4) R.S. 14:31 (Manslaughter).
(5) R.S. 14:34.6 (Disarming of a peace officer).

(6) R.S. 14:34.7 (Aggravated second degree battery).
(7) R.S. 14:37.1 (Assault by drive-by shooting).
(8) R.S. 14:37.4 (Aggravated assault with a firearm).
(9) R.S. 14:42 (Aggravated or first degree rape).
(10) R.S. 14:42.1 (Forcible or second degree rape).
(11) R.S. 14:43 (Simple or third degree rape).
(12) R.S. 14:43.1 (Sexual battery).
(13) R.S.14:43.2 (Second degree sexual battery).
(14) R.S. 14:43.5 (Intentional exposure to AIDS virus).
(15) R.S. 14:44 (Aggravated kidnapping).
(16) R.S. 14:44.1 (Second degree kidnapping).
(17) R.S. 14:46.2 (Human trafficking).
(18) R.S.14:46.3 (Trafficking of children for sexual purposes).
(19) R.S.14:51 (Aggravated arson).
(20) R.S. 14:62.8 (Home invasion).
(21) R.S. 14:64 (Armed robbery).
(22) R.S. 14:64.4 (Second degree robbery).
(23) R.S. 14:64.3 (Armed robbery; use of firearm).
(24) R.S. 14:64.2 (Carjacking).
(25) R.S. 14:78.1 (Aggravated incest).
(26) R.S. 14:93.2.3 (Second degree cruelty to juveniles).
(27) R.S.14:128.1 (Terrorism).
(28) R.S. 14:34 (Aggravated battery).
(29) R.S. 14:37 (Aggravated assault).
(30) R.S. 14:34.1 (Second Degree Battery)
(31) R.S. 14:35.3 (Domestic Abuse Battery)
(32) R.S. 14:40.2 (Stalking)
(33) R.S. 14:64.1 (First Degree Robbery)
(34) R.S. 14:32.5 (Feticide)

E. At the time the sentence is imposed pursuant to this Article, the Uniform Commitment Sentencing Order shall specify that the sentence is imposed pursuant to the provisions of this Article.

C.Cr.P. Art. 890.3. Sentencing for crimes of violence

A. Except as provided in Paragraph C of this Article, when a defendant is sentenced for any offense, or the attempt to commit any offense, defined or enumerated as a crime of violence in R.S. 14:2(B), the district attorney may make a written recommendation to the court that the offense should not be designated as a crime of violence only for the following purposes:

(1) The defendant's eligibility for suspension or deferral of sentence pursuant to Article 893.

(2) The defendant's eligibility for participation in a drug division probation program pursuant to R.S. 13:5304.

B. In the absence of a written recommendation by the district attorney as provided in Paragraph A of this Article, the offense shall be designated as a crime of violence as a matter of law.

C. The following crimes of violence enumerated in R.S. 14:2(B) shall always be designated by the court in the minutes as a crime of violence:

(1) Solicitation for murder.
(2) First degree murder.
(3) Second degree murder.
(4) Manslaughter.
(5) Aggravated or first degree rape.
(6) Forcible or second degree rape.
(7) Simple or third degree rape.
(8) Sexual battery.
(9) Second degree sexual battery.

(10) Intentional exposure to AIDS virus.
(11) Aggravated kidnapping.
(12) Second degree kidnapping.
(13) Aggravated arson.
(14) Armed robbery.
(15) Assault by drive-by shooting.
(16) Carjacking.
(17) Terrorism.
(18) Aggravated second degree battery.
(19) Aggravated assault with a firearm.
(20) Armed robbery; use of firearm; additional penalty.
(21) Second degree robbery.
(22) Disarming of a peace officer.
(23) Second degree cruelty to juveniles.
(24) Aggravated crime against nature.
(25) Trafficking of children for sexual purposes.
(26) Human trafficking.
(27) Home invasion.

C.Cr.P. Art. 891. Forfeiture of weapons

A. For purposes of this Article, a firearm or other dangerous weapon either used in the commission of a felony offense or the use of which constitutes an element of a felony offense may be declared to be crime-related contraband which may be seized by a law enforcement officer in the course of an arrest or issuance of summons or may be seized by order of court pursuant to other provisions of law. The district attorney of the parish where the arrest or seizure occurred may petition the district court to forfeit to the seizing agency an item or thing seized, or may petition the court for seizure, upon a showing that the item or thing seized or to be seized constitutes crime-related contraband.

B. Forfeiture under this Article may be initiated within sixty days of receipt or publication of notice of seizure. The law enforcement agency effecting the seizure shall send notice to the registered owner if known and possessor of the item or thing by certified mail, return receipt requested, at the address provided to the law enforcement agency by any known or believed registered owner or possessor; and if returned unclaimed, notice shall be by an advertisement placed for publication by the seizing agency in the official journal of the parish of the place of seizure.

C. The notice provided for in Paragraph B must state or contain all of the following:

(1) A description of the item or thing to be forfeited.

(2) The name of the registered or believed owner, if any.

(3) A statement regarding the nature and circumstances surrounding the forfeiture.

(4) That the seizing law enforcement agency seeks to forfeit the described item or thing.

(5) That a claim to the item must be made within sixty days from date of receipt or publication of notice in order to interrupt or prevent the forfeiture.

D. The claimant of the item or thing to be forfeited must file a written affidavit with the court wherein the petition was filed within the time period provided for in Paragraph C of this Article. The affidavit shall allege or establish the owner's or possessor's lack of knowledge or lack of duty to know that the thing or item was used or intended for use in the commission of an offense. The claimant must also be legally entitled to the ownership or possession of the thing or item and must establish, to the satisfaction of the court, proof of ownership or dominion. If no legitimate claim is made within sixty days, the thing or item shall be declared crime-related contraband by the court and all rights, title, and interest to the thing or item seized shall be transferred to and vested with the seizing law enforcement agency making the seizure. Discretion as to the disposition of crime-related contraband which is a firearm or dangerous weapon shall rest with the court.

E. In addition to ordering the forfeiture of a firearm or dangerous weapon as crime-related contraband as otherwise provided in this Article or by any other provision of law, when a court sentences a defendant, it may order the forfeiture of any weapon used in connection with the offense or found in the possession or under the immediate control of the defendant at the time of the arrest. The court may provide for the destruction, sale, or other disposition of the weapons forfeited.

C.Cr.P. Art. 893. Suspension and deferral of sentence and probation in felony cases

A. (1)(a) When it appears that the best interest of the public and of the defendant will be served, the court, after a first, second, or third conviction of a noncapital felony, may suspend, in whole or in part, the imposition or execution of either or both sentences, where suspension is allowed under the law, and in either or both cases place the defendant on probation under the supervision of the division of probation and parole. The court shall not suspend the sentence of a second or third conviction of R.S. 14:73.5. Except as provided in Paragraphs G and H of this Article, the period of probation shall be specified and shall not be more than five years.

(b) The court shall not suspend the sentence of a second or third conviction of R.S. 14:81.1 or 81.2. If the court suspends the sentence of a first conviction of R.S. 14:81.1 or 81.2, the period of probation shall be specified and shall not be more than five years.

(2) The court shall not suspend the sentence of a conviction for an offense that is designated in the court minutes as a crime of violence pursuant to Article 890.3, except a first conviction for an offense with a maximum prison sentence of ten years or less that was not committed against a family member or household member as defined by R.S. 14:35.3, or dating partner as defined by R.S. 46:2151. The period of probation shall be specified and shall not be more than five years.

(3) The suspended sentence shall be regarded as a sentence for the purpose of granting or denying a new trial or appeal.

(4) Supervised release as provided for by Chapter 3-E of Title 15 of the Louisiana Revised Statutes of 1950 shall not be considered probation and shall not be limited by the five-year period for probation provided for by the provisions of this Paragraph.

B. (1) Notwithstanding any other provision of law to the contrary, when it appears that the best interest of the public and of the defendant will be served, the court, after a fourth or subsequent conviction of a noncapital felony may suspend, in whole or in part, the imposition or execution of the sentence upon consent of the district attorney.

(2) After a third or fourth conviction of operating a vehicle while intoxicated pursuant to R.S. 14:98, the court may suspend, in whole or in part, the imposition or execution of the sentence when the defendant was not offered such alternatives prior to his fourth conviction of operating a vehicle while intoxicated and the following conditions exist:

(a) The district attorney consents to the suspension of the sentence.

(b) The court orders the defendant to do any of the following:

(i) Enter and complete a program provided by the drug division of the district court pursuant to R.S. 13:5301 et seq.

(ii) Enter and complete an established driving while intoxicated court or sobriety court program.

(iii) Enter and complete a mental health court program established pursuant to R.S. 13:5351 et seq.

(iv) Enter and complete a Veterans Court program established pursuant to R.S. 13:5361 et seq.

(v) Enter and complete a reentry court program established pursuant to R.S. 13:5401.

(vi) Reside for a minimum period of one year in a facility which conforms to the Judicial Agency Referral Residential Facility Regulatory Act, R.S. 40:2851 et seq.

(vii) Enter and complete the Swift and Certain Probation Pilot Program established pursuant to R.S. 13:5371 et seq.

(c) The defendant does not meet the requirements set forth in Paragraph F of this Article.

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

C. If the sentence consists of both a fine and imprisonment, the court may impose the fine and suspend the sentence or place the defendant on probation as to the imprisonment.

D. Except as otherwise provided by law, the court shall not suspend a felony sentence after the defendant has begun to serve the sentence.

E. (1)(a) When it appears that the best interest of the public and of the defendant will be served, the court may defer, in whole or in part, the imposition of a sentence after conviction of a first offense noncapital felony under the conditions set forth in this Paragraph. When a conviction is entered under this Paragraph, the court may defer the imposition of sentence and place the defendant on probation under the supervision of the division of probation and parole.

(b) The court shall not defer a sentence under this provision for an offense or an attempted offense that is designated in the court minutes as a crime of violence pursuant to Article 890.3 or that is defined as a sex offense by R.S. 15:541, involving a child under the age of seventeen years or for a violation of the Uniform Controlled Dangerous Substances Law that is punishable by a term of imprisonment of more than ten years or for a violation of R.S. 40:966(A), 967(A), 968(A), 969(A), or 970(A).

(2) Upon motion of the defendant, if the court finds at the conclusion of the probationary period that the probation of the defendant has been satisfactory, the court may set the conviction aside and dismiss the prosecution. The dismissal of the prosecution shall have the same effect as acquittal, except that the conviction may be considered as a first offense and provide the basis for subsequent prosecution of the party as a habitual offender except as provided in R.S. 15:529.1(C)(3). The conviction may be considered as a prior offense for purposes of any other law or laws relating to cumulation of offenses. Dismissal under this Paragraph shall occur only twice with respect to any person.

(3)(a) When a case is accepted into a drug court division probation program pursuant to the provisions of R.S. 13:5304 and at the conclusion of the probationary period the court finds that the defendant has successfully completed all conditions of probation, the court with the concurrence of the district attorney may set aside the conviction and dismiss prosecution, whether the defendant's sentence was suspended under Paragraph A of this Article or deferred under Subparagraph (1) of this Paragraph. The dismissal of prosecution shall have the same effect as an acquittal, except that the conviction may be considered as a first offense and provide the basis for subsequent prosecution of the party as a habitual offender except as provided in R.S. 15:529.1(C)(3). The conviction may be considered as a prior offense for purposes of any other law or laws relating to cumulation of offenses.

(b) The court may extend the provisions of this Paragraph to any person who has previously successfully completed a drug court program and satisfactorily completed all other conditions of probation.

(c) Dismissal under this Paragraph shall have the same effect as an acquittal for purposes of expungement under the provisions of Title XXXIV of this Code and may occur only twice with respect to any person.

(4) When a defendant, who has been committed to the custody of the Department of Public Safety and Corrections to serve a sentence in the intensive incarceration program pursuant to the provisions of Article 895(B)(3), has successfully completed the intensive incarceration program as well as successfully completed all other conditions of parole or probation, and if the defendant is otherwise eligible, the court with the concurrence of the district attorney may set aside the conviction and dismiss prosecution, whether the defendant's sentence was suspended under Paragraph A of this Article or deferred under Subparagraph (1) of this Paragraph. The dismissal of prosecution shall have the same effect as an acquittal, except that the conviction may be considered as a first offense and provide the basis for subsequent prosecution of the party as a habitual offender except as provided in R.S. 15:529.1(C)(3). The conviction may be considered as a prior offense for purposes of any other law or laws relating to cumulation of offenses. Dismissal under this Subparagraph shall have the same effect as an acquittal for purposes of expungement under the provisions of Title XXXIV of this Code and may occur only twice with respect to any person.

F. (1) Notwithstanding any other provision of law to the contrary, when it appears that the best interest of the public and of the defendant will be served, after the conviction of a defendant considered suitable for a drug or specialty court program pursuant to Article 904, the court may suspend, in whole or in part, the imposition or execution of the sentence when all of the following conditions are met:

(a) The district attorney consents to the suspension of sentence.

(b) There is an available drug or specialty court program recognized by the Louisiana Supreme Court.

(c) The court orders the defendant to enter and complete any drug or specialty court program recognized by the Louisiana Supreme Court.

(2) If the district attorney does not consent to the suspension of the sentence, the district attorney shall file his objection with written reasons into the record.

(3) If the district attorney files an objection into the record, or if the court determines that a specialty court program is not available for the defendant, the court may sentence the defendant to any sentence provided for the offense by law.

(4) When suspension of sentence is allowed pursuant to this Paragraph, the defendant may be placed on probation under the supervision of the division of probation and parole, or under the supervision of a probation office, agency, or officer designated by the court. The period of probation shall be specified and shall not exceed three years, except as provided in Paragraph H of this Article. The suspended sentence shall be regarded as a sentence for the purpose of granting or denying a motion for new trial or appeal.

(5) Upon motion of the defendant, if the court finds at the conclusion of the probationary period that the probation of the defendant has been satisfactory, the court may set the conviction aside and dismiss the prosecution. The dismissal of the prosecution shall have the same effect as an acquittal, except that the conviction may be considered as a first offense and provide the basis for a subsequent prosecution of the party as a habitual offender, except as provided in R.S. 15:529.1(C)(3). The conviction also may be considered as a prior offense for purposes of any other provision of law relating to cumulation of offenses. Dismissal pursuant to this Paragraph shall occur only once with respect to any person.

G. Nothing contained in this Section shall be construed as being a basis for destruction of records of the arrest and prosecution of any person convicted of a felony.

H. If the court, with the consent of the district attorney, orders a defendant to enter and complete a program provided by the drug division of the district court pursuant to R.S. 13:5301, an established driving while intoxicated court or sobriety court program, a mental health court

program established pursuant to R.S. 13:5351 et seq., a Veterans Court program established pursuant to R.S. 13:5361 et seq., a reentry court established pursuant to R.S. 13:5401, or the Swift and Certain Probation Pilot Program established pursuant to R.S. 13:5371, the court may place the defendant on probation for a period of not more than eight years if the court determines that successful completion of the program may require that period of probation to exceed the five-year limit. The period of probation as initially fixed or as extended shall not exceed eight years.

I. (1) If a defendant is placed on supervised probation, the division of probation and parole shall submit to the court a compliance report when requested by the court, or when the division of probation and parole considers it necessary to have the court make a determination with respect to modification of terms or conditions of probation, termination of probation, revocation of probation, or other purpose proper under any provision of law.

(2) For purposes of this Paragraph:

(a) “Compliance” means the full completion of the terms and conditions of probation as imposed by the sentencing judge.

(b) “Compliance report” means a report generated and signed by the division of probation and parole that contains clear and concise information relating to the defendant's performance and may contain a recommendation as to early termination.

(3) After a review of the compliance report, if it is the recommendation of the division of probation and parole that the defendant is in compliance with the conditions of probation, in accordance with the compliance report, the court may terminate probation at such time as “satisfactorily completed”, absent a showing of cause for a denial.

(4) Notwithstanding the provisions of Article 897(A), the court may terminate probation at any time as “satisfactorily completed” upon the final determination that the defendant is in compliance with the terms and conditions of probation.

(5) If the court determines that the defendant has failed to successfully complete the terms and conditions of probation, the court may extend the probation for a period not to exceed two years for the purpose of allowing the defendant additional time to complete the terms of probation, additional conditions, the extension of probation, or the revocation of probation.

(6) Absent extenuating circumstances, the court shall, within ten days of receipt of the compliance report, make an initial determination as to the issues presented and shall transmit the decision to the probation officer. The court shall disseminate the decision to the defendant, the division of probation and parole, and the prosecuting agency within ten days of receipt. The parties shall have ten days from receipt of the initial determination of the court to seek an expedited contradictory hearing for the purpose of challenging the court's determination. If no challenge is made within ten days, the court's initial determination shall become final and shall constitute a valid order of the court.

C.Cr.P. Art. 893.1. Motion to invoke firearm sentencing provision

A. If the district attorney intends to move for imposition of sentence under the provisions of Article 893.3, he shall file a motion within a reasonable period of time prior to commencement of trial of the felony or specifically enumerated misdemeanor in which the firearm was used.

B. The motion shall contain a plain, concise, and definite written statement of the essential facts constituting the basis for the motion and shall specify the provisions of this Chapter under which the district attorney intends to proceed.

C.Cr.P. Art. 893.2. Discharge, use, or possession of firearm in commission of a felony or a specifically enumerated misdemeanor; submission to jury

If a motion was filed by the state in compliance with Article 893.1, a determination shall be made as to whether a firearm was discharged, or used during the commission of the felony or specifically enumerated misdemeanor, or actually possessed during the commission of a felony which is a crime of violence as defined by R.S. 14:2(B), felony theft, simple burglary, simple burglary of an

inhabited dwelling, unauthorized entry of an inhabited dwelling, production, manufacturing, distribution, dispensing, or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Law, or specifically enumerated misdemeanor and whether the mandatory minimum sentencing provisions of Article 893.3 have been shown to be applicable. Such determination is a specific finding of fact to be submitted to the jury and proven by the state beyond a reasonable doubt.

C.Cr.P. Art. 893.3. Sentence imposed on felony or specifically enumerated misdemeanor in which firearm was possessed, used, or discharged

A. If the finder of fact finds beyond a reasonable doubt that the offender actually possessed a firearm during the commission of the felony or specifically enumerated misdemeanor for which he was convicted, the court shall impose a term of imprisonment of not less than two years nor more than the maximum term of imprisonment provided for the underlying offense; however, if the maximum sentence for the underlying offense is less than two years, the court shall impose the maximum sentence.

B. If the finder of fact finds beyond a reasonable doubt that the offender actually used a firearm in the commission of the felony or specifically enumerated misdemeanor for which he was convicted, the court shall impose a term of imprisonment of not less than five years nor more than the maximum term of imprisonment for the underlying offense; however, if the maximum sentence for the underlying offense is less than five years, the court shall impose the maximum sentence.

C. If the finder of fact finds beyond a reasonable doubt that the offender actually discharged a firearm in the commission of the felony or specifically enumerated misdemeanor for which he was convicted, the court shall impose a term of imprisonment of not less than ten years nor more than the maximum term of imprisonment provided for the underlying offense; however, if the maximum sentence for the underlying offense is less than ten years, the court shall impose the maximum sentence.

D. If the finder of fact finds beyond a reasonable doubt that a firearm was actually used or discharged by the defendant during the commission of the felony for which he was convicted, and thereby caused bodily injury, the court shall impose a term of imprisonment of not less than fifteen years nor more than the maximum term of imprisonment provided for the underlying offense; however, if the maximum sentence for the underlying felony is less than fifteen years, the court shall impose the maximum sentence.

E. (1)(a) Notwithstanding any other provision of law to the contrary, if the finder of fact has determined that the defendant committed a felony with a firearm as provided for in this Article, and the crime is considered a violent felony as defined in this Paragraph, the court shall impose a minimum term of imprisonment of not less than ten years nor more than the maximum term of imprisonment provided for the underlying offense. In addition, if the firearm is discharged during the commission of such a violent felony, the court shall impose a minimum term of imprisonment of not less than twenty years nor more than the maximum term of imprisonment provided for the underlying offense.

(b) A “violent felony” for the purposes of this Paragraph is: second degree sexual battery, aggravated burglary, carjacking, armed robbery, second degree kidnapping, manslaughter, or forcible or second degree rape.

(2) A sentence imposed under this Paragraph shall be without benefit of parole, probation or suspension of sentence.

F. A sentence imposed under the provisions of this Article shall not be suspended and shall be imposed in the same manner as provided in the felony for which the defendant was convicted.

G. A defendant sentenced under the provisions of this Article shall not be eligible for parole during the period of the mandatory minimum sentence.

H. If the court finds that a sentence imposed under provisions of this Article would be excessive, the court shall state for the record the reasons for such finding and shall impose the most severe sentence which is not excessive.

I. For the purpose of this Article, “firearm” is defined as an instrument used in the propulsion of shot, shell, or bullets by the action of gunpowder exploded within.

J. For purposes of this Article, the specifically enumerated misdemeanors to which these sentencing provisions are applicable shall be:

(1) R.S. 14:79, violation of a protective order, involving an assault or battery of the person protected.
(2) R.S. 14:67, theft.
(3) R.S. 14:35, simple battery.
(4) R.S. 14:37, aggravated assault.
(5) R.S. 14:40.2, stalking.
(6) R.S. 14:35.3, domestic abuse battery.

C.Cr.P. Art. 893.4. Inapplicability to unintentional felonies

The provisions of Article 893.3 shall not apply to a conviction for a felony in which criminal negligence is an element of the offense unless the firearm was actually used or discharged during the commission of the offense.

C.Cr.P. Art. 893.5. Community service in lieu of imprisonment

A. Except as otherwise prohibited by law, the court may suspend, in whole or in part, the imposition or execution of sentence if:

(1) The defendant has not previously been convicted of a felony.

(2) The maximum term of imprisonment for the offense is thirty years or less.

(3) The court imposes a period of court-approved community service of not less than two nor more than five years.

(4) The court specifies in written form in the court record the reason for the imposition of community service in lieu of imprisonment.

B. An offender sentenced under the provisions of this Article shall be subject to all conditions of supervised probation imposed by the court or as set forth by law. The offender may have his probation revoked or modified as provided by law and shall not be allowed credit for time spent doing community service or for the time elapsed during suspension of the sentence.

C.Cr.P. Art. 894. Suspension and deferral of sentence; probation in misdemeanor cases

A. (1) Notwithstanding any other provision of this Article to the contrary, when a defendant has been convicted of a misdemeanor, except criminal neglect of family, or stalking, the court may suspend the imposition or the execution of the whole or any part of the sentence imposed, provided suspension is not prohibited by law, and place the defendant on unsupervised probation or probation supervised by a probation office, agency, or officer designated by the court, other than the division of probation and parole of the Department of Public Safety and Corrections, upon such conditions as the court may fix. Such suspension of sentence and probation shall be for a period of two years or such shorter period as the court may specify.

(2) When a suspended sentence in excess of six months is imposed, the court may place the defendant on probation under the supervision of the Department of Public Safety and Corrections, division of probation and parole, for a period of not more than two years and under such conditions as the court may specify.

(3) When a defendant has been convicted of the misdemeanor offense of operating a vehicle while intoxicated, second offense, the court may suspend the imposition or the execution of the whole or any part of the sentence imposed and place the defendant on unsupervised or supervised probation upon such conditions as the court may fix, where suspension is not prohibited under the

law. Such suspension of sentence and probation shall be for a period of two years or such shorter period as the court may specify.

(4) The court may suspend, reduce, or amend a misdemeanor sentence after the defendant has begun to serve the sentence.

(5) At the time that any defendant petitions the court to set aside any plea for operating a vehicle while intoxicated pursuant to this Article, the court shall order the clerk of court to mail to the Department of Public Safety and Corrections, office of motor vehicles, a certified copy of the record of the plea, fingerprints of the defendant, and proof of the requirements as set forth in Code of Criminal Procedure Article 556.1 which shall include the defendant's date of birth, social security number, and driver's license number. An additional fifty dollar court cost shall be assessed at this time against the defendant and paid to the Department of Public Safety and Corrections, office of motor vehicles, for the costs of storage and retrieval of the records.

(6) When a case is assigned to the drug division probation program pursuant to the provisions of R.S. 13:5304, with the consent of the district attorney, the court may place the defendant on probation for a period of not more than eight years if the court determines that successful completion of the program may require that the period of probation exceed the two year limit. If necessary to assure successful completion of the drug division probation program, the court may extend the duration of the probation period. The period of probation as initially fixed or as extended shall not exceed eight years.

(7) When a case is assigned to an established driving while intoxicated court or sobriety court program certified by the Louisiana Supreme Court Drug Court Office, the National Highway Traffic Safety Administration, or the Louisiana Highway Safety Commission, with the consent of the district attorney, the court may place the defendant on probation for a period of not more than eight years if the court determines that the successful completion of the program may require that the period of probation exceed the two-year limit. If necessary to assure successful completion of the driving while intoxicated court or sobriety court program, the court may extend the duration of the probation period. The period of probation as initially fixed or as extended shall not exceed four years.

B. (1) When the imposition of sentence has been deferred by the court, as authorized by this Article, and the court finds at the conclusion of the period of deferral that the defendant has not been convicted of any other offense during the period of the deferred sentence, and that no criminal charge is pending against him, the court may set the conviction aside and dismiss the prosecution. However, prior to setting aside any conviction and dismissing the prosecution for any charge for operating a vehicle while intoxicated, the court shall require proof in the form of a certified letter from the Department of Public Safety and Corrections, office of motor vehicles, that the requirements of Subparagraph (A)(5) of this Article have been complied with.

(2) The dismissal of the prosecution shall have the same effect as an acquittal, except that the conviction may be considered as a prior offense and provide the basis for subsequent prosecution of the party as a multiple offender. Discharge and dismissal under this provision for the offense of operating a vehicle while intoxicated may occur only once with respect to any person during a ten-year period.

(3) Discharge and dismissal pursuant to the provisions of this Subparagraph may occur on a single subsequent prosecution and conviction which occurs during the ten-year period provided for in Subparagraph (B)(2) of this Article if the following conditions are met:

(a) The offender has successfully completed a driving while intoxicated court or sobriety court program pursuant to Subparagraph (A)(7) of this Article.

(b) The conditions imposed by the court pursuant to the provisions of Subparagraph (A)(3) of this Article have been met.

C. Nothing contained herein shall be construed as being a basis for destruction of records of the arrest and prosecution of any person convicted of a misdemeanor.

D. (1) The Department of Public Safety and Corrections, office of motor vehicles, shall serve as a repository for the records referred to in Subparagraph (A)(5) of this Article for any plea for operating a vehicle while intoxicated entered pursuant to the provisions of this Article. The department shall maintain records for a period of ten years. The department shall respond by certified mail to a request by any court, prosecuting agency, or defendant seeking certified copies of the records or verification that the records are in the possession of the department.

(2) The records maintained by the department pursuant to this Article shall be confidential, except as otherwise provided in this Article. Certified copies of the records maintained by the department shall be admissible only in a subsequent prosecution for operating a vehicle while intoxicated and shall not be used for any other purpose.

(3)(a) The Department of Insurance is hereby authorized to expend from any surplus it derives from a fiscal year an amount not to exceed three hundred thousand dollars to the office of motor vehicles to fully implement and maintain the electronic database established in this Paragraph.

(b) The Department of Insurance is further authorized to enter into cooperative endeavor agreements with the Louisiana State Supreme Court, any district attorney's office, or any clerk of court's office for training and usage of the database created by this Paragraph.

C.Cr.P. Art. 894.1. Sentencing guidelines; generally

A. When a defendant has been convicted of a felony or misdemeanor, the court should impose a sentence of imprisonment if any of the following occurs:

(1) There is an undue risk that during the period of a suspended sentence or probation the defendant will commit another crime.

(2) The defendant is in need of correctional treatment or a custodial environment that can be provided most effectively by his commitment to an institution.

(3) A lesser sentence will deprecate the seriousness of the defendant’s crime.

B. The following grounds, while not controlling the discretion of the court, shall be accorded weight in its determination of suspension of sentence or probation:

(1) The offender’s conduct during the commission of the offense manifested deliberate cruelty to the victim.

(2) The offender knew or should have known that the victim of the offense was particularly vulnerable or incapable of resistance due to extreme youth, advanced age, disability, or ill health.

(3) The offender offered or has been offered or has given or received anything of value for the commission of the offense.

(4) The offender used his or her position or status to facilitate the commission of the offense.

(5) The offender knowingly created a risk of death or great bodily harm to more than one person.

(6) The offender used threats of or actual violence in the commission of the offense.

(7) Subsequent to the offense, the offender used or caused others to use violence, force, or threats with the intent to influence the institution, conduct, or outcome of the criminal proceedings.

(8) The offender committed the offense in order to facilitate or conceal the commission of another offense.

(9) The offense resulted in a significant permanent injury or significant economic loss to the victim or his family.

(10) The offender used a dangerous weapon in the commission of the offense.

(11) The offense involved multiple victims or incidents for which separate sentences have not been imposed.

(12) The offender was persistently involved in similar offenses not already considered as criminal history or as a part of a multiple offender adjudication.

(13) The offender was a leader or his violation was in concert with one or more other persons with respect to whom the offender occupied a position of organizer, a supervisory position, or any other position of management.

(14) The offense was a major economic offense.

(15) The offense was a controlled dangerous substance offense and the offender obtained substantial income or resources from ongoing drug activities.

(16) The offense was a controlled dangerous substance offense in which the offender involved juveniles in the trafficking or distribution of drugs.

(17) The offender committed the offense in furtherance of a terrorist action.

(18) The offender foreseeably endangered human life by discharging a firearm during the commission of an offense which has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and which, by its very nature, involves a substantial risk that physical force may be used in the course of committing the offense.

(19) The offender used a firearm or other dangerous weapon while committing or attempting to commit an offense which has, as an element, the use, attempted use, or threatened use of physical force against the person or property of another, and which by its very nature, involves a substantial risk that physical force may be used in the course of committing the offense.

(20) The offender used a firearm or other dangerous weapon while committing or attempting to commit a controlled dangerous substance offense.

(21) Any other relevant aggravating circumstances.

(22) The defendant’s criminal conduct neither caused nor threatened serious harm.

(23) The defendant did not contemplate that his criminal conduct would cause or threaten serious harm.

(24) The defendant acted under strong provocation.

(25) There were substantial grounds tending to excuse or justify the defendant’s criminal conduct, though failing to establish a defense.

(26) The victim of the defendant’s criminal conduct induced or facilitated its commission.

(27) The defendant has compensated or will compensate the victim of his criminal conduct for the damage or injury that he sustained.

(28) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life for a substantial period of time before the commission of the instant crime.

(29) The defendant’s criminal conduct was the result of circumstances unlikely to recur.

(30) The defendant is particularly likely to respond affirmatively to probationary treatment.

(31) The imprisonment of the defendant would entail excessive hardship to himself or his dependents.

(32) The defendant has voluntarily participated in a pretrial drug testing program.

(33) Any other relevant mitigating circumstance.

C. The court shall state for the record the considerations taken into account and the factual basis therefor in imposing sentence.

D. Immediately following the imposition of a felony sentence pursuant to this Article, the sentencing court shall advise the offender in open court whether the sentence imposed was enhanced pursuant to R.S. 15:529.1 et seq., Article 893.3, or any other relevant provision of law.

E. All victims of felonies who provide a written request to the Department of Public Safety and Corrections, which includes a mailing address, are entitled to receive a written report of the prospective term of imprisonment of their offenders. The Department of Public Safety and Corrections shall furnish to the victim within ninety days of commitment a report which includes the following information, in a format to be determined by the Department of Public Safety and Corrections:

(1) The prospective release date of the offender should his sentence be subject to diminution of sentence for good behavior, to the extent that the report shall advise the offender that he may be released upon serving the certain percentage of his sentence as provided for by law.

(2) The prospective parole eligibility date of the offender should he be eligible for parole pursuant to R.S. 15:574.4 et seq., to the extent that the report shall advise the offender that he may be eligible for release upon serving a certain percentage of his sentence as provided by law.

F. However, no sentence shall be declared unlawful or inadequate for failure to comply with the provisions of Paragraph D.

C.Cr.P. Art. 894.3. Notice to victim for sentencing

A. Before sentencing a defendant who has been convicted of a violation of a sex offense as defined in R.S. 15:541, the office of the district attorney shall notify the clerk of court of the name and the address of the victim, and the clerk of court shall give written notice of the date and time of sentencing at least three days prior to the hearing, when the sentencing is not immediately following the finding of guilt, to the victim or the victim's parent or guardian, unless the victim, parent, or guardian has advised the office of the district attorney in writing that such notification is not desired.

B. The victim or the victim's parent or guardian who desires to do so shall be given a reasonable opportunity to attend the hearing and to be heard.

C.Cr.P. Art. 894.4. Probation; extension

A. When a defendant has been sentenced to probation and has a monetary obligation, including but not limited to court costs, fines, costs of prosecution, and any other monetary costs associated with probation, the judge may not extend the period of probation for the purpose of collecting any unpaid monetary obligation, except as provided in Paragraph B of this Article, but may refer the unpaid monetary obligation to the office of debt recovery pursuant to R.S. 47:1676.

B. The judge may extend probation only one time and only by a period of six months for the purpose of monitoring collection of unpaid victim restitution if the court finds on the record by clear and convincing evidence that the court’s temporary ongoing monitoring would ensure collection of unpaid restitution more effectively than any of the following:

(1) Converting the unpaid restitution to a civil money judgment pursuant to Article 886 or 895.1.

(2) Referring the unpaid restitution to the office of debt recovery pursuant to R.S. 47:1676.

(3) Any other enforcement mechanism for collection of unpaid restitution authorized by law.

C. A six-month extension of probation as provided in Paragraph B shall apply only to the order of victim restitution. All other conditions of probation during the six-month extension shall be terminated.

C.Cr.P. Art. 895.1. Probation; restitution; judgment for restitution; fees

A. (1) When a court places the defendant on probation, it shall, as a condition of probation, order the payment of restitution in cases where the victim or his family has suffered any direct loss of actual cash, any monetary loss pursuant to damage to or loss of property, or medical expense. The court shall order restitution in a reasonable sum not to exceed the actual pecuniary loss to the victim in an amount certain. However, any additional or other damages sought by the victim and available under the law shall be pursued in an action separate from the establishment of the restitution order as a civil money judgment provided for in Subparagraph (2) of this Paragraph. If the court has determined, pursuant to the provisions of Article 875.1, that payment in full of the aggregate amount of all financial obligations imposed upon the defendant would cause substantial financial hardship to the defendant or his dependents, restitution payments shall be made pursuant to the provisions of Article 875.1.

(2)(a) The order to pay restitution together with any order to pay costs or fines, as provided in this Article, is deemed a civil money judgment in favor of the person to whom restitution, costs, or fines is owed, if the defendant is informed of his right to have a judicial determination of the amount and is provided with a hearing. In addition to proceedings by the court which orders the restitution, cost, or fine, the judgment may be enforced in the same manner as a money judgment in a civil case. Likewise, the judgment may be filed as a lien as provided by law for judgment creditors. Prior to the enforcement of the restitution order, or order for costs or fines, the defendant shall be notified of his right to have a judicial determination of the amount of restitution, cost, or fine. Such notice shall be served personally by the district attorney's office of the respective judicial district in which the restitution, cost, or fine is ordered.

(b) In addition to the powers under R.S. 13:1336, the Criminal District Court for the Parish of Orleans shall have the authority to order the payment of restitution as provided in this Paragraph. The enforcement of the judgment for restitution shall be filed in the Civil District Court for the Parish of Orleans.

(3) The court which orders the restitution shall provide written evidence of the order which constitutes the judgment.

(4) The court may suspend payment of any amount awarded hereunder and may suspend recordation of any judgment hereunder during the pendency of any civil suit instituted to recover damages, from said defendant brought by the victim or victims which arises out of the same act or acts which are the subject of the criminal offense contemplated hereunder.

(5) The amount of any judgment by the court hereunder, shall be credited against the amount of any subsequent civil judgment against the defendant and in favor of the victim or victims, which arises out of the same act or acts which are the subject of the criminal offense contemplated hereunder.

B. When a court suspends the imposition or the execution of a sentence and places the defendant on probation, it may in its discretion, order placed, as a condition of probation, an amount of money to be paid by the defendant to any or all of the following:

(1) To the indigent defender program for that court.

(2) To the criminal court fund to defray the costs of operation of that court.

(3) To the sheriff and clerk of court for costs incurred.

(4) To a law enforcement agency for the reasonable costs incurred in arresting the defendant, in felony cases involving the distribution of or intent to distribute controlled dangerous substances.

(5) To the victim to compensate him for his loss and inconvenience. Such an amount may be in addition to any amounts ordered to be paid by the defendant under Paragraph A herein.

(6) To a duly incorporated crime stoppers organization for the reasonable costs incurred in obtaining information which leads to the arrest of the defendant.

(7) To a local public or private nonprofit agency involved in drug abuse prevention and treatment for supervising a treatment program ordered by the court for a particular defendant, provided that such agency is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code of the United States. Any nonprofit agency receiving money under the provisions of this Paragraph must be licensed by the Louisiana Department of Health in the supervision of drug abuse prevention and treatment.

C. (1) When the court places the defendant on supervised probation, it shall order as a condition of probation a monthly fee of not less than sixty nor more than one hundred ten dollars payable to the Department of Public Safety and Corrections or such other probation office, agency, or officer as designated by the court, to defray the cost of supervision. If the probation supervision services are rendered by an agency other than the department, the fee may be ordered payable to that agency. These fees are only to supplement the level of funds that would ordinarily be available from regular state appropriations or any other source of funding.

(2) When the court places the defendant on unsupervised probation, it shall order as a condition of probation a monthly fee of not more than one dollar payable to the Department of Public Safety and Corrections or such other probation office, agency, or officer as designated by the court.

D. The court may, in lieu of the monthly supervision fee provided for in Paragraph C of this Article, require the defendant to perform a specified amount of community service work each month if the court finds the defendant is unable to pay the minimum supervision fee provided for in Paragraph C of this Article.

E. When the court places any defendant convicted of a violation of the Uniform Controlled Dangerous Substances Law, R.S. 40:966 through 1034, on any type of probation, it shall order as a condition of probation a fee of not less than fifty nor more than one hundred dollars, payable to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice to be credited to the Drug Abuse Education and Treatment Fund and used for the purposes provided in R.S. 15:1224.

F. When the court places the defendant on supervised probation, it shall order as a condition of probation the payment of a monthly fee of eleven dollars. The monthly fee established in this Paragraph shall be in addition to the fee established in Paragraph C of this Article and shall be collected by the Department of Public Safety and Corrections and shall be transmitted, deposited, appropriated, and used in accordance with the following provisions:

(1) The monthly fee established in this Paragraph shall be deposited immediately upon receipt in the state treasury.

(2) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, the treasurer shall classify and consider as fees and self-generated revenues available for appropriation as recognized by the Revenue Estimating Conference, an amount equal to that deposited as required by Subparagraph (1) of this Paragraph shall be credited to a special agency account to be retained for future appropriation as provided in this Article which is hereby created in the state treasury to be known as the “Sex Offender Registry Technology Account”. The monies in this account shall be used solely as provided in Subparagraph (3) of this Paragraph and only in the amounts appropriated by the legislature.

(3) The monies in the Sex Offender Registry Technology Account shall be appropriated as follows:

(a) For Fiscal Year 2006-2007, the amount of one hundred ninety thousand dollars to the Department of Public Safety and Corrections, office of state police, to be used in the administration of programs for the registration of sex offenders in compliance with federal and state laws, and support of community notification efforts by local law enforcement agencies. For Fiscal Years

2007-2008 through 2009-2010, the amount to be appropriated under this Subparagraph shall be twenty-five thousand dollars. For Fiscal Years 2010-2011, and thereafter, the amount to be appropriated to the Department of Public Safety and Corrections, office of state police, shall be twenty-five thousand dollars for the purposes of maintaining and administering the programs for the registration of sex offenders pursuant to this Subparagraph and special law enforcement initiatives.

(b) For Fiscal Year 2010-2011 and each year thereafter, an amount equal to fifteen percent of the total residual monies available for appropriation from the account shall be appropriated to the Department of Public Safety and Corrections, office of adult services, division of probation and parole.

(c) For Fiscal Year 2010-2011 through Fiscal Year 2013-2014, residual monies available for appropriation after satisfying the requirements of Subsubparagraphs (a) and (b) of this Subparagraph shall be appropriated to the Department of Justice, office of the attorney general. Of that residual amount, one hundred fifty thousand dollars shall be allocated to the office of the attorney general of which fifty thousand dollars shall be allocated for personnel and other costs to assist and monitor sheriff participation in utilization of the computer system, and one hundred thousand dollars of which shall be allocated to the cost of maintenance of the computer system which shall interface with the computer systems of the sheriffs of the parishes for registration of sex offenders and child predators.

(d) For Fiscal Year 2014-2015, and thereafter, residual monies available for appropriation after satisfying the requirements of Subsubparagraphs (a) and (b) of this Subparagraph shall be appropriated to the Department of Justice, office of the attorney general. Of that residual amount, two hundred and fifty thousand dollars shall be allocated to the office of the attorney general of which one hundred and fifty thousand dollars shall be allocated for personnel and other costs to assist and monitor sheriff participation in utilization of the computer system and the administration of the sex offender and child predator registration and notification laws as set forth in R.S. 15:540 et seq., and one hundred thousand dollars of which shall be allocated to the cost of maintenance of the computer system of the sheriffs of the parishes for registration of sex offenders and child predators.

(e) After providing for the allocations in Subsubparagraphs (a), (b), (c), and (d) of this Subparagraph, the remainder of the residual monies in the Sex Offender Registry Technology Account shall, pursuant to an appropriation to the office of the attorney general, be distributed to the sheriff of each parish, based on the population of convicted sex offenders, sexually violent predators, and child predators who are residing in the parish and who are active sex offender registrants or active child predator registrants in the respective parishes according to the State Sex Offender and Child Predator Registry. These funds shall be used to cover the costs associated with sex offender registration and compliance. Population data necessary to implement the provisions of this Subparagraph shall be as compiled and certified by the undersecretary of the Department of Public Safety and Corrections on the first day of June of each year. No later than thirty days after the Revenue Estimating Conference recognizes the prior year account balance, the office of the attorney general shall make these distributions, which are based on the data certified by the undersecretary of the Department of Public Safety and Corrections, to the recipient sheriffs who are actively registering offenders pursuant to this Paragraph.

C.Cr.P. Art. 895.5. Restitution recovery division; district attorneys; establishment

A. Restitution recovery division. Notwithstanding any other provision of law to the contrary, each district attorney may establish a special division in the office designated as the “restitution recovery division” for the administration, collection, and enforcement of victim restitution, victim compensation assessments, probation fees, and payments in civil or criminal proceedings ordered by the court and payable to the state or to crime victims, judgments entered which have not been otherwise vacated, or judicial relief given from the operation of the order or judgment.

B. Notification to district attorneys of nonpayment of restitution. The Department of Public Safety and Corrections, division of probation and parole, may notify the district attorney in writing when any probation fees, victim's restitution, victim's compensation, or like payments to any civil or criminal proceeding ordered by the court to be paid to the division have not been paid or are in

default for a period of ninety days or more, and the default has not been vacated. Upon written notification to the district attorney, the restitution recovery division of the office of the district attorney may collect or enforce the collection of any funds that have not been paid or that are in default which, at the discretion of the district attorney, are appropriate to be processed.

C. Compliance enforcement. (1) Except as provided in Subparagraph (2) of this Paragraph, the district attorney may take all lawful action necessary to require compliance with court-ordered payments, including filing a petition for revocation of probation, filing a petition to show cause for contempt of court, or institution of any other civil or criminal proceedings which may be authorized by law or by rule of court. In addition, the district attorney may issue appropriate notices to inform the defendant of his noncompliance and of the penalty for noncompliance. In the event that the district attorney institutes any other civil or criminal proceedings pursuant to this Paragraph, the defendant shall be charged costs of court and such costs shall be added to the amount due.

(2) If a court authorizes a payment plan to collect financial obligations associated with a criminal case and the defendant fails to make a payment, the court shall serve the defendant with a citation for a rule to show cause why the defendant should not be found in contempt of court for failure to comply with the payment plan. This citation shall include the following notice:

“If you make a payment toward the above listed fines and fees on or before _____, you will not have to come to court for this matter.
IMPORTANT NOTICE REGARDING THE HEARING ON THE RULE TO SHOW CAUSE FOR PROOF OF SATISFACTION OF FINANCIAL OBLIGATION:

(a) At the rule to show cause hearing, the court will evaluate your ability to pay the fines and fees listed above.

(b) You are ordered to bring any documentation or information that you want the court to consider in determining your ability to pay.

(c) Your failure to make a payment toward the ordered financial obligation may result in your incarceration only if the court finds, after a hearing, that you had the ability to pay and willfully refused to do so.

(d) You have the right to be represented by counsel (attorney/lawyer) of your choice. If you cannot afford counsel, you have the right to be represented by a court-appointed lawyer at no cost to you. However, you must apply for a court-appointed lawyer at least seven (7) days before this court date by going to the public defender's office. There is a forty-dollar ($40) application fee.

(e) If you are unable to make a payment toward the ordered financial obligation, you may request payment alternatives including but not limited to community service, a reduction of the amount owed, or both.

(f) During the hearing, you will have a meaningful opportunity to explain why you have not paid the above-listed amounts by presenting evidence and testimony.”

(3) If after the hearing provided for by Subparagraph (2) of this Paragraph, the court continues to authorize a payment plan, the defendant shall be served with the same notice provided for in Subparagraph (2) of this Paragraph regarding the consequences and due process for the willful failure to pay.

D. Collection fee. As provided for in Paragraph A of this Article, when an amount payable to the state or to a crime victim has not been satisfied in accordance with Article 888, or when a matter has been transferred to the district attorney as provided in Paragraph B of this Article, the district attorney may assess a collection fee of twenty percent of the funds due, which shall be added to the amount of funds due. Any fees collected pursuant to this Paragraph shall be distributed to the district attorney's restitution recovery division to be expended for lawful purposes for the operation of the office of the district attorney. Funds provided to the district attorney by this provision shall not reduce the amount payable to the district attorney under any other provision of law or reduce or affect the amounts of funding allocated by law to the budget of the district attorney. The funds shall be audited as other state funds are audited. This provision shall not affect the right of the

office of the district attorney to proceed with the prosecution of any violation as currently provided by law.

E. Intent. The provisions of this Article are supplemental to any procedures for the enforcement and collection of any sums or forfeitures ordered by the court and shall not be construed to repeal any law not in direct conflict with this provision.

C.Cr.P. Art. 895.6. Compliance Credits; probation – Repealed by Act 7, 2024 Second Extraordinary Session – effective April 29, 2024

C.Cr.P. Art. 896. Modifying or changing conditions of probation

A. The court may, at any time during the probation period, modify, change, or discharge the conditions of probation when either of the following occur:

(1) The state has previously provided written verification that it has no opposition to a modification, change, or discharge of the conditions of probation.

(2) A contradictory hearing with the state, set by the court, has been held. The court shall provide notice of the hearing to the state at least fifteen days prior to the hearing date.

B. The court may, at any time during the probation period, impose additional conditions of probation authorized by Article 895 without a contradictory hearing with the state.

C.Cr.P. Art. 897. Termination of probation or suspended sentence; discharge of defendant

A. In a felony case, other than for a conviction of operating a vehicle while intoxicated, vehicular homicide, or first degree vehicular negligent injuring, the court may terminate the defendant's probation, early or as unsatisfactory, and discharge him at any time after the expiration of one year of probation when either of the following occur:

(1) The state has previously provided written verification that it has no opposition to the termination of the probation.

(2) A contradictory hearing with the state, set by the court, has been held. The court shall provide notice of the hearing to the state at least fifteen days prior to the hearing date.

B. In a misdemeanor case, other than for a conviction of vehicular negligent injuring, the court may terminate the defendant's suspended sentence or probation and discharge him at any time when all of the following conditions are met:

(1) The termination or discharge is ordered in open court.

(2) The state is present at the time the termination or discharge is ordered and has been afforded an opportunity to participate in a contradictory hearing on the matter.

C.Cr.P. Art. 898. Satisfaction of suspended sentence and probation

Upon completion of the period of suspension of sentence or probation, or an earlier discharge of the defendant pursuant to Article 897, the defendant shall have satisfied the sentence imposed. Where part of a sentence is suspended, this provision shall not apply until the unsuspended part has been satisfied.

C.Cr.P. Art. 899. Arrest or summons for violation of probation

A. At any time during probation and suspension of sentence the court may issue a warrant for the arrest of a defendant for violation of any of the conditions of probation, or may issue a summons to appear to answer to a charge of violation or threatened violation.

The warrant of arrest may be executed by any peace officer and shall direct that the defendant be returned to the custody of the court or to a designated detention facility. The summons shall be personally served upon the defendant.

B. If a probation officer has reasonable cause to believe that a defendant has violated or is about to violate a condition of his probation or that an emergency exists so that awaiting an order of the court would create an undue risk to the public or to the probationer, the probation officer may arrest the defendant without a warrant, or may authorize a peace officer to do so. The authorization may be in writing or oral, but if not written, shall be subsequently confirmed by a written statement. The written authorization or subsequent confirmation delivered with the defendant to the official in charge of a parish jail or other place of detention shall be sufficient authority for the detention of the defendant. The probation officer shall immediately notify the proper court of the arrest and shall submit a written report showing in what manner the defendant violated, or was about to violate, a condition of his probation.

C. The court may grant bail to a defendant who is arrested under this article.

D. When a warrant for a defendant's arrest or a summons for defendant's appearance is issued under Paragraph A or a detainer is issued under Paragraph B of this Article, the running of the period of probation shall cease as of the time the warrant, summons, or detainer is issued.

E. Within ten days following the arrest of an offender pursuant to the provisions of this Article, the court shall determine if there is probable cause to detain him pending a final violation hearing and shall consider whether to allow the offender bail pending the final hearing. The determination of probable cause may be made without a formal hearing and may be conducted through the use of affidavits.

F. Probation officers shall be deemed to be peace officers and shall have the same powers with respect to criminal matters and the enforcement of the law relating thereto as sheriffs, constables, and police officers have in their respective jurisdictions. They have all the immunities and defenses now or hereafter made available to sheriffs, constables, and police officers in any suit brought against them in consequence of acts done in the course of their employment.

C.Cr.P. Art. 899.1. Administrative sanctions for technical violations; crimes of violence and sex offenses

A. At the time of sentencing, the court may make a determination as to whether a defendant is eligible for the imposition of administrative sanctions as provided for in this Article. If authorized to do so by the sentencing court, each time a defendant violates a condition of his probation, a probation agency may use administrative sanctions to address a technical violation committed by a defendant when all of the following occur:

(1) The defendant, after receiving written notification of the right to a hearing before a court and the right to counsel provides a written waiver of a probation violation hearing.

(2) The defendant admits to the violation or affirmatively chooses not to contest the violation alleged in the probation violation report.

(3) The defendant consents to the imposition of administrative sanctions by the Department of Public Safety and Corrections.

B. The department shall promulgate rules to implement the provisions of this Article to establish the following:

(1) A system of structured, administrative sanctions which shall be imposed for technical violations of probation and which shall take into consideration the following factors:

(a) The severity of the violation behavior.

(b) The prior violation history.

(c) The severity of the underlying criminal conviction.

(d) The criminal history of the probationer.

(e) Any special circumstances, characteristics, or resources of the probationer.

(f) Protection of the community.

(g) Deterrence.

(h) The availability of appropriate local sanctions, including but not limited to jail, treatment, community service work, house arrest, electronic surveillance, restitution centers, work release centers, day reporting centers, or other local sanctions.

(2) Procedures to provide a probationer with written notice of the right to a probation violation hearing to determine whether the probationer violated the conditions of probation alleged in the violation report and the right to be represented by counsel at state expense at that hearing if financially eligible.

(3) Procedures for a probationer to provide written waiver of the right to a probation violation hearing, to admit to the violation or affirmatively choose not to contest the violation alleged in the probation violation report, and to consent to the imposition of administrative sanctions by the department.

(4) The level and type of sanctions that may be imposed by probation officers and other supervisory personnel.

(5) The level and type of violation behavior that warrants a recommendation to the court that probation be revoked.

(6) Procedures notifying the probationer, the district attorney, the defense counsel of record, and the court of probation of a violation admitted by the probationer and the administrative sanctions imposed.

(7) Such other policies and procedures as are necessary to implement the provisions of this Article and to provide adequate probation supervision.

C. If the administrative sanction imposed pursuant to the provisions of this Article is jail confinement, the confinement shall not exceed ten days per violation and shall not exceed a total of sixty days per year.

D. For purposes of this Article, “technical violation” means any violation of a condition of probation, except for an allegation of a subsequent criminal act. Notwithstanding any provision of law to the contrary, if the subsequent alleged criminal act is misdemeanor possession of marijuana or tetrahydrocannabinol, or chemical derivatives thereof, as provided in R.S. 40:966(E)(1), it shall be considered a “technical violation”.

C.Cr.P. Art. 899.2. Administrative sanctions for technical violations; offenses other than crimes of violence or sex offenses – Repealed by Act 8 of the 2024 Second Extraordinary Session

C.Cr.P. Art. 900. Violation hearing; sanctions

A. After an arrest pursuant to Article 899, the court shall cause a defendant who continues to be held in custody to be brought before it within thirty days for a hearing. If a summons is issued pursuant to Article 899, or if the defendant has been admitted to bail, the court shall set the matter for a violation hearing within a reasonable time. The hearing may be informal or summary. The defendant may choose, with the court’s consent, to appear at the violation hearing and stipulate the revocation by simultaneous audio-visual transmission in accordance with the provisions of Article 562. If the court decides that the defendant has violated, or was about to violate, a condition of his probation it may:

(1) Reprimand and warn the defendant.

(2) Order that supervision be intensified.

(3) Add additional conditions to the probation.

(4) Order the defendant, as an additional condition of probation, to be committed to a community rehabilitation center operated by, or under contract with, the Department of Public Safety and Corrections for a period of time not to exceed six months, without benefit of parole or good time, if:

(a) There is bed space available.

(b) The offender has been sentenced to the department, and the sentence has been suspended pursuant to Article 893.

(c) Such commitment does not extend the period of probation beyond the maximum period of probation provided by law.

(d) The violation of probation did not involve the commission of another felony.

(e) The placement in a community rehabilitation center is recommended by the division of probation and parole.

(5) Order that the probation be revoked. In the event of revocation the defendant shall serve the sentence suspended, with or without credit for the time served on probation at the discretion of the court. If the imposition of sentence was suspended, the defendant shall serve the sentence imposed by the court at the revocation hearing.

(6)(a) Notwithstanding the provisions of Subparagraph (A)(5) of this Article, any defendant who has been placed on probation by the drug division probation program pursuant to R.S. 13:5304, and who has had his probation revoked under the provisions of this Article for a technical violation of drug division probation as determined by the court, may be ordered to be committed to the custody of the Department of Public Safety and Corrections and be required to serve a sentence of not more than twelve months without diminution of sentence in the intensive incarceration program pursuant to the provisions of R.S. 15:574.4.4. Upon successful completion of the program, the defendant shall return to active, supervised probation with the drug division probation program for a period of time as ordered by the court, subject to any additional conditions imposed by the court and under the same provisions of law under which the defendant was originally sentenced. If an offender is denied entry into the intensive incarceration program for physical or mental health reasons or for failure to meet the department's suitability criteria, the department shall notify the sentencing court for resentencing in accordance with the provisions of Article 881.1.

(b) Notwithstanding the provisions of Subparagraph (5) of this Paragraph, any defendant who has been placed on probation by the court for the conviction of an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex offense as defined by R.S. 15:541, and who has been determined by the court to have committed a technical violation of his probation, shall be required to serve a sentence of not more than ninety days, without diminution of sentence.

(c) The defendant shall be given credit for time served prior to the revocation hearing for time served in actual custody while being held for a technical violation in a local detention facility, state institution, or out-of-state institution pursuant to Article 880. The term of the revocation for a technical violation shall begin on the date the court orders the revocation. Upon completion of the imposed sentence for the technical revocation, the defendant shall return to active and supervised probation for a period equal to the remainder of the original period of probation subject to any additional conditions imposed by the court. The provisions of this subparagraph shall apply only to the defendant’s first revocation for a technical violation.

(d) A “technical violation”, as used in this Paragraph, means any violation of a condition of probation that may be addressed by an administrative sanction authorized by the court pursuant to Article 899.1.

(e) None of the following, unless deemed a technical violation by the court when its discretion is permitted, shall be considered a technical violation nor addressed by administrative sanctions:

(i) Being arrested for, charged with, or convicted of any of the following:

(aa) A felony.

(bb) A violation of any provision of Title 40 of the Louisiana Revised Statutes of 1950, except for misdemeanor possession of marijuana or tetrahydrocannabinol, or chemical derivatives thereof, as provided in R.S. 40:966(C)(2), which shall be considered a "technical violation".

(cc) Any intentional misdemeanor directly affecting the person.

(dd) Any criminal act that is a violation of a protective order, pursuant to R.S. 14:79, issued against the offender to protect a family member or household member as defined by R.S. 14:35.3, or dating partner as defined by R.S. 46:2151.

(ee) At the discretion of the court, any attempt to commit any intentional misdemeanor directly affecting the person.

(ff) At the discretion of the court, any attempt to commit any other misdemeanor.

(ii) Being in possession of a firearm or other prohibited weapon.

(iii) At the discretion of the court, failing to appear at any court hearing.

(iv) Absconding from the jurisdiction of the court.

(v) At the discretion of the court, failing to satisfactorily complete a drug court program if ordered to do so as a special condition of probation.

(vi) At the discretion of the court, failing to report to the probation officer for more than one hundred twenty consecutive days.

(7) Extend the period of probation, provided the total amount of time served by the defendant on probation for any one offense shall not exceed the maximum period of probation provided by law.

B. When a defendant has been committed to a community rehabilitation center pursuant to Subparagraph (A)(4) of this Article, upon written request of the department that an offender be removed for violating the rules or regulations of the community rehabilitation center, the court shall cause the defendant to be brought before it and order that probation be revoked with credit for the time served in the community rehabilitation center.

C. The department may pay a per diem for offenders placed in a community rehabilitation center pursuant to the provisions of Subparagraph (A)(4) of this Article.

D. When a court considers the revocation of probation, the court shall consider aggravating and mitigating circumstances in the case, including but not limited to the circumstances stated in Article 894.1. If the court revokes the probation of the defendant, the court shall issue oral or written reasons for revocation which shall be entered into the record. The oral or written reasons for revocation shall state the allegations made by the probation officer concerning a violation or threatened violation of the conditions of probation, the findings of the court concerning those allegations, the factual basis or bases for those findings, and the aggravating circumstances, or mitigating circumstances, or both, considered by the court.

C.Cr.P. Art. 901. Revocation for commission of another offense

A. In addition to the grounds for revocation of probation enumerated in Louisiana Code of Criminal Procedure Article 900, when a defendant who is on probation for a felony commits or is convicted of a felony under the laws of this state, or under the laws of another state, the United States, or the District of Columbia, or is convicted of a misdemeanor under the provisions of Title 14 of the Louisiana Revised Statutes of 1950, or is convicted of a misdemeanor under the provisions of the Uniform Controlled Dangerous Substances Law contained in Title 40 of the Louisiana Revised Statutes of 1950, his probation may be revoked as of the date of the commission of the felony or final conviction of the felony or misdemeanor.

B. When a defendant who is under a suspended sentence or on probation for a misdemeanor commits or is convicted of any offense under the laws of this state, a political subdivision thereof, another state or a political subdivision thereof, the United States, or the District of Columbia, his suspended sentence or probation may be revoked as of the date of the commission or final conviction of the offense.

C. In cases of revocation provided for in this Article:

(1) No credit shall be allowed for time spent on probation or for the time elapsed during suspension of the sentence.

(2) When the new conviction is a Louisiana conviction, the court shall specify in the minutes whether the sentence shall run consecutively with the sentence for the new conviction.

(3) The defendant may be given credit for time served prior to the revocation hearing for time served in actual custody while being held for a probation violation in a local detention facility, state institution, or out-of-state institution pursuant to Article 880.

C.Cr.P. Art. 901.1. Additional sanctions for probation revocation

A. Notwithstanding any other provision of law, when a defendant, who is a first offender on probation with a suspended sentence for a term of seven years or less at hard labor, or a second offender on probation and having never served time in a state prison, has his probation revoked for any reason other than a subsequent felony conviction, the court, upon the recommendation of the division of probation and parole, may order that the offender be committed to the Department of Public Safety and Corrections and be considered for participation in the intensive incarceration program as provided for in R.S. 15:574.4.4 or R.S. 15:574.5. If the offender committed to the custody of the department participates in an intensive incarceration program of an eligible parish, the department shall reimburse the sheriff's office of the parish conducting the program in the amount appropriated by the legislature.

B. If the imposition of the sentence was suspended, the defendant shall serve the sentence imposed by the court at the revocation hearing. If the defendant is a first offender and receives a sentence of seven years or less at hard labor, or a second offender on probation and having never served time in a state prison, the court, upon recommendation of the division of probation and parole, may order that the offender be committed to the department and be considered for participation in the intensive incarceration program as provided for in R.S. 15:574.4.4 or R.S. 15:574.5. If the offender committed to the custody of the department participates in an intensive incarceration program as provided for in R.S. 15:574.5, the department shall reimburse the sheriff's office of the parish conducting the program in the amount appropriated by the legislature.

Title XXXIV. Expungement of records

C.Cr.P. Art. 976. Motion to expunge record of arrest that did not result in a conviction

A. A person may file a motion to expunge a record of his arrest for a felony or misdemeanor offense that did not result in a conviction if any of the following apply:

(1) The person was not prosecuted for the offense for which he was arrested, and the limitations on the institution of prosecution have barred the prosecution for that offense.

(2) The district attorney for any reason declined to prosecute any offense arising out of that arrest, including the reason that the person successfully completed a pretrial diversion program.

(3) Prosecution was instituted and such proceedings have been finally disposed of by dismissal, sustaining of a motion to quash, or acquittal.

(4) The person was judicially determined to be factually innocent and entitled to compensation for a wrongful conviction pursuant to the provisions of R.S. 15:572.8. The person may seek to have the arrest and conviction which formed the basis for the wrongful conviction expunged without

the limitations or time delays imposed by the provisions of this Article or any other provision of law to the contrary.

B. Pursuant to R.S. 15:578.1, no person arrested for a violation of R.S. 14:98 (operating a vehicle while intoxicated) or a parish or municipal ordinance that prohibits operating a vehicle while intoxicated, impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance, and placed by the prosecuting authority into a pretrial diversion program, shall be entitled to an expungement of the record until five years have elapsed since the date of arrest for that offense.

C. The motion to expunge a record of arrest that did not result in a conviction of a misdemeanor or felony offense shall be served pursuant to the provisions of Article 979.

C.Cr.P. Art. 977. Motion to expunge a record of arrest and conviction of a misdemeanor offense

A. A person may file a motion to expunge his record of arrest and conviction of a misdemeanor offense if either of the following apply:

(1) The conviction was set aside and the prosecution was dismissed pursuant to Article 894(B) of this Code.

(2) More than five years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole, and the person has not been convicted of any felony offense during the five-year period, and has no felony charge pending against him. The motion filed pursuant to this Subparagraph shall include a certification obtained from the district attorney which verifies that to his knowledge the applicant has no felony convictions during the five-year period and no pending felony charges under a bill of information or indictment.

B. The motion to expunge a record of arrest and conviction of a misdemeanor offense shall be served pursuant to the provisions of Article 979 of this Code.

C. No person shall be entitled to expungement of a record under any of the following circumstances:

(1) The misdemeanor conviction arose from circumstances involving or is the result of an arrest for a sex offense as defined in R.S. 15:541, except that an interim expungement shall be available as authorized by the provisions of Article 985.1 of this Code.

(2) The misdemeanor conviction was for domestic abuse battery.

(3) The misdemeanor conviction was for stalking (R.S. 14:40.2).

D. Notwithstanding any provision of law to the contrary, a person may file a motion to expunge his record of arrest and conviction of a misdemeanor conviction for a first offense possession of marijuana, tetrahydrocannabinol, or chemical derivatives thereof after ninety days from the date of conviction.

C.Cr.P. Art. 978. Motion to expunge record of arrest and conviction of a felony offense

A. Except as provided in Paragraph B of this Article, a person may file a motion to expunge his record of arrest and conviction of a felony offense if any of the following apply:

(1) The conviction was set aside and the prosecution was dismissed pursuant to Article 893(E) of this Code.

(2) More than ten years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole based on the felony conviction, and the person has not been convicted of any other criminal offense for a period of at least ten years preceding the motion and has no criminal charge pending against him. The motion filed pursuant to this Subparagraph shall include a certification obtained from the district attorney which verifies that,

to his knowledge, the applicant has no convictions during the ten-year period immediately preceding the motion, and no pending charges under a bill of information or indictment.

(3) The person is entitled to a first offender pardon for the offense pursuant to Louisiana Constitution Article IV, Section 5(E)(1), provided that the offense is not defined as a crime of violence pursuant to R.S. 14:2(B) or a sex offense pursuant to R.S. 15:541.

B. No expungement shall be granted nor shall a person be permitted to file a motion to expunge the record of arrest and conviction of a felony offense if the person was convicted of the commission or attempted commission of any of the following offenses:

(1) A crime of violence as defined by or enumerated in R.S. 14:2(B).

(2)(a) Notwithstanding any provision of Article 893 of this Code, a sex offense or a criminal offense against a victim who is a minor as each term is defined by R.S. 15:541, or any offense which occurred prior to June 18, 1992, that would be defined as a sex offense or a criminal offense against a victim who is a minor had it occurred on or after June 18, 1992.

(b) Any person who was convicted of carnal knowledge of a juvenile (R.S. 14:80) prior to August 15, 2001, is eligible for an expungement pursuant to the provisions of this Title if the offense for which the offender was convicted would be defined as misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1) had the offender been convicted on or after August 15, 2001. The burden is on the mover to establish that the elements of the offense of conviction are equivalent to the current definition of misdemeanor carnal knowledge of a juvenile as defined by R.S. 14:80.1. A copy of the order waiving the sex offender registration and notification requirements issued pursuant to the provisions of R.S. 15:542(F) shall be sufficient to meet this burden.

* * *

(4) The conviction was for domestic abuse battery.

C. The motion to expunge a record of arrest and conviction of a felony offense shall be served pursuant to the provisions of Article 979 of this Code.

D. Repealed by Act 78 of the 2020 Regular Session of the Louisiana Legislature.

E. (1) Notwithstanding any other provision of law to the contrary, after a contradictory hearing, the court may order the expungement of the arrest and conviction records of a person pertaining to a conviction of aggravated battery, second degree battery, aggravated criminal damage to property, simple robbery, purse snatching, or illegal use of weapons or dangerous instrumentalities if all of the following conditions are proven by the petitioner:

(a) More than ten years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole based on the felony conviction.

(b) The person has not been convicted of any other criminal offense during the ten-year period.

(c) The person has no criminal charge pending against him.

(d) Repealed by Act 71 of the Regular Session of the Louisiana Legislature.

(2) The motion filed pursuant to this Paragraph shall include a certification from the district attorney which verifies that, to his knowledge, the applicant has no convictions during the ten-year period and no pending charges under a bill of information or indictment. The motion shall be heard by contradictory hearing as provided by Article 980.

F. A person shall be eligible to have more than one felony conviction expunged in a ten-year period if each felony is eligible for expungement under the provisions of this Article.

C.Cr.P. Article 983. Costs of expungement of a record; fees; collection, exemptions; disbursements

A. Except as provided for in Articles 894 and 984, the total cost to obtain a court order expunging a record shall not exceed five hundred fifty dollars. Payment may be made by United States postal

money orders or money orders issued by any state or national bank or by checks issued by a law firm or an attorney.

B. The nonrefundable processing fees for a court order expunging a record shall be as follows:

(1) The Louisiana Bureau of Criminal Identification and Information may charge a processing fee of two hundred fifty dollars for the expungement of any record of arrest when ordered to do so by the court in compliance with the provisions of this Title.

(2) The sheriff may charge a processing fee of fifty dollars for the expungement of any record of arrest when ordered to do so by the court in compliance with the provisions of this Title.

(3) The district attorney may charge a processing fee of fifty dollars for the expungement of any record of arrest when ordered to do so by the court in compliance with the provisions of this Title.

(4) The clerk of court may charge a processing fee not to exceed two hundred dollars to cover the clerk's costs of the expungement.

C. The clerk of court shall collect all processing fees at the time the motion for expungement is filed.

D. (1) The clerk shall immediately direct the collected processing fee provided for in Subparagraph (B)(1) of this Article to the Louisiana Bureau of Criminal Identification and Information, and the processing fee amount shall be deposited immediately upon receipt into the Criminal Identification and Information Fund.

(2) The clerk shall immediately direct the collected processing fees provided for in Subparagraphs (B)(2) and (3) of this Article to the sheriff and the district attorney, and the processing fee amount shall be remitted immediately upon receipt in equal proportions to the office of the district attorney and the sheriff's general fund.

E. The processing fees provided for by this Article are nonrefundable and shall not be returned even if the court does not grant the motion for expungement.

F. An applicant for the expungement of a record shall not be required to pay any fee to the clerk of court, the Louisiana Bureau of Criminal Identification and Information, sheriff, the district attorney, or any other agency to obtain or execute an order of a court of competent jurisdiction to expunge the arrest from the individual's arrest record if a certification obtained from the district attorney is presented to the clerk of court which verifies that the applicant has no felony convictions and no pending felony charges under a bill of information or indictment and at least one of the following applies:

(1) The applicant was acquitted, after trial, of all charges derived from the arrest, including any lesser and included offense.

(2) The district attorney consents, and the case against the applicant was dismissed or the district attorney declined to prosecute the case prior to the time limitations prescribed in Chapter 1 of Title XVII of the Code of Criminal Procedure, and the applicant did not participate in a pretrial diversion program.

(3) The applicant was arrested and was not prosecuted within the time limitations prescribed in Chapter 1 of Title XVII of the Code of Criminal Procedure and did not participate in a pretrial diversion program.

(4) Repealed by Act 36 of the 2022 Regular Session of the Louisiana Legislature.

(5) Concerning the arrest record which the applicant seeks to expunge, the applicant was determined by the district attorney to be a victim of a violation of R.S. 14:67.3 (unauthorized use of “access card”), a violation of R.S. 14:67.16 (identity theft), 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 the applicant.

G. Notwithstanding any other provision of law to the contrary, the following individuals shall be exempt from the payment of the processing fees otherwise authorized by this article:

(1) A juvenile who has successfully completed any juvenile drug court program operated by a court of this state.
(2) A person eligible for an expedited expungement pursuant to Article 999.

H. Human trafficking victim request for certification and application for expungement.

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

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

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

(4) All applicable time delays pertaining to expungement provided by Articles 977 and 978 shall be waived when the certification is presented to the clerk of court with the application for expungement.

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

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

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

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

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

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

L. Notwithstanding any provision of law to the contrary, an applicant for the expungement of a record, other than as provided in Subsections F and G of this Section, may proceed in forma pauperis in accordance with the provisions of Code of Civil Procedure Article 5181 et seq.

M. (1) Notwithstanding Paragraph B of this Article, the total cost to obtain a court order expunging a record of a misdemeanor conviction for a first offense possession of marijuana, tetrahydrocannabinol, or chemical derivatives thereof shall not exceed three hundred dollars. The nonrefundable processing fees for a court order expunging such record shall be as follows:

(a) The Louisiana Bureau of Criminal Identification and Information may charge a processing fee of fifty dollars for the expungement of the record when ordered to do so by the court in compliance with the provisions of this Title.

(b) The sheriff may charge a processing fee of fifty dollars for the expungement of the record when ordered to do so by the court in compliance with the provisions of this Title.

(c) The district attorney may charge a processing fee of fifty dollars for the expungement of the record when ordered to do so by the court in compliance with the provisions of this Title.

(d) The clerk of court may charge a processing fee of one hundred fifty dollars to cover the clerk's costs of the expungement.

(2) The clerk of court shall collect all processing fees at the time the motion for expungement is filed.

(3) The clerk shall immediately direct the collected processing fee provided for in Subsubparagraph (1)(a) of this Paragraph to the Louisiana Bureau of Criminal Identification and Information, and the processing fee amount shall be deposited immediately upon receipt into the Criminal Identification and Information Dedicated Fund Account.

(4) The clerk shall immediately direct the collected processing fees provided for in Subsubparagraphs (1)(b) and (c) of this Paragraph to the sheriff and the district attorney, and the processing fee amount shall be remitted immediately upon receipt in equal proportions to the office of the district attorney and the sheriff's general fund.

(5) The provisions of this Paragraph shall be null, void, and without effect and shall terminate on August 1, 2026.

Title XXXV. Domestic Violence Prevention Firearm Transfer

C.Cr.P. Article 1001. Definitions

As used in this Title:

(1) "Dating partner" shall have the same meaning as provided in R.S. 46:2151 or R.S. 14:34.9.

(2) "Family member" shall have the same meaning as provided in R.S. 46:2132 or R.S. 14:35.3.

(3) "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.

(4) "Household member" shall have the same meaning as provided in R.S. 46:2132 or R.S. 14:35.3.

(5) "Other law enforcement agency" shall include any local or municipal police force, the constable, and state police.

(6) "Sheriff" means the sheriff of the jurisdiction in which the order was issued, unless the person resides outside of the jurisdiction in which the order is issued. If the person resides outside of the jurisdiction in which the order is issued, "sheriff" means the sheriff of the parish in which the person resides.

C.Cr.P. Article 1001.1. Duties of the sheriff; other law enforcement agencies

Notwithstanding any provision of law to the contrary, the sheriff may enter into an agreement with any other law enforcement agency to have that law enforcement agency assume the duties of the sheriff under this Title.

C.Cr.P. Article 1002. Transfer of firearms

A.(1) When a person has any of the following, the judge shall order the transfer of all firearms and the suspension of a concealed handgun permit of the person:

(a) A conviction of domestic abuse battery (R.S. 14:35.3).

(b) A second or subsequent conviction of battery of a dating partner (R.S. 14:34.9).

(c) A conviction of battery of a dating partner that involves strangulation (R.S. 14:34.9(K)).

(d) A conviction of battery of a dating partner when the offense involves burning (R.S. 14:34.9(L)).

(e) A conviction of possession of a firearm or carrying a concealed weapon by a person convicted of domestic abuse battery and certain offenses of battery of a dating partner (R.S. 14:95.10).

(f) A conviction of domestic abuse aggravated assault (R.S. 14:37.7).

(g) A conviction of aggravated assault upon a dating partner (R.S. 14:34.9.1).

(h) A conviction of any felony crime of violence enumerated or defined in R.S. 14:2(B), for which a person would be prohibited from possessing a firearm pursuant to R.S. 14:95.1, and which has as an element of the crime that the victim was a family member, household member, or dating partner.

(i) A conviction of any felony crime of violence enumerated or defined in R.S. 14:2(B), for which a person would be prohibited from possessing a firearm pursuant to R.S. 14:95.1, and in which the victim of the crime was determined to be a family member, household member, or dating partner.

(2) Upon issuance of an injunction or order under any of the following circumstances, the judge shall order the transfer of all firearms and the suspension of a concealed handgun permit of the person who is subject to the injunction or order:

(a) The issuance of a permanent injunction or a protective order pursuant to a court-approved consent agreement or pursuant to the provisions of R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2136, 2151, or 2173, Children's Code Article 1570, Code of Civil Procedure Article 3607.1, or Articles 30, 320, or 871.1 of this Code.

(b) The issuance of a Uniform Abuse Prevention Order that includes terms that prohibit the person from possessing a firearm or carrying a concealed weapon.

B.(1) The order to transfer firearms and suspend a concealed handgun permit shall be issued by the court at the time of conviction for any of the offenses listed in Subparagraph (A)(1) of this Article or at the time the court issues an injunction or order under any of the circumstances listed in Subparagraph (A)(2) of this Article.

(2) In the order to transfer firearms and suspend a concealed handgun permit the court shall inform the person subject to the order that he is prohibited from possessing a firearm and carrying a concealed weapon pursuant to the provisions of 18 U.S.C. 922(g)(8) and Louisiana law.

C. At the same time an order to prohibit a person from possessing a firearm or carrying a concealed weapon is issued, the court shall also cause all of the following to occur:

(1) Require the person to state in open court or complete an affidavit stating the number of firearms in his possession and the location of all firearms in his possession.

(2) Require the person to complete a firearm information form that states the number of firearms in his possession, the type of each firearm, and the location of each firearm.

(3) Transmit a copy of the order to transfer firearms and a copy of the firearm information form to the sheriff of the parish or the sheriff of the parish of the person's residence.

D.(1) The court shall, on the record and in open court, order the person to transfer all firearms in his possession to the sheriff no later than forty-eight hours, exclusive of legal holidays, after the order is issued and a copy of the order and firearm information form required by Paragraph C of this Article is sent to the sheriff. If the person is incarcerated at the time the order is issued, he shall transfer his firearms no later than forty-eight hours after his release from incarceration, exclusive of legal holidays. At the time of transfer, the sheriff and the person shall complete a proof of transfer form. The proof of transfer form shall contain the quantity of firearms transferred. The sheriff shall retain a copy of the form and provide the person with a copy. The proof of transfer form shall attest that the person is not currently in possession of firearms in accordance with the provisions of this Title and is currently compliant with state and federal law, but shall not include the date on which the transfer occurred.

(2) Within ten days of transferring his firearms, exclusive of legal holidays, the person shall file the proof of transfer form with the clerk of court of the parish in which the order was issued. The proof of transfer form shall be maintained by the clerk of court under seal.

E.(1) If the person subject to the order to transfer firearms and suspend a concealed handgun permit issued pursuant to Paragraph A of this Article does not possess or own firearms, at the time the order is issued, the person shall complete a declaration of nonpossession form which shall be filed in the court record and a copy shall be provided to the sheriff.

(2) Within five days of the issuance of the order pursuant to Paragraph A of this Article, exclusive of legal holidays, the person shall file the declaration of nonpossession with the clerk of court of the parish in which the order was issued.

F. Notwithstanding the provisions of Paragraph E of this Article or any other provision of law to the contrary, if the person subject to the order to transfer firearms and suspend a concealed handgun permit issued pursuant to Paragraph A of this Article possessed firearms at the time of the qualifying incident giving rise to the duty to transfer his firearms pursuant to this Title, but transferred or sold his firearms to a third party prior to the court's issuance of the order, that third-party transfer shall be declared in open court. The person subject to the order to transfer firearms and suspend a concealed handgun permit shall within ten days after issuance of the order, exclusive of legal holidays, execute along with the third party and a witness a proof of transfer form that complies with the provisions of Paragraph D of this Article and with Article 1003(A)(1)(a) of this Code. The proof of transfer form need not be signed by the sheriff and shall be filed, within ten days after the date on which the proof of transfer form is executed, by the person subject to the order with the clerk of court of the parish in which the order was issued. The proof of transfer form shall be maintained by the clerk of court under seal.

G. The failure to provide the information required by this Title, the failure to timely transfer firearms in accordance with the provisions of this Title, or both, may be punished as contempt of court. Information required to be provided in order to comply with the provisions of this Title cannot be used as evidence against that person in a future criminal proceeding, except as provided by the laws on perjury or false swearing.

H. On motion of the district attorney or of the person transferring his firearms, and for good cause shown, the court shall conduct a contradictory hearing with the district attorney to ensure that the person has complied with the provisions of this Title.

I. For the purposes of this Title, a person shall be deemed to be in possession of a firearm if that firearm is subject to his dominion and control.

C.Cr.P. Article 1002.1. Designation of crime of violence against family member, household member, or dating partner

Notwithstanding the provisions of Code of Criminal Procedure Articles 814 and 817 and any other provision of law to the contrary, when a person is charged with any felony crime of violence enumerated or defined in R.S. 14:2(B), for which the person would be prohibited from possessing a firearm pursuant to R.S. 14:95.1 if convicted, the district attorney may allege in the indictment or bill of information that the victim of the crime was a family member, household member, or dating partner for the purpose of invoking the provisions of this Title, including Article 1002(A)(1)(i). If the person pleads guilty to the indictment or bill of information, the fact that the

victim was a family member, household member, or dating partner shall be deemed admitted. If the matter proceeds to trial, the issue of whether the victim was a family member, household member, or dating partner shall be submitted to the jury and the verdict shall include a specific finding of fact as to that issue in addition to a specification of the offense as to which the verdict is found.

C.Cr.P. Article 1003. Transfer or storage of transferred firearms

A. The sheriff of each parish shall be responsible for oversight of firearm transfers in his parish. For each firearm transferred pursuant to this Title, the sheriff shall offer all of the following options to the transferor:

(1)(a) Allow a third party to receive and hold the transferred firearms. The third party shall complete a firearms acknowledgment form that, at a minimum, informs the third party of the relevant state and federal laws, lists the consequences for noncompliance, and asks if the third party is able to lawfully possess a firearm. No firearm shall be transferred to a third party living in the same residence as the transferor at the time of transfer. The sheriff shall prescribe the manner in which firearms are transferred to a third party.

(b) If a firearm is transferred to a third party pursuant to the provisions of this Subparagraph, the sheriff shall advise the third party that return of the firearm to the person before the person is able to lawfully possess the firearms pursuant to state or federal law may result in the third party being charged with a crime.

(2) Store the transferred firearms in a storage facility with which the sheriff has contracted for the storage of transferred firearms. The sheriff may charge a reasonable fee for the storage of such firearms.

(3) Oversee the legal sale of the transferred firearms to a third party. The sheriff may contract with a licensed firearms dealer for such purpose. The sheriff may charge a reasonable fee to oversee the sale of firearms.

B. The sheriff shall prepare a receipt for each firearm transferred and provide a copy to the person transferring the firearms. The receipt shall include the firearm manufacturer and firearm serial number. The receipt shall be signed by the officer accepting the firearms and the person transferring the firearms. The sheriff may require the receipt to be presented before returning a transferred firearm.

C. The sheriff shall keep a record of all transferred firearms including but not limited to the name of the person transferring the firearm, the manufacturer, model, serial number, and the manner in which the firearm is stored.

D.(1) When the person is no longer prohibited from possessing a firearm under state or federal law, the person whose firearms were transferred pursuant to the provisions of this Title may file a motion with the court seeking an order for the return of the transferred firearms.

(2) Upon reviewing the motion, if the court determines that the person is no longer prohibited from possessing a firearm under state or federal law, the court shall issue an order stating that the firearms transferred pursuant to the provisions of this Title shall be returned to the person. The order shall include the date on which the person is no longer prohibited from possessing a firearm and a copy of the order shall be sent to the sheriff. However, all outstanding fees shall be paid to the sheriff prior to the firearms being returned.

(3) No sheriff or third party to whom the firearms were transferred pursuant to the provisions of this Title, shall return a transferred firearm prior to receiving the order issued by the court pursuant to the provisions of this Paragraph.

(4) If the person refuses to pay outstanding fees to the sheriff or fails to file a motion with the court seeking an order for the return of the transferred firearms within one year of the expiration of the prohibition on possessing firearms under state or federal law, the sheriff may send, by United States mail to the person's last known address, a notice informing the person that if he does not pay the outstanding fees to the sheriff or file a motion with the court seeking an order for the return

of the transferred firearms within ninety days, the firearms shall be forfeited to the sheriff. If, after ninety days from the mailing of the notice, the person does not pay the outstanding fees to the sheriff or file a motion with the court seeking an order for the return of the transferred firearms, the sheriff may file a motion seeking a court order declaring that the firearms are forfeited to the sheriff, who may thereafter dispose of the firearms at his discretion.

E. The sheriff shall exercise due care to preserve the quality and function of all firearms transferred under the provisions of this Title. However, the sheriff shall not be liable for damage to firearms except for cases of willful or wanton misconduct or gross negligence. In addition, the sheriff shall not be liable for damage caused by the third party to whom the firearms were transferred pursuant to the provisions of this Title.

F. Nothing in this Title shall be construed to prohibit the sheriff, consistent with constitutional requirements, from obtaining a search warrant to authorize testing or examination upon any firearm so as to facilitate any criminal investigation or prosecution. Notwithstanding Code of Criminal Procedure Article 163(C) or any other provision of law to the contrary, the testing or examination of the firearms pursuant to the search warrant may be conducted at any time before or during the pendency of any criminal proceeding in which the firearms, or the testing or examination of the firearms, may be used as evidence, and shall not be subject to the ten-day period in Code of Criminal Procedure Article 163(C).

G. Not sooner than three years after the date on which a firearm or firearms are returned pursuant to the provisions of this Article, the person may file a motion with the court requesting that the records relative to the firearm or firearms held by the clerk of court and by the sheriff be destroyed. After a contradictory hearing with the sheriff and the district attorney, which may be waived by the sheriff or the district attorney, the court, if the person is no longer prohibited from possessing firearms under state or federal law and if the firearm or firearms have actually been returned, shall order that the records held by the clerk of court and by the sheriff relative to the returned firearm or firearms be destroyed.

C.Cr. P. Article 1003.1. Public records; exception

Notwithstanding any provision of law to the contrary, any records held by the sheriff or any other law enforcement agency pursuant to this Title shall be confidential and shall not be considered a public record pursuant to the Public Records Law.

C.Cr. P. Article 1004. Implementation

The sheriff, clerk of court, and district attorney of each parish shall develop forms, policies, and procedures no later than January 1, 2019, regarding the communication of convictions and orders issued between agencies, procedures for the acceptance of transferred firearms, procedures for the storage of transferred firearms, return of transferred firearms, the proof of transfer form, the declaration of nonpossession form, and any other form, policy, or procedure necessary to effectuate the provisions of this Title.

C.Cr.P. Article 1005. Transfer of firearms; aggregate data collection and reporting

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

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

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

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

(d) The total number of declarations of nonpossession received by the sheriff's office pursuant to Article 1002(E)(1).

(e) The number of firearm transfers completed as required by Article 1002 including:

(i) The total number of firearms transferred to the sheriff's office.

(ii) The total number of firearms transferred to a third-party entity.

(iii) The total number of firearms transferred to contracted storage.

(iv) The total number of firearms transferred via legal sale.

(f) The number of orders received from the court stating that firearms shall be returned to the transferor pursuant to Article 1003(D)(2).

(2) The sheriff shall submit a report to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice regardless of whether the sheriff is able to complete a firearm transfer pursuant to Subparagraph (1) of this Paragraph.

B. Not later than January 1, 2023, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall create and distribute a standardized form for use by the sheriff of each parish to use to report all aggregate data fields required by Paragraph A of this Article. The form shall not contain any identifying information of the person who possesses the firearm and shall only contain numerical data provided in Paragraph A of this Article.

C. The Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall identify a single point of contact or web portal to which each sheriff shall submit the completed form created pursuant to Paragraph B of this Article.

D. The sheriff of each parish shall submit the completed form to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice no later than January thirty-first of each calendar year. Each form shall contain the aggregate data for each of the items listed in Paragraph A of this Article for the prior calendar year.

E. The Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall publish the data collected from the sheriff of each parish pursuant to Paragraph D of this Article to the commission's public website by February twenty-eighth of each calendar year.

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

Louisiana Revised Statutes – Title 14. Criminal Law
Chapter 1. Criminal Code (selected statutes)

R.S. 14:2. Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Solicitation for murder.
(2) First degree murder.
(3) Second degree murder.
(4) Manslaughter.
(5) Aggravated battery.
(6) Second degree battery.
(7) Aggravated assault.
(8) Aggravated kidnapping of a child.
(9) Aggravated or first degree rape.
(10) Forcible or second degree rape.
(11) Simple or third degree rape.
(12) Sexual battery.
(13) Second degree sexual battery.
(14) Intentional exposure to AIDS virus.
(15) Aggravated kidnapping.
(16) Second degree kidnapping.
(17) Simple kidnapping.
(18) Aggravated arson.
(19) Aggravated criminal damage to property.
(20) Aggravated burglary.
(21) Armed robbery.
(22) First degree robbery.
(23) Simple robbery.
(24) Purse snatching.
(25) False imprisonment; offender armed with dangerous weapon.

(26) Assault by drive-by shooting.
(27) Aggravated crime against nature.
(28) Carjacking.
(29) Molestation of a juvenile or a person with a physical or mental disability.
(30) Terrorism.
(31) Aggravated second degree battery.
(32) Aggravated assault upon a peace officer.
(33) Aggravated assault with a firearm.
(34) Armed robbery; use of firearm; additional penalty.
(35) Second degree robbery.
(36) Disarming of a peace officer.
(37) Stalking.
(38) Second degree cruelty to juveniles.
(39) Aggravated flight from an officer.
(40) Sexual battery of persons with infirmities.
(41) Battery of a police officer.
(42) Trafficking of children for sexual purposes.
(43) Human trafficking.
(44) Home invasion.
(45) Domestic abuse aggravated assault.
(46) Vehicular homicide, when the operator's blood alcohol concentration exceeds 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood.
(47) Aggravated assault upon a dating partner.
(48) Domestic abuse battery punishable under R.S. 14:35.3(L), (M)(2), (N), (O), or (P).
(49) Battery of a dating partner punishable under R.S. 14:34.9(L), (M)(2), (N), (O), or (P).
(50) Violation of a protective order punishable under R.S. 14:79(C).
(51) Criminal abortion.
(52) First degree feticide.
(53) Second degree feticide.
(54) Third degree feticide.
(55) Aggravated criminal abortion by dismemberment.
(56) Battery of emergency room personnel, emergency services personnel, or a healthcare professional.
(57) Possession of a firearm or carrying of a concealed weapon by a person convicted of certain felonies in violation of R.S. 14:95.1(D).
(58) Distribution of fentanyl or carfentanil punishable under R.S. 40:967(B)(4)(f).
(59) Distribution of heroin punishable under R.S. 40:966(B)(3)(b).
(60) Simple burglary of an inhabited dwelling when a person is present in the dwelling, house, apartment, or other structure.
(61) Illegal use of weapons or dangerous instrumentalities.
(62) First degree vehicular negligent injuring, when the operator's blood alcohol concentration exceeds 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood.

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

R.S. 14:6. 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.

R.S. 14:18. 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.

R.S. 14:19. Use of force or violence in defense

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

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

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

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

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

B. For the purposes of this Section, there shall be a presumption that a person lawfully inside a dwelling, place of business, or motor vehicle 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.

R. S. 14:20. Justifiable homicide

A. A homicide is justifiable:

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

(2) When committed for the purpose of preventing a violent or forcible felony involving danger to life or of great bodily harm by one who reasonably believes that such an offense is about to be committed and that such action is necessary for its prevention. The circumstances must be sufficient to excite the fear of a reasonable person that there would be serious danger to his own life or person if he attempted to prevent the felony without the killing.

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

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

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

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

R. S. 14:20.1. 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 or coroner shall expeditiously conduct a full investigation of the death. All evidence of such investigation shall be preserved.

R.S. 14:21. 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.

R.S. 14:22. 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.

R.S. 14:30. First degree murder

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

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

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

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

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

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

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

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

(8) When the offender has specific intent to kill or to inflict great bodily harm and there has been issued by a judge or magistrate any lawful order prohibiting contact between the offender and the victim in response to threats of physical violence or harm which was served on the offender and is in effect at the time of the homicide.

(9) When the offender has specific intent to kill or to inflict great bodily harm upon a victim who was a witness to a crime or was a member of the immediate family of a witness to a crime committed on a prior occasion and:
(a) The killing was committed for the purpose of preventing or influencing the victim's testimony in any criminal action or proceeding whether or not such action or proceeding had been commenced; or

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

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

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

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

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

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

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

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

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

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

R.S. 14:30.1. Second degree murder

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

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

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

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

(4) When the offender unlawfully distributes or dispenses a controlled dangerous substance listed in Schedules I through V of the Uniform Controlled Dangerous Substances Law, or any

combination thereof, to another who subsequently distributes or dispenses such controlled dangerous substance which is the direct cause of the death of the person who ingested or consumed the controlled dangerous substance.

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

R.S. 14:32.5. 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.

R.S. 14:32.6. First degree feticide

A. First degree feticide is:

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

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

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

R.S. 14:32.7. 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.

R.S. 14:32.8. 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 impaired by 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)(i) The offender is impaired by any other drug, combination of drugs, or combination of alcohol and drugs

(ii) As used in this Section, the term “drug” means any substance or combination of substances that, when taken into the human body, can impair the ability of the person to operate a vehicle safely.

(d) The offender is impaired by alcoholic beverages.

(e) 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.

R.S. 14:34.9. Battery of a dating partner

A. Battery of a dating partner is the intentional use of force or violence committed by one dating partner upon the person of another dating partner.

B. For purposes of this Section:

(1) “Burning” means an injury to flesh or skin caused by heat, electricity, friction, radiation, or any other chemical or thermal reaction.

(2) “Court-monitored domestic abuse intervention program” means a program, comprised of a minimum of twenty-six in-person sessions occurring over a minimum of twenty-six weeks, that follows a model designed specifically for perpetrators of domestic abuse. The offender's progress in the program shall be monitored by the court. The provider of the program shall have all of the following:

(a) Experience in working directly with perpetrators and victims of domestic abuse.

(b) Experience in facilitating batterer intervention groups.

(c) Training in the causes and dynamics of domestic violence, characteristics of batterers, victim safety, and sensitivity to victims.

(3) "Dating partner" means any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. "Dating partner" shall not include a casual relationship or ordinary association between persons in a business or social context.

(4) Repealed by Act 2 of the 2019 Legislative Session.

(5) "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 occurs:

(1) The offender is placed on probation with a minimum condition that he serve four days in jail and complete a court-monitored domestic abuse intervention program, and the offender shall not 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 complete a court-monitored domestic abuse intervention program, and the offender shall not 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 and 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 with or without hard labor for not less than sixty days nor more than one year. 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 complete a court-monitored domestic abuse intervention program. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occurs:

(1) The offender is placed on probation with a minimum condition that he serve thirty days in jail and complete a court-monitored domestic abuse intervention program, and the offender shall not 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 complete a court-monitored domestic abuse intervention program, and the offender shall not 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 an offender 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, family member, or dating partner upon another household member, family member, or dating partner 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 offender 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 complete a court-monitored domestic abuse intervention program required by the provisions of this Section shall pay the cost incurred by 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 "Dating Partner Abuse Child Endangerment Law". Notwithstanding any provision of law to the contrary, 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 offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

J. Any felony crime of violence, as defined by R.S. 14:2(B), against a person committed by one dating partner against another dating partner, shall be designated as an act of domestic abuse for consideration in any civil or criminal proceeding.

K. Notwithstanding any provision of law to the contrary, if the victim of the offense is pregnant and the offender knows that the victim is pregnant at the time of the commission of the offense, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

L. (1) Notwithstanding any other provision of law to the contrary, if the offense involves strangulation, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

(2) If the strangulation results in serious bodily injury, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not less than five nor more than fifty years without benefit of probation, parole, or suspension of sentence.

M. (1) Notwithstanding any other provision of law to the contrary, if the offense is committed by burning, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

(2) If the burning results in serious bodily injury, the offense shall be classified as a crime of violence, and the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not less than five nor more than fifty years without benefit of probation, parole, or suspension of sentence.

N. Except as provided in Paragraph (L)(2) and (M)(2) and Subsection P of this Section, if the offender intentionally inflicts serious bodily injury, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than eight years.

O. Except as provided in Subsection P of this Section, if the intentional use of force or violence is committed with a dangerous weapon, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than ten years.

P. Notwithstanding any provision of law to the contrary, if the intentional use of force or violence is committed with a dangerous weapon when the offender intentionally inflicts serious bodily injury, the offender, in addition to other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than fifteen years.

R.S. 14:34.9.1. Aggravated assault upon a dating partner

A. Aggravated assault upon a dating partner is an assault with a dangerous weapon committed by one dating partner upon another dating partner.

B. For purposes of this Section, "dating partner" means any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. "Dating partner" shall not include a casual relationship or ordinary association between persons in a business or social context.

C. Whoever commits the crime of aggravated assault upon a dating partner 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 "Aggravated Assault Upon a Dating Partner 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.

R.S. 14:35.3. Domestic abuse battery

A. Domestic abuse battery is the intentional use of force or violence committed by one household member or family member upon the person of another household member or family member.
B. For purposes of this Section:

(1) "Burning" means an injury to flesh or skin caused by heat, electricity, friction, radiation, or any other chemical or thermal reaction.

(2) "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.

(3) "Court-monitored domestic abuse intervention program" means a program, comprised of a minimum of twenty-six in-person sessions occurring over a minimum of twenty-six weeks, that follows a model designed specifically for perpetrators of domestic abuse. The offender's progress in the program shall be monitored by the court. The provider of the program shall have all of the following:

(a) Experience in working directly with perpetrators and victims of domestic abuse.
(b) Experience in facilitating batterer intervention groups.

(c) Training in the causes and dynamics of domestic violence, characteristics of batterers, victim safety, and sensitivity to victims.

(4) “Family member” means spouses, former spouses, parents, children, stepparents, stepchildren, foster parents, foster children, other ascendants, and other descendants. “Family member” also means the other parent or foster parent of any child or foster child of the offender.

(5) “Household member” means any person presently or formerly living in the same residence with the offender and who is involved or has been involved in a sexual or intimate relationship with the offender, or any child presently or formerly living in the same residence with the offender, or any child of the offender regardless of where the child resides.

(6) Repealed by Act 2 of the 2019 Legislative Session.

(7) “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 occurs:

(1) The offender is placed on probation with a minimum condition that he serve four days in jail and complete a court-monitored domestic abuse intervention 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 complete a court-monitored domestic abuse intervention 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 with or without hard labor for not less than sixty days nor more than one year. 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 complete a court-monitored domestic abuse intervention program. Imposition or execution of the remainder of the sentence shall not be suspended unless either of the following occurs:

(1) The offender is placed on probation with a minimum condition that he serve thirty days in jail and complete a court-monitored domestic abuse intervention 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 complete a court-monitored domestic abuse intervention 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 an offender 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, family member, or dating partner upon another household member, family member, or dating partner 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 offender 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 complete a court-monitored domestic abuse intervention 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." Notwithstanding any provisions of law to the contrary, 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 offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

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 abuse for consideration in any civil or criminal proceeding.

K. Notwithstanding any provision of law to the contrary, 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, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

L. (1) Notwithstanding any other provision of law to the contrary, if the domestic abuse battery involves strangulation, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

(2) If the strangulation results in serious bodily injury, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not less than five nor more than fifty years without benefit of probation, parole, or suspension of sentence.

M. (1) Notwithstanding any provision of law to the contrary, if the domestic abuse battery is committed by burning, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than three years.

(2) If the burning results in serious bodily injury, the offense shall be classified as a crime of violence, and the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not less than five nor more than fifty years without benefit of probation, parole, or suspension of sentence.

N. Except as provided in Paragraphs (L)(2) and (M)(2) of this Section, if the offender intentionally inflicts serious bodily injury, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than eight years.

O. Except as provided in Subsection P of this Section, if the intentional use of force or violence is committed with a dangerous weapon, the offender, in addition to any other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than ten years.

P. Notwithstanding any provision of law to the contrary, if the intentional use of force or violence is committed with a dangerous weapon when the offender intentionally inflicts serious bodily injury, the offender, in addition to other penalties imposed pursuant to this Section, shall be imprisoned at hard labor for not more than fifteen years.

State v. Breaux, 366 So.3d 727 (La. App. 5 Cir. 5/10/23). Prior incident, wherein defendant was accused of assaulting his fiancé when she was attempting to leave residence, was admissible, under article governing admissibility of other crimes, wrongs, or acts, in defendant's trial for domestic abuse battery by strangulation and domestic abuse battery in presence of a child, arising from allegations that when defendant's fiancé was attempting to leave residence, with her 18-month-old son in her arms, defendant grabbed her by the neck and squeezed; prior incident showed defendant's intent to harm fiancé, established his modus operandi and pattern, and showed an absence of mistake or accident.

State v. Jenkins, 2023 WL 2236867 (La. App. 5 Cir. 2023). Statements made during a call to emergency services by victim, who stated that defendant punched her in the jaw and leg, were admissible under the excited utterance exception to hearsay, in prosecution for domestic abuse battery; victim's statements related to a startling event while she was under distress caused by a traumatic incident, as victim had just been beaten with her children present by their father.

State v. Wilson, 353 So.3d 389 (La. App. 4 Cir. 12/9/22). Sufficient evidence supported conviction of domestic assault battery, though victim's testimony from Gwen's Law Hearing and bench trial conflicted on whether defendant struck her in face with a closed or open hand; victim consistently maintained that defendant initiated physical contact and struck her in face, detective who reported to victim's home following a 911 call testified that defendant did not sustain injuries but victim had a lip laceration, swollen nose, and was visibly distressed, and trial court found victim's recollection of altercation credible.

State v. Roberts, 311 So.3d 1114 (La. App. 3 Cir. 2/3/21). There was sufficient evidence to convict defendant without recording of video showing defendant's attack on victim, and thus any error by trial court in admitting recording was harmless at trial for felony domestic abuse battery by strangulation; victim testified regarding attack, and photographs taken at hospital following attack, as well as hospital records, corroborated victim's allegations.

State v. Fink, 296 So.3d 1270 (La. App. 5 Cir.2020). Trial court did not abuse its discretion or exceed its authority in imposing a non-expiring protective order following defendant's convictions for domestic abuse battery of his former live-in girlfriend and violation of a protective order that had been issued in favor of the former girlfriend, although defendant argued that non-expiring protective order did not fit the crimes, and State had originally requested a two-year protective order.

State v. Theophile, 287 So.3d 53 (La. App. 4 Cir. 2019). Domestic abuse battery involving strangulation was a statutory crime of violence for purposes of imposing a life sentence under recidivism statute, though domestic abuse battery involving strangulation was not specifically enumerated in statute defining crime of violence; statutory list of offenses was illustrative, not exclusive, and domestic abuse battery involving strangulation met the statutory definition of crime of violence as it was an offense that had as an element the use, attempted use, or threatened use of physical force against the person.

State v. Davis, 221 So.3d 28 (La. 2017). In statute setting forth offense of domestic abuse battery, which provided that perpetrator and victim could be considered household members "whether married or not," term "whether married or not" did not require finding that parties were in relationship that met definition of open concubinage. Testimony of defendant and victim that they were "staying with" each other was synonymous with "living in the same residence" under statute setting forth offense of domestic abuse battery.

State v. Altenberger, 139 So.3d 510 (La. 2014). Trial court abused its discretion by limiting its evaluation of admission of other crimes evidence strictly to remoteness and by not considering the independent relevancy of this evidence in the prosecution of defendant for domestic abuse battery-strangulation; other crimes evidence consisted of defendant allegedly battering his pregnant wife and then attempting to take their child physically from her and threatening to kill her if she did not relinquish the child;

such evidence also included prior allegations of domestic violence, and State's intent to introduce other crimes evidence to establish defendant's pattern of domestic abuse went directly to rebut defenses defendant might raise at trial and demonstrated their independent relevancy besides merely painting defendant as a bad person.

State in Interest of J.E., 160 So.3d 1065 (La. App. 4 Cir. 2015). Under domestic abuse statute, adult members of the household are not contemplated as victims unless the abuse is between members of the opposite sex living together as spouses.

State v. Updite, 87 So.3d 257 (La. App. 2 Cir. 2012). Victim's prior allegations to police of abuse by defendant, which she recanted on witness stand, were corroborated by other evidence and were therefore admissible for substantive purposes as nonhearsay in prosecution for domestic abuse battery; victim, her ten-year-old daughter, and defendant all testified about an argument between victim and defendant that turned violent, victim sustained visible bruises that were consistent with her police statement, victim contacted the police to report her injuries shortly after charged incident, and officer who took victim's statement testified that she never mentioned throwing anything at defendant or otherwise provoking him.

R.S. 14:37.4. Aggravated assault with a firearm

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

B. For the purpose 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.

R.S. 14:37.7. Domestic abuse aggravated assault

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

B. For purposes of this Section:

(1) "Family member” means spouses, former spouses, parents, children, stepparents, stepchildren, foster parents, foster children, other ascendants, and other descendants. “Family member” also means the other parent or foster parent of any child or foster child of the offender.

(2) “Household member" means any person presently or formerly living in the same residence with the offender and who is involved or has been involved in a sexual or intimate relationship with the offender, or any child presently or formerly living in the same residence with the offender, 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.

R.S. 14:40.2. 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, written, or behaviorally implied threats of death, bodily injury, sexual assault, kidnapping, 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 than 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)(a) 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.

(b) For any defendant placed on probation for a violation of the provisions of this Section, the court shall, 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.

(5) If a protective order is issued pursuant to the provisions of this Subsection, the court shall also order that the defendant be prohibited from possessing a firearm for the duration of the Uniform Abuse Prevention Order.

G. (1) Except as provided in Paragraph (2) of this Subsection, 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.

(2) The exception provided in Paragraph (1) of this Subsection does not apply if both of the following conditions apply:

(a) The private investigator was retained by a person who is charged with an offense involving sexual assault as defined by R.S. 46:2184 or who is subject to a temporary restraining order or protective order obtained by a victim of sexual assault pursuant to R.S. 46:2182 et seq.
(b) The private investigator was retained for the purpose of harassing the victim.

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 Title XXXIV of the Code of Criminal Procedure.

R.S. 14:40.3. 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) Repealed by Act 352 of the 2020 Legislative Session.

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.

R.S. 14:40.7. 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 eighteen, 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.

R.S. 14:41. Rape; defined

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

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

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

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

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

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

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

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

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

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

R.S. 14:41.1. Consent; victim in police custody

For purposes of this Subpart, a person is deemed incapable of consent when the person is under arrest or otherwise in the actual custody of a police officer or other law enforcement official and the offender is a police officer or other law enforcement official who either:

(1) Arrested the person or was responsible for maintaining the person in actual custody.

(2) Knows or reasonably should know that the person is under arrest or otherwise in actual custody.

R.S. 14:42. First degree rape

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

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

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

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

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

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

(6) When the victim is prevented from resisting the act because the victim is a person with a disability.

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

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

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

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

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

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

R.S. 14:42.1. Second degree rape

A. Second degree 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 second degree rape shall be imprisoned at hard labor for not less than five nor more than forty years.

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

R.S. 14:43. Third degree rape

A. Third degree 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 victim submits under the belief that the person committing the act is someone known to the victim, other than the offender, and such belief is intentionally induced by any artifice, pretense, or concealment practiced by the offender.

(4) When the offender acts without the consent of the victim.

B. Whoever commits the crime of third degree 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.

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

R.S. 14:43.1. 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, directly or through clothing, 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, directly or through clothing, when any of the following occur:

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

(2) The victim 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,[1] 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.

R.S. 14:43.1.1. Misdemeanor sexual battery

A. Misdemeanor sexual battery is the intentional touching of the breasts or buttocks of the victim by the offender using any instrumentality or any part of the body of the offender, directly or through clothing, or the intentional touching of the breasts or buttocks of the offender by the victim using any instrumentality or any part of the body of the victim, directly or through clothing, when the offender acts without the consent of the victim.

B. Whoever commits the crime of misdemeanor sexual battery shall be fined not more than one thousand dollars, or be imprisoned for not more than six months, or both.

C. The offender shall not be eligible to have his conviction set aside and his prosecution dismissed in accordance with Code of Criminal Procedure Article 894.

D. The offender shall not be subject to any provisions of law that are applicable to sex offenders, including but not limited to any provision that requires the registration of the offender and notice to the public.

R.S. 14:43.2. Second degree sexual battery

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

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

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

B. Repealed by Act 2 of the 2019 Legislative Session.

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

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

(3) Any person who is seventeen years of age or older who commits the crime of second degree sexual battery shall be punished by imprisonment at hard labor for not less than twenty-five nor more than ninety-nine years, at least twenty-five years of the sentence imposed being served without benefit of parole, probation, or suspension of sentence, when any of the following conditions exist:
(a) The victim has paraplegia, quadriplegia, or is otherwise physically incapable of preventing the act due to a physical disability.

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

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

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

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

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

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

R.S. 14:43.3. Oral sexual battery

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

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

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

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

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

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

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

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

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

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

(3) Whoever commits the crime of oral sexual battery by violating the provisions of Paragraph (A)(2) of this Section shall be imprisoned at hard labor for not less than twenty-five years nor more

than ninety-nine years. At least twenty-five years of the sentence imposed shall be served without parole, probation, or suspension of sentence.

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.

R.S. 14:43.4. 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.

R.S. 14:43.5. Intentional exposure to AIDS virus

A. No person shall intentionally expose another to the human immunodeficiency virus (HIV) through sexual contact without the knowing and lawful consent of the victim, if at the time of the exposure the infected person knew he was HIV positive.

B. No person shall intentionally expose another to HIV through any means or contact without the knowing and lawful consent of the victim, if at the time of the exposure the infected person knew he was HIV positive.

C. No person shall intentionally expose a first responder to HIV through any means or contact without the knowing and lawful consent of the first responder when the offender knows at the time of the offense that he is HIV positive, and has reasonable grounds to believe the victim is a first responder acting in the performance of his duty.

D. For purposes of this Section, "first responder" includes a commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife enforcement agent, and probation and parole officer, any licensed emergency medical services practitioner as defined by R.S. 40:1131, and any firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state or any volunteer firefighter of the state.

E. (1) Whoever commits the crime of intentional exposure to HIV 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 HIV against a first responder shall be fined not more than six thousand dollars, imprisoned with or without hard labor for not more than eleven years, or both.

F.(1) It is an affirmative defense, if proven by a preponderance of the evidence, that the person exposed to HIV knew the infected person was infected with HIV, knew the action could result in infection with HIV, and gave consent to the action with that knowledge.

(2) It is also an affirmative defense that the transfer of bodily fluid, tissue, or organs occurred after advice from a licensed physician that the accused was noninfectious, and the accused disclosed his HIV-positive status to the victim.

(3) It is also an affirmative defense that the HIV-positive person disclosed his HIV-positive status to the victim, and took practical means to prevent transmission as advised by a physician or other healthcare provider or is a healthcare provider who was following professionally accepted infection control procedures.

R.S. 14:43.6. 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 or first degree rape), R.S. 14:42.1 (forcible or second degree rape), R.S. 14:43.1(C)(2) (sexual battery when the victim is under the age of thirteen), R.S. 14:43.2 (second degree sexual battery), 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 or first degree rape), R.S. 14:42.1 (forcible or second degree rape), R.S. 14:43.1(C)(2) (sexual battery when the victim is under the age of thirteen), R.S. 14:43.2 (second degree sexual battery), 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. Except as provided in Subparagraph (2)(b) of this Subsection, 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)(a) 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.

(b) When the provisions of this Paragraph apply, if the defendant is sentenced to incarceration or confinement for a period of time that is ten years or more, the commencement of the administration of treatment with medroxyprogesterone acetate (MPA) shall be contingent upon a medical evaluation to determine whether the defendant is an appropriate candidate for treatment. This evaluation shall be conducted not sooner than thirty days prior to the commencement of the administration of the treatment.

(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.

R.S. 14:44. 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.

R.S. 14:44.1. 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. For the purposes of this Paragraph, "sexually abused" means that the victim was subjected to any sex offense as defined in R.S. 15:541.

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

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

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

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

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

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

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

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

R.S. 14:44.2. Aggravated kidnapping of a child

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

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

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

R.S. 14:45. 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 institution for orphans, persons with mental illness, persons with intellectual disabilities 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.

R.S. 14:45.1. 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.

R.S. 14:46. 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.

R.S. 14:46.1. 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.

R.S. 14:46.2. Human trafficking

A. It shall be unlawful:

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

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

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

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

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

(2)(a) Whoever commits the crime of human trafficking when the services include commercial sexual activity or a sex offense as defined in R.S. 15:541 shall be fined not more than fifteen thousand dollars and shall be imprisoned at hard labor for not more than twenty years.

(b) Whoever commits the crime of human trafficking in violation of the provisions of Subparagraph (A)(1)(b) of this Section involving a person under the age of twenty-one years but eighteen years or older shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years, nor more than fifty years, or both.

(c) Whoever commits the crime of human trafficking in violation of the provisions of Subparagraph (A)(1)(b) of this Section when the trafficking involves a person under the age of eighteen years shall be punished by life imprisonment at hard labor without benefit of probation, parole, or suspension of sentence and fined not more than seventy-five thousand dollars.

D. (1)(a) Whoever violates the provisions of Paragraph (A)(1), (2), (4), (5), or (6) of this Section shall be punished by life imprisonment at hard labor without benefit of probation, parole, or suspension of sentence and fined not more than fifty seventy-five 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 fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen nor more than fifty years or both with shall be required to serve at least five years being served 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 fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than twenty-five nor more than fifty years, with required to serve at least ten years being served of the sentence provided for in Subparagraph (D)(1)(b) of this Section without benefit of probation, parole, or suspension of sentence.

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

(4) Repealed by Act 352 of the 2020 Legislative Session.

C. For purposes of this Section:

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

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

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

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

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

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

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

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

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

(c) Abduction or threatened abduction of an individual.

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

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

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

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

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

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

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

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

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

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

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

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

F. (1) A victim of trafficking involving services that include commercial sexual activity or a sex offense as defined in R.S. 15:541 shall have an affirmative defense to prosecution for any of the following offenses which were committed as a direct result of being trafficked:

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

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

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

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

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

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

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

R.S. 14:46.3. Trafficking of children for sexual purposes

A. It shall be unlawful:

(1) For any person to knowingly recruit, harbor, transport, provide, sell, purchase, receive, isolate, entice, 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 lewd or lascivious act upon the person or in the presence of any child when anything 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, received, isolated, enticed, obtained, or maintained is actually a law enforcement officer or peace officer acting within the official scope of his duties.

D. (1) Whoever violates the provisions of Paragraph (A)(1), (2), (4), (5), or (6) of this Section shall be punished by life imprisonment at hard labor without benefit of probation, parole, or suspension of sentence and fined not more than seventy-five thousand dollars.

(2) Whoever violates the provisions of Paragraph (A)(3) 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 with five years being served 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 fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than twenty-five nor more than fifty years, with at least ten years being served without benefit of probation, parole, or suspension of sentence.

(3) Repealed by Act 352 of the 2020 Legislative Session.

E. No victim of trafficking as provided by the provisions of this Sectin shall be prosecuted for unlawful acts committed as a direct result of being trafficked. Any child determined to be a victim pursuant to the provisions of this Subsection shall be eligible for specialized services for sexually exploited children.

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.

R.S. 14:46.4. Re-homing of a child

A. Re-homing of a child is any one of the following:

(1) A transaction, or any action taken to facilitate such transaction, through electronic means or otherwise by a parent or any individual or entity with custody of a child who intends to avoid or divest himself of permanent parental responsibility by placing the child in the physical custody of a nonrelative, without court approval, unless Subsection B of this Section applies. Actions include but are not limited to transferring, recruiting, harboring, transporting, providing, soliciting, or obtaining a child for such transaction.

(2) The selling, transferring, or arranging for the sale or transfer of a minor child to another person or entity for money or any thing of value or to receive such minor child for such payments or thing of value.

(3) Assisting, aiding, abetting, or conspiring in the commission of any act described in Paragraphs (1) and (2) of this Subsection by any person or entity, regardless of whether money or anything of value has been promised to or received by the person.

B. Re-homing does not include:

(1) Placement of a child with a relative, stepparent, licensed adoption agency, licensed attorney, or the Department of Children and Family Services.

(2) Placement of a child by a licensed attorney, licensed adoption agency, or the Department of Children and Family Services.

(3) Temporary placement of a child by parents or custodians for designated short-term periods with a specified intent and time period for return of the child, due to a vacation or a school-sponsored function or activity, or the incarceration, military service, medical treatment, or incapacity of a parent.

(4) Placement of a child in another state in accordance with the requirements of the Interstate Compact on the Placement of Children.

(5) Relinquishment of a child pursuant to the provisions of the Safe Haven Law, Ch.C. Art. 1149 et seq.

C. Whoever commits the crime of re-homing of a child shall be fined not more than five thousand dollars and shall be imprisoned at hard labor for not more than five years.

D. It shall not be a defense to prosecution for a violation of this Section that the person being re-homed is actually a law enforcement officer or peace officer acting within the official scope of his duties.

E. 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.

R.S. 14:50.2. 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 or first degree 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.

R.S. 14:55. Aggravated criminal damage to property

A. 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.

B. 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.

R.S. 14:56. Simple criminal damage to property

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

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

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

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

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

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

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

R.S. 14:62.3. 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.

R.S. 14:62.8 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. 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 thirty years.

R.S. 14:63.3. Entry on or remaining in places or on land after being forbidden

A. (1) 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.

(2) For the purposes of Paragraph (1) of this Subsection, “sign” means either:

(a) 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) The placement of identifying purple paint marks on the trees or posts on the property, provided that such marks are:

(i) Vertical lines of not less than eight inches in length and not less than one inch in width.

(ii) Placed so that the bottom of the mark is not less than three feet from the ground nor more than five feet from the ground.

(iii) Placed at locations that are readily visible to any person approaching the property and no more than one hundred feet apart on forest land, as defined in R.S. 3:3622, or one thousand feet apart on land other than forest land.

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.

R.S. 14:66. 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. An offer to participate in a theft prevention program pursuant to Code of Criminal Procedure 215 shall not constitute a violation of the provisions of this Paragraph.

(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.

R.S. 14:68.4. Unauthorized use of a motor vehicle

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

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

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

R.S. 14:73.3. 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.

R.S. 14:73.4. 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.

R.S. 14:73.7. 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 than 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 than 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.

R.S. 14:73.8. 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.

R.S. 14:73.9 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.

R.S. 14:73.10. Online impersonation

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

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

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

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

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

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

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

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

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

(2) "Cable operator" means any person or group of persons who provides cable service over a cable system and directly, or through one or more affiliates, owns a significant interest in such cable

system, or who otherwise controls or is responsible for, through any arrangement, the management and operation of such cable system.

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

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

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

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

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

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

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

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

(1) A social networking website.

(2) An interactive computer service provider.

(3) A telecommunications service provider.

(4) A cable operator.

(5) An Internet service provider.

(6) Any law enforcement officer or agency.

R.S. 14:73.11. Communication interference

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

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

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

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

B. For purposes of this Section:

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

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

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

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

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

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

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

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

R.S. 14:79. Violation of protective orders

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

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

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

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

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

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

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

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

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

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

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

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

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

D. If, as part of any sentence imposed under this Section, a fine is imposed, the court may direct that the fine be paid for the support of the spouse or children of the offender.
E. (1) Law enforcement officers shall use every reasonable means, including but not limited to immediate arrest of the violator, to enforce a preliminary or permanent injunction or protective order obtained pursuant to R.S. 9:361, R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles

3604 and 3607.1, or Code of Criminal Procedure Articles 320 and 871.1 after a contradictory court hearing, or to enforce a temporary restraining order or ex parte protective order issued pursuant to R.S. 9:361, R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Article 320 if the defendant has been given notice of the temporary restraining order or ex parte protective order by service of process as required by law.

(2) Law enforcement officers shall at a minimum issue a summons to the person in violation of a temporary restraining order, a preliminary or permanent injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 30, 320, and 871.1.

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

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

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

State v. Bourgeois, 367 So.3d 133 (La. App. 5 Cir. 5/31/23). Sufficient evidence supported convictions on four counts of violation of protective order; evidence showed that protective order was in effect at time of offenses that prohibited defendant from following or stalking protected person and from going within 100 yards of residence or household of protected person, and photographs and testimony of police officer indicated that defendant followed or stalked protected person by showing up at her house and that defendant came within 100 yards of protected person's residence.

State v. Fink, 296 So.3d 1270 (La. App. 5 Cir. 2020). Evidence was sufficient to establish that defendant was located within 100 yards of his former girlfriend's house, so as to support conviction for violation of a protective order, although officer did not actually measure the distance between defendant's location and the house; officer testified that defendant was within 100 yards of house, that he was familiar with the area, and that his estimate of the distance was based upon his knowledge of houses and construction and general knowledge of distance and feet.

State v. Smith, 237 So.3d 29 (La. App. 4 Cir. 2018). Text messages that defendant sent to victim on four separate occasions, while protection order obtained against him was in effect, supported convictions for violation of protective order, which prohibited defendant from contacting victim “personally, electronically, by phone, in writing.” Evidence that defendant approached victim at daycare when she was dropping off child, that he asked to talk to her about their relationship and visit with child, and that he blocked her from leaving daycare with his car was sufficient to support conviction for violation of protective order that prohibited defendant from, among other things, having any contact with victim or going within 100 yards of her. Evidence that victim, accompanied by her husband, went to her mother's house, that defendant was outside her mother's house with her mother, that he began screaming and threatening to kill both victim and her husband, and that he then followed victim and husband as they left mother's home was sufficient to support conviction for violation of protective order that prohibited defendant from, among other things, having any contact with victim or her family or going within 100 yards of victim. Separate convictions for stalking of person under protective order and violation of protective order did not violate prohibition against double jeopardy; stalking required proof that defendant engaged in certain prohibited behaviors on more than one occasion, whereas violation of protective order was proven with only one single instance of misbehavior.

State v. Kumar, 58 So.3d 544 (La. App. 2 Cir. 2011). Defendant was convicted in the First Judicial District Court, Parish of Caddo, Judge Ramona Emanuel presiding, of misdemeanor violation of a protective order. Defendant filed application for supervisory writ of review, which was granted. The Second Circuit Court of Appeal, in an opinion authored by Judge Gaskins, held that the stay-away order instituted as a condition of defendant's bail was sufficient to constitute a protective order, and that there was sufficient evidence that defendant knew he was under a court order to stay away from the victim, and that he violated that order. Order was sufficient without the entry of an Abuse Prevention Order and without reference to domestic abuse or dating violence where defendant signed his bond and said bond contained a special condition that he stay away from the victim.

See Ardoin v. City of Mamou, 685 So.2d 294 (La. App. 3 Cir. 1996).

State v. Shroyer, 683 So.2d 806 (La. App. 5 Cir. 1996). Imposition of three consecutive sentences of imprisonment of six months on defendant's convictions for violating protective order, harassing phone calls, and resisting arrest exceeded maximum aggregate penalty of six months.

R.S. 14:82.2. Purchase of commercial sexual activity; penalties

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

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

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

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

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

(4) Whoever violates the provisions of this Section with a person the offender knows to be under the age of eighteen years, or with a person the offender knows to be a victim of human trafficking as defined by R.S. 14:46.2 or trafficking of children for sexual purposes as defined by R.S. 14:46.3, shall be fined not less than three thousand nor more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both, and one-half of the fines collected shall be distributed in accordance with R.S. 15:539.4.

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

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

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

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

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

R.S. 14:83. Soliciting for prostitutes

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

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

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

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

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

(4) In addition to the penalties provided for in Subsection B of this Section, the court shall order the offender to complete the Buyer Beware Program, as provided for in R.S. 15:243, to educate the offender about the harms, exploitation, and negative effects of prostitution. In furtherance of the administration of justice in the judicial district and to prevent future recidivism, the court shall impose additional court costs in the amount of two hundred dollars to defer the costs of the program, with the proceeds of the fine being paid to the operator of the Buyer Beware Program as provided for in R.S. 15:243.

(5) Repealed by Act 352 of the 2020 Legislative Session.

R.S. 14:93.5. Sexual battery of persons with infirmities

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

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

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

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

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

B. For purposes of this Section, “sexual acts” mean either of the following:
(1) The touching of the anus or genitals of the victim by the offender using any instrumentality or any part of the body of the offender, directly or through clothing.

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

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

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

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

R.S. 14:94. 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 than 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.

R.S. 14:95. Illegal carrying of weapons

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

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

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

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

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

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

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

(i) A peace officer as defined by R.S. 14:30(B) in the performance of his official duties.
(ii) A school official or employee acting during the normal course of his employment or a student acting under the direction of such school official or employee.
(iii) Any person having the written permission of the principal or school board and engaged in competition or in marksmanship or safety instruction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

H. (1) Except as provided in Paragraph (A)(4) of this Section and in Paragraph (2) of this Subsection, the provisions of this Section shall not prohibit active justices or judges of the supreme court, courts of appeal, district courts, parish courts, juvenile courts, family courts, city courts, federal courts domiciled in the state of Louisiana, and traffic courts; members of either house of the legislature; officers of either house of the legislature; the legislative auditor; designated investigative auditors; constables; coroners; designated coroner investigators; district attorneys and designated assistant district attorneys; United States attorneys and assistant United States attorneys and investigators; the attorney general; designated assistant attorneys general; city prosecutors; designated assistant city prosecutors; a United States representative from Louisiana and his designated, employed congressional staffer; a United States senator from Louisiana and his designated, employed congressional staffer; and justices of the peace from possessing and concealing a handgun on their person when such persons are qualified annually in the use of firearms by the Council on Peace Officer Standards and Training.

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

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

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

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

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

(3) For the purposes of this Subsection:

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

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

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

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

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

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

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

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

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

(i) A valid military identification card.

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

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

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

N. Any person lawfully carrying a handgun pursuant to Subsection M o this Section shall be subject o the restrictions contained in R.S. 40:1379.3(I), (L), (M), (N), and (O).

R.S. 14:95.1. Possession of firearm or carrying concealed weapon by a person convicted of certain felonies

A. It is unlawful for any person who has been convicted of, or has been found not guilty by reason of insanity for, a crime of violence as defined in R.S. 14:2(B) which is a felony or simple burglary, burglary of a pharmacy, burglary of an inhabited dwelling, unauthorized entry of an inhabited dwelling, felony illegal use of weapons or dangerous instrumentalities, manufacture or possession of a delayed action incendiary device, manufacture or possession of a bomb, or possession of a firearm while in the possession of or during the sale or distribution of a controlled dangerous substance, or any violation of the Uniform Controlled Dangerous Substances Law[1] which is a felony, or any crime which is defined as a sex offense in R.S. 15:541, or any crime defined as an attempt to commit one of the above-enumerated offenses under the laws of this state, or who has been convicted under the laws of any other state or of the United States or of any foreign government or country of a crime which, if committed in this state, would be one of the above-enumerated crimes, to possess a firearm or carry a concealed weapon.

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

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

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

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

R.S. 14:95.1.1. Illegally supplying a felon with a firearm

A. Illegally supplying a felon with a firearm is the intentional giving, selling, donating, providing, lending, delivering, or otherwise transferring a firearm 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. Whoever commits the crime of illegally supplying a felon with a firearm shall be imprisoned with or without hard labor for not more than five years and may be fined not less than one thousand dollars nor more than five thousand dollars. At least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

R.S. 14:95.1.2. 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.

R.S. 14:95.1.3. Fraudulent firearm and ammunition purchase; mandatory reporting

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 Subsection A 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 more than twenty years, or both. The sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(E) (1) If a person is reported ineligible to purchase firearms by the National Instant Criminal Background Check System (NICS), the licensed dealer shall report the NICS denial to the sheriff of the parish in which the attempted purchase occurred and to the Louisiana Automated Victim Notification System.

(2) If at any time a law enforcement agency discovers that a licensed dealer knew or should have known that a purchaser or attempted purchaser of a firearm was prohibited from possessing a firearm and the licensed dealer failed to report as required by this Section, the sheriff or law enforcement agency shall notify all state and federal licensing agencies of the licensed dealer's failure to report.

R.S. 14:95.1.4. Illegal transfer of a firearm to a prohibited possessor

A. Illegal transfer of a firearm to a prohibited possessor is the intentional giving, selling, donating, lending, delivering, or otherwise transferring a firearm to any person known to the offender to be a person prohibited from possessing a firearm under state or federal law.

B. Whoever commits the crime of illegal transfer of a firearm to a prohibited possessor shall be fined not more than two thousand five hundred dollars, imprisoned with or without hard labor for not more than one year, or both.

R.S. 14:95.10. Possession of a firearm or carrying of a concealed weapon by a person convicted of domestic abuse battery and certain offenses of battery of a dating partner

A. It is unlawful for any person who has been convicted of any of the following offenses to possess a firearm or carry a concealed weapon:

(1) Domestic abuse battery (R.S. 14:35.3).

(2) A second or subsequent offense of battery of a dating partner (R.S. 14:34.9).

(3) Battery of a dating partner when the offense involves strangulation (R.S. 14:34.9(K)).

(4) Battery of a dating partner when the offense involves burning (R.S. 14:34.9(L)).

B. Whoever is found guilty of violating the provisions of this Section shall be imprisoned with or without hard labor for not less than one year nor more than twenty years without the benefit of probation, parole, or suspension of sentence, and shall be fined not less than one thousand dollars nor more than five thousand dollars.

C. A person shall not be considered to have been convicted of domestic abuse battery or battery of a dating partner for purposes of this Section unless the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and in the case of a prosecution for an offense described in this Section for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either the case was tried by a jury, or the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise. A person shall not be considered convicted of R.S. 14:34.9 or 35.3 for the purposes of this Section if the conviction has been expunged, set aside, or is an offense for which the person

has been pardoned or had civil rights restored unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, possess, or receive firearms.

D. For the provisions 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.

E. The provisions of this Section prohibiting the possession of firearms and carrying concealed weapons by persons who have been convicted of the offenses set forth in Subsection A of this Section shall not apply to any person who has not been convicted of any of the offenses set forth in Subsection A of this Section for a period of ten years from the date of completion of sentence, probation, parole, or suspension of sentence.

> State v. Grant, 198 So.3d 1219 (La. App. 4 Cir. 2016). Statute, prohibiting possession of a firearm or carrying of a concealed weapon by a person convicted of domestic abuse battery, was not ambiguous, and although statute was enacted after defendant's plea on the domestic abuse battery charge, retroactive application of statute to defendant was not unconstitutional pursuant to the principle of lenity, which was premised on the idea that a person should not be criminally punished unless the law provides a fair warning of what conduct will be considered criminal.

R.S. 14:102.1. Cruelty to animals; simple and aggravated

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

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

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

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

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

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

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

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

(h) Injures any animal belonging to another person.

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

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

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

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

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

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

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

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

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

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

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

(5) In addition to any other penalty imposed for a violation of this Subsection, the offender shall be ordered to undergo a psychological evaluation and subsequently recommended psychological treatment and shall be banned by court order from owning or keeping animals for a period of not more than ten years. Any costs associated with any evaluation or treatment ordered by the court shall be borne by the defendant.

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

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

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

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

(2) Herding of domestic animals.

(3) Accepted veterinary practices.

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

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

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

R.S. 14:103. 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 route, or burial of a deceased person during the period beginning one hundred twenty minutes before and ending one hundred twenty minutes after the funeral or burial, within three hundred feet of the funeral or burial.

(8)(a) Intentionally blocking, impeding, inhibiting, or in any other manner obstructing or interfering with a funeral route.

(b) Intentionally blocking, impeding, inhibiting, or in any other manner obstructing or interfering, within five hundred feet, with access into or from any building or parking lot of a building in which a funeral or burial is being conducted, or any burial plot or the parking lot of the cemetery in which a funeral or burial is being conducted, during the period beginning one hundred twenty minutes before and ending one hundred twenty minutes after the funeral or burial.

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 for in Paragraphs (A)(7) and (8) of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

C. For purposes of Paragraphs (A)(7) and (8) of this Section:

(1) “Funeral” includes a funeral, funeral home viewing, wake, or memorial service.

(2) “Funeral route” means the route of ingress or egress from the location of a funeral or burial, including thirty feet from the outer edge of the outside lane of the route.

R.S. 14:104. 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 at hard labor 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 at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4) Repealed by Act 352 of the 2020 Legislative Session.

R.S. 14:105. 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 at hard labor 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 at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4) Repealed by Act 352 of the 2020 Legislative Session.

R.S. 14:106. 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) of this Subsection.

(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 Subparagraph (A)(3)(b) of this Section.

(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 Subsection, the following words and terms shall have the respective meanings defined as follows:

(a) “Churches” means any church, affiliated with a national or regional denomination.

(b) “Medical clinics and hospitals” means any clinic or hospital of licensed physicians or psychiatrists used for the reception and care of persons who are sick, wounded, or infirm.

(c) “Physicians” means any licensed physician or psychiatrist.

(d) “Recognized and established schools” means schools having a full time faculty and pupils, gathered together for instruction in a diversified curriculum.

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 of this Section. All corporate officers who are named as defendants shall be subject to the penalty provisions of this Section as set forth in Subsection G of this Section.

(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.

I. (1)(a) When an act of obscenity as defined in Paragraph (A)(1) of this Section is reported, the law enforcement agency acting in response to the reported incident shall provide notice of the incident to the principal or headmaster of each school located within two thousand feet of where the incident occurred. This notice shall be provided by the law enforcement agency to the principal or headmaster within twenty-four hours of receiving the report of the incident and by any reasonable means, including but not limited to live or recorded telephone message or electronic mail.

(b) The notice required by the provisions of Subparagraph (a) of this Paragraph shall include the date, time, and location of the incident, a brief description of the incident, and a brief description of the physical characteristics of the alleged offender which may include but shall not be limited to the alleged offender's sex, race, hair color, eye color, height, age, and weight.

(2)(a) Within twenty-four hours of receiving notice of the incident from law enforcement pursuant to the provisions of Paragraph (1) of this Subsection, the principal or headmaster shall provide notice of the incident to the parents of all students enrolled at the school by any reasonable means, including but not limited to live or recorded telephone message or electronic mail.

(b) The notice required by the provisions of Subparagraph (a) of this Paragraph shall include the same information required for the notice provided in Paragraph (1) of this Subsection to the extent that the information is provided by law enforcement to the principal or headmaster of the school.

(3) When the expiration of the twenty-four-hour period occurs on a weekend or holiday, notice shall be provided no later than the end of the next regular school day.

(4) For purposes of this Subsection, “school” means any public or private elementary or secondary school in this state, including all facilities of the school located within the geographical boundaries of the school property.

(5) The principal, headmaster, school, owner of the school, operator of the school, and the insurer or self-insurance program for the school shall be immune from any liability that arises as a result of compliance or noncompliance with this Subsection, except for any willful violation of the provisions of this Subsection.

R.S. 14:107.1. 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 adults with physical or mental disabilities as part of a ceremony, rite, initiation, observance, performance, or practice.

(3) No person shall commit ritualistic psychological abuse of children or of adults with physical or mental disabilities 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.

R.S. 14:107.2. Hate crimes

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

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

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

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

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

(2) Any lawful group of persons, whether or not incorporated, banded together for joint action on any subject or subjects.
(3) Any entity or unit of federal, state, or local government.

E. As used in this Section:

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

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

(3) “Law enforcement officer” means any active or retired city, parish, or state law enforcement officer, peace officer, sheriff, deputy sheriff, probation or parole officer, marshal, deputy, wildlife enforcement agent, state correctional officer, or commissioned agent of the Department of Public Safety and Corrections, as well as any federal law enforcement officer or employee, whose permanent duties include making arrests, performing search and seizures, execution of criminal arrest warrants, execution of civil seizure warrants, any civil functions performed by sheriffs or deputy sheriffs, enforcement of penal or traffic laws, or the care, custody, control, or supervision of inmates.

R.S. 14:107.5. Solicitation of funds or transportation for certain unlawful purposes

A. It shall be unlawful for any person to solicit funds or transportation with the intention to solicit the person to engage in indiscriminate sexual intercourse for compensation.

B. For purposes of this Section, “sexual intercourse” means anal, oral, or vaginal sexual intercourse.

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

R.S. 14:110.2. Tampering with electronic monitoring equipment

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

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

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

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

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

R.S. 14:110.3. 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.

R.S. 14:129.1. 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.

R.S. 14:130.1. 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 described in this Section:

(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.

(4) Inducing or persuading or attempting to induce or persuade any person to do any of the following:

(a) Testify falsely or, without right or privilege to do so, to withhold any testimony.

(b) Without the right or privilege to do so, absent himself from such proceedings despite having received service of a subpoena.

(5) Contacting a family member of the victim in a manner that knowingly and intentionally violates the provisions of R.S. 46:1844(Y).

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, except as provided in Paragraph (5) of this Subsection, 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, except as provided in Paragraphs (4) or (5) of this Subsection, 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.

(4) When the obstruction of justice is committed as described in Paragraph (A)(1) of this Section and involves any misdemeanor criminal proceeding that does not involve an intentional misdemeanor directly affecting the person, the offender shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(5) When the obstruction of justice is committed as described in Paragraph (A)(5) of this Section and involves a criminal proceeding in which the sentence imposed is a sentence of death, the offender shall be fined not more than five thousand dollars, imprisoned for not more than three years, with or without hard labor, or both.

C. For the purposes of this Section, "family member" shall have the same meaning and definition as in R.S. 46:2132.

R.S. 14:133.1. Obstruction of court orders

Whoever, by threats or force, or willfully prevents, obstructs, impedes, or interferes with, or willfully 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.

R.S. 14:143. 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).

R.S. 14:222.3. Unlawful use of a cellular tracking device; penalty

A. It shall be unlawful for any person to possess a cellular tracking device or to use a cellular tracking device for the purpose of collecting, intercepting, accessing, transferring, or forwarding the data transmitted or received by the communications device, or stored on the communications device of another without the consent of a party to the communication and by intentionally deceptive means.

B. For the purposes of this Section:

(1) "Cellular tracking device" means a device that transmits or receives radio waves to or from a communications device in a manner that interferes with the normal functioning of the communications device or communications network and that can be used to intercept, collect, access, transfer, or forward the data transmitted or received by the communications device, or stored on the communications device; includes an international mobile subscriber identity (IMSI) catcher or other cell phone or telephone surveillance or eavesdropping device that mimics a cellular base station and transmits radio waves that cause cell phones or other communications devices in the area to transmit or receive radio waves, electronic data, location data, information used to calculate location, identifying information, communications content, or metadata, or otherwise obtains this information through passive means, such as through the use of a digital analyzer or other passive interception device; and does not include any device used or installed by an electric utility solely to the extent such device is used by that utility to measure electrical usage, to provide services to customers, or to operate the electric grid.

(2) "Telecommunications device" means any type of instrument, device, or machine that is capable of transmitting or receiving telephonic, electronic, radio, text, or data communications, including but not limited to a cellular telephone, a text-messaging device, a personal digital assistant, a computer, or any other similar wireless device that is designed to engage in a call or communicate text or data. It does not include citizens band radios, citizens band radio hybrids, commercial two-way radio communication devices, or electronic communication devices with a push-to-talk function.

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

(1) An investigative or law enforcement officer, judicial officer, probation or parole officer, or employee of the Department of Public Safety and Corrections using a cellular tracking device when that person is engaged in the lawful performance of official duties and in accordance with other state or federal law, including using a cellular tracking device in accordance with the Electronic Surveillance Act and pursuant to a court order as provided for in R.S. 15:1317 and 1318.

(2) An operator of a switchboard, or any officer, employee, or agent of any electronic communications carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is necessary to his service or to the protection of the rights or property of the carrier of such communication; however, such communications common carriers shall not utilize service observing or random monitoring, except for mechanical or service quality control checks.

(3) An officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the commission in the enforcement of Chapter 5 of Title 47 of the United States Code.

(4) The owner of a motor vehicle, including the owner of a vehicle available for rent, who has consented to the use of the tracking device with respect to that vehicle.

(5) The lessor or lessee of a motor vehicle and the person operating the motor vehicle who have consented to the use of a tracking device with respect to that vehicle.

(6) An automobile manufacturer, its affiliates, subsidiaries, or a related telematics provider installing a feature that could be considered a tracking device with respect to that vehicle.

(7)(a) A parent or legal guardian of a minor child whose location or movements are being tracked by the parent or legal guardian.

(b) When the parents of the minor child are living separate and apart or are divorced from one another, this exception shall apply only if both parents consent to the tracking of the minor child's location and movements, unless one parent has been granted sole custody, in which case consent of the noncustodial parent shall not be required.

(8) The Department of Public Safety and Corrections tracking an offender who is under its custody or supervision.

(9) Any provider of a commercial mobile radio service (CMRS), such as a mobile telephone service or vehicle safety or security service, which allows the provider of CMRS to determine the location or movement of a device provided to a customer of such service.

(10) Any commercial motor carrier operation.

(11) A provider of a mobile application or similar technology that a consumer affirmatively chooses to download onto the consumer's wireless device, or any technology used in conjunction with the mobile application or similar technology.

(12) Any use of technology provided by an entity based upon the prior consent of a consumer for such use.

(13) A person acting in good faith on behalf of a business entity for a legitimate business purpose.

(14) A law enforcement agency conducting training or calibration and maintenance of tracking equipment on the cell phone of another law enforcement officer who has given consent for his phone to be tracked for training or calibration and maintenance purposes.

(15) Any person who has more than one cellular phone or similar wireless telecommunications device as part of a wireless service plan contract and who is ascertaining or attempting to ascertain the location of any telecommunications device that is part of that plan.

(16) Any person who has a cellular phone or similar wireless telecommunications device and wireless service plan contract, or a wireless service provider at the person's direction, who is ascertaining or attempting to ascertain the location of any telecommunications device that is part of that plan and that has been lost or stolen.

D. Whoever violates the provisions of this Section shall be fined not more than three thousand dollars, imprisoned with or without hard labor for not more than two years, or both.

R.S. 14:282. Operation of places of prostitution prohibited; penalty

A. No person shall maintain, operate, or knowingly own any place or any conveyance used for the purpose of lewdness, assignation, or prostitution, or shall rent or let any place or conveyance to any person with knowledge of or good reason to believe that the lessee intends to use the place or conveyance for the purpose of lewdness, assignation, or prostitution, or reside in, enter, or remain in any place for the purpose of lewdness, assignation, or prostitution.

B. (1) Whoever violates or aids, abets, or participates in the violation of this Section shall be fined not less than twenty-five dollars nor more than five hundred dollars, imprisoned for not less than thirty days nor more than six months, or both.

(2) Whoever violates any provision of this Section for the purpose of lewdness, assignation, or prostitution of persons under the age of eighteen shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever violates any provision of this Section for the purpose of lewdness, assignation, or prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4) Repealed by Act 352 od the 2020 Legislative Session.

R.S. 14:283. Video voyeurism; penalties

A. Video voyeurism is any of the following:

(1) The use of any camera, videotape, photo-optical, photo-electric, or any other image recording device, or an unmanned aircraft system equipped with any camera, videotape, photo-optical, photo-electric, or any other image recording device, for the purpose of observing, viewing, photographing, filming, or videotaping a person where that person has not consented to the specific instance of observing, viewing, photographing, filming, or videotaping and either:

(a) It is for a lewd or lascivious purpose.

(b) The observing, viewing, photographing, filming, or videotaping is as described in Paragraph(B)(3) of this Section and occurs in a place where an identifiable person has a reasonable expectation of privacy.

(2) The transfer of an image obtained by activity described in Paragraph (1) of this Subsection by live or recorded telephone message, electronic mail, the Internet, or a commercial online service.

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. Repealed by Act 352 of the 2020 Legislative Session.

E. Repealed by Act 352 of the 2020 Legislative Session.

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

G. For purposes of this Section, “unmanned aircraft system” means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

H. This Section shall not apply to any bona fide news or public interest broadcast, website, video, report, or event and shall not be construed to affect the rights of any news-gathering organization.

R.S. 14:283.1. Voyeurism; penalties

A. Voyeurism is the viewing, observing, spying upon, or invading the privacy of a person by looking or using an unmanned aircraft system to look through the doors, windows, or other openings of a private residence without the consent of the victim who has a reasonable expectation of privacy for the purpose of arousing or gratifying the sexual desires of the offender.

B. (1) Whoever commits the crime of voyeurism, upon a first conviction, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Upon a second or subsequent conviction, the offender shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

C. For purposes of this Section, “unmanned aircraft system” means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

R.S. 14:283.2. Nonconsensual disclosure of a private image

A. A person commits the offense of nonconsensual disclosure of a private image when all of the following occur:

(1) The person intentionally discloses an image of another person who is seventeen years of age or older, who is identifiable from the image or information displayed in connection with the image, and who is either engaged in a sexual performance or whose intimate parts are exposed in whole or in part.

(2) The person who discloses the image obtained it under circumstances in which a reasonable person would know or understand that the image was to remain private.

(3) The person who discloses the image knew or should have known that the person in the image did not consent to the disclosure of the image.

(4) The person who discloses the image has the intent to harass or cause emotional distress to the person in the image, and the person who commits the offense knew or should have known that the disclosure could harass or cause emotional distress to the person in the image.

B. Disclosure of an image under any of the following circumstances does not constitute commission of the offense defined in Subsection A of this Section:

(1) When the disclosure is made by any criminal justice agency for the purpose of a criminal investigation that is otherwise lawful.

(2) When the disclosure is made for the purpose of, or in connection with, the reporting of unlawful conduct to law enforcement or a criminal justice agency.

(3) When the person depicted in the image voluntarily or knowingly exposed his or her intimate parts in a public setting.

(4) When the image is related to a matter of public interest, public concern, or related to a public figure who is intimately involved in the resolution of important public questions, or by reason of his fame shapes events in areas of concern to society.

C. For purposes of this Section:

(1) "Criminal justice agency" means any government agency or subunit thereof, or private agency that, through statutory authorization or a legal formal agreement with a governmental unit or agency, has the power of investigation, arrest, detention, prosecution, adjudication, treatment, supervision, rehabilitation, or release of persons suspected, charged, or convicted of a crime; or that collects, stores, processes, transmits, or disseminates criminal history records or crime information.

(2) "Disclosure" means to, electronically or otherwise, transfer, give, provide, distribute, mail, deliver, circulate, publish on the internet, or disseminate by any means.

(3) "Image" means any photograph, film, videotape, digital recording, or other depiction or portrayal of an object, including a human body.

(4) "Intimate parts" means the fully unclothed, partially unclothed, or transparently clothed genitals, pubic area, or anus. If the person depicted in the image is a female, "intimate parts" also means a partially or fully exposed nipple, including exposure through transparent clothing.

(5) “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.

D. Nothing in this Section shall be construed to impose liability on the provider of an interactive computer service as defined by 47 U.S.C. 230(f)(2), an information service as defined by 47 U.S.C. 153(24), or a telecommunications service as defined by 47 U.S.C. 153(53), for content provided by another person.

E. Whoever commits the offense of nonconsensual disclosure of a private image shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not more than two years, or both.

R.S. 14:284. Peeping Tom; penalties

A. No person shall perform such acts as will make him a “Peeping Tom” on or about the premises of another, or go upon the premises of another for the purpose of becoming a “Peeping Tom”.

B. “Peeping Tom” as used in this Section means one who peeps through windows or doors, or other like places, situated on or about the premises of another or uses an unmanned aircraft system for the purpose of spying upon or invading the privacy of persons spied upon without the consent of the persons spied upon. It is not a necessary element of this offense that the “Peeping Tom” be upon the premises of the person being spied upon.

C. (1) Whoever violates this Section, upon a first conviction, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Upon a second conviction, the offender shall be fined not more than seven hundred fifty dollars, imprisoned for not more than six months, or both.

(3) Upon a third or subsequent conviction, the offender shall be fined not more than one thousand dollars, imprisoned with or without hard labor for not more than one year, or both.

D. For purposes of this Section, “unmanned aircraft system” means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable.

R.S. 14:285. Unlawful communications; telephone and telecommunications devices; improper language; harassment; penalty

A. No person shall:

(1) Engage in or institute a telephone call, telephone conversation, or telephone conference, with another person, or use any telecommunications device to send any text message or other message to another person directly, anonymously or otherwise, and therein use obscene, profane, vulgar, lewd, or lascivious language, or make any suggestion or proposal of an obscene nature or threaten any illegal or immoral act with the intent to coerce, intimidate, or harass any person.

(2) Make repeated telephone communications or send repeated text messages or other messages using any telecommunications device directly to a person anonymously or otherwise in a manner

reasonably expected to abuse, torment, harass, embarrass, or offend another, whether or not conversation ensues.

(3) Make a telephone call and intentionally fail to hang up or disengage the connection.

(4) Engage in a telephone call, conference, or recorded communication by using obscene language or by making a graphic description of a sexual act, or use any telecommunications device to send any text message or other message containing obscene language or any obscene content, anonymously or otherwise, directly to another person, when the offender knows or reasonably should know that such obscene or graphic language is directed to, or will be heard by, a minor. Lack of knowledge of age shall not constitute a defense.

(5) Knowingly permit any telephone or any other telecommunications device under his control to be used for any purpose prohibited by this Section.

B. Any offense as set forth in this Section shall be deemed to have been committed at either the place where the communication originated or at the place where the communication was received.

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

D. Upon second or subsequent offenses, the offender shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than two years, or both.

E. For the purposes of this Section, "telecommunications device" shall mean any type of instrument, device, or machine that is capable of transmitting or receiving telephonic, electronic, radio, text, or data communications, including but not limited to a cellular telephone, a text-messaging device, a personal digital assistant, a computer, or any other similar wireless device that is designed to engage in a call or communicate text or data.

R.S. 14:286. Sale of minor children and other prohibited activities; penalties

A. (1) It shall be unlawful for any person to sell or surrender a minor child to another person for money or anything of value, or to receive a minor child for such payment of money or anything of value except as specifically provided in Children’s Code Articles 1200 and 1223.

(2) It shall be unlawful for any person to pay or receive anything of value for the procurement, attempted procurement, or assistance in the procurement of a party to an act of voluntary surrender of a child for adoption except as specifically provided in Children’s Code Articles 1200 and 1223.

(3) It shall be unlawful for any petitioner, person acting on a petitioner's behalf, agency or attorney or other intermediary shall make or agree to make any disbursements in connection with the adoptive placement, surrender, or adoption of a child except as specifically provided in Children’s Code Articles 1200 and 1223.

(4) It shall be unlawful to make a false statement in any adoption disclosure affidavit with the intent to deceive and with knowledge that the statement is false.

B.(1) It shall be unlawful for any person to enter into, induce, arrange, procure, knowingly advertise for, or otherwise assist in a gestational carrier contract, whether written or unwritten, that is not in compliance with the requirements provided for in R.S. 9:2718 et seq.

(2) No person who is a party to, or acting on behalf of the parties to a gestational carrier contract shall make or agree to make any disbursements in connection with the gestational carrier contract other than the following:

(a) Payment of actual medical expenses, including hospital, testing, nursing, midwifery, pharmaceutical, travel, or other similar expenses, incurred by the gestational carrier for prenatal care and those medical and hospital expenses incurred incident to birth.

(b) Payment of actual expenses incurred for mental health counseling services provided to the gestational carrier prior to the birth and up to six months after birth.

(c) Payment of actual lost wages of the gestational carrier, not covered under a disability insurance policy, when bed rest has been prescribed for the gestational carrier for some maternal or fetal complication of pregnancy and the gestational carrier, who is employed, is unable to work during the prescribed period of bed rest.

(d) Payment of actual travel costs related to the pregnancy and delivery, court costs, and attorney fees incurred by the gestational carrier.

(3) It shall be unlawful for any person to enter into, induce, arrange, procure, knowingly advertise for, or otherwise assist in an agreement for genetic gestational carrier, with or without compensation, whether written or unwritten. For purposes of this Section, "genetic gestational carrier" and "compensation" shall have the same meaning as defined in R.S. 9:2718.1.

(4) It shall be unlawful for any person to give or offer payment of money, objects, services, or anything of monetary value to induce any gestational carrier, whether or not she is party to an enforceable or unenforceable agreement for genetic gestational carrier or gestational carrier contract, to consent to an abortion as defined in R.S. 40:1061.9.

C. A person convicted of violating any of the provisions of this Section shall be punished by a fine not to exceed fifty thousand dollars or imprisonment with or without hard labor for not more than ten years, or both.

R.S. 14:313. Wearing of masks, hoods, or other facial disguises in public places prohibited; penalty; exceptions; permit to conduct Mardi Gras festivities; wearing of hoods, masks, or disguises by sex offenders

A. No person shall use or wear in any public place of any character whatsoever, or in any open place in view thereof, a hood or mask, or anything in the nature of either, or any facial disguise of any kind or description, calculated to conceal or hide the identity of the person or to prevent his being readily recognized.

B. Whoever violates this Section shall be imprisoned for not less than six months nor more than three years.

C. Except as provided in Subsection E of this Section, this Section shall not apply:

(1) To activities of children on Halloween, to persons participating in any public parade or exhibition of an educational, religious, or historical character given by any school, church, or public governing authority, or to persons in any private residence, club, or lodge room.

(2) To persons participating in masquerade balls or entertainments, to persons participating in carnival parades or exhibitions during the period of Mardi Gras festivities, to persons participating in the parades or exhibitions of minstrel troupes, circuses, or other dramatic or amusement shows, or to promiscuous masking on Mardi Gras which are duly authorized by the governing authorities of the municipality in which they are held or by the sheriff of the parish if held outside of an incorporated municipality.

(3) To persons wearing head covering or veils pursuant to religious beliefs or customs.

(4) To persons driving or riding a motorcycle.

(5) To persons wearing a helmet or mask for medical purposes or reasons.

D. All persons having charge or control of any of the festivities set forth in Paragraph (C)(2) of this Section shall, in order to bring the persons participating therein within the exceptions contained in Paragraph (C)(2), make written application for and shall obtain in advance of the festivities from the mayor of the city, town, or village in which the festivities are to be held, or when the festivities are to be held outside of an incorporated city, town, or village, from the sheriff

of the parish, a written permit to conduct the festivities. A general public proclamation by the mayor or sheriff authorizing the festivities shall be equivalent to an application and permit.

E. Every person convicted of or who pleads guilty to a sex offense specified in R.S. 24:932, is prohibited from using or wearing a hood, mask or disguise of any kind with the intent to hide, conceal or disguise his identity on or concerning Halloween, Mardi Gras, Easter, Christmas, or any other recognized holiday for which hoods, masks, or disguises are generally used.

R.S. 14:313.1. Distributing candy or gifts on Halloween and other public holidays by "sex offenders" prohibited; penalty

A. It shall be unlawful for any person convicted of or who pleads guilty to a sex offense specified in R.S. 24:932 to distribute candy or other gifts to persons under eighteen years of age on or concerning Halloween, Mardi Gras, Easter, Christmas, or any other recognized holiday for which generally candy is distributed or other gifts given to persons under eighteen years of age.

B. Whoever violates the provisions of this Section shall be sentenced to a term of imprisonment of not less than six months nor more than three years.

R.S. 14:322. Wire-tapping prohibited; penalty

A. No person shall tap or attach any devices for the purpose of listening in on wires, cables, or property owned and used by any person, for the transmission of intelligence by magnetic telephone or telegraph, without the consent of the owner.

B. Whoever violates this Section shall be fined not less than ten dollars nor more than three hundred dollars, or imprisoned for not more than three months.

C. This Section shall not be construed to prevent officers of the law, while in the actual discharge of their duties, from tapping in on wires or cables for the purpose of obtaining information to detect crime.

R.S. 14:323. Tracking devices prohibited; penalty

A. No person shall use a tracking device to determine the location or movement of another person without the consent of that person.

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

(1) For the first offense, the fine shall be not less than five hundred dollars nor more than one thousand dollars, or imprisonment for not more than six months, or both.

(2) For the second offense, the fine shall be not less than seven hundred fifty dollars nor more than one thousand five hundred dollars, or imprisonment for not less than thirty days nor more than six months, or both.

(3) For the third offense and all subsequent offenses, the fine shall be not less than one thousand dollars nor more than two thousand dollars, or imprisonment for not less than sixty days nor more than one year, or both.

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

(1) The owner of a motor vehicle, including the owner of a vehicle available for rent, who has consented to the use of the tracking device with respect to such vehicle.

(2) The lessor or lessee of a motor vehicle and the person operating the motor vehicle who have consented to the use of a tracking device with respect to such vehicle.

(3) Any law enforcement agency, including state, federal, and military law enforcement agencies, who is acting pursuant to a court order or lawfully using the tracking device in an ongoing criminal investigation, provided that the law enforcement officer employing the tracking device creates a

contemporaneous record describing in detail the circumstances under which the tracking device is being used.

(4)(a) A parent or legal guardian of a minor child whose location or movements are being tracked by the parent or legal guardian.

(b) When the parents of the minor child are living separate and apart or are divorced from one another, this exception shall apply only if both parents consent to the tracking of the minor child's location and movements, unless one parent has been granted sole custody, in which case consent of the noncustodial parent shall not be required.

(5) The Department of Public Safety and Corrections tracking an offender who is under its custody or supervision.

(6) Any provider of a commercial mobile radio service (CMRS), such as a mobile telephone service or vehicle safety or security service, which allows the provider of CMRS to determine the location or movement of a device provided to a customer of such service.

(7) Any commercial motor carrier operation.

(8) Any employer that provides a cellular device to employees for use during the course and scope of employment.

D. For the purposes of this Section, a "tracking device" means any device that reveals its location or movement by the transmission of electronic signals.

R.S. 14:337. Unlawful use of an unmanned aircraft system

A. (1) Unlawful use of an unmanned aircraft system is either of the following:

(a) The intentional use of an unmanned aircraft system to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record a targeted facility without the prior written consent of the owner of the targeted facility.

(b) The intentional use of an unmanned aircraft system over the grounds of the governor's mansion, a state or local jail, prison, or other correctional facility that incarcerates or detains juveniles or adults accused of, convicted of, sentenced for, or adjudicated delinquent for violations of criminal law without the express written consent of the person in charge of that state building, state or local jail, prison, or other correctional facility.

(2) The unmanned aircraft system shall be seized by a law enforcement officer in the course of arrest or issuance of summons or shall be seized by order of court pursuant to other provisions of law.

B. As used in this Section, the following definitions shall apply:

(1) "Federal government" means the United States of America and any department, agency, or instrumentality thereof.

(2) "State government" means the state of Louisiana and any department, agency, or instrumentality thereof.

(3) "Targeted facility" means the following systems:

(a) Petroleum and alumina refineries.
(b) Chemical and rubber manufacturing facilities.

(c) Nuclear power electric generation facilities.

(d) School and school premises as defined by R.S. 14:40.6(B).

(4) “Unmanned aircraft system” means an unmanned, powered aircraft that does not carry a human operator, can be autonomous or remotely piloted or operated, and can be expendable or recoverable. “Unmanned aircraft system” does not include any of the following:

(a) A satellite orbiting the earth.

(b) An unmanned aircraft system used by the federal government or a person who is acting pursuant to contract with the federal government to conduct surveillance of specific activities.

(c) An unmanned aircraft system used by the state government or a person who is acting pursuant to a contract with the state government to conduct surveillance of specific activities.

(d) An unmanned aircraft system used by a local government law enforcement agency or fire department.

(e) An unmanned aircraft system used by 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 Communications Commission under the Cable Television Consumer Protection and Competition 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.

C. (1) Nothing in this Section shall prohibit a person from using an unmanned aircraft system to conduct surveillance of, gather evidence or collect information about, or photographically or electronically record his own property that is either of the following:

(a) Located on his own immovable property.

(b) Located on immovable property owned by another under a valid lease, servitude, right-of-way, right of use, permit, license, or other right.

(2) Third persons retained by the owner of the property described in Paragraph (1) of this Subsection shall not be prohibited under this Section from using an unmanned aircraft system to conduct activities described in Paragraph (1) of this Subsection.

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

(1) Any person operating an unmanned aircraft vehicle or unmanned aircraft system in compliance with federal law or Federal Aviation Administration authorization or regulations or to any person engaged in agricultural commercial operations as defined in R.S. 3:41.

(2) The operation of an unmanned aircraft by institutions of higher education conducting research, extension, and teaching programs in association with university sanctioned initiatives.

E. (1) Whoever commits the crime of unlawful use of an unmanned aircraft system as provided in Subparagraph (A)(1)(a) of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

(2) On a conviction for a second or subsequent offense as provided in Subparagraph (A)(1)(a) of this Section, the offender shall be fined not less than five hundred 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 the sentence imposed pursuant to this Paragraph, the court shall order the forfeiture of the unmanned aircraft system used in connection with the offense and provide for the destruction, sale, or other disposition of the unmanned aircraft system.

(3) Whoever commits the crime of unlawful use of an unmanned aircraft system as provided in Paragraph (A)(1)(b) of this Section shall be fined not more than two thousand dollars, or imprisoned for not more than six months, or both.

(4) On a conviction for a second or subsequent offense as provided in Subparagraph (A)(1)(b) of this Section, the offender shall be fined not less than two thousand dollars nor more than five thousand dollars, or imprisoned, with or without hard labor, for not more than one year, or both.

F. The provisions of this Section shall not apply to unmanned aircraft systems used for motion picture, television, or similar production where the filming is authorized by the property owner.

R.S. 14:338. Interfering with emergency communication

A. The crime of interfering with emergency communication is committed when a person disconnects, damages, disables, removes, or uses physical force or intimidation to block access to any telephone or telecommunications device with the specific intent to interfere or prevent an individual from doing any of the following:

(1) Using a 911 emergency telephone number.
(2) Obtaining medical assistance.
(3) Making a report to any law enforcement officer.

B. Whoever commits the crime of interfering with emergency communication as defined by this Section shall be either fined not more than five hundred dollars, imprisoned for not more than six months, or both.

C. For the purposes of this Section:

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

(2) "Telecommunications device" shall mean any type of instrument, device, or machine that is capable of transmitting or receiving telephonic, electronic, radio, text, or data communications, including but not limited to a cellular telephone, a text-messaging device, a personal digital assistant, a computer, or any other similar wireless device that is designed to engage in a call or communicate text or data.

R.S. 14:403. Abuse of children; reports; waiver of privilege

A. (1)(a) Any person who, pursuant to Children's Code Article 609(A), is required to report the abuse or neglect of a child and knowingly and willfully fails to so report shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(b) (i) Any person who, pursuant to Children's Code Article 609(A), is required to report the sexual abuse of a child, or the abuse or neglect of a child that results in the serious bodily injury, neurological impairment, or death of the child, and the person knowingly and willfully fails to so report, shall be fined not more than three thousand dollars, imprisoned, with or without hard labor, for not more than three years, or both.

(ii) Repealed by Act 2 of the 2019 Legislative Session.

(2) Any person, any employee of a local child protection unit of the Department of Children and Family Services, any employee of any local law enforcement agency, any employee or agent of any state department, or any school employee who knowingly and willfully violates the provisions of Chapter 5 of Title VI of the Children's Code, or who knowingly and willfully obstructs the procedures for receiving and investigating reports of child abuse or neglect or sexual abuse, or who discloses without authorization confidential information about or contained within such reports shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(3) Any person who reports a child as abused or neglected or sexually abused to the department or to any law enforcement agency, knowing that such information is false, shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(4)(a) Notwithstanding the provisions of Paragraph (1) of this Subsection, any person who is eighteen years of age or older who witnesses the sexual abuse of a child and knowingly and willfully fails to report the sexual abuse to law enforcement or to the Department of Children and Family Services as required by Children's Code Article 610, shall be fined not more than ten thousand dollars, imprisoned with or without hard labor for not more than five years, or both.

(b) For purposes of this Paragraph, "sexual abuse" shall include but is not limited to the perpetration or attempted perpetration of R.S. 14:41, 42, 42.1, 43, 43.1, 43.2, 43.3, 43.4, 46.2, 46.3, 80, 81, 81.1, 81.2, 86, 89, or 89.1.

B. In any proceeding concerning the abuse or neglect or sexual abuse of a child or the cause of such condition, evidence may not be excluded on any ground of privilege, except in the case of communications between an attorney and his client or between a priest, rabbi, duly ordained minister or Christian Science practitioner and his communicant.

R.S. 14:403.2. Abuse and neglect of adults

A. Any person, who under R.S. 15:1504(A), is required to report the abuse or neglect of an adult and knowingly and willfully fails to so report shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

B. Any person who knowingly and willfully violates the provisions of Chapter 14 of Title 15 of the Louisiana Revised Statutes of 1950, or who knowingly and willfully obstructs the procedures for receiving and investigating reports of adult abuse or neglect, or who discloses without authorization confidential information about or contained within such reports shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

C. Any person who reports an adult as abused or neglected to an adult protection agency as defined in R.S.15:1503 or to any law enforcement agency, knowing that such information is false, shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

D. (1) Any person who retaliates against an individual who reports adult abuse to an adult protection agency or to a law enforcement agency, shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) For the purposes of this Section, "retaliation" is defined as discharging, demoting, or suspending an employee who reports the adult abuse; or threatening, harassing, or discriminating against the reporter in any manner at any time provided the report is made in good faith for the purpose of helping the adult protection agency or law enforcement agency fulfill its responsibilities as set forth in Chapter 14 of Title 15 of the Louisiana Revised Statutes of 1950.

R.S. 14:403.3. Reports of missing children; procedures; false reports or communications; penalties

A. (1) Any state or local law enforcement agency receiving a report of a missing child or the recovery of a missing child and having reasonable grounds to believe the report is accurate shall do all of the following immediately after receiving the report:

(a) Enter the name of the child into the National Crime Information Center's database.

(b) Notify each of the following of the facts and contents of the report:

(i) The Department of Children and Family Services to the extent that the reporting is required pursuant to Chapter 5 of Title VI of the Children's Code.

(ii) The office of state police, if it did not originally receive the report.

(iii) The office of the sheriff for the parish in which the report was received, if it did not originally receive the report.

(iv) Any other local, state, or federal law enforcement agency that the law enforcement agency receiving the report deems necessary and appropriate depending upon the facts of each case.

(2) The law enforcement agency may also notify any other appropriate local, state, or federal agency of the fact and contents of the report.

B. No person shall knowingly file a false missing child report with a law enforcement agency.

C. No person shall intentionally communicate false information concerning a missing child, or the recovery of a missing child, to a law enforcement agency when such information is communicated with the specific intent to delay or otherwise hinder an investigation to locate the child.

D. Whoever violates the provisions of Subsection B of this Section shall be fined not more than two thousand dollars or be imprisoned for not more than one year, with or without hard labor, or both.

E. Whoever violates the provisions of Subsection C of this Section shall be imprisoned at hard labor for not more than five years.

R.S. 14:403.4. Burn injuries and wounds; reports; registry; immunity; penalties

A. The purpose of this Section is to combat arson through the rapid identification and apprehension of suspected arsonists who may suffer burn injuries during the commission of their crimes. It is the further intent of this Section to provide for a central registry for burn injuries and wounds data from which effective fire and arson prevention and fire safety education programs may be developed.

B. Every case of a burn injury or wound in which the victim sustains second or third degree burns to five percent or more of the body or any burns to the upper respiratory tract or laryngeal edema due to the inhalation of super-heated air, and every case of a burn injury or wound that is likely to or may result in death shall be reported to the office of state fire marshal, code enforcement and building safety, hereinafter sometimes referred to as the “office”. The office may notify the appropriate local or state investigatory agency or law enforcement agency of the receipt of such report and its contents.

C. (1) A report shall be made within two hours of the initial examination or treatment of the victim. The report shall be made by the physician attending or treating the case, or by the manager, superintendent, director, or other person in charge whenever such case is treated in a hospital, burn center, sanitarium, or other medical facility. The report may be recorded electronically or in any other suitable manner, by the office of state fire marshal.

(2) The oral report shall contain the following information if known:

(a) Victim's name, address, and date of birth.

(b) Address where the burn injury occurred.

(c) Date and time of the burn injury.

(d) Degree of burns and percent of body burned.

(e) Area of body injured.

(f) Injury severity.

(g) Apparent cause of burn injury.

(h) Name and address of reporting facility.

(i) Name of the attending physician.

D. (1) The office shall maintain a central registry of all reported cases of the treatment or examination of persons with burn injuries or wounds. The registry may be used to provide information to those agencies whose duties include the investigation into possible arson activities.

(2) The office of state fire marshal may adopt rules and regulations as may be necessary in carrying out the provisions of this Section. Specifically such rules shall provide for cooperation with local investigatory and law enforcement agencies and may also authorize law enforcement personnel and the state fire marshal to review those medical records of reported victims that relate to the burn without the consent of the victim.

E. No cause of action shall exist against any person who in good faith makes a report pursuant to this Section, cooperates in an investigation by any agency, or participates in any judicial proceeding resulting from such report.

F. Any person who knowingly files a false report shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

R.S. 14:403.5. Gunshot wounds; mandatory reporting

A. The purpose of this Section is to aid law enforcement in combating violent crime through the rapid identification and reporting of all gunshot wounds or injuries treated by any medical professionals, practitioners, or associated personnel.

B. In every case of a gunshot wound or injury presented for treatment to a medical professional, practitioner, or associated person, that professional, practitioner, or associated person shall make an oral notification to either the sheriff of the parish in which the wounded person was presented for treatment, or the chief or superintendent of police in the municipality in which the wounded person was presented for treatment immediately after complying with all applicable state and federal laws, rules, and regulations related to the treatment of emergencies and before the wounded person is released from the hospital. A written notation of this action shall be made on the emergency record.

C. The provisions of this Section shall not apply to any wounds or injuries received from the firing of an air gun.

D. Any report of a gunshot wound or injury required to be reported by this Section which does not result in criminal prosecution shall not become public record and shall be destroyed by the law enforcement agency receiving the information.

E. Any person who fails to file a report under this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both. Any person who knowingly files a false report under this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

R.S. 14:403.6. Reporting of neglect or abuse of animals

A. Any state or local law enforcement officer, or any employee of government or of a government contractor who in his professional capacity routinely investigates alleged abuse or neglect or sexual abuse of a child, or abuse or neglect of an adult under the provisions of R.S. 15:1507, who becomes aware of evidence of neglect or abuse of an animal shall report such incident to the law enforcement authority of the governing authority in which the incident has occurred or the local animal welfare authority. The name and identifying information regarding the reporter of animal maltreatment shall be confidential.

B. No person required to report under the provisions of Subsection A of this Section shall knowingly and willfully obstruct the procedures for receiving and investigating a report of abuse or neglect or shall disclose, without authorization, confidential information which was reported.

C. No person shall make a report required by this Section knowing that any information therein is false.

R.S. 14:403.7. Failure to report a missing child

A. (1) A child's caretaker shall report to an appropriate authority that a child is missing within two hours of the expiration of the period provided for in Paragraph (2) of this Subsection.

(2) For purposes of this Subsection, there shall be a presumption that a child is missing and that the child's caretaker knew or should have known that the child is missing when the caretaker does not know the location of the child and has not been in contact with nor verified the location or safety of the child:

(a) With regard to a child over the age of thirteen, for a period of twenty-four hours.

(b) With regard to a child thirteen years of age or younger, for a period of twelve hours.

B. For purposes of this Section:

(1) “Appropriate authority” includes:

(a) A state or local law enforcement agency.

(b) A 911 Public Safety Answering Point as defined in Title 33 of the Louisiana Revised Statutes of 1950.

(2) “Caretaker” means the child's parent, grandparent, legal guardian, or any person who, at the time of the child's disappearance, has physical custody of the child.

(3) “Child” means any person under the age of seventeen years.

(4) Repealed by Act 2 of the 2019 Legislative Session.

C. Any person who violates the provisions of Subsection A of this Section shall be punished as follows:

(1) If the child is found dead or determined to be dead, then the offender shall be imprisoned at hard labor for not less than two years nor more than fifty years without benefit of parole, probation, or suspension of sentence, and fined not more than fifty thousand dollars.

(2) If the child has remained missing for a period of more than six months at the time of conviction and not determined to be dead, then the offender 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, and fined not more than twenty-five thousand dollars.

(3) If the child is determined to have been either physically or sexually abused during the time that the child was missing, then the offender shall be imprisoned at hard labor for not more than ten years without benefit of parole, probation, or suspension of sentence, and fined not more than ten thousand dollars.

(4) If the child is found unharmed, then the offender shall be imprisoned for not more than six months, or fined not more than five hundred dollars, or both.

D. The period of time in which a caretaker is required to report a missing child as provided in Subsection A of this Section shall be suspended for the period of time in which the caretaker is unable to make a report due to circumstances beyond the caretaker's control.

R.S. 14:403.8. Failure to report the death of a child

A. It shall be unlawful for a child's caretaker to fail to report to an appropriate authority the death of a child that occurs while the child is in the physical custody of the caretaker, within one hour of the caretaker's discovery of the child's death or one hour of the caretaker learning of the location of the child's body.

B. For purposes of this Section:

(1) “Appropriate authority” includes:

(a) A state or local law enforcement agency.

(b) A 911 Public Safety Answering Point as defined in Title 33 of the Louisiana Revised Statutes of 1950.

(c) The coroner of the parish in which the child's body is located.

(d) Emergency medical personnel.

(2) “Caretaker” means the child's parent, grandparent, legal guardian, or any person who, at the time of the child's death, has physical custody of the child.

(3) “Child” means any person under the age of seventeen years.

C. Whoever violates the provisions of this Section shall be fined not more than five thousand dollars and shall be imprisoned, with or without hard labor, for not more than five years.

D. The period of time in which a caretaker is required to report the death of a child as provided in Subsection A of this Section shall be suspended for the period of time in which the caretaker is unable to make a report due to circumstances beyond the caretaker's control.

Louisiana Code of Evidence
Chapter 4. Relevancy and its Limits

C.E. Art. 404. Character evidence generally not admissible in civil or criminal trial to prove conduct; exceptions; other criminal acts

A. Character evidence generally. Evidence of a person's character or a trait of his character, such as a moral quality, is not admissible in a civil or criminal proceeding for the purpose of proving that he acted in conformity therewith on a particular occasion, except:

(1) Character of accused. Evidence of a pertinent trait of his character, such as a moral quality, offered by an accused, or by the prosecution to rebut the character evidence; provided that such evidence shall be restricted to showing those moral qualities pertinent to the crime with which he is charged, and that character evidence cannot destroy conclusive evidence of guilt.

(2) Character of victim.

(a) Except as provided in Article 412, evidence of a pertinent trait of character, such as a moral quality, of the victim of the crime offered by an accused, or by the prosecution to rebut the character evidence; provided that in the absence of evidence of a hostile demonstration or an overt act on the part of the victim at the time of the offense charged, evidence of his dangerous character is not admissible; provided further that when the accused pleads self-defense and there is a history of assaultive behavior between the victim and the accused and the accused lived in a familial or intimate relationship such as, but not limited to, the husband-wife, parent-child, or concubinage relationship, it shall not be necessary to first show a hostile demonstration or overt act on the part of the victim in order to introduce evidence of the dangerous character of the victim, including specific instances of conduct and domestic violence; and further provided that an expert's opinion as to the effects of the prior assaultive acts on the accused's state of mind is admissible; or

(b) Evidence of a character trait of peacefulness of the victim offered by the prosecution in a homicide case to rebut evidence that the victim was the first aggressor;

(3) Character of witness. Evidence of the character of a witness, as provided in Articles 607, 608, and 609.

B. Other crimes, wrongs, or acts; creative or artistic expression.

(1) (a) Except as provided in Article 412 or as otherwise provided by law, evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that

he acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, of the nature of any such evidence it intends to introduce at trial for such purposes, or when it relates to conduct that constitutes an integral part of the act or transaction that is the subject of the present proceeding.

b)(i) For purposes of this Subparagraph “creative or artistic expression” means the expression or application of creativity or imagination in the production or arrangement of forms, sounds, words, movements, or symbols, including music, dance, performance art, visual art, poetry, literature, film, and other such objects or media.

(ii) Except as provided in Article 412 or as otherwise provided by law, creative or artistic expression is not admissible in a criminal case to prove the character of a person in order to show that he acted in conformity therewith, provided that the accused provides reasonable notice to the prosecution in advance of trial asserting that the evidence is creative or artistic expression. Evidence of creative or artistic expression may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, provided that upon request by the accused, the prosecution in a criminal case shall provide reasonable notice in advance of trial, of the nature of any such evidence it intends to introduce at trial for such purposes, or when it relates to conduct that constitutes an integral part of the act or transaction that is the subject of the present proceeding.

(c) This Paragraph shall not be construed to limit the admission or consideration of evidence under any other rule.

(2) In the absence of evidence of a hostile demonstration or an overt act on the part of the victim at the time of the offense charged, evidence of the victim's prior threats against the accused or the accused's state of mind as to the victim's dangerous character is not admissible; provided that when the accused pleads self-defense and there is a history of assaultive behavior between the victim and the accused and the accused lived in a familial or intimate relationship such as, but not limited to, the husband-wife, parent-child, or concubinage relationship, it shall not be necessary to first show a hostile demonstration or overt act on the part of the victim in order to introduce evidence of the dangerous character of the victim, including specific instances of conduct and domestic violence; and further provided that an expert's opinion as to the effects of the prior assaultive acts on the accused's state of mind is admissible.

C.E. Art. 412. Victim's past sexual behavior in sexual assault cases; trafficking offenses

A. (1) Opinion and reputation evidence; sexual assault cases. When an accused is charged with a crime involving sexually assaultive behavior, reputation or opinion evidence of the past sexual behavior of the victim is not admissible.

(2) Other evidence; exceptions. When an accused is charged with a crime involving sexually assaultive behavior, evidence of specific instances of the victim's past sexual behavior is also not admissible except for:

(a) Evidence of past sexual behavior with persons other than the accused, upon the issue of whether or not the accused was the source of semen or injury; provided that such evidence is limited to a period not to exceed seventy-two hours prior to the time of the offense, and further provided that the jury be instructed at the time and in its final charge regarding the limited purpose for which the evidence is admitted; or

(b) Evidence of past sexual behavior with the accused offered by the accused upon the issue of whether or not the victim consented to the sexually assaultive behavior.

B. (1) Opinion and reputation evidence; trafficking. When an accused is charged with a crime involving human trafficking or trafficking of children for sexual purposes, reputation or opinion evidence of the past sexual behavior of the victim is not admissible.

(2) Evidence of specific instances of the victim's past sexual behavior is not admissible unless the evidence is offered by the prosecution in a criminal case to prove a pattern of trafficking

activity by the defendant.

C. Motion.

(1) Before the person, accused of committing a crime that involves sexually assaultive behavior, human trafficking, or trafficking of children for sexual purposes, may offer under Subparagraph (A)(2) or (B)(2) of this Article evidence of specific instances of the victim's past sexual behavior, the accused shall make a written motion in camera to offer such evidence. The motion shall be accompanied by a written statement of evidence setting forth the names and addresses of persons to be called as witnesses.

(2) The motion and statement of evidence shall be served on the state which shall make a reasonable effort to notify the victim prior to the hearing.

D. Time for a motion. The motion shall be made within the time for filing pre-trial motions specified in Code of Criminal Procedure Article 521, except that the court shall allow the motion to be made at a later date, if the court determines that:

(1) The evidence is of past sexual behavior with the accused, and the accused establishes that the motion was not timely made because of an impossibility arising through no fault of his own; or

(2) The evidence is of past sexual behavior with someone other than the accused, and the accused establishes that the evidence or the issue to which it relates is newly discovered and could not have been obtained earlier through the exercise of due diligence.

E. Hearing.

(1) If the court determines that the statement of evidence contains evidence described in Subparagraph (A)(2) or (B)(2), the court shall order a hearing which shall be closed to determine if such evidence is admissible. At such hearing the parties may call witnesses.

(2) The victim, if present, has the right to attend the hearing and may be accompanied by counsel.

(3) If the court determines on the basis of the hearing described in Subparagraph (E)(1) that the evidence which the accused seeks to offer is relevant and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence may be admissible in the trial to the extent an order made by the court specifies evidence which may be offered and areas with respect to which the victim may be examined or cross-examined. Introduction of such evidence shall be limited to that specified in the order.

(4) Any motion made under Subparagraph C and any statement of evidence, brief, record of a hearing, or like material made or used in connection with the motion shall be kept in a separate, sealed package as part of the record in the case. Nothing in this Article shall preclude the use of the testimony at such hearing in a subsequent prosecution for perjury or false swearing.

F. Past sexual behavior defined. For purposes of this Article, the term “past sexual behavior” means sexual behavior other than the sexual behavior with respect to which the offense of sexually assaultive behavior is alleged.

G. The rules of admissibility of evidence provided by this Article shall also apply to civil actions brought by the victim which are alleged to arise from sexually assaultive behavior, human trafficking, or trafficking of children for sexual purposes by the defendant, whether or not convicted of such crimes.

C.E. Art. 412.1. Victim's attire in sexual assault cases

A. When an accused is charged with a crime involving sexually assaultive behavior, or with acts that constitute a sex offense involving a victim who was under the age of seventeen at the time of the offense, the manner and style of the victim's attire shall not be admissible as evidence that the victim encouraged or consented to the offense; however, items of clothing or parts thereof may be introduced in order to establish the presence or absence of the elements of the offense and the proof of its occurrence.

B. The rules of admissibility of evidence provided by this Article shall also apply to civil actions brought by the victim which are alleged to arise from any crime referenced in Paragraph A of this Article committed by the defendant, whether or not convicted of such crimes.

C.E. Art. 412.2. Evidence of similar crimes, wrongs, or acts in sex offense cases

A. When an accused is charged with a crime involving sexually assaultive behavior, or with acts that constitute a sex offense involving a victim who was under the age of seventeen at the time of the offense, evidence of the accused's commission of another crime, wrong, or act involving sexually assaultive behavior or acts which indicate a lustful disposition toward children may be admissible and may be considered for its bearing on any matter to which it is relevant subject to the balancing test provided in Article 403.

B. In a case in which the state intends to offer evidence under the provisions of this Article, the prosecution shall, upon request of the accused, provide reasonable notice in advance of trial of the nature of any such evidence it intends to introduce at trial for such purposes.

C. This Article shall not be construed to limit the admission or consideration of evidence under any other rule.

C.E. Art. 412.3. Statements made by victims of trafficking during investigations

If a victim of human trafficking or trafficking of children for sexual purposes is also a defendant in any case arising from unlawful acts committed as part of the same trafficking activity, any inculpatory statement made by the victim as a result of questioning by any person then known by the victim to be a law enforcement officer is inadmissible against the victim, except pursuant to Article 801 of this Code or in any prosecution of the victim for perjury, at a trial of the victim for the unlawful acts committed by the victim as part of the same trafficking activity if all of the following conditions exist:

(1) The victim cooperates with the investigation and prosecution, including the giving of a use-immunity statement as directed by the prosecuting attorney.

(2) The victim testifies truthfully at any hearing or trial related to the trafficking activity, or agrees, either in writing or on the record, to testify truthfully at any hearing or trial related to the trafficking activity in any prosecution of any other person charged with an offense arising from the same trafficking activity, regardless of whether the testimony is unnecessary due to entry of a plea by the other person.

(3) The victim has agreed in writing to receive services or participate in a program that provides services to victims of human trafficking or trafficking of children for sexual purposes, if such services are available.

C.E. Art. 412.4. Evidence of similar crimes, wrongs, or acts in domestic abuse cases and cruelty against juveniles cases

A. When an accused is charged with a crime involving abusive behavior against a family member, household member, or dating partner or with acts which constitute cruelty involving a victim who was under the age of seventeen at the time of the offense, evidence of the accused's commission of another crime, wrong, or act involving assaultive behavior against a family member, household member, or dating partner or acts which constitute cruelty involving a victim who was under the age of seventeen at the time of the offense, may be admissible and may be considered for its bearing on any matter to which it is relevant, subject to the balancing test provided in Article 403.

B. In a case in which the state intends to offer evidence under the provisions of this Article, the prosecution shall, upon request of the accused, provide reasonable notice in advance of trial of the nature of any such evidence it intends to introduce at trial for such purposes.

C. This Article shall not be construed to limit the admissibility or consideration of evidence under any other rule.

D. For purposes of this Article:

(1) “Abusive behavior” means any behavior of the offender involving the use or threatened use of force against the person or property of a family member, household member, or dating partner of the alleged offender.

(2) “Dating partner” means any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. “Dating partner” shall not include a casual relationship or ordinary association between persons in a business or social context.

(3) “Family member” means spouses, former spouses, parents and children, stepparents, stepchildren, foster parents, foster children, other ascendants, and other descendants. “Family member” also means the other parent or foster parent of any child or foster child of the offender.

(4) “Household member” means any person of presently or formerly living in the same residence with the offender and who is involved or has been involved in a sexual or intimate relationship with the offender, or any child presently or formerly living in the same residence with the offender, or any child of the offender regardless of where the child resides.

C.E. Art. 412.5. Evidence of similar crimes, wrongs, or acts in certain civil cases

A. In any civil action alleging acts of domestic abuse as defined in R.S. 46:2132(3), family violence as defined in R.S. 9:362(4), or sexual abuse as defined in R.S. 9:362(6), evidence of the defendant's commission of a crime, wrong, or act involving acts of domestic abuse, family violence, or sexual abuse may be admissible and may be considered for its bearing on any matter to which it is relevant subject to the balancing test provided in Article 403.

B. A plaintiff in a tort action intending to offer evidence under the provisions of this Article shall provide reasonable notice in advance of trial of the nature of such evidence.

C. The provisions of this Article shall not be construed to preclude or limit the introduction or consideration of any evidence otherwise authorized under law.

Chapter 5. Testimonial Privileges

C. E. Art. 504. Spousal confidential communications privilege

A. Definition. A communication is “confidential” if it is made privately and is not intended for further disclosure unless such disclosure is itself privileged.

B. Confidential communications privilege**.** Each spouse has a privilege during and after the marriage to refuse to disclose, and to prevent the other spouse from disclosing, confidential communications with the other spouse while they were husband and wife.

C. Confidential communications; exceptions. This privilege does not apply:

(1) In a criminal case in which one spouse is charged with a crime against the person or property of the other spouse or of a child of either.

(2) In a civil case brought by or on behalf of one spouse against the other spouse.

(3) In commitment or interdiction proceedings as to either spouse.

(4) When the communication is offered to protect or vindicate the rights of a minor child of either spouse.

(5) In cases otherwise provided by legislation.

C.E. Art. 505. Spousal witness privilege

In a criminal case or in commitment or interdiction proceedings, a witness spouse has a privilege not to testify against the other spouse. This privilege terminates upon the annulment of the marriage, legal separation, or divorce of the spouses. This privilege does not apply in a criminal case in which one spouse is charged with a crime against the person of the other spouse or a crime against the person of a child including but not limited to the violation of a preliminary or permanent injunction or protective order and violations of R.S. 14:79.

C.E. Art. 510. Health care provider-patient privilege

A. Definitions. The definitions of health care provider, physician, psychotherapist, and their representatives as provided in this Article include persons reasonably believed to be such by the patient or his representative. As used in this Article:

(1)(a) “Confidential communication” is the transmittal or acquisition of information not intended to be disclosed to persons other than:

(i) A health care provider and a representative of a health care provider.

(ii) Those reasonably necessary for the transmission of the communication.

(iii) Persons who are participating in the diagnosis and treatment under the direction of the physician or psychotherapist.

(iv) A patient's health care insurer, including any entity that provides indemnification to a patient.

(v) When special circumstances warrant, those who are present at the behest of the patient, physician, or psychotherapist and are reasonably necessary to facilitate the communication.

(b) “Confidential communication” includes any information, substance, or tangible object, obtained incidental to the communication process and any opinion formed as a result of the consultation, examination, or interview and also includes medical and hospital records made by health care providers and their representatives.

(2) “Health care provider” is a person or entity defined as such in R.S. 13:3734(A)(1), and includes a physician and psychotherapist as defined below, and also includes a person who is engaged in any office, center, or institution referred to as a rape crisis center, who has undergone at least forty hours of sexual assault training and who is engaged in rendering advice, counseling, or assistance to victims of sexual assault.

(3) “Health condition” is a physical, mental, or emotional condition, including a condition induced by alcohol, drugs, or other substance.

(4) “Patient” is a person who consults or is examined or interviewed by another for the purpose of receiving advice, diagnosis, or treatment in regard to that person's health.

(5) “Physician” is a person licensed to practice medicine in any state or nation.

(6) “Psychotherapist” is:

(a) A physician engaged in the diagnosis or treatment of a mental or emotional condition, including a condition induced by alcohol, drugs, or other substance.

(b) A person licensed or certified as a psychologist under the laws of any state or nation.

(c) A person licensed as a licensed professional counselor or social worker under the laws of any state or nation.

(7) “Representative” of a physician, psychotherapist, or other health care provider is:

(a) A person acting under the supervision, direction, control, or request of a physician, psychotherapist, or health care provider engaged in the diagnosis or treatment of the patient.

(b) Personnel of a "hospital," as defined in R.S. 13:3734(A)(3), whose duties relate to the health care of patients or to maintenance of patient records.

(8) "Representative of a patient" is any person who makes or receives a confidential communication for the purpose of effectuating diagnosis or treatment of a patient.

B. (1) General rule of privilege in civil proceedings. In a non-criminal proceeding, a patient has a privilege to refuse to disclose and to prevent another person from disclosing a confidential communication made for the purpose of advice, diagnosis or treatment of his health condition between or among himself or his representative, his health care provider, or their representatives.

(2) Exceptions. There is no privilege under this Article in a noncriminal proceeding as to a communication:

(a) When the communication relates to the health condition of a patient who brings or asserts a personal injury claim in a judicial or worker's compensation proceeding.

(b) When the communication relates to the health condition of a deceased patient in a wrongful death, survivorship, or worker's compensation proceeding brought or asserted as a consequence of the death or injury of the deceased patient.

(c) When the communication is relevant to an issue of the health condition of the patient in any proceeding in which the patient is a party and relies upon the condition as an element of his claim or defense or, after the patient's death, in any proceeding in which a party deriving his right from the patient relies on the patient's health condition as an element of his claim or defense.

(d) When the communication relates to the health condition of a patient when the patient is a party to a proceeding for custody or visitation of a child and the condition has a substantial bearing on the fitness of the person claiming custody or visitation, or when the patient is a child who is the subject of a custody or visitation proceeding.

(e) When the communication made to the health care provider was intended to assist the patient or another person to commit or plan to commit what the patient knew or reasonably should have known to be a crime or fraud.

(f) When the communication is made in the course of an examination ordered by the court with respect to the health condition of a patient, the fact that the examination was so ordered was made known to the patient prior to the communication, and the communication concerns the particular purpose for which the examination was made, unless the court in its order directing the examination has stated otherwise.

(g)(i) When the communication is made by a patient who is the subject of an interdiction or commitment proceeding to his current health care provider when such patient has failed or refused to submit to an examination by a health care provider appointed by the court regarding issues relating to the interdiction or commitment proceeding, provided that the patient has been advised of such appointment and the consequences of not submitting to the examination.

(ii) Notwithstanding the provisions of Subitem (i) of this Item, in any commitment proceeding, the court-appointed physician may review the medical records of the patient or respondent and testify as to communications therein, but only those which are essential to determine whether the patient is dangerous to himself, dangerous to others, or unable to survive safely in freedom or protect himself from serious harm. However, such communications shall not be disclosed unless the patient was informed prior to the communication that such communications are not privileged in any subsequent commitment proceedings. The court-appointed examination shall be governed by Item B(2)(f).

(h) When the communication is relevant in proceedings held by peer review committees and other disciplinary bodies to determine whether a particular health care provider has deviated from applicable professional standards.

(i) When the communication is one regarding the blood alcohol level or other test for the presence of drugs of a patient and an action for damages for injury, death, or loss has been brought against the patient.

(j) When disclosure of the communication is necessary for the defense of the health care provider in a malpractice action brought by the patient.

(k) When the communication is relevant to proceedings concerning issues of child abuse, elder abuse, or the abuse of persons with disabilities or persons who are incompetent.

(l) When the communication is relevant after the death of a patient, concerning the capacity of the patient to enter into the contract which is the subject matter of the litigation.

(m) When the communication is relevant in an action contesting any testament executed or claimed to have been executed by the patient now deceased.

C. (1) General rule of privilege in criminal proceedings. In a criminal proceeding, a patient has a privilege to refuse to disclose and to prevent another person from disclosing a confidential communication made for the purpose of advice, diagnosis or treatment of his health condition between or among himself, his representative, and his physician or psychotherapist, and their representatives.

(2) Exceptions. There is no privilege under this Article in a criminal case as to a communication:

(a) When the communication is relevant to an issue of the health condition of the accused in any proceeding in which the accused relies upon the condition as an element of his defense.

(b) When the communication was intended to assist the patient or another person to commit or plan to commit what the patient knew or reasonably should have known to be a crime or fraud.

(c) When the communication was made in the course of an examination ordered by the court in a criminal case to determine the health condition of a patient, provided that a copy of the order was served on the patient prior to the communication.

(d) When the communication is a record of the results of a test for blood alcohol level or drugs taken from a patient who is under arrest, or who was subsequently arrested for an offense related to the test.

(e) When the communication is in the form of a tangible object, including a bullet, that is removed from the body of a patient and which was in the body as a result of the crime charged.

(f) When the communication is relevant to an investigation of or prosecution for child abuse, elder abuse, or the abuse of persons with disabilities or persons who are incompetent.

D. Who may claim the privilege. In both civil and criminal proceedings, the privilege may be claimed by the patient or by his legal representative. The person who was the physician, psychotherapist, or health care provider or their representatives, at the time of the communication is presumed to have authority to claim the privilege on behalf of the patient or deceased patient.

E. Waiver. The exceptions to the privilege set forth in Paragraph B(2) shall constitute a waiver of the privilege only as to testimony at trial or to discovery of the privileged communication by one of the discovery methods authorized by Code of Civil Procedure Article 1421 et seq., or pursuant to R.S. 40:1165.1or R.S. 13:3715.1.

F. Medical malpractice. (1) There shall be no health care provider-patient privilege in medical malpractice claims as defined in R.S. 40:121231.1et seq. as to information directly and specifically related to the factual issues pertaining to the liability of a health care provider who is a named party in a pending lawsuit or medical review panel proceeding.

(2) In medical malpractice claims information about a patient's current treatment or physical condition may only be disclosed pursuant to testimony at trial, pursuant to one of the discovery

methods authorized by Code of Civil Procedure Article 1421 et seq., pursuant to R.S. 40:1165.1 or R.S. 13:3715.1.

G. Sanctions. Any attorney who violates a provision of this Article shall be subject to sanctions by the court.

Chapter 8. Hearsay

C.E. Art. 804. Hearsay exceptions; declarant unavailable

A. Definition of unavailability. Except as otherwise provided by this Code, a declarant is "unavailable as a witness" when the declarant cannot or will not appear in court and testify to the substance of his statement made outside of court. This includes situations in which the declarant:

(1) Is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of his statement;

(2) Persists in refusing to testify concerning the subject matter of his statement despite an order of the court to do so;

(3) Testifies to a lack of memory of the subject matter of his statement;

(4) Is unable to be present or to testify at the hearing because of death or then existing physical or mental illness, infirmity, or other sufficient cause; or

(5) Is absent from the hearing and the proponent of his statement has been unable to procure his attendance by process or other reasonable means. A declarant is not unavailable as a witness if his exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrong-doing of the proponent of his statement for the purpose of preventing the witness from attending or testifying.

B. Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) Former testimony. Testimony given as a witness at another hearing of the same or a different proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a party with a similar interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination. Testimony given in another proceeding by an expert witness in the form of opinions or inferences, however, is not admissible under this exception.

(2) Statement under belief of impending death. A statement made by a declarant while believing that his death was imminent, concerning the cause or circumstances of what he believed to be his impending death.

(3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject him to civil or criminal liability, or to render invalid a claim by him against another, that a reasonable man in his position would not have made the statement unless he believed it to be true. A statement tending to expose the declarant to criminal liability and offered to exculpate the accused is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

(4) Statement of personal or family history.

(a) A statement, made before the controversy, concerning the declarant's own birth, adoption, marriage, divorce, filiation, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or

(b) A statement, made before the controversy, concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was

so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

(5) Complaint of sexually assaultive behavior. A statement made by a person under the age of twelve years and the statement is one of initial or otherwise trustworthy complaint of sexually assaultive behavior.

(6) Other exceptions. In a civil case, a statement not specifically covered by any of the foregoing exceptions if the court determines that considering all pertinent circumstances in the particular case the statement is trustworthy, and the proponent of the evidence has adduced or made a reasonable effort to adduce all other admissible evidence to establish the fact to which the proffered statement relates and the proponent of the statement makes known in writing to the adverse party and to the court his intention to offer the statement and the particulars of it, including the name and address of the declarant, sufficiently in advance of the trial or hearing to provide the adverse party with a fair opportunity to prepare to meet it. If, under the circumstances of a particular case, giving of this notice was not practicable or failure to give notice is found by the court to have been excusable, the court may authorize a delayed notice to be given, and in that event the opposing party is entitled to a recess, continuance, or other appropriate relief sufficient to enable him to prepare to meet the evidence.

(7)(a) Forfeiture by wrongdoing. A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

(b) A party seeking to introduce statements under the forfeiture by wrongdoing hearsay exception shall establish, by a preponderance of the evidence, that the party against whom the statement is offered, engaged or acquiesced in the wrongdoing.

Chapter 11. Miscellaneous Rules

C.E. Art. 1101. Applicability

A. Proceedings generally; rule of privilege.

(1) Except as otherwise provided by legislation, the provisions of this Code shall be applicable to the determination of questions of fact in all contradictory judicial proceedings and in proceedings to confirm a default judgment. Juvenile adjudication hearings in non-delinquency proceedings shall be governed by the provisions of this Code applicable to civil cases. Juvenile adjudication hearings in delinquency proceedings shall be governed by the provisions of this Code applicable to criminal cases.

(2) Furthermore, except as otherwise provided by legislation, Chapter 5 of this Code with respect to testimonial privileges applies to all stages of all actions, cases, and proceedings where there is power to subpoena witnesses, including administrative, juvenile, legislative, military courts-martial, grand jury, arbitration, medical review panel, and judicial proceedings, and the proceedings enumerated in Paragraphs B and C of this Article.

B. Limited applicability. Except as otherwise provided by Article 1101(A)(2) and other legislation, in the following proceedings, the principles underlying this Code shall serve as guides to the admissibility of evidence. The specific exclusionary rules and other provisions, however, shall be applied only to the extent that they tend to promote the purposes of the proceeding.

(1) Worker's compensation cases.

(2) Child custody cases.

(3) Revocation of probation hearings.

(4) Preliminary examinations in criminal cases, and the court may consider evidence that would otherwise be barred by the hearsay rule.

(5) All proceedings before mayors' courts and justice of the peace courts.

(6) Peace bond hearings.

(7) Extradition hearings.

(8) Hearings on motions and other summary proceedings involving questions of fact not dispositive of or central to the disposition of the case on the merits, or to the dismissal of the case, excluding in criminal cases hearings on motions to suppress evidence and hearings to determine mental capacity to proceed.

C. Rules inapplicable. Except as otherwise provided by Article 1101(A)(2) and other legislation, the provisions of this Code shall not apply to the following:

(1) The determination of questions of fact preliminary to admissibility of evidence when the issue is to be determined by the court under Article 104.

(2) Proceedings with respect to release on bail.

(3) Disposition hearings in juvenile cases.

(4) Sentencing hearings except as provided in Code of Criminal Procedure Article 905.2 in capital cases.

(5) Small claims court proceedings except as provided in R.S. 13:5203 and 13:5207.

(6) Proceedings before grand juries except as provided by Code of Criminal Procedure Article 442.

D. Discretionary applicability. Notwithstanding the limitations on the applicability of this Code stated in Paragraphs A, B, and C of this Article, in all judicial proceedings a court may rely upon the provisions of this Code with respect to judicial notice, authentication and identification, and proof of contents of writings, recordings, and photographs as a basis for admitting evidence or making a finding of fact.

OTHER LAWS

Louisiana Revised Statutes – Title 9. Civil Code Ancillaries
Code Book III. Of the Different Modes of Acquiring the Ownership of Things
Code Title IV. Conventional Obligations or Contracts

Chapter 1-B. Requisites for a Valid Agreement

R.S. 9:2717. Contracts against public policy; declaratory judgment

A.(1) Any contract between a political subdivision and a person or entity entered into as a result of fraud, bribery, corruption, or other criminal acts, for which a final conviction has been obtained, shall be absolutely null and shall be void and unenforceable as contrary to public policy.

(2) Any person whose conviction causes the nullity of the contract as provided in Paragraph (1) of this Subsection shall be responsible for payment of all costs, attorney fees, and damages incurred in the rebidding of the contract.

B.(1) Notwithstanding any provision of law to the contrary, a party may petition a court for a declaratory judgment that a clause in an agreement, contract, settlement, or other similar instrument that prevents a party to the instrument from disclosing factual information related to acts that if proven would establish a cause of action for civil damages for any act that may be prosecuted as a criminal offense is null, void, and unenforceable as a matter of law and shall be considered against public policy.

(2) The fact that an agreement, contract, settlement, or similar instrument states that the providing of consideration is not an admission of liability for an alleged criminal offense, of the commission

of a criminal offense, or of an awareness of a criminal offense shall not be conclusive in determining whether the provisions of Paragraph (1) of this Subsection apply.

(3) The provisions of this Subsection shall apply to any agreement, contract, settlement, or similar instrument entered into, revised, or amended before, on, and after August 1, 2018.

Title 13. Courts and Judicial Procedure
Chapter 4. District Courts – Orleans Parish Excepted

Part IV. Clerks. Subpart A. General Provisions

R.S. 13:753. Reporting of information to Louisiana Supreme Court for NICS database; possession of a firearm

A. Each district clerk of court shall report to the Louisiana Supreme Court for reporting to the National Instant Criminal Background Check System database the name and other identifying information of any adult who is prohibited from possessing a firearm pursuant to the laws of this state or 18 U.S.C. 922(d)(4) and (g)(4), (8), and (9), by reason of a conviction or adjudication in a court of that district for any of the following:

(1) A conviction of a crime listed in R.S. 14:95.1(A).

(2) A verdict of an acquittal by reason of insanity pursuant to the provisions of Chapter 2 of Title XXI of the Code of Criminal Procedure.

(3) A court determination that a person does not have the mental capacity to proceed with a criminal trial pursuant to the provisions of Chapter 1 of Title XXI of the Code of Criminal Procedure.

(4) A court order requiring that a person be involuntarily committed to an inpatient mental health treatment facility pursuant to R.S. 28:54.

(5) A court order prohibiting a person from possessing a firearm or restricting a person in the use of a firearm.

(6) A conviction for a violation of domestic abuse battery (R.S. 14:35.3) which is a felony.

B. Each city and parish clerk of court shall report to the Louisiana Supreme Court for reporting to the National Instant Criminal Background Check System database the name and other identifying information of any adult who is prohibited from possessing a firearm pursuant to the laws of this state or 18 U.S.C. 922(d)(4), (g)(4), (8), and (9), by reason of a conviction or adjudication in a court of that district for any of the following:

(1) A conviction for a violation of domestic abuse battery (R.S. 14:35.3) that is a misdemeanor.

(2) A verdict of an acquittal of a misdemeanor crime by reason of insanity pursuant to the provisions of Chapter 2 of Title XXI of the Code of Criminal Procedure.

(3) A court determination that a person does not have the mental capacity to proceed with a criminal trial for a misdemeanor crime pursuant to the provisions of Chapter 1 of Title XXI of the Code of Criminal Procedure.

(4) A court order prohibiting a person from possessing a firearm or restricting a person in the use of a firearm.

C. The reports required by Subsections A and B of this Section shall be submitted to the Louisiana Supreme Court, in the manner and form as directed by the supreme court, within ten business days of the date of conviction, adjudication, or order of involuntary commitment.

D. The Louisiana Supreme Court shall, within fifteen business days of receipt of the report, submit the information in the report to the National Instant Criminal Background Check System database.

E. Except in the case of willful or wanton misconduct or gross negligence, no city, parish, or district clerk of court shall be held civilly or criminally liable on the basis of the accuracy, availability, or unavailability of any information reported or required to be reported pursuant to this Section.

F. A person who has been adjudicated as a mental defective or committed to a mental institution and is therefore, pursuant to federal law, prohibited from receiving or possessing a firearm or ammunition or, pursuant to state law, is ineligible to possess a firearm or obtain a concealed handgun permit, may petition the court for restoration of firearm rights pursuant to R.S. 28:57.

Chapter 12-A. Slander, Defamation, or Libel Proceedings Related to Sexual Misconduct

R.S. 13:3381. Stay of proceedings

A.(1) Notwithstanding any provision of law to the contrary, upon the filing of a motion to stay by the defendant, the court shall stay the proceedings on a claim for defamation of character, libel, slander, or damage to reputation when the plaintiff is an alleged perpetrator of sexual misconduct against the defendant who is the alleged victim until such time as all civil or criminal investigations, administrative hearings, or any other hearing or legal proceeding regarding the allegations of sexual misconduct are complete and final.

2) For purposes of this Subsection, the motion to stay shall identify the forum of the pending investigation, hearing, or proceeding.

(3) For purposes of this Chapter, a plaintiff is "an alleged perpetrator of sexual misconduct" if there is a pending claim of unwelcome behavior of a sexual nature that was allegedly committed without consent or by force, intimidation, coercion, or manipulation and the victim of the unwelcome behavior is the defendant.

B.(1) Notwithstanding any provision of law to the contrary, if the claim for defamation of character, libel, slander, or damage to reputation referred to in Subsection A of this Section is determined by the court to be fraudulent or frivolous, the court shall order the plaintiff to pay all court costs and reasonable attorney fees and the defendant shall be entitled to exemplary damages.

(2) For the purposes of this Section, "fraudulent" and "frivolous" shall have the same meaning as provided in R.S. 13:5241.

(3) The amount of exemplary damages that may be awarded to the defendant by the court pursuant to Paragraph (1) of this Subsection shall be at the court's discretion and shall not be subject to any cap or similar limitation provided by law.

R.S. 13:3382. Waiver

A. Notwithstanding any provision of law to the contrary, a plaintiff filing a claim for defamation of character, libel, slander, or damage to reputation referenced in R.S. 13:3381, waives all privileges and protections relating to the civil or criminal investigations, administrative hearings, or any other hearing or legal proceeding regarding the alleged sexual misconduct.

B. Such waiver shall apply but not be limited to all evidence, records, testimony, and findings of an investigation, hearing, or proceeding.

C. Such waiver shall not be construed to waive the attorney-client privilege of any party.

R.S. 13:3383. Costs

A defendant shall not be required to prepay costs to file an answer to a claim for defamation of character, libel, slander, or damage to reputation referenced in R.S. 13:3381.

Chapter 32. Particular Classes of Actions and Cases
Part XV. Suits Against State, State Agencies, or Political Subdivisions

R.S. 13:5109.1. Settlement of claims; prohibited terms

A. No settlement agreement of a claim against the state, a state agency, a political subdivision, or any employee or officer of the state, a state agency, or a political subdivision shall contain a provision prohibiting the disclosure by the claimant of the terms of or the facts associated with the underlying claim of the settlement agreement when the underlying claim is based on an allegation of sexual harassment or sexual assault of the claimant and public funds are paid, in whole or in part, as satisfaction of the terms of the settlement agreement.

B.(1) "Sexual assault" means any nonconsensual sexual contact including but not limited to any act provided in R.S. 15:541(24) or obscenity as provided by R.S. 14:106.

(2) "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature when the conduct explicitly or implicitly affects an individual's employment or the holding of office, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

Chapter 33-a. Mental Health Court Treatment Programs

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R.S. 13:5355. Eligibility and exclusion

A. A criminal defendant may be admitted to a mental health court program if all of the following criteria are met:

(1) A diagnosis by a qualified mental health professional of mental illness or co-occurring mental illness and substance abuse.

(2) Consent of the prosecutor and the court assigned to the criminal defendant's case.

(3) Consent of the defendant.

B. A criminal defendant may be excluded from a mental health court program if any of the following occurs:

(1) The defendant fails to demonstrate a willingness to participate in a recommended mental health court program.

(2) The criminal defendant has, within the previous ten years not including incarceration time, been convicted of any one of the following enumerated crimes:

(a) First or second degree murder.

(b) Aggravated or criminal sexual assault, including sexual assault of a child.

(c) Armed robbery.

(d) Arson.

(e) Stalking.

(f) Any crimes of violence involving the discharge of a firearm.

Chapter 33-b. Veterans Court Program

. . .

R.S. 13:5366. Veterans Court program

A. Each district court by rule may designate as a Veterans Court program one or more divisions of the district court to which veterans are assigned and may establish a probation program to be administered by the presiding judge or judges thereof or by an employee designated by the court.

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

(1) The district attorney may propose to the court that an individual defendant be screened for eligibility as a participant in the Veterans Court program if all of the following criteria are satisfied:

(a) The individual is charged with a violation of a statute of this state, either a felony or misdemeanor, and is determined to be a veteran as defined in R.S. 13:5364.

(b) The district attorney has reason to believe that the individual who is charged could benefit by the Veterans Court program.

(c) The district attorney has reason to believe that it is in the best interest of the community and in the interest of justice to provide the defendant with treatment as opposed to incarceration or other sanctions.

(2) Upon receipt of the proposal provided for in Paragraph (1) of this Subsection, the court shall advise the defendant that he may be eligible for enrollment in a court-authorized treatment program through the Veterans Court program.

(3)(a) If the defendant requests to undergo treatment and is accepted into the Veterans Court program, the defendant will be placed under the supervision of the Veterans Court program for the period of not less than twelve months.

(b) During the treatment the defendant may be confined in a treatment facility or, at the discretion of the court, the defendant may be released on a probationary basis for treatment or supervised aftercare in the community.

(c) The court may impose any conditions reasonably related to the complete rehabilitation of the defendant.

(d) The defendant shall be required to participate in any court-ordered alcohol and drug testing program at his own expense, unless the court determines that he is indigent.

(e) If the defendant completes the Veterans Court program, and has successfully completed all other requirements of his court-ordered probation, the conviction may be set aside and the prosecution dismissed in accordance with the provision of the Code of Criminal Procedure Articles 893 and 894. A defendant's successful completion of the Veterans Court program and the other requirements of probation may result in his discharge from supervision. If the defendant does not successfully complete the Veterans Court program, the judge may revoke the probation and impose sentence, or the judge may revoke the probation and order the defendant to serve the sentence previously imposed and suspended, or the judge may revoke the probation and order the defendant to be committed to the custody of the Department of Public Safety and Corrections and be required to serve a sentence of not more than six months without diminution of sentence in the intensive incarceration program pursuant to R.S. 15:574.4.4 and 574.5, then to be returned to the regular Veterans Court docket, or the court may impose any sanction provided by Code of Criminal Procedure Article 900, and extend probation and order that the defendant continue treatment for an additional period, or both.

(4) The defendant has the right to be represented by counsel at all stages of a criminal prosecution and in any court hearing relating to the Veterans Court program. The defendant shall be represented by counsel during the negotiations to determine eligibility to participate in the Veterans Court program and shall be represented by counsel at the time of the execution of the probation

agreement, and at any hearing to revoke the defendant's probation and discharge him from the program, unless the court finds and the record shows that the defendant has knowingly and intelligently waived his right to counsel.

(5) The defendant must agree to the Veterans Court program. If the defendant elects to undergo treatment and participate in the Veterans Court program, the court shall order an examination of the defendant by one of the court's designated licensed treatment programs. Treatment programs shall possess sufficient experience in working with criminal justice participants with alcohol or drug addictions, mental health problems, or all of these matters, and shall be certified and approved by the state of Louisiana or the United States Department of Veterans Affairs. The designated treatment program shall utilize standardized testing and evaluation procedures to determine whether or not the defendant is an appropriate candidate for a treatment program and shall report such findings to the court and the district attorney.

(6) The treatment program examiner or district attorney may request that the defendant provide the following information to the court:

(a) Information regarding prior criminal charges.

(b) Education, work experience, and training.

(c) Family history, including residence in the community.

(d) Medical and mental history, including any psychiatric or psychological treatment or counseling.

(e) Any other information reasonably related to the success of the treatment program.

(7) The designated program shall recommend to the court a preliminary length of stay and level of care for the defendant.

(8) In addition to the report submitted by the examiner, the judge and district attorney shall consider the following factors in determining whether the Veterans Court program would be in the interest of justice and of benefit to the defendant and the community:

(a) The nature of the crime charged and the circumstances surrounding the crime.

(b) Any special characteristics or circumstances of the defendant.

(c) Whether the defendant is a first-time offender, and, if the defendant has previously participated in this or a similar program, the degree of success attained.

(d) Whether there is a probability that the defendant will cooperate with and benefit from probation and treatment through the Veterans Court program.

(e) Whether the available Veterans Court program is appropriate to meet the needs of the defendant.

(f) The impact of the defendant's probation and treatment upon the community.

(g) Recommendations, if any, of the involved law enforcement agency.

(h) Recommendations, if any, of the victim.

(i) Provisions for and the likelihood of obtaining restitution from the defendant over the course of his probation.

(j) Any mitigating circumstances.

(k) Any other circumstances reasonably related to the individual defendant's case.

(9) In order to be eligible for the Veterans Court program, the defendant must satisfy each of the following criteria:

(a) The defendant cannot have a prior felony conviction for an offense defined as a homicide in R.S. 14:29 or as a sex offense in R.S. 15:541(24), or any pending criminal proceeding alleging commission of an offense defined as a homicide in R.S. 14:29 or as a sex offense in R.S. 15:541(24).

(b) The crime before the court cannot be a charge of driving under the influence of alcohol or any other drug or drugs that resulted in the death of a person.

(c) If the crime before the court is domestic abuse battery as defined in R.S. 14:35.3 or domestic abuse aggravated assault as defined in R.S. 14:37.7, the defendant shall comply with the following additional requirements as conditions of eligibility in the Veterans Court program:

(i) Completion of a court-monitored domestic abuse intervention program as defined by R.S. 14:35.3.

(ii) No ownership or possession of a firearm while under the supervision of the Veterans Court program or court-ordered probation.

(10) Notwithstanding any provision of law to the contrary, the defendant may be considered for participation in the Veterans Court program even if the defendant is not otherwise eligible for probation due to the defendant's criminal history.

(11)(a) The judge shall make the final determination of eligibility. If, based on the examiner's report and the recommendations of the district attorney and the defense counsel, the judge determines that the defendant should be enrolled in the Veterans Court program, the court shall accept the defendant's guilty plea, suspend or defer the imposition of sentence, and place the defendant on probation under the terms and conditions of the Veterans Court program. The court also may impose sentence and suspend the execution thereof, placing the defendant on probation under the terms and conditions of the Veterans Court program.

(b) If the judge determines that the defendant is not qualified for enrollment, the judge may state for the record the reasons for that determination.

(c) A Veterans Court program team or staff may petition the court to reject a referral to the Veterans Court program if the Veterans Court program team or staff deems the defendant to be inappropriate for admission to the Veterans Court program. Additionally, a Veterans Court program team or staff may petition the court for immediate discharge of any individual who fails to comply with Veterans Court program rules and treatment expectations or who refuses to constructively engage in the treatment process.

C. (1) In offering a defendant the opportunity to request treatment, the court shall advise the defendant of the following at the time of the guilty plea:

(a) If the defendant is accepted into the Veterans Court program, then the defendant must waive the right to a trial. The defendant must enter a plea of guilty to the charge, with the stipulation that sentencing be deferred or that sentence be imposed, but suspended, and the defendant placed on supervised probation under the usual conditions of probation and under certain special conditions of probation related to the completion of such treatment programs as are ordered by the court. During participation in the program, the defendant will be subject to nonadversarially determined sanctions. All adversarial hearings will occur during probation violation hearings.

(b) The terms of each probation agreement shall be decided by the judge. The defendant must agree to enter the program and sign a probation agreement stating the terms and conditions of his program. The defendant must plead guilty to the charge in order to be eligible for the Veterans Court program.

(2) Any probation agreement entered into pursuant to this Section shall include the following:

(a) The terms of the agreement, which shall provide that if the defendant fulfills the obligations of the agreement, as determined by the court, then the criminal charges may be dismissed and the prosecution set aside in accordance with the provisions of Code of Criminal Procedure Articles 893 and 894, or, if the defendant has been sentenced following the plea of guilty, then the successful completion of the Veterans Court program may result in the discharge of the defendant from continued supervision.

(b) A waiver by the defendant of the right to trial by jury under the laws and constitutions of Louisiana and the United States.

(c) The defendant's full name.

(d) The defendant's full name at the time the complaint was filed, if different from the defendant's current name.

(e) The defendant's sex and date of birth.

(f) The crime before the court.

(g) The date the complaint was filed.

(h) The court in which the agreement was filed.

(i) A stipulation of the facts upon which the charge was based, as agreed to by the defendant and the district attorney.

(j) A provision that the defendant may be required to pay a probation supervision fee if ordered by the court.

(k) A provision, in cases where applicable, that the defendant may be required to pay restitution to the victim.

(l) A provision, that once the defendant is receiving treatment as an outpatient or living in a halfway house, he will participate in appropriate job training or schooling or seek gainful employment if ordered by the court.

(m) A copy of the plea agreement.

(3) To the extent of his financial resources, a defendant who is placed under the supervision of the Veterans Court program may be required to pay a portion of or the entire cost of the treatment program to which he is assigned and the cost of any additional supervision that may be required, as determined by the Veterans Court program.

(4) If the probationer does not have the financial resources to pay all the related costs of the probation program:

(a) The court, to the extent practicable, shall arrange for the probationer to be assigned to a treatment program funded by the state or federal government.

(b) The court, with the recommendation of the treatment program, may order the probationer to perform supervised work for the benefit of the community in lieu of paying all or a part of the costs relating to his treatment and supervision. The work must be performed for and under the supervising authority of a parish, municipality, or other political subdivision or agency of the state of Louisiana or a charitable organization that renders service to the community or its residents.

(c) Any and all fees may be waived at the discretion of the court.

D. (1) When appropriate, the imposition or execution of sentence shall be postponed while the defendant is enrolled in the treatment program. As long as the probationer follows the conditions of his agreement, he shall remain on probation. At the conclusion of the period of probation, the district attorney, on advice of the person providing the probationer's treatment and the probation officer, may recommend that the court take one of the following courses of action:

(a) Revoke the probationer's probation and sentence the probationer because he has not successfully completed the treatment and has violated one or more conditions of probation; or, if the probationer has already been sentenced, revoke the probation and remand the probationer to the appropriate custodian for service of that sentence.

(b) Extend the period of probation so that the probationer may continue the program.

(c) Set aside the probationer's conviction and dismiss the prosecution because the probationer has successfully completed all the conditions of his probation and treatment agreement.

(2) The district attorney shall make the final determination on whether to request revocation, extension, or dismissal.

(3)(a) If an individual who has enrolled in a program violates any of the conditions of his probation or his treatment agreement or appears to be performing unsatisfactorily in the assigned program, or if it appears that the probationer is not benefitting from education, treatment, or rehabilitation, the treatment supervisor, probation officer, or the district attorney may move the court for a hearing to determine if the probationer should remain in the program or whether the probation should be revoked and the probationer removed from the program and sentenced or ordered to serve any sentence previously imposed. If at the hearing the moving party can show sufficient proof that the probationer has violated his probation or his treatment agreement and has not shown a willingness to submit to rehabilitation, the probationer may be removed from the program or his treatment agreement may be changed to meet the probationer's specific needs.

(b) If the court finds that the probationer has violated a condition of his probation or a provision of his probation agreement and that the probationer should be removed from the probation program, then the court may revoke the probation and sentence the individual in accordance with his guilty plea or, if the individual has been sentenced and the sentence suspended, order the individual to begin serving the sentence.

(c) If a defendant who has been admitted to the probation program fails to complete the program and is thereafter sentenced to jail time for the offense, he shall be entitled to credit for the time served in any correctional facility in connection with the charge before the court.

(d) At any time and for any appropriate reason, the probationer, his probation officer, the district attorney, or his treatment provider may petition the court to reconsider, suspend, or modify its order for rehabilitation or treatment concerning that probationer.

(e) The burden of proof at all such hearings shall be the burden of proof required to revoke probation as provided by law.

E. The appropriate treatment program shall report the following changes or conditions to the district attorney at any periodic reporting period specified by the court:

(1) The probationer is changed from an inpatient to an outpatient.

(2) The probationer is transferred to another treatment center or program.

(3) The probationer fails to comply with program rules and treatment expectations.

(4) The probationer refuses to engage constructively in the treatment process.

(5) The probationer terminates his participation in the treatment program.

(6) The probationer is rehabilitated or has obtained the maximum benefits of rehabilitation or treatment.

F. Upon successful completion of the Veterans Court program and its terms and conditions, the judge, after receiving the recommendation from the district attorney, may vacate the judgment of conviction and dismiss the criminal proceedings against the probationer or may discharge the defendant from probation in accordance with the provisions of Code of Criminal Procedure Articles 893 or 894.

G. Discharge and dismissal under this Chapter, as provided in Code of Criminal Procedure Articles 893 and 894, shall have the same effect as an acquittal, except that the conviction may be considered in order to provide the basis for subsequent prosecution of the party as a multiple offender and shall be considered as an offense for the purposes of any other law or laws relating to cumulation of offenses. Dismissal under this Chapter shall occur only once with respect to any person. Nothing herein shall be construed as a basis for the destruction of records of the arrest and prosecution of the person.

H. Nothing contained in this Chapter shall confer a right or an expectation of a right to treatment for a defendant or offender within the criminal justice system.

I. Each defendant shall contribute to the cost of any treatment received in the Veterans Court program based upon guidelines developed by the Veterans Court program. Any and all fees may be waived at the discretion of the court.

J. Each judicial district that establishes a Veterans Court probation program shall adopt written policies and guidelines for the implementation of a probation program in accordance with this Chapter. The policies and guidelines shall include provisions concerning the following:

(1) How to examine the defendant initially to determine if he is qualified for enrollment.

(2) How to advise the defendant of the program if the court has reason to believe the defendant may suffer from alcohol or drug addiction or mental health problems or illnesses.

(3) What licensed treatment programs are certified by the court.

K. Each Veterans Court program shall develop a method of evaluation so that its effectiveness can be measured. These evaluations shall be compiled annually and transmitted to the judicial administrator of the Supreme Court of Louisiana.

L. (1) Except as otherwise provided for by law, the registration and other records of a treatment facility are confidential and shall not be disclosed to any person not connected with the treatment facility or the Veterans Court program and district attorney without the consent of the patient.

(2) The provisions of Paragraph (1) of this Subsection shall not restrict the use of patients' records for the purpose of research into the cause and treatment of alcoholism and drug addiction and mental health illnesses, provided that such information shall not be published in a way that discloses the patient's name and identifying information.

M. No statement, or any information procured therefrom, with respect to the specific offenses with which the defendant is charged, which is made to any probation officer or program treatment worker subsequent to the granting of probation, shall be admissible in any civil or criminal action or proceeding, except a Veterans Court program probation revocation proceeding.

N. A record of the fact that an individual has participated in a Veterans Court program shall be sent to the office of the attorney general and shall be made available upon request to any district attorney for the purpose of determining if an individual has previously participated in a Veterans Court program.

O. (1) The provisions of Code of Criminal Procedure Article 893(A) and (D) which prohibit the court from suspending or deferring the imposition of sentences for violations of the Uniform Controlled Dangerous Substances Law or for violations of R.S. 40:966(A), 967(A), 968(A), 969(A), or 970(A) shall not apply to prosecutions in Veterans Court programs as authorized by this Chapter.

(2) The minimum mandatory sentence provided for in R.S. 14:98(D)(1) and (E)(1), which shall otherwise be imposed without benefit of probation, parole, or suspension of sentence, may be suspended if the offender is prosecuted in a Veterans Court program pursuant to the provisions of this Chapter.

Chapter 34. Reentry Courts

R.S. 13:5401. District Courts; reentry courts; subject matter

A. Each district court, by rule, adopted by a majority vote of the judges sitting en banc, may assign a certain division of the court as a reentry division of court. Prior to the creation of a reentry

division of court, each district court shall secure funding to establish and maintain a reentry division of court. However, failure to do so will have no effect upon any judgment, finding, or sentence. The reentry division of court shall establish a workforce development sentencing program, which shall establish guidelines for the issuance of sentences providing inmate rehabilitation and workforce development. The reentry division of court and sentencing program shall work in conjunction with the Louisiana Workforce Commission and all efforts shall be coordinated and consistent with the provisions of R.S. 23:1 et seq.

B. Participation in the workforce development sentencing program as authorized by the provisions of this Section shall be subject to the following provisions:

(1) The court may recommend that a defendant participate in the workforce development sentencing program if all of the following criteria are satisfied:

(a) The defendant meets the eligibility requirements for participation in the Offender Rehabilitation and Workforce Development Program as provided for in R.S. 15:1199.7(A) and (C).

(b) The defendant meets the suitability requirements as defined by best practices developed for the Offender Rehabilitation and Workforce Development Program as adopted by the Louisiana Supreme Court.

(c) The court determines that it is in the best interest of the community and in the interest of justice that the defendant be sentenced to the Offender Rehabilitation and Workforce Development Program.

(d) Repealed by Act 450 of the 2022 Regular Session of the Louisiana Legislature.

(e) The defendant shall not have any prior felony convictions for any offenses defined as a sex offense in R.S. 15:541.

(f) The crime before the court shall not be a crime of violence as defined in R.S. 14:2(B), including domestic violence; however, the provisions of this Subparagraph shall not apply to any of the following crimes of violence:

(i) Aggravated battery (R.S. 14:34).
(ii) Second degree battery (R.S. 14:34.1).
(iii) Battery of a police officer (R.S. 14:34.2).
(iv) Disarming of a peace officer (R.S. 14:34.6).
(v) Aggravated assault (R.S. 14:37).
(vi) Aggravated assault with a firearm (R.S. 14:37.4).
(vii) Simple kidnapping (R.S. 14:45).
(viii) False imprisonment; offender armed with dangerous weapon (R.S. 12 14:46.1).
(ix) Aggravated arson (R.S. 14:51).
(x) Aggravated criminal damage to property (R.S. 14:55).
(xi) Home invasion (R.S. 14:62.8).
(xii) Second degree robbery (R.S. 14:64.4).
(xiii) Simple robbery (R.S. 14:65).
(xiv) Purse snatching (R.S. 14:65.1).
(xv) Aggravated flight from an officer (R.S. 14:108.1).

(g) Other criminal proceedings alleging commission of a crime of violence as defined in R.S. 14:2(B) shall not be pending against the defendant.

(h) The crime before the court shall not be a charge of any crime that resulted in the death of a person.

(i) The district attorney or appropriate prosecuting authority of the charge for which a defendant may be considered for re-entry court consents to participation by the defendant in all cases wherein the defendant is convicted of an eligible violent crime pursuant to R.S. 14:2.

(2) (a) Upon a determination that the defendant meets the eligibility and sustainability criteria provided for in Paragraph (1) of this Subsection, the court shall advise the defendant that he may be eligible for enrollment in the workforce development sentencing program.

(b) Prior to sentence, the court shall contact the Department of Public Safety and Corrections Reentry Services to determine if there is adequate capacity for enrollment or if bed space is available.

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

(a) If the defendant is eligible to participate in the workforce development sentencing program, the defendant shall waive the right to a trial. The defendant shall enter a plea of guilty to the charge, with the stipulation that the defendant shall be sentenced to custody of the Department of Public Safety and Corrections to participate in the Offender Rehabilitation and Workforce Development Program and after successful completion of that program, he may petition the court to suspend the remainder of his sentence and be placed on probation under the intensive supervision of the reentry division of court.

(b) The court may impose any conditions reasonably related to the rehabilitation of the defendant, including ordering the defendant to participate and complete a substance abuse treatment program.

(c) A defendant who is placed under the supervision of the reentry division of court shall pay the cost of any assessments, substance abuse tests, and treatment programs to which he is assigned and the cost of any additional supervision that may be required, to the extent of his financial resources, as determined by the reentry division of court.

(d) Notwithstanding any provision of law to the contrary, any offender sentenced under this Section shall not be eligible for parole pursuant to R.S. 15:574.4(A)(1), nor earn "good time" pursuant to R.S. 15:571.3, or additional "good time" credits for participation in certified treatment and rehabilitation programs pursuant to R.S. 15:828 while in the program.

(4) The defendant has the right to be represented by counsel at all stages of a criminal prosecution. The defendant shall be represented by counsel during the determination of eligibility to participate in the workforce development sentencing program at the time of the execution of the sentencing agreement and at any subsequent probation revocation hearing to discharge him, unless the court finds and the record shows that the defendant has knowingly and intelligently waived his right to counsel.

(5) The defendant shall agree to participation in the workforce development sentencing program.

(6) The judge shall consider the following factors in determining whether workforce development sentencing is in the interest of justice and of benefit to the defendant and the community:

(a) The nature of the crime charged and the circumstances surrounding the crime.

(b) Any special characteristics or circumstances of the defendant.

(c) Whether there is a probability that the defendant will cooperate with and benefit from the workforce development sentencing program.

(d) Whether the available workforce development sentencing program is appropriate to meet the needs of the defendant.

(e) The impact of the defendant's sentencing upon the community.

(f) Recommendations, if any, of the district attorney.

(g) Recommendations, if any, of the involved law enforcement agency.

(h) Recommendations, if any, of the victim.

(i) Provisions for and the likelihood of obtaining restitution from the defendant.

(j) Any mitigating circumstances.

(k) Any other circumstances reasonably related to the defendant's case.

(7)(a) If the judge determines that the defendant shall be enrolled in the workforce development sentencing program, the court shall accept the defendant's guilty plea and sentence the defendant to the custody of the Department of Public Safety and Corrections for participation in the Offender Rehabilitation and Workforce Development Program under the terms and conditions of the workforce development sentencing program.

(b) If the judge determines that the defendant is not qualified for enrollment, the judge shall state for the record the reasons for that determination.

(c) If the defendant successfully completes the Offender Rehabilitation and Workforce Development Program and successfully completes all other requirements of the workforce development sentencing program, he may petition the court to suspend the reminder of his sentence and be placed on probation under the intensive supervision of the reentry division of court, notwithstanding any other provision of law to the contrary which provides that any minimum mandatory sentence is to be imposed without the benefit of probation, parole, or suspension of sentence unless the crime before the court is the use or possession of a firearm or other dangerous weapon while committing or attempting to commit a crime of violence pursuant to the provisions of R.S. 14:95(E).

(d) If the defendant violates any condition of his reentry probation, the court may revoke the probation and order the defendant to serve the sentence previously imposed and suspended, or the court may revoke the probation and order the defendant to be committed to the custody of the Department of Public Safety and Corrections and be required to serve a sentence of not more than twelve months without diminution of sentence in the intensive incarceration program pursuant to R.S. 15:574.4.4, or the court may impose a sentence of not more than ninety days without diminution of sentence or credit for time served prior to the revocation for any technical violation, or the court may impose any sanction provided by Code of Criminal Procedure Article 900, and extend probation and order that the defendant continue treatment for an additional period, or both. The term of the revocation for a technical violation shall begin on the date the court orders the revocation. Upon completion of the imposed sentence for the technical revocation, the defendant shall return to active and supervised probation for a period equal to the remainder of the original period of probation subject to any additional conditions imposed by the court.

(e) A "technical violation", as used in this Paragraph, means any violation except it shall not include any of the following:

(i) Being arrested, charged, or convicted of any of the following:

(aa) A felony.

(bb) Any intentional misdemeanor directly affecting the person, including but not limited to domestic abuse battery.

(ii) Being in possession of a firearm or other prohibited weapon.

(iii) Absconding from the jurisdiction of the court.

Chapter 36. Coroners

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R.S. 13:5713. Duties; autopsies; investigations

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F. The coroner shall implement, fulfill, and comply with all obligations, duties, and requirements imposed upon him by R.S. 40:1216.1 and by the regional sexual assault response plan approved for the coroner's health service district pursuant thereto, which the coroner shall annually sign to indicate his approval pursuant to R.S. 40:1216.1(E)(4).

* * *

J. Upon request, the Department of Children and Family Services shall be entitled to obtain at no charge the name, age, preliminary diagnosis, and manner of death of a deceased minor or any other findings of abuse or neglect of the minor from the office of the coroner conducting the autopsy while the final autopsy is pending. If the coroner finds that the cause of death of a minor child was due to abuse or neglect or finds evidence of any other abuse or neglect of the child, he shall notify the Department of Children and Family Services. The coroner shall provide the department with his findings in a timely manner, or immediately when requested to protect any other minor child.

K. If the coroner is unable, unwilling, unqualified, or has a conflict of interest in performing any of the duties provided for in this Section, the duty may be performed by the coroner of an adjacent parish or parish in the same regional health service district. The attorney general shall determine whether a conflict exists or if the coroner is unqualified, based on all available facts and circumstances.

Louisiana Revised Statutes – Title 15. Criminal Procedure
Chapter 1. Code of Criminal Procedure Ancillaries

R.S. 15:243. Buyer Beware Program; post-conviction program for offenders; pre-trial diversion program for defendants; individuals engaged in the purchase of sexual activity and solicitation of prostitutes

A.(1) The district attorney for each judicial district, alone or in conjunction with the district attorney of an adjacent judicial district, may create and administer a program for defendants charged, or offenders convicted, with an offense in which the defendant engaged in the purchase of sexual activity, including those charged or convicted pursuant to R.S. 14:82.2 or R.S. 14:83. The program shall educate the defendants or offenders about the harms, exploitation, and negative effects of prostitution. The district attorney, at his discretion, may choose to be the operator of the program using his own office personnel or may choose a vendor as the operator of the program.

(2) The program may be offered, at the discretion of the district attorney, to an offender as part of a pre-trial diversion program unless the offense involves the purchase of sexual activity from a minor.

B. At the discretion of the district attorney, after any costs associated with the administration of the program are paid, a portion of all monies collected pursuant to the provisions of this Section may be distributed to entities within their judicial district, or within the judicial districts participating in the program, that provide rehabilitative services and treatment to victims of offenses involving human trafficking and trafficking of children for sexual purposes.

C. If the district attorney fails to develop a program, alone or in conjunction with the district attorney of an adjacent judicial district, the court shall order that the offender, who is sentenced pursuant to the provisions of R.S. 14:82.2 or R.S. 14:83, attend a certain number of meetings for sexual addiction recovery with a local recovery group.

D. If the district attorney fails to develop a program, alone or in conjunction with the district attorney of an adjacent judicial district and there is no local recovery group for sexual addiction within the judicial district or within a fifty-mile radius of the offender's home, the court shall order the offender, who is sentenced pursuant to the provisions of R.S. 14:82.2 or R.S. 14:83, to complete an online course which educates the offenders about the harms, exploitation, and negative effects of prostitution.

E. The program provided for in this Section shall be known as the "Buyer Beware Program".

R.S. 15:257. Placing material witness under bond; exception for victims

Except as provided in R.S. 15:257.1, whenever it shall appear, upon motion of the district attorney or upon motion of a defendant supported by his affidavit, that the testimony of any witness is essential to the prosecution or the defense, as the case may be, and it is shown that it may become

impracticable to secure the presence of the person by subpoena, a judge, as defined in Article 931 of the Code of Criminal Procedure, shall issue a warrant for the arrest of the witness. The witness shall be arrested and held in the parish jail, or such other suitable place as shall be designated by the court, until he gives an appearance bond as provided for defendants when admitted to bail, or until his testimony shall have been given in the cause or dispensed with.

R.S. 15:257.1. Exception for material witness warrants for victims of sex offenses and intimate partner violence; legislative intent

A. The legislature hereby finds and declares that domestic violence and sexual assault are major public health problems and violations of human rights. The legislature further finds that in order to be in compliance with the Violence Against Women Act, this statute is meant to discourage the use of material witness warrants and enforce the premise that the use of material witness warrants for victims of intimate partner violence or sex crimes is an extraordinary measure that should be used only when absolutely necessary and that any incarceration shall occur only after all other remedies have been exhausted in order to prevent further victimization and trauma to the victims.

B. A judge shall not order a material witness warrant to secure the presence of a victim listed in the indictment or bill of information in a misdemeanor prosecution in cases where the instituted charges are one of a sex offense under R.S. 15:541 or a listed victim in the indictment or bill of information of a misdemeanor offense committed under R.S. 14:34.9 (battery of a dating partner) or R.S. 14:35.3 (domestic abuse battery) that is a pending matter before a court.

C.(1) A judge shall not order a material witness warrant to secure the presence of a victim listed in the indictment or bill of information solely for the purpose of securing the attendance or testimony of a victim listed in a felony prosecution in cases where the instituted charges are either:

(a) A sex offense under R.S. 15:541.

(b) An offense committed under R.S. 14:34.9 (battery of a dating partner), R.S. 14:35.3 (domestic abuse battery), R.S. 14:37.7 (domestic abuse aggravated assault), or R.S. 14:34.9.1 (aggravated assault upon a dating partner).

(c) A case where the victim listed in the indictment or bill of information of the current felony charge pending before the court is the current or former spouse or the current or former dating partner as defined by R.S. 46:2151, regardless of whether or not the individuals reside in the same household that is a pending matter before a court.

(2) Notwithstanding Paragraph (1) of this Subsection, a judge may order a material witness warrant to secure the presence of a victim listed in the indictment or bill of information in a felony prosecution if the applicant presents an affidavit to the judge attesting to all of the following:

(a) The efforts made by the applicant to secure the victim's appearance in court.

(b) That the testimony of the victim is essential to the prosecution or defense of a criminal proceeding.

(c) The filing of the affidavit made pursuant to this Section is filed in compliance with R.S. 46:1844(W).

(3) Only a qualified victim for which a material witness warrant is being sought pursuant to this Section shall have standing to raise the protections provided in this Section.

D.(1) When a witness who is a victim of any of the offenses enumerated in Subsection B or C of this Section is secured pursuant to a material witness warrant issued by a judge, notification shall immediately be made to the judge who signed the warrant and the duty judge or magistrate, as well as the applicant who requested the order. Upon notification that the victim has been secured, the victim shall be brought before a judge pursuant to the following:

(a) Inside of the jurisdiction where the material warrant was issued, the victim shall be brought before a judge on the next scheduled business day.

(b) Outside of the jurisdiction in which the warrant was issued, the victim shall be brought before the judge as soon as practically possible.

(2) Once the victim is brought before a judge, the judge shall explore all available alternatives to incarceration to ensure the victim's appearance in court.

(3) The victim shall be notified of the right to retain counsel or, if indigent, shall be authorized to apply for counsel for a bond hearing.

E.(1) There shall be a presumption that a victim, as defined in Subsection C of this Section, be released on his own recognizance.

(2) The court shall consider all least restrictive means to ensure the victim's appearance in court pursuant to a subpoena, including but not limited to imposing conditions of release such as:

(a) Bond supervision or GPS monitoring to be paid by the applicant of the warrant.

(b) Treatment facilities, shelters, or lodging paid for by the applicant of the warrant.

(3) The court shall notify the victim of services offered by community partners or victim witness assistance coordinators.

F.(1) The court shall exhaust all alternatives prior to ordering the incarceration of a victim as defined in Subsection C of this Section.

(2) If a judge determines there are no alternatives that will secure the victim's testimony, then the judge may order that the victim be placed in protective custody. If practically possible, a victim shall not be incarcerated in the same institution as the defendant.

G. Nothing in this Section shall be construed to limit the authority of the district attorney or defendant from securing a witness outside the jurisdiction of the court. Nothing in this Section shall be construed to create a release mechanism for a victim if the victim is incarcerated for any reason unrelated to a material witness warrant sought under this Section.

R.S. 15:260. Production of certain records of a victim; conditions

A. If the defendant is charged with a violation of R.S. 14:93 or 93.2.3 or sex offense or human trafficking-related offense as defined in or enumerated in R.S. 46:1844(W), a subpoena or court order compelling the production of medical, psychological, school, or other records pertaining to the victim shall not be issued upon request of the defendant unless the subpoena or court order identifies the records sought with particularity and is reasonably limited as to subject matter, and the court finds, after a contradictory hearing with the state, that the requested records are likely to be relevant and admissible at trial and are not sought for the purpose of harassing the victim.

B. Any records obtained by the defendant or his attorney without full compliance with the provisions of this Section shall be inadmissable in any criminal proceeding.

C. The district attorney shall provide written notice to the victim, or counsel for the victim if applicable, of the contradictory hearing required by the provisions of this Section.

D. Willful violation of the provisions of this Section may be punishable as contempt of court.

Chapter 3. Habitual Offender Law

R.S. 15:529.1. Sentences for second and subsequent offenses; certificate of warden or clerk of court in the state of Louisiana as evidence

A. Any person who, after having been convicted within this state of a felony, or who, after having been convicted under the laws of any other state or of the United States, or any foreign government of a crime which, if committed in this state would be a felony, thereafter commits any subsequent felony within this state, upon conviction of said felony, shall be punished as follows:

(1) If the second felony is such that upon a first conviction the offender would be punishable by imprisonment for any term less than his natural life, then the sentence to imprisonment shall be for a determinate term not less than one-third the longest term and not more than twice the longest term prescribed for a first conviction.

(2)(a) If the second felony and the prior felony are sex offenses as defined in R.S. 15:541, or the prior felony would be a sex offense as defined in R.S. 15:541, except it occurred prior to June 18, 1992, or the conviction was obtained under the laws of any other state, the United States, or any foreign government, the person shall be sentenced to imprisonment at hard labor for a determinate term not less than two-thirds of the longest possible sentence for the conviction and not more than three times the longest possible sentence prescribed for a first conviction, without benefit of probation, parole, or suspension of sentence.

(b) If the second felony and the prior felony are sex offenses as defined in R.S. 15:541, or the prior felony would be a sex offense as defined in R.S. 15:541, except it occurred prior to June 18, 1992, or the conviction was obtained under the laws of any other state, the United States, or any foreign government, and the victims of the previous offense and the instant offense were under the age of thirteen years at the time of the commission of the offense or any part thereof, the person shall be imprisoned for the remainder of his natural life, without benefit of parole, probation, or suspension of sentence.

(3) If the third felony is such that upon a first conviction, the offender would be punishable by imprisonment for any term less than his natural life then the following sentences apply:

(a) The person shall be sentenced to imprisonment for a determinate term not less than one-half of the longest possible sentence for the conviction and not more than twice the longest possible sentence prescribed for a first conviction.

(b) If the third felony and the two prior felonies are felonies defined as a crime of violence under R.S. 14:2(B), or a sex offense as defined in R.S. 15:541 when the victim is under the age of eighteen at the time of commission of the offense, or any combination of such crimes, the person shall be imprisoned for the remainder of his natural life, without benefit of parole, probation, or suspension of sentence.

(4) If the fourth or subsequent felony is such that, upon a first conviction the offender would be punishable by imprisonment for any term less than his natural life then the following sentences apply:

(a) The person shall be sentenced to imprisonment for the fourth or subsequent felony for a determinate term not less than the longest prescribed for a first conviction but in no event less than twenty years and not more than his natural life.

(b) If the fourth felony and no prior felony is defined as a crime of violence under R.S. 14:2(B) or as a sex offense under R.S. 15:541, the person shall be imprisoned for not less than twenty years nor more than twice the longest possible sentence prescribed for a first conviction. If twice the possible sentence prescribed for a first conviction is less than twenty years, the person shall be imprisoned for twenty years.

(c) If the fourth felony and two of the prior felonies are felonies defined as a crime of violence under R.S. 14:2(B), or a sex offense as defined in R.S. 15:541 when the victim is under the age of eighteen at the time of commission of the offense, the person shall be imprisoned for the remainder of his natural life, without benefit of parole, probation, or suspension of sentence.

B. It is hereby declared to be the intent of this Section that an offender need not have been adjudged to be a second offender in a previous prosecution in order to be charged as and adjudged to be a third offender, or that an offender has been adjudged in a prior prosecution to be a third offender in order to be convicted as a fourth offender in a prosecution for a subsequent crime. Multiple convictions obtained on the same day prior to October 19, 2004, shall be counted as one conviction for the purpose of this Section.

C. (1) Except as provided in Paragraphs (2) and (3) of this Subsection, the current offense shall not be counted as, respectively, a second, third, fourth, or higher offense if more than five years

have elapsed between the date of the commission of the current offense or offenses and the expiration of the correctional supervision, or term of imprisonment if the offender is not placed on supervision following imprisonment, for the previous conviction or convictions, or between the expiration of the correctional supervision, or term of imprisonment if the offender is not placed on supervision following imprisonment, for each preceding conviction or convictions alleged in the multiple offender bill and the date of the commission of the following offense or offenses. In computing the intervals of time as provided in this Paragraph, any period of parole, probation, or incarceration by a person in a penal institution, within or without the state, shall not be included in the computation of any of the five-year periods between the expiration of the correctional supervision, or term of imprisonment if the offender is not placed on supervision following imprisonment, and the next succeeding offense or offenses.

(2) Except as provided in Paragraph (3) of this Subsection, the current offense shall not be counted as, respectively, a second, third, fourth, or higher offense if more than ten years have elapsed between the date of the commission of the current offense or offenses and the expiration of correctional supervision, or term of imprisonment if the offender is not placed on supervision following imprisonment, for a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, or between the expiration of correctional supervision, or term of imprisonment if the offender is not placed on supervision following imprisonment, for each preceding conviction or convictions alleged in the multiple offender bill for a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541 and the date of the commission of the following offense or offenses. In computing the intervals of time as provided in this Paragraph, any period of parole, probation, or incarceration by a person in a penal institution, within or without the state, shall not be included in the computation of any of the ten-year periods between the expiration of correctional supervision, or term of imprisonment if the offender is not placed on supervision following imprisonment, for a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541 and the next succeeding offense or offenses.

(3) Notwithstanding any provision of law to the contrary, a conviction for a felony offense that is not a crime of violence as defined by R.S. 14:2(B) and that has been set aside and dismissed pursuant to Code of Criminal Procedure Article 893(E)(2), (3), or (4), shall not be considered as a prior conviction for purposes of enhancing a felony that is not a crime of violence as defined by R.S. 14:2(B) pursuant to the provisions of Paragraph (A)(1) of this Section and shall not be included in the computation of the five-year time period set forth in Paragraph (1) of this Subsection, or the ten-year time period as set forth in Paragraph (2) of this Subsection, for purposes of enhancing a felony that is not a crime of violence as defined by R.S. 14:2(B) pursuant to the provisions of Paragraph (A)(1) of this Section.

D. (1)(a) If, at any time, either after conviction or sentence, it shall appear that a person convicted of a felony has previously been convicted of a felony under the laws of this state, or 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 a felony, the district attorney of the parish in which subsequent conviction was had may file an information accusing the person of a previous conviction. Whereupon the court in which the subsequent conviction was had shall cause the person, whether confined in prison or otherwise, to be brought before it and shall inform him of the allegation contained in the information and of his right to be tried as to the truth thereof according to law and shall require the offender to say whether the allegations are true. If he denies the allegation of the information or refuses to answer or remains silent, his plea or the fact of his silence shall be entered on the record and he shall be given fifteen days to file particular objections to the information, as provided in Subparagraph (b) of this Paragraph. The judge shall fix a day to inquire whether the offender has been convicted of a prior felony or felonies as set forth in the information.

(b) Except as otherwise provided in this Subsection, the district attorney shall have the burden of proof beyond a reasonable doubt on any issue of fact. The presumption of regularity of judgment shall be sufficient to meet the original burden of proof. If the person claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the prosecutor. A person claiming that a conviction alleged in the information was obtained in violation of the constitutions of Louisiana or of the United States shall set forth his claim, and the factual basis therefore, with particularity in his response to the information. The person shall have the burden of proof, by a preponderance of the evidence, on any issue of fact

raised by the response. Any challenge to a previous conviction which is not made before sentence is imposed may not thereafter be raised to attack the sentence.

(2) Following a contradictory hearing, the court shall find that the defendant is:

(a) A second offender upon proof of a prior felony conviction.

(b) A third offender, upon proof of two prior felony convictions.

(c) A fourth offender, upon proof of three or more prior felony convictions.

(3) When the judge finds that he has been convicted of a prior felony or felonies, or if he acknowledges or confesses in open court, after being duly cautioned as to his rights, that he has been so convicted, the court shall sentence him to the punishment prescribed in this Section, and shall vacate the previous sentence if already imposed, deducting from the new sentence the time actually served under the sentence so vacated. The court shall provide written reasons for its determination. Either party may seek review of an adverse ruling.

E. Whenever it shall become known to any superintendent or prison, probation, parole, police, or other peace officer, that any person charged with or convicted of a felony has been previously convicted, he shall immediately report the fact to the district attorney of the parish in which the charge lies, or the conviction has been had.

F. The certificates of the warden or other chief officer of any state prison, or of the superintendent or other chief officer of any penitentiary of this state or any other state of the United States, or of any foreign country, or of any chief officer of any parish or county jail in this state or any other state of the United States, or of the clerk of court of the place of conviction in the state of Louisiana, under the seal of his office, if he has a seal, containing the name of the person imprisoned, the photograph, and the fingerprints of the person as they appear in the records of his office, a statement of the court in which a conviction was had, the date and time of sentence, length of time imprisoned, and date of discharge from prison or penitentiary, shall be prima facie evidence of the imprisonment and of the discharge of the person, either by a pardon or expiration of his sentence as the case may be under the conviction stated and set forth in the certificate.

G. Any sentence imposed under the provisions of this Section shall be at hard labor without benefit of probation or suspension of sentence.

H. A person shall not be qualified to be a candidate for elected public office or take elected office if that person has been convicted of a felony, whether convicted within this state or convicted under the laws of any other state or of the United States of a crime which, if committed in this state would be a felony, and has not received a pardon therefore.

I. If the court finds that a sentence imposed under the provisions of this Section would be constitutionally excessive pursuant to the criteria set forth in *State v. Dorthey*, 623 So.2d 1276 (La. 1993), then the court shall state for the record the reasons for such finding and shall impose the most severe sentence that is not constitutionally excessive.

J. For purposes of this Section, “correctional supervision” means any period of parole, probation, or incarceration of a person in a penal institution, either within the state of Louisiana or outside of the state.

K.(1) Except as provided in Paragraph (2) of this Subsection, notwithstanding any provision of law to the contrary, the court shall apply the provisions of this Section that were in effect on the date that the defendant's instant offense was committed.

(2) The provisions of Subsection C of this Section as amended by Act Nos. 257 and 282 of the 2017 Regular Session of the Legislature, which provides for the amount of time that must elapse between the current and prior offense for the provisions of this Section to apply, shall apply to any bill of information filed pursuant to the provisions of this Section on or after November 1, 2017, accusing the person of a previous conviction.

Chapter 3-a. Sexual Offender Law

R.S. 15:535. Blood and saliva testing; AIDS and sexually transmitted diseases; victim's testing and services

A. When a sexual offender is convicted, the court shall order and direct the offender to submit to a blood and saliva test, to be made by qualified physicians or other qualified persons, under such restrictions and direction as the court deems proper.

B. The test must include chemical testing of his blood to determine its genetic markers and of his saliva to determine its secretor status. The court shall order that the results of the test be submitted to the Louisiana Bureau of Criminal Identification and Information.

C. (1) The court shall also order the person convicted of or adjudicated a delinquent for a sexual offense as defined in R.S. 14:42 through 43.3 to submit to a test designed to determine whether the person is infected with a sexually transmitted disease, or is infected with acquired immune deficiency syndrome (AIDS), the human immuno deficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS. The procedure or test shall be performed by a qualified physician or other qualified person who shall report any positive result to the Department of Public Safety and Corrections, make the notification of the test results to the victim of the alleged offense, and notify the victim or the parent or custodian of the victim of the offense, regardless of the results.

(2)(a) At the request of the victim, the court shall order the person against whom a bill of information or indictment for a sexual offense as defined in R.S. 14:42 through 43.3 to submit, not later than forty-eight hours after the date on which such bill of information or indictment is presented, to a test designed to determine whether the person is infected with a sexually transmitted disease or is infected with acquired immune deficiency syndrome (AIDS), the human immuno deficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS.

(b) The victim may request that the person against whom a bill of information or indictment for a sexual offense as defined in R.S. 14:42 through 43.3 to submit to a follow-up test to determine whether the person is infected with a sexually transmitted disease or is infected with acquired immune deficiency syndrome (AIDS), the human immuno deficiency virus (HIV), HIV-1 antibodies, or any other probable causative agent of AIDS. Upon a finding that the follow-up test is medically appropriate, the court shall order that such person submit to the test.

(c) Any test, pursuant to this Paragraph, shall be performed by a qualified physician or other qualified person. Test results shall be disclosed to the victim and to the person against whom a bill of information or indictment for a sexual offense as defined in R.S. 14:42 through 43.3. If the victim consents, the test results shall be disclosed to anyone authorized by the victim. The test results shall not be disclosed to the court.

D. If the offender tested under the provisions of Subsection C of this Section tests positive for AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, the victim shall be provided with HIV testing, if such testing is requested by the victim, or in the case of a minor, by the victim's parent or legal custodian, at a state hospital or other facility as determined by the Louisiana Department of Health or as provided by law. If the victim tested under the provisions of this Subsection tests positive for AIDS, HIV, HIV-1 antibodies, or any other probable causative agent of AIDS, the victim shall, upon request, be provided with all of the following services:

(1) Counseling regarding HIV disease.

(2) Referral to appropriate health care and support services. These services shall be provided in accordance with applicable state law and the regulations governing the specific programs under which the services are to be provided.

R.S. 15:539.1. Forfeited property related to certain sex crimes; exempt property; allocation of forfeited property

A. Upon conviction of a human trafficking-related offense as defined in R.S. 46:1844(W), any felony sex offense as defined in R.S. 46:1844(W), R.S. 14:40.3 (cyberstalking), R.S.

14:81.1.1 (sexting; prohibited acts; penalties), R.S. 14:283.2 (nonconsensual disclosure of a private image), R.S. 14:78 (incest) as that offense existed prior to its repeal by Act Nos. 177 and 602 of the 2014 Regular Session of the Legislature, R.S. 14:78.1 (aggravated incest) as that offense existed prior to its repeal by Act Nos. 177 and 602 of the 2014 Regular Session of the Legislature, R.S. 14:89 (crime against nature), or R.S. 14:89.1(aggravated crime against nature), the court shall order that the personal property used in the commission of the offense be seized or impounded and sold at public sale or auction by the district attorney or otherwise distributed or disposed of in accordance with the provisions of this Section. The personal property made subject to seizure and disposition pursuant to this Section may include any electronic communication devices, computers, computer-related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of any victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media, currency, instruments, or securities. Forfeiture of personal property under the provisions of this Section shall not preclude the application of any other remedy, civil or criminal, under any other provision of law. All materials seized as evidence in an offense enumerated in this Section shall constitute contraband. The court, upon motion of the prosecuting attorney, after contradictory hearing, shall order the destruction of the contraband when it is determined that it is no longer needed as evidence. The contraband shall be presumed necessary as evidence if an appeal of the conviction is pending, if the convicted person is pursuing post-conviction remedies, or the time for pursuing an appeal or post-conviction remedies has not expired.

B. When personal property is forfeited under the provisions of this Section, the district attorney shall authorize a public sale or a public auction conducted by a licensed auctioneer, without appraisal, of that which is not required by law to be destroyed and which is not harmful to the public. Any currency, instruments, or securities forfeited shall be distributed or disposed of as provided in this Section.

C. (1) The personal property shall be exempt from sale and the currency, instruments, or securities shall be exempt from distribution or disposition if it was stolen or if the possessor of the property was not the owner and the owner did not know that the personal property was being used in the commission of the crime. If this exemption is applicable, the personal property shall not be released until such time as all applicable fees related to its seizure and storage are paid. An internet service provider shall not be required to pay seizure or storage fees to secure the release of equipment leased to an offender.

(2) Property subject to forfeiture pursuant to the provisions of this Section shall be exempt from forfeiture when a spouse, co-owner, or interest holder in the property establishes by sworn affidavit executed before a notary public the following:

(a) That he had no knowledge of the commission of the criminal conduct and could not have reasonably known of the conduct.

(b) That he did not consent to the use of property in the commission of the criminal conduct.

(c) That he owns an interest in the property otherwise subject to forfeiture.

(3) The property of an internet service provider shall be exempt from forfeiture.

(4) Intentionally falsifying information required by the provisions of Paragraph (2) of this Subsection shall subject the affiant to prosecution under the provisions of R.S. 14:125.

D. In addition, the personal property shall be exempt from sale and the currency, instruments, or securities shall be exempt from distribution or disposition if it is subject to a lien recorded prior to the date of the offense and if the applicable fees related to the property's seizure and storage are paid by a valid lien holder.

E. The proceeds of the public sale or public auction shall pay the costs of the public sale or public auction, court costs, and fees related to the seizure and storage of the personal property and shall then be applied to any restitution granted to the victim. Any proceeds remaining shall be distributed by the district attorney in the following manner:

(1) Sixty percent to the seizing agency or agencies in an equitable manner.

(2) Twenty percent to the prosecuting agency.

(3) Twenty percent to the criminal court fund of the parish in which the offender was prosecuted.

F. Notwithstanding Subsection E of this Section, when the currency, instruments, securities, or other property is forfeited following a conviction for a violation of R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:81.1 (pornography involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:85 (letting premises for prostitution), R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping a disorderly place), R.S. 14:105(letting a disorderly place), and R.S. 14:282 (operation of places of prostitution), the currency, instruments, and securities and proceeds of the public sale or public auction shall pay the costs of the public sale or public auction, court costs, and fees related to the seizure and storage of the personal property and shall then be applied to any restitution granted to the victim. Any remaining currency, instruments, securities, or proceeds shall be distributed in the following manner:

(1) Twenty-five percent to the seizing agency or agencies allocated among the seizing agencies in proportion to their participation in the management of the investigation, seizure, and forfeiture.

(2) Twenty-five percent to the prosecuting agency.

(3) Fifty percent to the Exploited Children's Special Fund pursuant to R.S. 15:539.2.

R.S. 15:539.2. Exploited Children’s Special Fund

A. Any person who is convicted or pleads guilty or nolo contendere to an offense involving trafficking of children for sexual purposes under R.S. 14:46.3, prostitution with persons under seventeen under R.S. 14:82.1, or enticing persons into prostitution under R.S. 14:86 shall be ordered to pay a mandatory monetary assessment of two thousand dollars. Notwithstanding any law to the contrary, the assessments provided by this Section shall be in addition to and not in lieu of, and shall not be used to offset or reduce, any fine authorized or required by law. If the court finds that the offender is indigent and therefore unable to pay the mandatory assessment at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

B. (1) There is established in the state treasury the Exploited Children's Special Fund, hereinafter referred to as the “fund”. Appropriations by the legislature and all monetary assessments paid and interest accrued on funds collected pursuant to Subsection A of this Section shall be deposited into the Bond Security and Redemption Fund, and after a sufficient amount is allocated from the Bond Security and Redemption Fund to pay all the obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the treasurer shall pay the remainder of such monies into the fund. The fund shall be subject to public audit.

(2)(a) Subject to appropriation by the legislature and except as provided in Subparagraph (b) of this Paragraph, monies in the fund shall be used for the provision of services and treatment administered by the Department of Children and Family Services, such as securing residential housing, health services, and social services, to sexually exploited children and adults. The department may also use the funds for grants or to provide services for sexually exploited children and adults.

(b) Subject to appropriation by the legislature and notwithstanding the provisions of Subparagraph (a) of this Paragraph, a portion of the monies in the fund, not to exceed fifty percent, may be used for the development of training programs relative to human trafficking and trafficking of children for sexual purposes and for the providing of law enforcement training programs administered by the Council of Peace Officer Standards and Training within the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice.

R.S. 15:539.3. Mandatory restitution

A. A person convicted of an offense enumerated in R.S. 15:539.1(A) shall be ordered to pay mandatory restitution to the victim, with the proceeds from property forfeited under R.S. 15:539.1 applied first to payment of restitution, after the costs of the public sale or auction, court costs, and fees related to seizure and storage have been satisfied. Restitution under this Section shall include any of the following:

(1) Costs of medical and psychological treatment.

(2) Costs of necessary transportation and temporary housing.

(3) The greater of the value of the victim's labor as guaranteed under the minimum wage and overtime provisions of the federal Fair Labor Standards Act or the gross income or value to the defendant of the victim's labor or services engaged in by the victim while in the human trafficking situation. In the case of sex trafficking, the victim shall be entitled to restitution for the income he would have earned, had he not been victimized, as guaranteed under the minimum wage and overtime provisions of the federal Fair Labor Standards Act.

(4) Return of property, cost of damage to property, or full value of property if destroyed or damaged beyond repair.

(5) Expenses incurred by the victim and any household members or other family members in relocating away from the defendant or the defendant's associates, including but not limited to deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. Expenses incurred pursuant to this Section shall be verified by law enforcement to be necessary for the personal safety of the victim or household or family members, or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

B. For purposes of this Section, the return of the victim to the victim's home country or other absence of the victim from the jurisdiction shall not prevent the victim from receiving restitution.

R.S. 15:539.4. Fines related to solicitation of prostitutes and purchase of commercial sexual activity

Notwithstanding the provisions of R.S. 15:571.11, when a fine is imposed pursuant to the provisions of R.S. 14:82.2(C) or 83(B)(1), (2), or (3), the sheriff or executive officer of the court shall distribute five hundred dollars or one-half of the fine, whichever is greater, pursuant to the provisions of R.S. 15:571.11 and the remainder of the fine shall be distributed as follows:

(1) Fifty percent of the proceeds from the imposition of the fine to the sheriff or law enforcement agency that made the arrest to be used for training officers in recognizing and the preventing of human trafficking.

(2) Fifty percent of the proceeds from the imposition of the fine to the district attorney, in furtherance of the administration of justice in the judicial district and to prevent future recidivism, to be paid to a program for victim services that counsels, treats, and helps victims of human trafficking or those who are charged or convicted of prostitution.

Chapter 3-b. Registration of Sex Offenders, Sexually Violent Predators, and Child Predators

R.S. 15:540. et seq. Registration of Sex Offenders, Sexually Violent Predators, and Child Predators

R.S. 15:540. Findings; purpose

A. The legislature finds that sex offenders, sexually violent predators, and child predators often pose a high risk of engaging in sex offenses, and crimes against victims who are minors even after being released from incarceration or commitment and that protection of the public from sex

offenders, sexually violent predators, and child predators is of paramount governmental interest. The legislature further finds that local law enforcement officers' efforts to protect their communities, conduct investigations, and quickly apprehend offenders who commit sex offenses and crimes against victims who are minors, are impaired by the lack of information available to law enforcement agencies about convicted sex offenders, sexually violent predators, and child predators who live within the agency's jurisdiction, and the penal and mental health components of our justice system are largely hidden from public view and that lack of information from either may result in failure of both systems to meet this paramount concern of public safety. Restrictive confidentiality and liability laws governing the release of information about sex offenders, sexually violent predators, and child predators have reduced willingness to release information that could be appropriately released under the public disclosure laws, and have increased risks to public safety. Persons found to have committed a sex offense or a crime against a victim who is a minor have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Release of information about sex offenders, sexually violent predators, and child predators to public agencies, and under limited circumstances to the general public, will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems so long as the information released is rationally related to the furtherance of those goals.

B. Therefore, this state's policy is to assist local law enforcement agencies' efforts to protect their communities by requiring sex offenders, sexually violent predators, and child predators to register with state and local law enforcement agencies and to require the exchange of relevant information about sex offenders, sexually violent predators, and child predators among state, local, and federal public agencies and officials and to authorize the release of necessary and relevant information about sex offenders, sexually violent predators, and child predators to members of the general public as provided in this Chapter.

R.S. 15:541. Definitions

For the purposes of this Chapter, the definitions of terms in this Section shall apply:

(1) “Administration of criminal justice” means performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The term also includes criminal identification activities, the collection, storage, and dissemination of criminal history record information, and the compensation of victims of crime.

(2) “Aggravated offense” means a conviction for the perpetration or attempted perpetration of, or conspiracy to commit, any of the following:

(a) (i) Aggravated rape (R.S. 14:42), which occurred prior to August 1, 2015, and which shall include convictions for the perpetration or attempted perpetration of, or conspiracy to commit, aggravated oral sexual battery (formerly R.S. 14:43.4, Repealed by Acts 2001, No. 301, § 2) occurring prior to August 15, 2001.

(ii) First degree rape (R.S. 14:42), which occurred on or after August 1, 2015.

(b) (i) Forcible rape (R.S. 14:42.1) which occurred prior to August 1, 2015.

(ii) Second degree rape (R.S. 14:42.1) which occurred on or after August 1, 2015.

(c) (i) Simple rape under the provisions of R.S. 14:43 and which occurred prior to August 1, 2015.

(ii) Third degree rape under the provisions of R.S. 14:43 which occurred on or after August 1, 2015.

(d) Sexual battery prosecuted under the provisions of R.S. 14:43.1(C)(2).

(e) Second degree sexual battery (R.S. 14:43.2)

(f) Aggravated kidnapping (R.S. 14:44) of a child who has not attained the age of eighteen years.

(g) Second degree kidnapping (R.S. 14:44.1) of a child who has not attained the age of eighteen years.
(h) Aggravated kidnapping of child (R.S. 14:44.2).

(i) Simple kidnapping (R.S. 14:45) of a child who has not attained the age of eighteen years.

(j) Aggravated crime against nature as defined by R.S. 14:89.1(A)(2) involving sexual intercourse, second degree sexual battery, oral sexual battery, or when prosecuted under the provisions of R.S. 14:89.1(C)(2).

(k) Crime against nature when prosecuted under the provisions of R.S. 14:89(B)(2) or (3).

(l) Molestation of a juvenile or a person with a physical or mental disability prosecuted under the provisions of R.S. 14:81.2(C)(1), (D)(1), or (D)(2).

(m) Aggravated crime against nature (R.S. 14:89.1(A)(1)).

(n) Sexual battery of persons with infirmities (R.S. 14:93.5).

(o) Trafficking of children for sexual purposes (R.S. 14:46.3).

(p) Human trafficking (R.S. 14:46.2) when the trafficking involves a person under the age of twenty-one years or when the services include commercial sexual activity or any sexual conduct constituting a crime under the laws of this state.

(q) Purchase of commercial sexual activity with a person under the age of eighteen years or with a victim of human trafficking (R.S. 14:82.2(C)(4) and (5)).

(r) Any offense under the laws of another state, or military, territorial, foreign, tribal, or federal law which is equivalent to the offenses listed in Subparagraphs (a) through (q) of this Paragraph.

(3) "Bureau" means the Louisiana Bureau of Criminal Identification and Information as established in Chapter 6 of this Title.

(4) "Chat room" means any Internet web site through which users have the ability to communicate via text and which allows messages to be visible to all other users or to a designated segment of all other users.

(5) "Child predator" means a person who has been convicted of a criminal offense against a victim who is a minor, as defined in Paragraph (12).

(6) "Child sexual predator" means a person defined as such in accordance with the provisions of R.S. 15:560.1.

(7) "Conviction" means any disposition of charges adverse to the defendant, including a plea of guilty, deferred adjudication, or adjudication withheld for the perpetration or attempted perpetration of or conspiracy to commit a "sex offense" or "criminal offense against a victim who is a minor" as those terms are defined by this Section. "Conviction" shall not include a decision not to prosecute, a dismissal, or an acquittal, except when the acquittal is due to a finding of not guilty by reason of insanity and the person was committed. A dismissal entered after a period of probation, suspension, or deferral of sentence shall be included in the definition of "conviction" for purposes of this Chapter.

(8) "Conviction record" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the subject.

(9) "Court determination" means a determination that a person is a sexually violent predator or a determination that a person is no longer a sexually violent predator that shall be made by the sentencing court after receiving a report by the commission.

(10) "Criminal history record information" means information contained in records collected by criminal justice agencies, other than courts, on individuals, consisting of identifiable descriptions

and notations of arrests, detention, indictments, information, or other formal criminal charges, and any disposition arising therefrom, including sentences, correctional supervision, and release. The term includes information contained in records maintained by or obtained from criminal justice agencies, other than courts, which records provide individual identification of a person together with any portion of the individual's record of involvement in the criminal justice system as an alleged or convicted offender, except:

(a) Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons.

(b) Original records of entry maintained by criminal justice agencies to the extent that such records are compiled and maintained chronologically and are accessible only on a chronological basis.

(c) Court indices and records of public judicial proceedings, court decisions, and opinions, and information disclosed during judicial proceedings.

(d) Records of traffic violations which are not punishable by a maximum term of imprisonment of more than ninety days.

(e) Records of any traffic offenses as maintained by the office of motor vehicles for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses.

(f) Records of any aviation violation or offenses as maintained by the Department of Transportation and Development for the purpose of regulating pilots or other aviation operators.

(g) Announcements of pardons.

(11) “Criminal justice agency” means:

(a) A court.

(b) A government agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

(12) “Criminal offense against a victim who is a minor” for the purposes of this Chapter means conviction for the perpetration or attempted perpetration of or conspiracy to commit any of the following offenses:

(a) A violation of R.S. 14:44, 44.1, 44.2, 45, 45.1, 46, or 46.1 when the victim is under eighteen years of age and the defendant is not the parent of the victim.

(b)(i) A violation of any of the following provisions when the victim is under eighteen years of age: R.S. 14:84(1), (3), (5), or (6), or 86, or R.S. 23:251(A)(4).

(ii) A violation of R.S. 14:46.2 when the victim is under twenty-one years of age.

(c) A violation of R.S. 14:83, 83.1, 83.2, or 282 when the prostitution involves persons under the age of eighteen years.

(d) A felony violation of R.S. 14:40.2, punishable by imprisonment at hard labor, when the victim is under the age of eighteen, unless either of the following are applicable:

(i) The defendant is the parent of the victim.

(ii) The defendant is not more than four years older than the victim and is convicted under Subparagraph R.S. 14:40.2(B)(1)(b).

(e) Any conviction for an offense under the laws of another state, or military, territorial, foreign, tribal, or federal law which is equivalent to the offenses listed in Subparagraphs (a) through (d) of this Paragraph.

(13) “Disposition” means the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system.

(14) “Dissemination” means disclosing criminal history record information or disclosing the absence of criminal history record information to any person or agency outside the agency possessing the information, subject to the following exceptions:

(a) When criminal justice agencies jointly participate in the maintenance of a single recordkeeping department as an alternative to maintaining separate records, the furnishing of information by that department to personnel of any participating agency.

(b) The furnishing of information by any criminal justice agency to another for the purpose of processing a matter through the criminal justice system, such as a police department providing information to a prosecutor for use in preparing a charge.

(c) The reporting of an event to a recordkeeping agency for the purpose of maintaining the record.

(15) “Instant message address” means an identifier that allows a person to communicate with another person using the Internet.

(16) “Institution of postsecondary education” means any public or private institution of postsecondary education in the state licensed by the Board of Regents under the provisions of R.S. 17:1808 or each proprietary school licensed by the Board of Regents under the provisions of R.S. 17:3141.4.

(17) “Interactive computer service” means any information service, system, or access software provider that offers users the capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information, including a service or system that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.

(18) “Mental abnormality” means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others. Nothing in this definition is intended to supersede or apply to the definitions found in R.S. 14:10 or R.S. 14:14 in reference to criminal intent or insanity.

(19) “Nonconviction data” consists of all criminal history record information relating to an incident which has not led to a conviction or other disposition adverse to the subject, and for which proceedings are no longer actively pending. There shall be a rebuttable presumption that proceedings are no longer actively pending if more than one year has elapsed since arrest, citation, or service of warrant and no disposition has been entered.

(20) “Online identifier” means any electronic e-mail address, instant message name, chat name, social networking name, or other similar Internet communication name.

(20.1) “Out-of-state offender” means any offender convicted or adjudicated in any court system, other than a court in this state, of any offense having elements equivalent to a “sex offense” or a “criminal offense against a victim who is a minor”, as defined in this Section.

(20.2) “Out-of-state offense” means any offense, as defined by the laws of any jurisdiction other than the state of Louisiana, the elements of which are comparable to a Louisiana “sex offense” or “criminal offense against a victim who is a minor”, as defined in this Section.

(21) “Predatory” means an act directed at a stranger or a person with whom a relationship has been established or promoted for the primary purpose of victimization.

(22) “Residence” means a dwelling where an offender regularly resides, regardless of the number of days or nights spent there. For those offenders who lack a fixed abode or dwelling, “residence” shall include the area or place where the offender habitually lives, including but not limited to a rural area with no address or a shelter.

(23) “School” includes any public or nonpublic school which the person attends, including but not limited to institutions of postsecondary education.
(24)(a) “Sex offense” means deferred adjudication, adjudication withheld, or conviction for the perpetration or attempted perpetration of or conspiracy to commit human trafficking when prosecuted under the provisions of R.S. 14:46.2(B)(2), R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:89 (crime against nature), R.S. 14:89.1 (aggravated crime against nature), R.S. 14:89.2(B)(3) (crime against nature by solicitation), R.S. 14:80 (felony carnal knowledge of a juvenile), R.S. 14:81 (indecent behavior with juveniles), R.S.14:81.1 (pornography involving juveniles), R.S. 14:81.2 (molestation of a juvenile or a person with a physical or mental disability), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:81.4 (prohibited sexual conduct between an educator and student), R.S. 14:82.1 (prostitution; persons under eighteen), R.S. 14:82.2(C)(4) and (5) (purchase of commercial sexual activity), R.S. 14:92(A)(7) (contributing to the delinquency of juveniles), R.S. 14:93.5 (sexual battery of persons with infirmities), R.S. 14:106(A)(5) (obscenity by solicitation of a person under the age of seventeen), R.S. 14:283 (video voyeurism), R.S. 14:41 (rape), R.S. 14:42 (aggravated or first degree rape), R.S. 14:42.1 (forcible or second degree rape), R.S. 14:43 (simple or third degree rape), R.S. 14:43.1 (sexual battery), R.S. 14:43.2 (second degree sexual battery), R.S. 14:43.3 (oral sexual battery), R.S. 14:43.5 (intentional exposure to AIDS virus), a second or subsequent conviction of R.S. 14:283.1 (voyeurism), or a second or subsequent conviction of R.S. 14:89.3 (sexual abuse of an animal), committed on or after June 18, 1992, or committed prior to June 18, 1992, if the person, as a result of the offense, is under the custody of the Department of Public Safety and Corrections on or after June 18, 1992. A conviction for any offense provided in this definition includes a conviction for the offense under the laws of another state, or military, territorial, foreign, tribal, or federal law which is equivalent to an offense provided for in this Chapter, 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 Chapter, “sex offense” shall include deferred adjudication, adjudication withheld, or conviction for the perpetration or attempted perpetration of or conspiracy to commit aggravated oral sexual battery (formerly R.S. 14:43.4, repealed by Acts 2001, No. 301, § 2) occurring prior to August 15, 2001.

(25) “Sexual offense against a victim who is a minor” means a conviction for the perpetration or attempted perpetration of, or conspiracy to commit, any of the following:

(a) Sexual battery (R.S. 14:43.1) when the victim is under the age of eighteen, except when prosecuted under the provisions of R.S. 14:43.1(C)(2).

(b) Oral sexual battery (R.S. 14:43.3).

(c) Aggravated crime against nature as defined by R.S. 14:89.1(A)(2) under the circumstances not listed as those which constitute an “aggravated offense” as defined in this Section.

(d) Pornography involving juveniles (R.S. 14:81.1).

(e) Molestation of a juvenile or a person with a physical or mental disability (R.S. 14:81.2), except when prosecuted under the provisions of R.S. 14:81.2(C)(1), (D)(1), or (D)(2).

(f) Computer-aided solicitation of a minor (R.S. 14:81.3).

(g) Prostitution; persons under eighteen (R.S. 14:82.1).

(h) Enticing minors into prostitution (R.S. 14:86).

(i) Pandering in violation of R.S. 14:84(1), (3), (5), and (6).

(j) Soliciting for prostitutes when the persons being solicited for prostitution are under the age of eighteen years (R.S. 14:83).

(k) Inciting prostitution when the prostitution involves persons under the age of eighteen years (R.S. 14:83.1).

(l) Promoting prostitution when the prostitution being promoted involves persons under the age of eighteen years (R.S. 14:83.2).

(m) Operation of places of prostitution when the prostitution involves persons under the age of eighteen years (R.S. 14:282).

(n) Crime against nature prosecuted under the provisions of R.S. 14:89 other than R.S. 14:89(B)(2) or (3) and the victim of the offense has not attained the age of eighteen.

(o) Any conviction for an offense under the laws of another state, or military, territorial, foreign, tribal, or federal law which is equivalent to the offenses listed in Subparagraphs (a) through (n) of this Paragraph.

(26) "Sexual predator commission", the commission, means an advisory panel containing not less than two nor more than three physicians who are licensed to practice medicine in Louisiana, who have been in the actual practice of medicine for not less than three consecutive years immediately preceding the appointment, and who are qualified by training or experience in forensic evaluations of sex offenders. The court may appoint, in lieu of one physician, a psychologist who is licensed to practice psychology in Louisiana, who has been engaged in the practice of clinical or counseling psychology for not less than three consecutive years immediately preceding the appointment, and who is qualified by training or experience in forensic evaluations of sex offenders. A list of qualified physicians and psychologists shall be provided to the court by the Department of Health and Hospitals.

(27) "Sexually violent predator" means a person who has been convicted of a sex offense as defined in Paragraph (24) of this Section and who has a mental abnormality or anti-social personality disorder that makes the person likely to engage in predatory sexually violent offenses as determined by the sentencing court upon receipt and review of relevant information including the recommendation of the sexual predator commission as defined in Paragraph (26) of this Section.

(28) "Social networking web site" means an Internet web site that:

(a) Allows users to create web pages or profiles about themselves that are available publicly or available to other users; or

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

(29) "Student at an institution of postsecondary education" means a person who is enrolled in and attends, on a full-time or part-time basis, any course of academic or vocational instruction conducted at an institution of postsecondary education.

(30)(a) "Worker" or "employee" means a person who engages in or who knows or reasonably should know that he will engage in any type of occupation, employment, work, or volunteer service on a full-time or part-time basis, with or without compensation, within this state for more than seven consecutive days, or an aggregate of thirty days or more in a calendar year.

(b) The term includes but is not limited to:

(i) A person who is self-employed.

(ii) An employee or independent contractor.

(iii) A paid or unpaid intern, extern, aide, assistant, or volunteer.

R.S. 15:541.1. Posting of the National Human Trafficking Resource Center hotline; content; languages; notice; civil penalty

A. All of the following establishments shall be required to post information regarding the National Human Trafficking Resource Center hotline:

(1) Every massage parlor, spa, or hotel that has been found to be a public nuisance for prostitution as set forth in R.S. 13:4711.

(2) Every strip club or other sexually-oriented business as set forth in R.S. 37:3558(C).

(3) (a) Every full-service fuel facility adjacent to an interstate highway.

(b) Every highway rest stop.

(4) Every outpatient abortion facility as defined by R.S. 40:2175.3.

(5)(a) Every hotel as defined in this Paragraph. Each hotel shall post the information in the same location where other employee notices required by state or federal law are posted.

(b) For purposes of this Paragraph, "hotel" shall mean and include any establishment, both public and private, engaged in the business of furnishing or providing rooms and overnight camping facilities intended or designed for dwelling, lodging, or sleeping purposes to transient guests and does not encompass any hospital, convalescent or nursing home or sanitarium, or any hotel-like facility operated by or in connection with a hospital or medical clinic providing rooms exclusively for patients and their families.

(c) For purposes of this Paragraph, "hotel" shall not include bed and breakfasts or camp and retreat facilities owned and operated by nonprofit organizations exempt from federal income tax under Section 501(a) of the Internal Revenue Code as an organization described in Section 501(c)(3) of the Internal Revenue Code provided that the net revenue derived from the organization's property is devoted wholly to the nonprofit organization's purposes.

(d) For purposes of this Paragraph, "bed and breakfast" shall mean a lodging facility having no more than ten guest rooms where transient guests are fed and lodged for pay.

(6) Every airport as defined in R.S. 2:1(9) and by the Federal Aviation Administration, including private-use airports. Each airport shall post the information in the same location where other employee notices required by state or federal law are posted.

(7) Every bus terminal or station or railroad passenger station, including terminals or stations that are privately owned or owned by the state or a local governing authority. Each bus station or terminal or railroad passenger station shall post the information in the same location where other employee notices required by state or federal law are posted.

B. (1)(a) Such posting shall be no smaller than eight and one-half inches by eleven inches and shall contain the following wording in bold typed print of not less than fourteen-point font:
"If you or someone you know is being forced to engage in any activity and cannot leave, whether it is commercial sex, housework, farm work, or any other activity, call the National Human Trafficking Resource Center hotline at 1-888-373-7888 or text "Help" to 233733 (Be Free) in order to access help and services."

(b) Such posting shall also comply with any other requirements established by regulations promulgated by the commissioner of the office of alcohol and tobacco control in accordance with the Administrative Procedure Act.

(2) The language in the posting shall be printed in English, Louisiana French, Spanish, and any other languages that the commissioner of alcohol and tobacco control shall require.

C. The following departments of the state shall provide each establishment described in Subsection A of this Section over which that department exercises any regulatory control or authority with the notice required by this Section. The departments shall post on their websites a sample of the

posting described in Subsection B of this Section which shall be accessible for download. The departments are as follows:

(1) Department of Revenue and the office of alcohol and tobacco control.
(2) Department of Transportation and Development.
(3) The Department of Health and Hospitals.
D. (1) In addition to the posting required in Subsection B of this Section, beginning on January 1, 2020, each establishment listed in Subsection A of this Section shall affix a flyer to the inside of the door to each bathroom stall at the establishment.

(2) The flyer shall be designed by the Greater New Orleans Human Trafficking Task Force, with the approval of the commissioner of the office of alcohol and tobacco control, and shall be no larger than eight and one-half inches by eleven inches.

(3) No later than December 1, 2019, the Greater New Orleans Human Trafficking Task Force shall transfer the flyer in an electronic format to the commissioner for posting on the website for the office of alcohol and tobacco.

E. A civil penalty in accordance with R.S. 26:96(A) may be assessed for each violation of this Section. The departments listed in Subsection C of this Section or any law enforcement agency with jurisdiction are charged with the enforcement of this Section.

R.S. 15:542. Registration of sex offenders and child predators

A. The following persons shall be required to register and provide notification as a sex offender or child predator in accordance with the provisions of this Chapter:

(1) Any adult residing in this state who has pled guilty to, has been convicted of, or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of, or any conspiracy to commit either of the following:

(a) A sex offense as defined in R.S. 15:541, with the exception of those convicted of felony carnal knowledge of a juvenile as provided in Subsection F of this Section;

(b) A criminal offense against a victim who is a minor as defined in R.S. 15:541;

(2) Any juvenile who has pled guilty or has been convicted of a sex offense or second degree kidnapping as provided for in Children's Code Article 305 or 857, with the exception of simple or third degree rape but including any conviction for an offense under the laws of another state, or military, territorial, foreign, tribal, or federal law which is equivalent to the offenses listed herein for which a juvenile would have to register.

(3) Any juvenile, who has attained the age of fourteen years at the time of commission of the offense, who has been adjudicated delinquent based upon the perpetration, attempted perpetration, or conspiracy to commit any of the following offenses:

(a) Aggravated or first degree rape (R.S. 14:42), which shall include those that have been adjudicated delinquent based upon the perpetration, attempted perpetration, or conspiracy to commit aggravated oral sexual battery (formerly R.S. 14:43.4, Repealed by Acts 2001, No. 301, § 2) occurring prior to August 15, 2001.

(b) Forcible or second degree rape (R.S. 14:42.1).

(c) Second degree sexual battery (R.S. 14:43.2).

(d) Aggravated kidnapping of a child who has not attained the age of thirteen years (R.S. 14:44).

(e) Second degree kidnapping of a child who has not attained the age of thirteen years (R.S. 14:44.1).

(f) Aggravated crime against nature as defined by R.S. 14:89.1(A)(2) involving circumstances defined by R.S. 15:541 as an “aggravated offense”.

(g) Aggravated crime against nature (R.S. 14:89.1(A)(1)).

(h) An offense under the laws of another state, or military, territorial, foreign, tribal, or federal law which is equivalent to the offenses listed in Subparagraphs (a) through (g) of this Paragraph.

B. (1) The persons listed in Subsection A of this Section shall register in person with the sheriff of the parish of the person's residence, or residences, if there is more than one, and with the chief of police if the address of any of the person's residences is located in an incorporated area which has a police department. If the offender resides in a municipality with a population in excess of three hundred thousand persons, he shall register in person with the police department of his municipality of residence.

(2) The offender shall also register in person with the sheriff of the parish or parishes where the offender is an employee and with the sheriff of the parish or parishes where the offender attends school. If the offender is employed or attends school in a municipality with a population in excess of three hundred thousand persons, then he shall register only, pursuant to this Paragraph, with the police department of the municipality where he is employed or attends school. The offender shall also register in the parish of conviction for the initial registration only. No registration in the parish of conviction is necessary if the offender is incarcerated at the time of conviction or immediately taken into custody by law enforcement after the conviction.

(3) If the sex offender is a student at an institution of postsecondary education in this state, the sex offender shall also register with the campus law enforcement agency of the institution at least one business day prior to the beginning of the school term or semester.

C. (1) The offender shall register and provide all of the following information to the appropriate law enforcement agencies listed in Subsection B of this Section in accordance with the time periods provided for in this Subsection:

(a) Name and any aliases used by the offender.

(b) Physical address or addresses of residence.

(c) Name and physical address of place of employment. If the offender does not have a fixed place of employment, the offender shall provide information with as much specificity as possible regarding the places where he works, including but not limited to travel routes used by the offender.

(d) Name and physical address of the school in which he is a student.

(e) Two forms of proof of residence for each residential address provided, including but not limited to a driver's license, bill for utility service, and bill for telephone service. If those forms of proof of residence are not available, the offender may provide an affidavit of an adult resident living at the same address. The affidavit shall certify that the affiant understands his obligation to provide written notice pursuant to R.S. 15:542.1.4 to the appropriate law enforcement agency with whom the offender last registered when the offender no longer resides at the residence provided in the affidavit.

(f) The crime for which he was convicted and the date and place of such conviction, and if known by the offender, the court in which the conviction was obtained, the docket number of the case, the specific statute under which he was convicted, and the sentence imposed.

(g) A current photograph.

(h) Fingerprints, palm prints, and a DNA sample.

(i) Telephone numbers, including fixed location phone and mobile phone numbers assigned to the offender or associated with any residence address of the offender.

(j) A description of every motorized vehicle registered to or operated by the offender, including license plate number and vehicle identification number, and a copy of the offender's driver's license and identification card. This information shall be provided prior to the offender's operation of the vehicle.

(k) Social security number and date of birth.

(l) A description of the physical characteristics of the offender, including but not limited to sex, race, hair color, eye color, height, age, weight, scars, tattoos, or other identifying marks on the body of the offender.

(m) Every e-mail address, online screen name, or other online identifiers used by the offender to communicate on the internet. If the offender uses a static internet protocol address, that address shall also be provided to the appropriate law enforcement agency. Required notice must be given before any online identifier or static internet protocol address is used to communicate on the internet. For purposes of this Subparagraph, “static internet protocol address” is a numerical label assigned to a computer by an internet service provider to be the computer's permanent address on the internet.

(n)(i) Temporary lodging information regarding any place where the offender plans to stay for seven or more days. This information shall be provided at least three days prior to the date of departure unless an emergency situation has prevented the timely disclosure of the information.

(ii) Temporary lodging information regarding international travel shall be provided regardless of the number of days or nights the offender plans to stay. This information shall be provided at least twenty-one days prior to the date of departure unless an emergency situation has prevented the timely disclosure of the information. Upon receipt of this information by the bureau from the law enforcement agency pursuant to Subsection E of this Section, this information shall then be sent by the bureau to the United States Marshals Service's National Sex Offender Targeting Center for transmission to the proper authorities.

(o) Travel and immigration documents, including but not limited to passports and documents establishing immigration status.

(2) Unless an earlier time period is specified in the provisions of Paragraph (1) of this Subsection, every offender required to register in accordance with this Section shall appear in person and provide the information required by Paragraph (1) of this Subsection to the appropriate law enforcement agencies within three business days of establishing residence in Louisiana. If the offender is a current resident of Louisiana and is not immediately taken into custody or incarcerated after conviction or adjudication, he shall provide the information on the date of conviction to the sheriffs of the parish where the offender was convicted or adjudicated and shall, within three business days after conviction or adjudication, provide the information to the sheriff of the parishes of the offender's residence, employment, and school. If incarcerated immediately after conviction or placed in a secure facility immediately after adjudication, the information required by Paragraph (1) of this Subsection shall be provided to the secretary of the Department of Public Safety and Corrections, or his designee, or the deputy secretary for youth services, or his designee, whichever has custody of the offender, within ten days prior to release from confinement. Once released from confinement, every offender shall appear in person within three business days to register with the appropriate law enforcement agencies pursuant to the provision of this Section. The offender shall register with the sheriff of the parish in which the residence address he initially supplied to the Department of Public Safety and Corrections is located, unless his residence address has changed and he has registered with the sheriff of the parish in which his new residence address is located.

(3) Knowingly providing false information to any law enforcement officer, office, or agency required to receive registration information pursuant to the provisions of this Chapter shall constitute a failure to register pursuant to R.S. 15:542.1.4(A)(1).

D. The offender shall pay to the appropriate law enforcement agencies with whom he is required to register, except for the campus law enforcement agency of an institution of postsecondary education, an annual registration fee of sixty dollars to defray the costs of maintaining the record of the offender. The payment of such a fee shall be made in accordance with any rule regarding indigency adopted by the judges of the judicial district court in the jurisdiction or as determined by criteria established by the Department of Public Safety and Corrections. The offender shall pay such fee upon the initial registration and on the anniversary thereof. Failure by the offender to pay the fee within thirty days of initial registration shall constitute a failure to register and shall subject

the offender to prosecution under the provisions of R.S. 15:542.1.4(A)(3). The offender shall not be prevented from registering in accordance with this Section for failure to pay the annual registration fee.
E. Upon receipt of the registration information as required by the provisions of this Section, the law enforcement agency shall immediately forward such information to the bureau electronically.

F. (1) Except as provided in Paragraphs (2) and (3) of this Subsection, the sex offender registration and notification requirements required by this Chapter are mandatory and shall not be waived or suspended by any court. Any order waiving or suspending sex offender registration and notification requirements shall be null, void, and of no effect. Any order waiving or suspending registration and notification requirements shall not be construed to invalidate an otherwise valid conviction.

(2) Upon joint written motion by the district attorney and the petitioner, the court of conviction may waive sex offender registration and notification requirements imposed by the provisions of this Chapter for a person convicted of felony carnal knowledge of a juvenile (R.S. 14:80) on, before, or after January 1, 2008, when the victim is at least thirteen years of age and the offender was not more than four years older than the victim at the time of the commission of the offense. Relief shall not be granted unless the motion is accompanied by supporting documentary proof of the age of the victim and the age of the perpetrator at the time of commission of the offense. If the court of conviction was not a Louisiana district court, this joint motion may be brought in the district court of the parish of the offender's residence after the bureau has made the determination, pursuant to the provisions of R.S. 15:542.1.3, on the grounds that the elements of the offense of conviction are equivalent to the elements of R.S. 14:80. The court may grant the motion upon clear and convincing evidence that the ages of the victim and offender at the time of commission of the offense were within the limitations provided in this Section.

(3)(a) Any person who was convicted of carnal knowledge of a juvenile (R.S. 14:80) prior to August 15, 2001, may petition the court of conviction to be relieved of the sex offender registration and notification requirements of this Chapter if the offense for which the offender was convicted would be defined as misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1) had the offender been convicted on or after August 15, 2001. Offenders convicted of an offense under the laws of another state, or military, territorial, foreign, tribal, or federal law may petition the district court of his parish of residence once the administrative procedures of R.S. 15:542.1.3 have been exhausted, and the elements of the offense of conviction have been found to be equivalent to the current definition of misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1).

(b) The following procedures shall apply to the provisions of this Paragraph:

(i) The petition shall be accompanied with supporting documentation to establish that the age of the perpetrator and the victim at the time the offense was committed are within the parameters set forth in R.S. 14:80.1.

(ii) The district attorney shall be served with a copy of the petition.

(iii) The court shall order a contradictory hearing to determine whether the offender is entitled to be relieved of the registration and notification requirements pursuant to the provisions of this Paragraph.

(c) The provisions of this Paragraph shall not apply to any person who was convicted of more than one offense which requires registration pursuant to the provisions of this Chapter.

(4)(a) Any person who was convicted of crime against nature (R.S. 14:89) prior to August 15, 2010, or the district attorney in the parish where the offender was convicted, may file a motion in the court of conviction to relieve the offender of the sex offender registration and notification requirements of this Chapter if the offense for which the offender was convicted would be defined as crime against nature by solicitation (R.S. 14:89.2) had the offender been convicted on or after August 15, 2010. Offenders convicted of an offense under the laws of another state, or military, territorial, foreign, tribal, or federal law may file a motion in the district court of his parish of residence once the administrative procedures of R.S. 15:542.1.3 have been exhausted, and the elements of the offense of conviction have been found to be equivalent to the current definition of crime against nature by solicitation (R.S. 14:89.2). The provisions of this Subparagraph shall not

apply to persons whose conviction for crime against nature pursuant to R.S. 14:89 involved the solicitation of a person under the age of seventeen and would authorize sentencing of the offender pursuant to R.S. 14:89.2(B)(3), had the offender been convicted on or after August 15, 2010.
(b) The motion shall be accompanied by supporting documentation to establish that the person was convicted of crime against nature prior to August 15, 2010, and that the offense for which the offender was convicted would be defined as crime against nature by solicitation (R.S. 14:89.2) had the offender been convicted on or after August 15, 2010. If the motion is filed by the offender and the district attorney objects, the district attorney shall have the burden of proof by use of an affidavit that the person being solicited was under the age of seventeen. If the motion is filed by the district attorney, an affidavit establishing that the facts of the case and the underlying conviction meet these requirements shall be deemed sufficient for the granting of relief.

(c) If the offender files a motion pursuant to the provisions of this Paragraph, the district attorney, office of state police, and the Department of Justice, shall be served with a copy of the motion and any order granting relief. If the district attorney files a motion pursuant to the provisions of this Paragraph, the office of state police and the Department of Justice shall be served with a copy of the motion and any order granting relief.

(d) If the supporting documentation described in Subparagraph (b) of this Paragraph is provided and meets the requirements of Subparagraph (4)(b), relief shall be granted unless the district attorney objects and provides supporting documentation proving that the offense for which the person was convicted, and which requires registration and notification pursuant to the provisions of this Chapter, involved the solicitation of a person under the age of seventeen.

(e) If the district attorney proves by clear and convincing evidence that the conviction for crime against nature pursuant to R.S. 14:89 involved the solicitation of a person under the age of seventeen, the court shall deny the motion to be relieved of the sex offender registration and notification requirements as provided by the provisions of this Paragraph.

(f) The provisions of this Paragraph shall not apply to any person who was convicted of one or more offenses which otherwise require registration pursuant to the provisions of this Chapter.

R.S. 15:542.1. Notification of sex offenders and child predators

A. Any adult residing in this state who has pled guilty to, has been convicted of, or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of, or conspiracy to commit, a sex offense as defined in R.S. 15:541 or a criminal offense against a minor as defined in R.S. 15:541 shall be required to provide the following notifications:

(1) Give notice of the crime for which he was convicted, his name, residential address, a description of his physical characteristics as provided in R.S. 15:542(C)(1), and a photograph or copy thereof to all of the following:

(a) At least one person in every residence or business within a one-mile radius in a rural area and a three-tenths of a mile radius in an urban or suburban area of the address of the residence where the offender will reside upon release, including all adults residing in the residence of the offender.

(b)(i) The superintendent of the school district where the offender will reside, who shall notify the principal of every school located within a one-mile radius of the address where the offender will reside and may notify the principals of other schools as he deems appropriate. The notice sent by the superintendent shall be accompanied by two clear, recent photographs, or a clear photocopy thereof, of the offender. The photographs, which shall be provided by the offender, shall be taken after release and within sufficient time to accompany the notification which is required under the provisions of this Chapter. The principal of any such school, upon receipt of the notification from the superintendent pursuant to the provisions of this Subparagraph, shall post notices at the school, in conspicuous areas accessible by all students attending the school, which contain a photograph of the offender and which state the offender's name, address, and a statement on the notice, commensurate with the education level of the school, which in the discretion of the principal, appropriately notifies the students of the potential danger of the offender.

(ii) Failure of the superintendent or principal to comply with the provisions of this Subparagraph shall not be construed to impose civil liability on any person.

(c) The lessor, landlord, or owner of the residence or the property on which he resides.

(d) The superintendent of any park, playground, or recreation districts within the designated area where the offender will reside, who shall notify the custodians of the parks, playgrounds, and recreational facilities in the designated area and may notify the custodians of other parks, playgrounds, and recreational facilities as he deems appropriate. The custodian of any such park, playground, and recreational facility, upon receipt of the notification, shall post notices in conspicuous areas at the park, playground, or recreational facility which state the offender's name, address, and the crime for which he was convicted. Failure of the superintendent or custodian to comply with the provisions of this Subparagraph shall not be construed to impose civil liability on any person. The notice sent by the superintendent shall be accompanied by two clear, recent photographs, or a clear photocopy thereof, of the offender. The photographs, which shall be provided by the offender, shall be taken after release and within sufficient time to accompany the notification which is required under the provisions of this Chapter.

(e) Notwithstanding the provisions of Paragraph (1) of this Subsection, persons convicted of R.S. 14:89 shall not be required to furnish a photograph as required by that Paragraph.

(2)(a) Give notice of the crime for which he was convicted, his name, jurisdiction of conviction, a description of his physical characteristics as required by this Section, and his physical address by mail to all people residing within the designated area within twenty-one days of the date of conviction, if the offender is not taken into custody at the time of conviction, or within twenty-one days of the date of release from confinement or within twenty-one days of establishing residency in the locale where the offender plans to have his domicile, and the notice shall be published on two separate days within the applicable period provided for herein, without cost to the state, in the official journal of the governing authority of the parish where the defendant plans to reside and, if ordered by the sheriff or police department or required by local ordinance, in a newspaper which meets the requirements of R.S. 43:140(3) for qualification as an official journal and which has a larger or smaller circulation in the parish than the official journal. The notice provided to the official journal or other designated newspaper pursuant to this Subparagraph shall also include a recent photograph of the offender or a clear photocopy of a recent photograph of the offender.

(b) Those persons required to provide community notification pursuant to the provisions of this Section shall provide such community notification every five years from the date of the previous notification.

(c) The sheriff or police department may order that the notice be published in a newspaper which meets the requirements of R.S. 43:140(3) for qualification as an official journal and which has a larger circulation in the parish than the official journal.

(d) Notwithstanding the provisions of Subparagraphs (a) and (b) of this Paragraph, persons convicted of R.S. 14:92(A)(7) shall not be required to publish notice of the crime for which they were convicted in the official journal or any newspaper required by those Subparagraphs.

(3) Give any other notice deemed appropriate by the court in which the defendant was convicted of the offense that subjects him to the duty to register, including but not limited to signs, handbills, bumper stickers, or clothing labeled to that effect.

(4) State under oath, at the time of sentencing, where he will reside after sentencing or release.

(5) Post the number of his physical address in a conspicuous place on the outside of his residence. The posted number shall be prominently displayed and shall be of a sufficient size and legibility such that it will be visible to an ordinarily observant person approaching the residence during the daylight hours.

B. (1) Any person required to register pursuant to R.S. 15:542 who provides recreational instruction to persons under the age of seventeen years shall post a notice in the building or facility where such instruction is being given. This notice shall contain the name and photograph of the sex offender, the date and jurisdiction of conviction, and the crime for which he was convicted. Such notification shall be prominently displayed and shall be of sufficient size to alert persons entering such building or facility that the recreational instructor is a convicted sex offender.

(2) For purposes of this Subsection, “recreational instruction” refers to instruction or lessons on noneducational activities, including but not limited to martial arts, dancing, theater, and music.
C. Any juvenile required to register in accordance with the provisions of this Chapter shall be exempt from any notification requirements of this Section except for the notification required by the provisions of Subsection B of this Section.

D. (1) Any person who is required to register pursuant to the provisions of this Chapter, who is otherwise not prohibited from using a networking website, and who creates a profile or who uses the functionality of a networking website to contact or attempt to contact other networking website users shall include in his profile for the networking website an indication that he is a sex offender or child predator and shall include notice of the crime for which he was convicted, the jurisdiction of conviction, a description of his physical characteristics as required by this Section, and his residential address. The person shall ensure that this information is displayed in his profile for the networking website and that such information is visible to, or is able to be viewed by, other users and visitors of the networking website.

(2)(a) For purposes of this Subsection, “networking website” means an Internet website, the purpose of which is social interaction with other networking website users, which contains profile web pages of the members of the website that include the names or nicknames of such members, that allows photographs and any other personal or personally identifying information to be placed on the profile web pages by such members, and which provides links to other profile web pages on the networking website of friends or associates of such members that can be accessed by other members or visitors to the website. A networking website provides members of, or visitors to, such website the ability to leave messages or comments on the profile web page that are visible to all or some visitors to the profile web page and may also include a form of electronic mail for members of the networking website.

(b) For purposes of this Subsection, “networking website” shall not include any of the following:

(i) An Internet website the primary purpose of which is the facilitation of commercial transactions involving goods or services between its members or visitors.

(ii) An Internet website the primary purpose of which is the dissemination of news.

(iii) An Internet website of a governmental entity.

R.S. 15:542.1.1. In-person periodic renewal of registration by offenders

A. (1) Any person convicted of an aggravated offense as defined in R.S. 15:541 or any person with a prior conviction or adjudication for an offense which requires registration pursuant to this Chapter, regardless of whether or not the prior offense required registration at the time of commission or conviction, who is subsequently convicted of or adjudicated for an offense which requires registration pursuant to the provisions of this Chapter, shall renew and update his registration required by R.S. 15:542 in person every three months from the date of initial registration.

(2) Any person convicted of a sexual offense against a victim who is a minor as defined in R.S. 15:541 shall renew and update his registration required by R.S. 15:542 in person every six months from the date of initial registration.

(3) Any other person subject to registration as provided in R.S. 15:542 shall update his registration in person annually from the date of initial registration.

(4)(a) Notwithstanding any other provision of this Section, any person required to register as a sex offender or child predator pursuant to the provisions of this Chapter who does not have a fixed place of residence, or who is homeless, shall renew and update his registration with the sheriff of the parish in which he is homeless, or is living without a fixed residence, in person every fourteen days from the date on which the offender initially appeared to register with the sheriff of that parish pursuant to the provisions of this Chapter. If the offender regularly resides homeless, or without a fixed place of residence, in more than one parish, he shall register with the sheriff of each parish in which he regularly resides and shall renew and update his registration every fourteen days with

each sheriff of those parishes. If an offender no longer plans to reside without a fixed residence in a particular parish, he shall give notice, in person, to the sheriff of the parish in which he intends to no longer reside. Failure to update or to give notice of change of residence pursuant to the provisions of this Paragraph shall be a violation of R.S. 15:542.1.4.

(b) For purposes of this Section, the "parish of residence" for such offenders shall be the parish in which the offender is living homeless or without a fixed residence address.

B. (1) Each periodic renewal shall occur with the sheriff of the parish of residence or residences of the offender. Such periodic registration renewals shall continue for the period of registration required by the provisions of R.S. 15:544. The sheriff of the parish of residence shall immediately forward the information obtained through the periodic renewals to each law enforcement agency as provided in R.S. 15:542(B) and to the bureau for inclusion in the State Sex Offender and Child Predator Registry. The sheriff shall also comply with the requirements in R.S. 15:543(B) at least annually with each offender.

(2) Notwithstanding the in-person periodic renewals with the sheriff required by the provisions of this Subsection, any offender who lives within the jurisdiction of a municipality with a police department shall appear in person annually on the anniversary of his registration period start date at the police department in his municipality of residence to update his registration and pay the annual registration fee as provided in R.S. 15:542 (D).

R.S. 15:542.1.2. Duty of offenders to notify law enforcement of change of address, residence, or other registration information

A. Unless an earlier time period is otherwise specified in the provisions of this Chapter, those persons required to register pursuant to the provisions of this Chapter shall appear in person at the sheriff's office in the parish of residence, or the police department in the case of a municipality with a population in excess of three hundred thousand, where the offender is currently registered to update information within three business days of establishing a new or additional physical residential address or of changes in information previously provided when any of the following occur:

(1) The offender changes his place of residence or establishes a new or additional residence.

(2) The offender has vacated his current address of registration with the intent not to return.

(3) The offender has been absent from his current address of registration for more than thirty consecutive days or an aggregate of thirty days or more per calendar year and is physically present at another address during that same time period.

(4) The offender has a change in name, place of employment, or any information previously provided pursuant to R.S. 15:542(C).

B. If the new or additional residence is located in a different parish than where the offender was previously registered, then he shall appear in person with the sheriff of the parish of the new or additional residence to register within the same time period established in Subsection A.

C. (1) Any person required to register in accordance with the provisions of this Chapter shall also be required to send a written notice of change of address or other information to the law enforcement agency with whom he was previously registered within three business days of establishing a new or additional residence.

(2) Upon receipt of a notice of change of address or updated information, the sheriff shall forward such information immediately to each law enforcement agency with which the offender is required to register pursuant to R.S. 15:542(A) and to the bureau.

D. The notice of change of address required by this Section shall include proof of residence as required by R.S. 15:542(C).

E. (1) Any person who is required to appear in person to give notice of a new address in accordance with the provisions of Subsection A of this Section shall also be required to provide new notification based upon the new address as provided for in R.S. 15:542.1, as applicable.

(2) Any sex offender who fails to provide change of address or other information as provided in this Section shall be subject to criminal prosecution as provided in R.S. 15:542.1.4.

F. (1) The offender shall appear in person at the sheriff's office in the parish of residence at least three days prior to establishing temporary lodging to provide temporary lodging information regarding any place where the offender plans to stay for seven consecutive days or more.

(2) If the location of the temporary lodging is outside of the boundaries of the parish of registration, then the sheriff shall notify the sheriff of the parish of temporary lodging. If the location of the temporary lodging is out of state, then the sheriff shall notify the bureau.

R.S. 15:542.1.4. Failure to register and notify as a sex offender or child predator; penalties

A. (1) A person who fails to timely register, fails to timely provide any information required by the provisions of this Chapter, fails to timely and periodically renew and update registration as required by the provisions of this Chapter, fails to timely provide proof of residence, fails to timely provide notification of change of address or other registration information, or fails to provide community notification as required by the provisions of this Chapter, and a person who knowingly provides false information as provided in R.S. 15:542(C)(3), shall, upon first conviction, be fined not more than one thousand dollars and imprisoned with hard labor for not less than two years nor more than ten years without benefit of parole, probation, or suspension of sentence.

(2) Upon second or subsequent convictions, the offender shall be fined three thousand dollars and imprisoned with hard labor for not less than five years nor more than twenty years without benefit of parole, probation, or suspension of sentence.

(3) An offender who fails to pay the annual registration fee in accordance with the provisions of R.S. 15:542 shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both. Upon a second or subsequent conviction for the failure to pay the annual registration fee, the offender shall be punished in accordance with the provisions of Paragraphs (1) and (2) of this Subsection.

B. (1) Any person who certifies by affidavit the location of the residence of the offender shall send written notice to the appropriate law enforcement agency with whom the person last registered when the offender no longer resides at the residence provided in the affidavit. This notification shall be made any time the sex offender is absent from the residence for a period of thirty days or more, or the offender vacates the residence with the intent to establish a new residence at another location. This notification shall be sent within three days of the end of the thirty-day period or within three days of the offender vacating the residence with the requisite intent.

(2) Any person who fails to provide the notice required by this Subsection shall be fined not more than five hundred dollars or imprisoned for not more than six months, with or without hard labor, or both.

C. (1) Any person who either fails to meet the requirements of R.S. 32: 412(I) or R.S. 40:1321(J), who is in possession of any document required by R.S. 32:412(I) or R.S. 40:1321(J) that has been altered with the intent to defraud, or who is in possession of a counterfeit of any document required by R.S. 32:412(I) or R.S. 40:1321(J), shall, on a first conviction, be fined not more than one thousand dollars and imprisoned at hard labor for not less than two years nor more than ten years without benefit of parole, probation, or suspension of sentence.

(2) Upon a second or subsequent conviction for a violation of the provisions of this Subsection, the offender shall be fined three thousand dollars and imprisoned at hard labor for not less than five years nor more than twenty years without benefit of parole, probation, or suspension of sentence.

R.S. 15:542.1.5. State Sex Offender and Child Predator Registry; duties of the Louisiana Bureau of Criminal Identification and Information

A. (1) The Louisiana Bureau of Criminal Identification and Information shall develop and maintain the central registry known as the State Sex Offender and Child Predator Registry. The registry shall contain the information transmitted to the bureau pursuant to the provisions of this Chapter and shall be developed and maintained in accordance with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006[1] and any federal guidelines adopted pursuant thereto. Upon receipt of the registration and information of any person subject to the provisions of this Chapter, including juveniles required to register, the bureau shall immediately enter the appropriate information in the public registry. The bureau shall accept electronically submitted information and registration renewal information from law enforcement.

(2)(a) The bureau shall provide for public access to the information contained in the registry, including Internet-based access, which shall have field-search capabilities which comply with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any federal guidelines adopted pursuant thereto.

(b) Notwithstanding the provisions of Subparagraph (2)(a) of this Subsection, the following information shall be exempt from public access as well as any other mandatory exemptions which are required by the federal Adam Walsh Child Protection and Safety Act of 2006 and any federal guidelines adopted pursuant thereto:

(i) Social security numbers.

(ii) Names of the victims of the offenses requiring registration.

(iii) Any information with regard to arrests that did not result in convictions.

(iv) Telephone numbers, subject to the provisions of Subparagraphs (b) and (c) of this Paragraph.

(v) Travel and immigration documents.

(vi) E-mail addresses, online screen names, or other online identities used by offenders to communicate on the internet, subject to the provisions of Subparagraphs (b) and (c) of this Paragraph.

(c) Notwithstanding the provisions of Subparagraph (2)(b) of this Subsection which provides for exemptions to public access of telephone numbers, e-mail addresses, online screen names, or other online identities, the registry shall contain the ability to search by telephone numbers, e-mail addresses, online screen names, or other online identities to provide information to the person conducting the search regarding whether or not that information has been linked to a sex offender or child predator. This search shall not disclose the name or any other identifying information about the offender to the person conducting the search, except to identify that the information has been linked to a sex offender or child predator.

(d) Notwithstanding the provisions of Subparagraphs (2)(b) and (c) of this Subsection, the bureau shall, upon request by any person or entity in a manner prescribed by the bureau, provide a list of telephone numbers, e-mail addresses, online screen names, static internet protocol addresses, or other online identities of persons in the State Sex Offender and Child Predator Registry for the purpose of identifying and monitoring a registered user associated with the telephone number, e-mail address, online screen name, static internet protocol address, or other online identity. The information provided to the person or entity shall not disclose the name or other identifying information of the sex offender that is associated with, or who is using, any of the telephone numbers, e-mail addresses, online screen names, static internet protocol addresses, or other online identities in the provided list.

B. The bureau shall develop and maintain the registry as to provide for automatic e-mail notifications at the time in which an offender begins residence, employment, or school attendance within a certain geographic radius or zip code. This function of the registry shall allow members of the public and organizations to request automatic e-mail notifications to be sent to an e-mail

address provided by the requestor for a certain geographic radius or zip code specified by the requestor.

C. The bureau shall participate in the Dru Sjodin National Sex Offender Registry in accordance with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any federal guidelines adopted pursuant thereto.

D. (1) Immediately upon entry of the required information into the registry, the bureau shall notify the sheriff of the parish in which the offender's address of residence is located, and the chief of police if the address is located in an incorporated area which has a police department. Additionally, the bureau shall notify the sheriff of the parish in which the offender is employed or attends school.

(2) Immediately upon entry of the required information into the registry, the bureau shall transmit to the Federal Bureau of Investigation the conviction data and fingerprints of the offender registered.

(3) Immediately upon entry of information that a person required to register under this Section is enrolled as a student or employed as a worker at any institution of postsecondary education into the registry, the bureau shall notify all law enforcement agencies having jurisdiction over the institution at which the offender is enrolled or employed, including but not limited to the campus law enforcement agency.

E. The bureau is hereby designated as the state agency to receive information regarding out-of-state sex offenders and child predators who establish a residence in this state pursuant to R.S. 15:542.1.3.

F. The bureau may promulgate rules and regulations in accordance with the Administrative Procedure Act to implement the provisions of this Chapter, provided that such rules and regulations are promulgated in accordance with the federal Adam Walsh Child Protection and Safety Act of 2006 and any federal guidelines adopted pursuant thereto.

G. (1) The bureau shall provide for the capability which would allow a social networking web site to compare the database of registered users of that social networking web site to the list of electronic mail addresses, instant message addresses, and other similar online identifiers of persons in the State Sex Offender and Child Predator Registry.

(2) A social networking web site desiring to compare its database of registered users to the list of electronic mail addresses, instant message addresses, and other online identifiers of persons in the registry shall provide to the bureau all of the following information:

(a) The name, address, and telephone number of the entity operating the social networking web site.

(b) The legal nature and corporate status of the entity operating the social networking web site.

(c) A statement signed by the chief legal officer of the social networking web site to the effect that the information obtained from the registry shall not be disclosed for any purpose other than for comparing the database of registered users of the social networking web site against the list of electronic mail addresses, instant message addresses, and other online identifiers of persons contained in the state registry to protect children from online sexual predators, and that disclosure of this information for any other purpose may be unlawful.

(d) The name, address, and telephone number of a natural person who is authorized to receive service of process for the entity operating the social networking web site.

(3) After complying with the requirements of Paragraph (2) of this Subsection, the entity operating the social networking web site may screen users or compare its database of registered users to the list of electronic mail addresses, instant message addresses, and other online identifiers of persons contained in the State Sex Offender and Child Predator Registry as frequently as the bureau will allow for the purpose of identifying, monitoring, or removing a registered user associated with electronic mail addresses, instant message addresses, and other online identifiers contained in the registry.

(4) An entity operating a social networking web site which complies with the provisions of Paragraphs (2) and (3) of this Subsection, the entity, its directors, officers, employees, or agents may claim such compliance as a defense to a claim for liability arising against the entity or such persons.

R.S. 15:543. Duties of the courts, sheriffs, and the Department of public Safety and Corrections and the office of juvenile justice; informing the offender of the registration and notification requirements

A. The court shall provide written notification to any person convicted of a sex offense and a criminal offense against a victim who is a minor of the registration requirements and the notification requirements of this Chapter. For purposes of this Subsection, the court shall use the form contained in R.S. 15:543.1 and shall provide a copy of the registration and notification statutes to the offender. Such notice shall be included on any guilty plea forms and judgment and sentence forms provided to the defendant, and an entry shall be made in the court minutes stating that the written notification was provided to such offenders. If the offender is not sentenced to incarceration, then the court shall notify the bureau of the conviction of the offender.

B. When a person who is required to register under this Chapter is released from incarceration or placed under parole, supervised release, or probation, the Department of Public Safety and Corrections for adult offenders, or the office of juvenile justice for juvenile offenders, or the sheriff if the offender is housed in the parish jail, or the court if the offender is not incarcerated or placed in the jurisdictional custody of the Department of Public Safety and Corrections or the office of juvenile justice, shall:

(1) Inform the person of the duty to register in accordance with the provisions of this Chapter.

(2) Inform the person of the duty to provide community notification as required by the provisions of this Chapter.

(3) Inform the person of the duty to provide in-person verification as required by the provisions of this Chapter.

(4) Inform the person of the duty to provide information regarding a change of address and other information and proof of residence as required by the provisions of this Chapter.

(5) Inform the person that if the person changes residence to another state, the person shall notify in writing both the bureau and the law enforcement agency designated for sex offender reporting under the laws of the state in which the new address is located if that state has a registration requirement, within three days from the date the person establishes residence in the new state.

(6) Obtain fingerprints, if not already on file, the registration information required by the provisions of R.S. 15:542 for inclusion into the state sex offender and child predator registry, and a current photograph of the person. The agency responsible in this Section for collecting the registration information shall, before release of the offender, transfer that information to the bureau for immediate inclusion in the registry which shall constitute preregistration, but which shall only be deemed completed registration upon the in-person verification by the offender with the appropriate law enforcement agency as provided in R.S. 15:542, within three business days of conviction, if not incarcerated immediately after conviction, or of release from confinement.

(7) Require the person to read and sign a form stating that the requirements of the provisions of this Chapter and the penalty for failure to comply with those requirements have been explained.

C. The Department of Public Safety and Corrections shall provide written notification to an individual convicted of a sex offense or a criminal offense against a victim who is a minor from another state of the registration and notification requirements of this Chapter at the time the department accepts supervision and has legal authority of the individual under the terms and conditions of the interstate compact agreement under R.S. 15:574.31. The sheriff of the parish of the offender's residence shall also provide written notification of the registration and notification requirements contained in this Chapter to every offender who presents himself to the sheriff for the purpose of fulfilling the registration requirements contained in this Chapter as well as a copy of the registration and notification statutes. The offender shall sign an affidavit confirming receipt of such notification.

D. Repealed by Acts 2007, No. 460, § 3, eff. Jan. 1, 2008.

E. At the time a person renews his driver's license or identification card, or surrenders a driver's license from another jurisdiction and makes an application for a driver's license or an identification card, the Department of Public Safety and Corrections shall provide the applicant with written information on the registration requirements of R.S. 15:542.

R.S. 15:543.2. Sex offenders; emergency situations

A. (1) Notwithstanding any other provision of law to the contrary, during a declaration of emergency, any person who has been required to register as a sex offender as provided for in this Section who enters an emergency shelter shall, within the first twenty-four hours of admittance, notify the management of the facility, the chief of police of the municipality, if the shelter is located in a municipality, and the sheriff of the parish in which the shelter is located of their sex offender status. The sex offender shall provide his full name, date of birth, social security number, and last address of registration prior to the declaration of emergency. Within seventy-two hours of receiving the notification required by the provisions of this Paragraph, the chief of police and the sheriff shall forward that information to the Louisiana Bureau of Criminal Identification and Information.

(2) For purposes of this Subsection, "emergency shelter" includes the use of any facility, building, or structure operated by a nonprofit, tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code,[1] which provides the basic necessities of life, including but not limited to water, food, and shelter, to persons who are displaced from their homes due to a man-made or natural emergency or disaster.

(3) The manager or director of the emergency shelter shall make a reasonable effort to notify the chief law enforcement officer of the parish or municipality in which the shelter is located of the presence of the sex offender in the emergency shelter. No person associated with a nonprofit organization which operates an emergency shelter shall be liable for any injury or claim arising out of the failure of the manager or operator to communicate the presence of a sex offender in the shelter to the appropriate law enforcement official.

B. The Department of Public Safety and Corrections shall provide information to every sex offender who is under the supervision of the department with respect to the protocol to be followed in emergency situations. To implement the provisions of this Section, the department shall adopt rules in accordance with the Administrative Procedure Act which include but are not limited to the following:

(1) The establishment of a toll-free telephone number which shall be provided to each sex offender for use in contacting the department in emergency situations.

(2) Dissemination of information to each sex offender of his obligation to notify the management of an emergency shelter of his sex offender status in accordance with the provisions of R.S. 15:542 and of his obligation to report to the Department of Public Safety and Corrections, division of probation and parole.

C. For purposes of this Section, "sex offender" shall mean any person who has committed a sex offense as defined in R.S. 15:541.

D. The failure of the offender to comply with the provisions of this Section shall be considered a violation of a condition of probation and parole and subject the offender to revocation.

R.S. 15:544. Duration of registration and notification period

A. Except as provided for in Subsection B of this Section, a person required to register and provide notification pursuant to the provisions of this Chapter shall comply with the requirement for a period of fifteen years from the date of the initial registration in Louisiana, or the duration of the lifetime of the offender as provided in Subsection E of this Section, unless the underlying conviction is reversed, set aside, or vacated, except for those convictions that were reversed, set aside, or vacated pursuant to Code of Criminal Procedure Article 893 or 894, or a similar provision

of federal law or law from another state or military jurisdiction. The requirement to register shall apply to an offender who receives a pardon as a first-time offender pursuant to Article IV, Section 5(E)(1) of the Constitution of Louisiana and R.S. 15:572(B)(1).

B. (1) A person required to register pursuant to this Chapter who was convicted of a sexual offense against a victim who is a minor as defined in R.S. 15:541 shall register and maintain his registration and provide community notification pursuant to the provisions of this Chapter for a period of twenty-five years from the date of initial registration in Louisiana, or the duration of the lifetime of the offender as provided in Subsection E of this Section, unless the underlying conviction is reversed, set aside, or vacated, except for those convictions that were reversed, set aside, or vacated pursuant to Code of Criminal Procedure Article 893 or 894, or a similar provision of federal law or law from another state or military jurisdiction. The requirement to register shall apply to an offender who receives a pardon as a first-time offender pursuant to Article IV, Section 5(E)(1) of the Constitution of Louisiana and R.S. 15:572(B)(1).

(2) Any of the following persons required to register pursuant to this Chapter shall register and provide notification for the duration of their lifetime, even if granted a first offender pardon, unless the underlying conviction is reversed, set aside, or vacated, except for those convictions that were reversed, set, aside, or vacated pursuant to Code of Criminal Procedure Article 893 or 894, or a similar provision of federal law or law from another state or military jurisdiction:

(a) A person required to register pursuant to this Chapter who was convicted of an aggravated offense as defined in R.S. 15:541;

(b) A juvenile adjudicated for the enumerated offenses in R.S. 15:542(A)(3); or

(c) A person with a prior conviction or adjudication for an offense for which registration is required by the provisions of this Chapter, whether or not the prior offense required registration at the time of commission or conviction, who subsequently is convicted of or adjudicated for an offense which requires registration under the provisions of this Chapter.

C. A person who is required to register pursuant to the provisions of R.S. 15:542.1.3 shall register and maintain his registration and provide community notification pursuant to the provisions of this Chapter for the period of registration provided by the jurisdiction of conviction or for the period of registration provided by the provisions of this Section, whichever period is longer.

D. (1) If an offender begins the period of registration and notification and is subsequently incarcerated for any reason other than a misdemeanor arrest or a misdemeanor conviction or for a felony arrest which does not result in a conviction, then the period of registration and notification shall begin anew on the day the offender is released from incarceration, with no credit for the period of time in which the offender complied with registration and notification requirements prior to his incarceration.

(2) An offender required to register pursuant to the provisions of this Chapter shall receive credit only for the period of time in which he resides in this state and is in compliance with all registration and notification requirements of this state.

E. (1) The registration period of fifteen years established in Subsection A of this Section may be reduced to a period of ten years if the offender maintains a clean record for the entire ten-year period of registration upon motion to be relieved of the sex offender registration in the court of conviction for those convicted in Louisiana, or the court of the parish of residence for those convicted under the laws of another state, or military, territorial, foreign, tribal, or federal law which have been determined to be comparable to a Louisiana offense requiring a fifteen-year registration period by the bureau pursuant to the provisions of R.S. 15:542.1.3. The court shall consider a motion filed pursuant to the provisions of this Subsection only if the motion is accompanied by documentation of completion of an appropriate sex offender treatment program as described in Subparagraph (3)(d) of this Subsection.

(2) The lifetime registration period established in Paragraph (B)(2) of this Section may be reduced to a period of twenty-five years if the offender was adjudicated delinquent for the offense which requires registration and maintains a clean record for twenty-five years upon motion to be relieved of the sex offender registration in the court of adjudication for those adjudicated in Louisiana, or

court of the parish of residence for those adjudicated under the laws of another state, or military, territorial, foreign, tribal, or federal law. The court shall consider a motion filed pursuant to the provisions of this Subsection only if the motion is accompanied by documentation of completion of an appropriate sex offender treatment program as described in Subparagraph (3)(d) of this Subsection.

(3) For purposes of this Subsection, an offender maintains a "clean record" by:

(a) Not being convicted of any offense for which imprisonment for more than one year may be imposed.

(b) Not being convicted of any sex offense.

(c) Successfully completing any periods of supervised release, probation, or parole.

(d) Successfully completing an appropriate sex offender treatment program by a registered treatment as provided in R.S. 24:936 or an appropriate sex offender treatment program certified by the Attorney General of the United States.

(e) Complying with all sex offender registration and notification requirements in Louisiana each year for the prescribed period of time pursuant to the provisions of this Chapter.

(4) The following procedures shall apply to the provisions of Paragraphs (1) and (2) of this Subsection:

(a) The district attorney, the Department of Public Safety and Corrections, the office of state police, and the Sexual Predator Apprehension Team of the Department of Justice shall be served with a copy of the motion and documentation related to the successful completion of the appropriate sex offender treatment program as required by Paragraphs (1) and (2) of this Subsection. Upon receipt of the motion and documentation, the following shall occur:

(i) The office of state police shall issue a certification of the offender's history of registration in Louisiana to the court in which the motion was filed. The certification issued by the office of state police shall be admissible and shall be deemed prima facie evidence of the offender's history of registration in Louisiana.

(ii) The Sexual Predator Apprehension Team of the Department of Justice shall conduct a review of the offender's registration, notification, and criminal history and shall determine whether the offender maintained a clean record as defined by Paragraph (3) of this Subsection.

(iii) The district attorney shall review the facts of the underlying sex offense for which the offender is required to comply with the provisions of this Chapter to determine if an objection to the motion is warranted based on continued concerns for public safety.

(b) The court shall order a contradictory hearing to be held not less than sixty days after the date of service of the motion to determine whether the offender is entitled to be relieved of the registration and notification requirements pursuant to the provisions of Paragraphs (1) and (2) of this Subsection. The Department of Public Safety and Corrections, office of state police, and the Department of Justice shall be given notice of the hearing date and shall have a right to oppose the granting of relief if either determines that the offender does not meet the criteria of having maintained a clean record as defined by Paragraph (3) of this Subsection.

(c) The provisions of Paragraphs (1) and (2) of this Subsection shall not apply to any person who was convicted of more than one offense which requires registration pursuant to the provisions of this Chapter.

(d) The offender has the burden of proving that he has maintained a clean record, as defined by the provisions of Paragraph (3) of this Subsection, for the requisite period of time and that continued registration and notification will no longer serve the purposes of this Chapter.

(e) The court may grant the motion, relieving the offender of the duty to register and give notice pursuant to the provisions of this Chapter, only if the offender shows, by clear and convincing

evidence, that he has maintained a clean record, as defined by the provisions of Paragraph (3) of this Subsection, for the requisite period of time and that future registration and notification will not serve the purposes of this Chapter.

F. (1) Notwithstanding the provisions of Subsection A or Paragraph (B)(1) of this Section, the court, upon motion of the district attorney, and after a contradictory hearing, shall have the authority to order a person required to register and provide notification pursuant to the provisions of this Chapter to register and notify for the duration of the lifetime of the offender upon a showing by a preponderance of the evidence that the offender poses a substantial risk of committing another offense requiring registration pursuant to this Chapter. The district attorney and the offender may enter into a plea agreement requiring the offender to register and provide notification for the duration of the lifetime of the offender without a contradictory hearing.

(2) Whenever the registration and notification period of a sex offender has been increased to lifetime pursuant to the provisions of Paragraph (1) of this Subsection, upon maintenance of a clean record for the minimum time period applicable to the offense of conviction as provided by the provisions of Subsection A or Paragraph (B)(1) of this Section, the offender may petition the court in the jurisdiction of conviction, or if convicted under the laws of another state, or military, territorial, foreign, tribal, or federal law, in the jurisdiction of the offender's residence, to be relieved of the registration and notification requirements of this Chapter. The district attorney shall be served with the petition, and the matter shall be set for contradictory hearing. Upon a finding by clear and convincing evidence that the offender has maintained a “clean record” as defined in this Section and that the offender does not pose a substantial risk of committing another offense requiring registration pursuant to this Chapter, the court may order that the offender be relieved of the obligation to register and notify pursuant to this Chapter.

R.S. 15:545. Duty of law enforcement

A. (1) It shall be the duty of the sheriff of every parish, the chief of police of each municipality, and every chief officer of every other law enforcement agency operating within this state to record the fingerprints of all persons held in or remanded to their custody when convicted of any sex offense or any criminal offense against a victim who is a minor for which the penalty of imprisonment might be imposed and to disseminate and file such fingerprints in the same manner as those recorded upon every arrest. The sheriff and the police chief or, if the residence is in a municipality with a population in excess of three hundred thousand, the police department shall forward the fingerprints and information obtained pursuant to R.S. 15:542 and 542.1, a copy of the criminal history of the offender, and the text of the law defining the criminal offense which requires registration to the Louisiana Bureau of Criminal Identification and Information within three business days for inclusion into the State Sex Offender and Child Predator Registry.

(2) Each emergency shelter opened or operating in the state of Louisiana in anticipation of a state of emergency being declared or a state of emergency having been declared in the state or any portion of the state shall either access the current sex offender information posted on the State Police Sex Offender and Child Predator Internet Registry or request that the Bureau of Criminal Identification and Information provide the shelter with a copy of the most recent central registry of sex offenders registered under provisions of R.S. 15:542 and 542.1.

(3) It shall be the duty of the sheriff of every parish, the chief of police of each municipality, and every chief officer of every other law enforcement agency operating within this state to record the fingerprints of all persons arrested for any offense involving the operation of a vehicle while intoxicated, including local ordinances pertaining to operating a motor vehicle while intoxicated. However, there shall be no duty to record fingerprints if the fingerprint system at the local prison is unavailable.

B. Every time a furlough is authorized, the Department of Public Safety and Corrections shall notify, forty-eight hours prior to the beginning of such furlough, the bureau that the named prisoner has been granted a furlough, the place to which furloughed, and the dates and times during which the prisoner will be on furlough status. In the case of an emergency furlough the forty-eight hour time period shall not be required but notification shall be made as promptly as possible and before the prisoner is released on furlough. Upon receipt of furlough information pursuant to this Subsection, the bureau shall notify the sheriff of the parish or the chief of police of the municipality to which the prisoner is being furloughed, the nearest Louisiana state police troop unit wherein the

furloughed prisoner shall be residing, and such other criminal justice agencies as the bureau may deem necessary.

C. Disposition of the charge for which the arrest was made shall be reported to the bureau at whatever stage in the proceedings a final disposition occurs by the arresting law enforcement agency, district attorney, parish attorney, city attorney, or court having jurisdiction over the offense.

D. Whenever a person serving a sentence for a term of incarceration in a state correctional facility for convicted felons, pursuant to court commitment, is released on an order of the committee on parole or office of adult services, or is discharged from custody on expiration of sentence, the Department of Public Safety and Corrections shall promptly notify the bureau that the named person has been released or discharged, and the conditions of his release or discharge, and shall additionally notify the bureau of change in residence or conditions of release or discharge of a person on active parole supervision, and shall notify the bureau when the person is discharged from active parole supervision. Any person released or discharged shall register with the sheriff pursuant to R.S. 15:542. In addition, nothing in this Chapter shall be construed to prevent any local law enforcement agency from recording the residency and other information concerning any convicted felon or other person convicted of a criminal offense when such information is obtained from a source other than from registration pursuant to R.S. 15:542, which source may include any law enforcement officer or other agency or subdivision of the state.

R.S. 15:546. Release of information

A. Criminal justice agencies shall release relevant and necessary information regarding sex offenders, child predators, and sexually violent predators to the public when the release of the information is necessary for public protection, according to the provisions set forth by the board pursuant to R.S. 15:547(C).

B. (1) An elected official, public employee, public agency, or criminal justice agency shall be immune from civil liability for damages for any discretionary decision to release relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The authorization and immunity in this Chapter apply to information regarding:

(a) A person who has been convicted of a sex offense or criminal offense against a victim who is a minor, or who has been determined to be a sexually violent predator as defined in this Chapter.

(b) A person found not guilty by reason of insanity of a sex offense or criminal offense against a victim who is a minor.

(c) A person found incompetent to stand trial for a sex offense or criminal offense against a victim who is a minor and subsequently committed to a treatment facility or institution or hospital.

(2) The immunity provided under this Section applies to the release of relevant information to other employees or officials or to the general public.

(3) The identity of a victim, or information leading to the identity of a victim, of an offense that requires registration under this Section shall not be released.

C. Nothing in this Chapter, except as otherwise provided, shall impose any liability upon a public official, public employee, or public agency for failing to release information as provided in this Chapter.

D. An offender's pending appeal or writ of habeas corpus shall not restrict the agency's, official's, or employee's authority to release relevant information concerning an offender's prior criminal history. However, the agency shall release the latest dispositions of the charges as they are provided.

R.S. 15:547. Committee on parole

A. The committee on parole, hereinafter referred to as “the committee”, shall cause a complete record to be kept of every prisoner released on parole. Such records shall be organized in accordance with the most modern methods of filing and indexing so that there will be always immediately available complete information about such prisoner. The committee may make rules as to the privacy of such records and their use by persons other than the committee and its staff. In determining the rules regarding dissemination of information regarding convicted sex offenders, child predators, or persons determined to be sexually violent predators under the committee's jurisdiction, the committee shall institute rules pursuant to the provisions of R.S. 15:546, and shall be immune from liability for the release of information concerning any sex offender, sexually violent predator, or child predator.

B. In addition to any other information required to be released under this Chapter, the committee may, pursuant to R.S. 15:546, release information concerning any inmate under the jurisdiction of the committee who is convicted of any sex offense or criminal offense against a victim who is a minor, or who has been determined to be a sexually violent predator.

C. (1) The committee shall conduct one public hearing in each municipality with a population of not less than fifty thousand and otherwise in accordance with the provisions of the Administrative Procedure Act, and receive information and input from the public and shall establish and promulgate rules, regulations, policy, and guidelines governing the disclosure and dissemination of information regarding sex offenders, sexually violent predators, and child predators to the public pursuant to the intent and purposes of this Chapter.

(2) Every criminal justice agency and other agency, committee, office, or other entity of the state or any political subdivision thereof, shall cooperate, consult with, and otherwise assist the committee in the promulgation, implementation, and enforcement of the rules, regulations, guidelines, and policy required and established pursuant to the full implementation of this Chapter.

R.S. 15:548. Dissemination policy

A. Conviction records may be disseminated without restriction.

B. Any criminal history record information which pertains to an incident for which a person is currently being processed by the criminal justice system, including the entire period of correctional supervision extending through final discharge from parole, when applicable, may be disseminated without restriction.

C. Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to another criminal justice agency for any purpose associated with the administration of criminal justice, or in connection with the employment of the subject of the record by a criminal justice or juvenile justice agency. A criminal justice agency may respond to any inquiry from another criminal justice agency without any obligation to ascertain the purpose for which the information is to be used by the agency making the inquiry.

D. Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to implement a statute, ordinance, executive order, or a court rule, decision, or order which expressly refers to records of arrest, charges, or allegations of criminal conduct or other nonconviction data and authorizes or directs that it be available or accessible for a specific purpose.

E. Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies pursuant to a contract with a criminal justice agency to provide services related to the administration of criminal justice. Such contract must specifically authorize access to criminal history record information, but need not specifically state that access to nonconviction data is included. The agreement must limit the use of the criminal history record information to stated purposes and insure the confidentiality and security of the information consistent with state law and any applicable federal statutes and regulations.

F. Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency. Such agreement must authorize the access to nonconviction data, limit the use of that information which identifies specific individuals to

research, evaluative, or statistical purposes, and contain provisions giving notice to the person or organization to which the records are disseminated that the use of information obtained therefrom and further dissemination of such information are subject to this Chapter and applicable federal statutes and regulations, which shall be cited with express reference to the penalties provided for a violation thereof.

G. (1) Every criminal justice agency that maintains and disseminates criminal history record information shall maintain information pertaining to each dissemination of criminal history record information, except a dissemination to the effect that the agency has no record concerning an individual. Information pertaining to disseminations shall include:

(a) An indication as to which agency or person to whom the criminal history record information was disseminated.

(b) The date on which the information was disseminated.

(c) The individual to whom the information relates.

(d) A brief description of the information disseminated.

(2) The information pertaining to dissemination required to be maintained shall be retained for a period of not less than one year.

H. In addition to the other provisions in this Chapter allowing dissemination of criminal history record information, R.S. 15:546 governs dissemination of information concerning any offender who commits a sex offense or criminal offense against a victim who is a minor, or who has been determined to be a sexually violent predator. Criminal justice agencies, their employees, and officials shall be immune from civil liability for dissemination of criminal history record information concerning sex offenders, sexually violent predators, or child predators as provided in this Chapter.

R.S. 15:549. Notification of release or escape of inmate

A. At the earliest possible date, and in no event later than ten days before release, except in the event of escape or emergency furloughs, the Department of Public Safety and Corrections shall send written notice of parole, community placement, work release placement, furlough, or escape, about a specific inmate convicted of a sex offense or a criminal offense against a victim who is a minor, to all of the following:

(1) The chief of police of the municipality, in which the inmate will reside or in which placement will be made in a work release program.

(2) The sheriff of the parish in which the inmate will reside or in which placement will be made in a work release program.

B. The same notice as required in Subsection A of this Section shall be sent to the following if such notice has been requested in writing about a specific inmate convicted of a sex offense or a criminal offense against a victim who is a minor:

(1) The victim of the crime for which the inmate was convicted.

(2) Any witnesses who testified against the inmate in any court proceedings involving the offense.

(3) Any person specified in writing by the prosecuting district attorney.

C. Information regarding any victim, a relative of the victim, or witness requesting the notice, information regarding any other person specified in writing by the prosecuting district attorney to receive the notice, and the notice are confidential and shall not be available to the inmate.

D. If an inmate convicted of a sex offense or a criminal offense against a victim who is a minor escapes from a correctional facility, the Department of Public Safety and Corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of

the municipality and the sheriff of the parish in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim of the crime for which the inmate was convicted. If the inmate is recaptured, the department shall send notice to the persons designated in this Subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

E. If the victim or any witness is under the age of sixteen, the notice required by this Section shall be sent to the parents, tutor or legal guardian of the child.

F. The Department of Public Safety and Corrections shall send the notices required by this Chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

G. Nothing in this Section shall impose any liability upon a chief of police of a municipality or sheriff of a parish for failing to request in writing a notice as provided in this Section.

H. The state shall make the electronic mail address or addresses and instant message names or names collected for the sex offender registry available to any commercial or non-profit entity who makes a request and which promotes child safety, including any of the following:

(1) Child safety organizations who attempt to deter the sexual exploitation of children.

(2) Educational institutions.

(3) Interactive computer services.

I. No provider of interactive computer services shall be liable under this Chapter or any other provision of law for any of the following:

(1) Identifying, removing, disabling, blocking or otherwise affecting a user on a good faith belief that such user's electronic mail address, instant message name, username, or other similar Internet identifier appeared in the National Sex Offender Registry or any analogous state registry.

(2) For failing to identify, block or otherwise prevent a person from registering for its service, or for failing to remove, disable or otherwise affect a registered user, whose electronic mail address, instant message name or names, or other similar Internet identifier appears in the National Sex Offender Registry or any analogous state registry.

R.S. 15:553. Prohibition of employment for certain sex offenders

A. It shall be unlawful for any person who is required to maintain registration pursuant to Chapter 3-B of Title 15 to operate any bus, taxicab, or limousine for hire.

B. It shall be unlawful for any person who is required to maintain registration pursuant to Chapter 3-B of Title 15 to engage in employment as a service worker who goes into a residence to provide any type of service.

C. It shall be unlawful for any person whose offense involved a minor child and who is required to maintain registration pursuant to Chapter 3-B of Title 15 to operate any carnival or amusement ride.

D. It shall be unlawful for any person who is required to maintain registration pursuant to Chapter 3-B of Title 15 to engage in employment as a door-to-door solicitor, peddler, or itinerant vendor selling any type of goods or services including magazines or periodicals or subscriptions to magazines or periodicals.

E. For the purposes of this Section, the following terms and phrases shall have the meanings ascribed to them:

(1) “Bus” means a motor vehicle with a seating capacity of six or more persons, exclusive of the operator, which is used in the transportation of passengers for hire, excluding any vehicle leased without the provision of a driver.

(2) “Carnival or amusement ride” means either of the following:

(a) A device that is intended to give amusement, excitement, pleasure, or thrills to riders whom the device carries along or around a fixed or restricted course or within a defined area.
(b) A structure that gives amusement, excitement, pleasure, or thrills to people who move around, over, or through the structure without the aid of a moving device integral to the structure.

(3) “Taxicab” means all motor vehicles for hire, carrying six passengers or less, including the driver thereof, which are subject to call from a garage, office, taxi stand, or otherwise.

F. Any person who violates the provisions of this Section shall be fined not more than ten thousand dollars and imprisoned for not less than five years nor more than ten years at hard labor. Three years shall be served without the benefit of parole, probation, or suspension of sentence.

G. The provisions of this Section shall apply only to a person ordered by the court to register as a sex offender on or after August 15, 2010.

Chapter 3-C. Louisiana Sexual Assault Oversight Commission

R.S. 15:555. Louisiana Sexual Assault Oversight Commission; creation; membership; meetings

A. The Louisiana Sexual Assault Oversight Commission is hereby created within the Department of Justice, office of the attorney general. The commission shall consist of the following members:

(1) The executive director of the Louisiana District Attorneys Association or his designee.

(2) The executive director of the Louisiana Foundation Against Sexual Assault or his designee.

(3) The executive director of the Louisiana Sheriffs’ Association, or his designee.

(4) The executive director of the Louisiana Association of Chiefs of Police, or his designee.

(5) The executive director of the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice, or his designee.

(6) The president of the Louisiana State Coroners Association, or his designee.

(7) The director of the Louisiana State Police Crime Laboratory, or his designee.

(8) The president of the Louisiana Hospital Association, or his designee.

(9) The secretary of the Department of Health, or his designee.

(10) The attorney general, or his designee.

(11) A member of the House of Representatives appointed by the speaker of the House of Representatives, or the member’s designee.

(12) A member of the Senate appointed by the president of the Senate, or the member’s designee.

(13) The governor or his designee.

(14) The chief sexual assault forensic nurse examiner from each of the two Level I trauma centers in Louisiana, University Medical Center – New Orleans and University Health Shreveport, as designated by the chief executive officer of each of the two hospitals.

(15) The director of the North Louisiana Criminalistics Laboratory or his designee.

(16) A person designated by the executive director of the Louisiana Foundation Against Sexual Assault to represent the rights of sexual assault victims.

(17) The president of Sexual Trauma Awareness and Response or her designee.

B. Members of the commission shall serve at the pleasure of the appointing authority and without compensation. Travel expenses, per diem, and other expenses may be paid by the member's employer or appointing authority.
C. The attorney general or his designee shall serve as chairman, and his duties shall be established by the commission. The office of the attorney general shall provide staff and administrative services needed by the commission to carry out the duties set forth in R.S. 15:556.

D. The commission shall fix a time and place for its regular meeting meetings and shall meet at least once every four months. Additional meetings may be held upon the call of the chairman.

E. A majority of the total commission membership shall constitute a quorum and any official action by the commission shall require an affirmative vote of a majority of the quorum present and voting.

R.S. 15:556. Duties of the commission

A.(1) The commission shall develop recommendations for a standardized sexual assault collection kit and protocols for forensic medical examinations of victims of sexually oriented criminal offenses to be used statewide. The recommendations shall include but are not limited to recommendations for the physical dimensions, labeling, and contents of the collection kit, as well as recommendations regarding the collection and preservation of evidence from the examination and the identification of appropriate entities to perform the examination.

(2) The commission shall continuously review its standards and protocols and make subsequent recommendations as needed to ensure that the sexual assault collection kit and forensic medical examination protocols are up to date with technological advancements and best practices.

(3) Upon approval of the members, the commission may adopt additional projects, duties, or both as necessary to further the goal of the commission.

Chapter 3-D. Sex Offender Assessment Panels

R.S. 15:560. Legislative findings

A. The Legislature of Louisiana has long recognized the need to protect our most innocent and defenseless citizens from sex offenders, sexually violent predators, and child predators and has enacted statutory provisions to provide one of the most extensive sex offender registration and notification laws in the United States.

B. The legislature has enacted provisions requiring lifetime registration of sexually violent predators and has legislatively created the sexually violent predator commission as the entity which would determine which offenders are sexually violent predators. However, those provisions have rarely been utilized.

C. The legislature finds that sexually violent predators and child sexual predators often pose a high risk of engaging in sex offenses and crimes against victims who are minors after being released from incarceration or commitment and that the protection of the public from sexually violent predators is of paramount governmental interest.

D. In consideration of the potentially high rate of recidivism and the harm which can be done to the most defenseless members of the public by sexually violent predators and child sexual predators, the state has a compelling interest in ensuring compliance with the provisions of law regarding sex offender registration and notification to protect the public from harm as those offenders are released from incarceration and are returned to their communities.

E. The state also has a compelling interest in using its limited resources wisely and monitoring those offenders who pose the greatest risk to the health and safety of our citizens.

F. Therefore, it is the policy of this state to facilitate the identification of those offenders who are sexually violent predators and child sexual predators and to require that those offenders register as sex offenders for life to ensure compliance with those registration and notification requirements by enactment of sex offender assessment panels to evaluate all sex offenders prior to their release from incarceration as provided for in this Chapter.

R.S. 15:560.1. Definitions
For the purposes of this Chapter:

(1) "Child sexual predator" means a person who has been convicted of a sex offense as defined in R.S. 15:541 and who is likely to engage in additional sex offenses against children, because he has a mental abnormality or condition which can be verified by a physician or psychologist, or because he has a history of committing crimes, wrongs, or acts involving sexually assaultive behavior or acts which indicate a lustful disposition toward children, as determined by the court upon receipt and review of relevant information including the recommendation by the sex offender assessment panel as provided for by this Chapter.

(2) "Court" means the judicial district court where the offender was sentenced.

(3) "Judicial determination" means a decision by the court that an offender is or continues to be a child sexual predator or a sexually violent predator as provided for by this Chapter.

(4) "Mental abnormality" means a congenital or acquired condition of a person that affects the emotional or volitional capacity of the person in a manner that predisposes that person to the commission of criminal sexual acts to a degree that makes the person a menace to the health and safety of others. Nothing in this definition is intended to supersede or apply to the definitions found in R.S. 14:10 or 14 in reference to criminal intent or insanity.

(5) "Sexually violent predator" means an offender who has been convicted of a sex offense as defined in R.S. 15:541 and who has a mental abnormality or antisocial personality disorder that makes the offender likely to engage in predatory sexually violent offenses as determined by the court upon receipt and review of relevant information including the recommendation of the sex offender assessment panel as provided for by this Chapter.

R.S. 15:560.2. Louisiana Sex Offender Assessment Panel

A. The Louisiana Sex Offender Assessment Panel is hereby created within the Department of Public Safety and Corrections. The secretary of the Department of Public Safety and Corrections may create not more than three sex offender assessment panels for purposes of implementing the provisions of this Chapter.

B. Each panel shall consist of three members. The secretary shall select the makeup of the panel based upon the feasibility, practicability, and effectiveness of each panel as determined by the secretary and established by rules adopted pursuant to the provisions of the Administrative Procedure Act[1] and in accordance with the following provisions:

(1) One member shall be either a psychologist licensed by the Louisiana State Board of Examiners of Psychologists or a medical psychologist licensed by the Louisiana State Board of Medical Examiners who has been engaged in the practice of clinical or counseling psychology for not less than three consecutive years who is employed by the Department of Public Safety and Corrections or the Louisiana Department of Health or a physician in the employ of the Department of Public Safety and Corrections or the Louisiana Department of Health or under contract to the Department of Public Safety and Corrections whose credentials and experience are compatible with the evaluation of the potential threat to public safety that may be posed by a sexually violent predator or a child sexual predator. If the psychologist or physician is an employee of the Louisiana Department of Health, the secretary of both departments shall consult and jointly select the member.

(2) One member shall be the secretary of the Department of Public Safety and Corrections or his designee who shall be chairman.

(3) One member shall be the warden, or in his absence the deputy warden, of the institution where the offender is incarcerated, or a probation or parole officer with a minimum of ten years experience, or a retired law enforcement officer with at least five years of experience in investigating sex offenses.

C. A majority of the members of each panel shall constitute a quorum. All official actions of the panel shall require the affirmative vote of a majority of the members of the panel.

D. Each panel shall meet at least once quarterly and upon the call of each chairman or upon the request of any two members.

E. The panels shall review, notwithstanding the provisions of R.S. 15:574.12, presentence reports, prison records, medical and psychological records, information and data gathered by the staffs of the Board of Pardons and the committee on parole, information provided by the convicted offender, the district attorney, and the assistant district attorney, and any other information obtained by the board and the committee or the Department of Public Safety and Corrections.

F. The panel shall have the duty to evaluate every sex offender and child predator who is required to register pursuant to the provisions of R.S. 15:542 and who is to be released from the custody of the Department of Public Safety and Corrections on an order of the committee on parole or the Department of Public Safety and Corrections, office of adult services, or upon expiration of his sentence to determine if he is a sexually violent predator or a child sexual predator in accordance with the provisions of R.S. 15:560.1.

G. The panel shall meet and evaluate each sex offender at least six months prior to the release date of the offender.

H. The panel shall conduct its review and, if a determination is made that the offender may be a sexually violent predator or a child sexual predator, the panel shall forward the recommendation to the sentencing court. Such recommendation shall include the factual basis upon which the recommendation is made and shall include a copy of all information available to the panel pursuant to Subsection E of this Section.

I. Upon receiving a recommendation from the panel, the court, on its own motion, shall schedule a hearing to review the recommendation that an offender is a sexually violent predator or a child sexual predator. Notice of the hearing shall be served on the offender where he is located, his attorney of record, the office of the district attorney who prosecuted the offender for the underlying offense, and the victim of the underlying offense provided that the victim is registered pursuant to the provisions of R.S. 46:1841 et seq. The notice shall inform the offender that he has the right to be present at the hearing, that he has the right to present evidence, that he has a right to counsel, and that if indigent, an attorney will be appointed to represent him. If, after a contradictory hearing, the court finds by clear and convincing evidence, that the offender is a sexually violent predator or a child sexual predator, the offender shall be ordered to comply with the provisions of R.S. 15:560.3 et seq.

J. The Department of Public Safety and Corrections shall forward all recommendations of offenders who have been determined to be a sexually violent predator or a child sexual predator prior to August 15, 2009, to the sentencing court for a judicial determination that the offender is a sexually violent predator or child sexual predator in accordance with the provisions of this Section.

R.S. 15:560.3. Effects of determination of status as a sexually violent predator or as a child sexual predator; lifetime registration; notification

A. Notwithstanding any other provision of law to the contrary, upon a determination by a Sex Offender Assessment Panel and the court that the offender is a sexually violent predator or a child sexual predator as provided for by this Chapter, the offender shall be supervised by the division of probation and parole, Department of Public Safety and Corrections, upon his release from incarceration for the duration of his natural life and shall:

(1) Register as a sex offender in accordance with the provisions of R.S. 15:542 et seq. and maintain such registration for the remainder of his natural life.

(2) Provide community notification in accordance with the provisions of R.S. 15:542 et seq. for the duration of his natural life.

(3) Submit to electronic monitoring pursuant to the provisions of R.S. 15:560.4 for the duration of his natural life.

(4) Report to the probation and parole officer when directed to do so.

(5) Not associate with persons known to be engaged in criminal activities or with persons known to have been convicted of a felony without written permission of his probation and parole officer.

(6) In all respects, conduct himself honorably, work diligently at a lawful occupation, and support his dependents, if any, to the best of his ability.

(7) Promptly and truthfully answer all inquiries directed to him by the probation and parole officer.

(8) Live and remain at liberty and refrain from engaging in any type of criminal conduct.

(9) Not have in his possession or control any firearms or dangerous weapons.

(10) Submit to available medical, psychiatric, or mental health examination and treatment for persons convicted of sex offenses when deemed appropriate and ordered to do so by the probation and parole officer.

(11) Defray the cost, or any portion thereof, of his supervision by making payments to the Department of Public Safety and Corrections in a sum and manner determined by the department, based on his ability to pay.

(12) Submit a residence plan for approval by the probation and parole officer.

(13) Submit himself to continued supervision, either in person or through remote monitoring, of all of the following Internet-related activities:

(a) The offender's incoming and outgoing electronic mail and other Internet-based communications.

(b) The offender's history of websites visited and the contact accessed.

(c) The periodic unannounced inspection of the contents of the offender's computer or any other computerized device or portable media device and the removal of such information, computer, computer device, or portable media device to conduct a more thorough inspection.

(14) Comply with such other specific conditions as are appropriate, stated directly, and without ambiguity so as to be understandable to a reasonable man.

B. The secretary of the Department of Public Safety and Corrections shall adopt and promulgate rules, regulations, and procedures in accordance with the Administrative Procedure Act under which the panels shall perform their duties.

C. Except as provided in R.S. 15:560.4(E), any person who willfully violates any condition ordered pursuant to the provisions of this Section shall be subject to contempt of court.

R.S. 15:560.4. Electronic monitoring of sexually violent predators or child sexual predators

A. Each sexual offender determined to be a sexually violent predator or a child sexual predator pursuant to the provisions of this Chapter shall be required to be electronically monitored by the division of probation and parole, Department of Public Safety and Corrections, in a fashion that provides for electronic location tracking.

B. Unless it is determined by the Department of Public Safety and Corrections, pursuant to rules adopted in accordance with the provisions of this Section, 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.

C. 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. Only in the case that a sexual offender determined to be a sexually violent predator or a child sexual predator is unable to pay his own electronic monitoring costs, and there are no funds available to the department to pay for such monitoring, may the requirements of electronic monitoring be waived.

D. 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) A person who fails to comply with the requirements of electronic monitoring shall, upon first conviction, be fined not more than one thousand dollars, imprisoned at hard labor for not less than two years nor more than ten years without benefit of probation, parole, or suspension of sentence.

(2) Upon a second or subsequent conviction, the offender shall be fined three thousand dollars, imprisoned at hard labor for not less than five years nor more than twenty years without benefit of probation, parole, or suspension of sentence.

Chapter 6-a. DNA Detection of Sexual and Violent Offenders

R.S. 15:601. Short title

This Chapter shall be known as the “DNA Detection of Sexual and Violent Offenders Act”.

R.S. 15:602. Legislative findings and objectives

The Louisiana Legislature finds and declares that DNA data banks are important tools in criminal investigations, in the exclusion of individuals who are the subject of criminal investigations or prosecutions, and in deterring and detecting recidivist acts. More than forty states have enacted laws requiring persons arrested for or convicted of certain crimes, especially sex offenses, to provide genetic samples for DNA profiling. Moreover, it is the policy of this state to assist federal, state, and local criminal justice and law enforcement agencies in the identification and detection of individuals in criminal investigations and in the identification of missing persons, to assist in the recovery or identification of human remains from disasters, and to assist with other humanitarian identification purposes. It is therefore in the best interest of the state to establish a DNA data base and a DNA data bank containing DNA samples submitted by individuals arrested, convicted, or presently incarcerated for felony sex offenses and other specified offenses.

R.S. 15:603. Definitions

For purposes of this Chapter, the following terms shall have the following meanings:

(1) “CODIS” means Combined DNA Index System, the Federal Bureau of Investigation's national DNA identification index system that allows the storage and exchange of DNA records submitted by state and local forensic DNA laboratories.

(2) “Criminal justice agency” means any criminal justice agency as defined in R.S. 15:576(3).

(3) “Deputy secretary” means the deputy secretary of the Department of Public Safety and Corrections, public safety services, or the commander of the Louisiana State Police.

(4) “DNA” means deoxyribonucleic acid, which is located in cells and provides an individual's personal genetic blueprint and which encodes genetic information that is the basis of human heredity and forensic identification.

(5) “DNA record” means DNA identification information stored in the state DNA data base or the Combined DNA Index System for the purpose of generating investigative leads or supporting statistical interpretation of DNA test results. The DNA record is the result obtained from the DNA typing tests. The DNA record is comprised of the characteristics of a DNA sample which is of value in establishing the identity of individuals.
(6) “DNA sample” means a blood, tissue, or bodily fluid sample provided by any person with respect to offenses covered by this Chapter or submitted to the state police criminalistics laboratory pursuant to this Chapter for analysis or storage, or both.

(7) “FBI” means the Federal Bureau of Investigation.

(8) “Felony” means any crime for which an offender may be sentenced to death or imprisonment at hard labor.

(9) “Felony-grade delinquent act” means an offense that if committed by an adult, may be punished by death or by imprisonment at hard labor.

(10) “Other specified offense” means a commission of the following:

(a) A violation of R.S. 14:34.2 through 34.5.
(b) A violation of R.S. 14:35 through 37.
(c) A violation of R.S. 14:37.3.
(d) A violation of R.S. 14:38.
(e) A violation of R.S. 14:38.2.
(f) A violation of R.S. 14:40.2.
(g) A violation of R.S. 14:43.1.1.
(h) A violation of R.S. 14:67.16.
(i) A violation of R.S. 14:80.1.
(j) A violation of R.S. 14:81.4.
(k) A violation of R.S. 14:82.
(l) A violation of R.S. 14:83 through 83.1.
(m) A violation of R.S. 14:83.3 through 83.4.
(n) A violation of R.S. 14:85.
(o) A violation of R.S. 14:92.
(p) A violation of R.S. 14:95.
(q) A violation of R.S. 14:95.8.
(r) A violation of R.S. 14:107.2.
(s) A violation of R.S. 14:284.
(t) A violation of R.S. 14:329.2.

(11) “State police” means the office of state police or the state police criminalistics laboratory.

R.S. 15:620. Authority of law enforcement officers

Nothing in this Chapter shall limit or abrogate any existing authority of law enforcement officers to take, maintain, store, and utilize DNA samples for law enforcement purposes.

R.S. 15:621. Prohibition on destruction of evidence; certain cases

A. Prior to December 31, 2012, no criminal justice agency or clerk of court shall destroy any biological evidence in its possession in relation to the investigation, prosecution, or adjudication of any of the following enumerated offenses or attempts to commit any of these offenses: homicide (R.S. 14:29), rape (R.S. 14:41), and armed robbery (R.S. 14:64).

B. The provisions of this Section shall apply only in cases in which an offender has been convicted at trial or has entered a guilty plea pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), and the offender is in the custody of the Department of Public Safety and Corrections.

C. Nothing in this Section should preclude any criminal justice agency or clerk of court from removing parts containing biological evidence from large items of evidence and retaining only the parts containing biological evidence.

D. Failure by any criminal justice agency or clerk of court to comply with the provisions of this Section shall be governed by Code of Criminal Procedure Article 926.1(H)(6).

E. As used in this Section:

(1) "Biological evidence" means the contents of a sexual assault examination kit or any item that contains blood, semen, hair, saliva, skin tissue, fingerprints, or other identifiable human biological material that may reasonably be used to incriminate or exculpate any person in the criminal investigation, whether that material is catalogued separately on a slide or swab, in a test tube, or some other similar method, or is present on clothing, ligatures, bedding, other household materials, drinking cups, cigarettes, or any other item of evidence, including those that are alleged to have been touched or worn by the perpetrator of the offense. Work product generated during DNA analysis shall not be considered biological evidence with the exception of the extracted DNA when the original biological evidence is consumed during analysis. In this event, the extracted DNA shall be retained.

(2) "Criminal justice agency" means any criminal justice agency as defined in R.S. 15:576(3).

R.S. 15:622. Sexual assault collection kits

A. As used in this Section:

(1) "Criminal justice agency" means any government agency or subunit thereof, or private agency that, through statutory authorization or a legal formal agreement with a governmental unit or agency, has the power of investigation, arrest, detention, prosecution, adjudication, treatment, supervision, rehabilitation or release of persons suspected, charged, or convicted of a crime; or that collects, stores, processes, transmits, or disseminates criminal history record or crime information.

(2) "Forensic medical examination" means an examination provided to the victim of a sexually-oriented criminal offense by a health care provider for the purpose of gathering and preserving evidence of a sexual assault for use in a court of law. A forensic medical examination shall include the following:

(a) Examination of physical trauma.

(b) Patient interview, including medical history, triage, and consultation.

(c) Collection and evaluation of evidence, including but not limited to the following:

(i) Photographic documentation.

(ii) Preservation and maintenance of chain of custody.

(iii) Medical specimen collection.

(iv) When determined necessary by the healthcare provider, an alcohol- and drug-facilitated sexual assault assessment and toxicology screening.

(3) "Sexual assault collection kit" means a human biological specimen or specimens collected by a health care provider during a forensic medical examination from the victim of a sexually-oriented criminal offense.

(4) "Sexually-oriented criminal offense" shall have the same meaning as sex offense as defined in R.S. 15:541(24).

(5) “Untested sexual assault collection kit” means a sexual assault collection kit that has not been submitted to the Louisiana State Police Crime Laboratory or a similar qualified laboratory for either a serology or deoxyribonucleic acid (DNA) test.

B. By January 1, 2015, all criminal justice agencies charged with the maintenance, storage, and preservation of sexual assault collection kits shall conduct a physical inventory of all such kits being stored by the agency and shall compile, in writing, a report containing the number of untested sexual assault collection kits in the possession of the agency and the date the sexual assault kit was collected. Each criminal justice agency shall also provide written notification if it does not have any untested sexual assault collection kits in its possession. The report shall be transmitted to the director of the Louisiana State Police Crime Laboratory.

C. By March 1, 2015, the Louisiana State Police Crime Laboratory shall prepare and transmit a report to the chairman of the Senate Committee on Judiciary B and the chairman of the House of Representatives Committee on Judiciary containing the number of untested sexual assault collection kits being stored by each parish, by each criminal justice agency, and the date the untested kit was collected. The report shall also include the name and contact information of each criminal justice agency that failed to submit the report required by Subsection B of this Section.

R.S. 15:622.1 Sexual assault collection kits; prohibited use in criminal investigation of victim

Notwithstanding any other provision of law to the contrary, DNA obtained by a criminal justice agency from a sexual assault collection kit as defined in R.S. 15:622 shall not be compared with other DNA records as defined in R.S. 15:603 for the purpose of investigating the victim of the sexually oriented criminal offense who submitted the DNA if that victim is charged with or suspected of committing any criminal offense.

R.S. 15:623. Submission of sexual assault collection kits

A. Within thirty days of receiving a sexual assault collection kit for a reported case, the criminal justice agency shall submit the sexual assault collection kit to a forensic laboratory for testing.

B. If a prosecuting agency makes an official request for analysis of a sexual assault collection kit, the criminal justice agency shall submit the sexual assault collection kit to a forensic laboratory within thirty days of receiving the request from the prosecuting agency.

R.S. 15:624. Sexually-oriented criminal offense data; reporting

A. (1) By February fifteenth of each year, each criminal justice agency, including college and university campus police departments, shall report all of the following information for the prior calendar year to the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice:

(a) The number of sexually-oriented criminal offenses reported.

(b) The status of each sexually-oriented criminal offense case reported.

(c) The number of sexual assault collection kits submitted for analysis.

(d) The number of reported sexual assault collection kits requiring analysis.

(e) The number of reported sexual assault collection kits received.

(f) The number of unreported sexual assault collection kits received.

(g) The number of reported sexual assault collection kits that were untested due to judicial or investigative reasons.

(2) Each criminal justice agency, including college and university campus police departments, shall also provide written notification if it does not have:

(a) Any sexually-oriented criminal offenses reported.

(b) Any reported sexual assault collection kits in its possession.

(c) Any unreported sexual assault collection kits in its possession.

(3) By February fifteenth of each year, each college or university campus police department shall submit the report to the president of the institution's system, the chancellor of the institution, and the institution's Title IX coordinator. The chancellor shall have the report posted on the institution's website.

B. By February fifteenth of each year, each crime laboratory shall report the number of sexual assault collection kits in their backlog for the prior calendar year to the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice.

C. (1) By March first of each year, the Louisiana Commission on Law Enforcement and the Administration of Criminal Justice shall transmit the information required in Subsections A and B of this Section to the chairman of the Senate Committee on Judiciary B and the chairman of the House Committee on Judiciary.

(2) The report shall also include the name and contact information of each criminal justice agency, including each college and university campus police department and each crime laboratory, that failed to submit the report required by Subsections A and B of this Section.

D. As used in this Section:

(1) “Criminal justice agency” means any government agency or subunit thereof, or private agency that, through statutory authorization or a legal formal agreement with a governmental unit or agency, has the power of investigation, arrest, detention, prosecution, adjudication, treatment, supervision, rehabilitation or release of persons suspected, charged, or convicted of a crime; or that collects, stores, processes, transmits, or disseminates criminal history records or crime information.

(2) “Reported sexual assault collection kit” means a kit that contains a human biological specimen or specimens collected during a forensic medical examination from the victim of a sexually-oriented criminal offense who reported the crime to law enforcement.

(3) “Sexual assault collection kit” means a kit that is designed to assist in the preservation of a human biological specimen or specimens collected during a forensic medical examination from the victim of a sexually-oriented criminal offense.

(4) “Sexually-oriented criminal offense” includes any sexual assault offense as defined in R.S. 44:51 and any sexual abuse offense as defined in R.S. 14:403.

(5) “Unreported sexual assault collection kit” means a kit that contains a human biological specimen or specimens collected during a forensic medical examination from the victim of a sexually-oriented criminal offense who declined to report the crime to law enforcement.

R.S. 15: 624.1. Submission of sexual assault collection kits

A. The office of state police shall create and operate a statewide sexual assault collection kit tracking system. The office of state police may contract with public or private entities, including but not limited to private software and technology providers, for the creation and maintenance of the system.

B. The statewide sexual assault collection kit tracking system shall:

(1) Track the location status of the kits throughout the criminal justice process, including the initial collection performed at medical facilities, receipt and storage at law enforcement agencies, receipt and analysis at forensic laboratories, and storage or destruction after completion of analysis.

(2) Designate sexual assault collection kits as unreported or reported.

(3) Indicate whether a sexual assault collection kit contains biological materials collected for the purpose of forensic toxicological analysis.

(4) Allow medical facilities performing sexual assault forensic examinations, law enforcement agencies, prosecutors, the Louisiana State Police Crime Laboratory, all other forensic crime laboratories in the state, and other entities having custody of sexual assault collection kits to update and track the status and location of sexual assault collection kits.
(5) Allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault collection kits.

(6) Use electronic technology allowing continuous access.

C. The office of state police may phase in initial participation according to region or volume of kits.

D. The office of state police may use a phased implementation process in order to launch the system and facilitate entry and use of the system for required participants. The office of state police may phase initial participation according to the region or volume. All entities, including law enforcement and healthcare providers having custody of sexual assault collection kits, shall provide all required information to the tracking system and fully participate in the system no later than July 1, 2024. The office of state police shall submit a report on the current status and plan for launching the system, including the plan for phased implementation, to the Louisiana Sexual Assault Oversight Commission, the Senate Committee on Judiciary B, the House Committee on Administration of Criminal Justice, and the governor no later than January 1, 2024.

E. The office of state police shall submit an annual report on the statewide sexual assault collection kit tracking system to the Louisiana Sexual Assault Oversight Commission, the Senate Committee on Judiciary B, the House Committee on Administration of Criminal Justice, and the governor no later than July thirty-first of each year. The office of state police may make public the current report on its website. The report shall include the following:

(1) The total number of sexual assault collection kits in the system statewide and by jurisdiction.

(2) The total and semiannual number of sexual assault collection kits where forensic analysis has been completed statewide and by jurisdiction.

(3) The number of sexual assault collection kits added to the system in the reporting period statewide and by jurisdiction.

(4) The total and semiannual number of sexual assault collection kits where forensic analysis has been requested but not completed, statewide and by jurisdiction.

(5) The average and median length of time for sexual assault collection kits to be submitted for forensic analysis after being added to the system, including separate sets of data for all sexual assault collection kits in the system statewide and by jurisdiction.

(6) The average and median length of time for sexual assault collection kits added to the system in the reporting period statewide and by jurisdiction.

(7) The total and semiannual number of sexual assault collection kits destroyed or removed from the system statewide and by jurisdiction.

(8) The total number of sexual assault collection kits, statewide and by jurisdiction, where forensic analysis has not been completed and six months or more have passed since those sexual assault collection kits were added to the system.

(9) The total number of sexual assault collection kits, statewide and by jurisdiction, where forensic analysis has not been completed and one year or more has passed since those sexual assault collection kits were added to the system.

F. For the purpose of the reports required by Subsection E of this Section, a sexual assault collection kit shall be assigned to the jurisdiction associated with the law enforcement agency anticipated to receive the sexual assault collection kit or otherwise have custody of the sexual assault collection kit.

G. Any public agency or entity, including its officials or employees, and any hospital and its employees providing services to victims of sexual assault, shall not be held civilly liable for damages arising from any release of information or the failure to release information related to the statewide sexual assault collection kit tracking system, provided that the release was not grossly negligent.

H. The office of state police shall adopt rules as necessary to implement this Section.

I. For the purposes of this Section:

(1) "Reported sexual assault collection kit" means a sexual assault collection kit where a law enforcement agency has received a related report or complaint alleging that a sexual assault or other crime occurred.

(2) "Sexual assault collection kit" includes all evidence collected during a sexual assault medical forensic examination.

(3) "Unreported sexual assault collection kit" means a sexual assault collection kit where a law enforcement agency has not received a related report or complaint alleging that a sexual assault has occurred.

R.S. 15:625. Material witness warrant data; reporting

A. By February fifteenth of each year, each district attorney or other prosecution agency shall report all of the following information for the prior calendar year to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice:

(1) The number of material witness warrants applied for pursuant to this Section which has been filed into the record of any criminal prosecution proceeding within their jurisdiction.

(2) The number of material witness warrants signed by a judge.

(3) The number of material witness warrants executed.

(4) The number of victims as defined in R.S. 15:257.1(C) incarcerated pursuant to a material witness warrant.

B. By March first of each year, the Louisiana Commission on Law Enforcement and Administration of Criminal Justice shall transmit the information required in Subsection A of this Section to the chairman of the Senate Committee on Judiciary C and the chairman of the House Committee on Judiciary and shall publish the information on the website of the Louisiana Commission of Law Enforcement and Administration of Criminal Justice.

Louisiana Revised Statutes – Title 17. Education
Chapter 2. Teachers and Employees

R.S. 17:437.2 Adverse childhood experience education; in-service training – Repealed by Act 686 of the 2024 Legislative Session

Chapter 5. State Colleges and Universities

R.S. 17:1805. Authority of university or college police officer

* * *

H. On and after January 1, 2016, each person who is employed as a full-time college or university police officer shall complete a sexual assault awareness training program as provided by the Council on Peace Officer Standards and Training pursuant to R.S. 40:2405.8.

Chapter 26. Colleges and Universities
PART XII. CAMPUS ACCOUNTABILITY AND SAFETY

R.S. 17:3399.11. et seq. Campus Accountability and Safety Act

R.S. 17:3399.11. Short title

This Part may be referred to as the "Campus Accountability and Safety Act".

R.S. 17:3399.12. Definitions

As used in this Part, the following terms have the following meanings unless the context clearly indicates otherwise:

(1) "Chancellor" means the chief executive officer of a public postsecondary education institution.

(2) "Confidential advisor" means a person designated by an institution to provide emergency and ongoing support to students who are alleged victims of power-based violence.

(3) "Employee" means:

(a)(i) An administrative officer, official, or employee of a public postsecondary education board or institution.

(ii) Anyone appointed to a public postsecondary education board or institution.

(iii) Anyone employed by or through a public postsecondary education board or institution.

(iv) Anyone employed by a foundation or association related to a public postsecondary education management board or institution.

(b) "Employee" does not include a student enrolled at a public postsecondary institution whose employment is contingent upon enrollment as a student, unless the student works for the institution in a position such as a teaching assistant or a residential advisor.

(4) "Institution" means a public postsecondary education institution.

(5) "Power-based violence" means any form of interpersonal violence intended to control or intimidate another person through the assertion of power over the person and shall include the following:

(a) Dating violence (R.S. 46:2151).

(b) Domestic abuse and family violence (R.S. 46:2121.1 and 2132). For the purposes of this Part, domestic abuse shall also include any act or threat to act that is intended to coerce, control, punish, intimidate, or exact revenge on the other party, for the purpose of preventing the victim from reporting to law enforcement or requesting medical assistance or emergency victim services, or for the purpose of depriving the victim of the means or ability to resist the abuse or escape the relationship.

(c) Nonconsensual observation of another person's sexuality without the other person's consent, including voyeurism (R.S. 14:283.1), video voyeurism (R.S. 14:283), nonconsensual disclosure of a private image (R.S. 14:283.2), and peeping tom activities (R.S. 14:284).

(d) Sexual assault (R.S. 14:41, 42 through 43.5, 89, 89.1, and 106).

(e) "Sexual exploitation" which means an act attempted or committed by a person for sexual gratification, financial gain, or other advancement through the abuse of another person's sexuality including prostituting another person (R.S. 14:46.2 and 82 through 86).

(f) "Sexual harassment" which means unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature when the conduct explicitly or implicitly affects an individual's employment or education, unreasonably interferes with an individual's work or educational performance, or creates an intimidating, hostile, or offensive work or educational environment and has no legitimate relationship to the subject matter of a course or academic research.

(g) Stalking (R.S. 14:40.2) and cyberstalking (R.S. 14:40.3).

(h) Unlawful communications (R.S. 14:285).

(i) Unwelcome sexual or sex- or gender-based conduct that is objectively offensive, has a discriminatory intent, and lacks a bona fide academic purpose.

(6) "Responsible employee" means an employee as defined in Paragraph (3) of this Section who receives a direct statement regarding or witnesses an incident of power-based violence. "Responsible employee" does not include an employee designated as a confidential advisor pursuant to R.S. 17:3399.15(B) or an employee who has privileged communications with a student as provided by law.

(7) "System president" means the president of a public postsecondary education system.

(8) "Title IX coordinator" means the individual designated by a public postsecondary education institution as the institution's official for coordinating the institution's efforts to comply with and carry out its responsibilities under Title IX of the Education Amendments of 1972.

R.S. 17:3399.13. Mandatory reporting of power-based violence

A. Except as provided in Subsection C of this Section, a responsible employee who receives a direct statement regarding or witnesses an incident of power-based violence committed by or against a student shall promptly report the incident to the institution's Title IX coordinator.

B. A responsible employee who receives information regarding retaliation against a person for reporting power-based violence shall promptly report the retaliation to the institution's Title IX coordinator.

C. A responsible employee is not required to make a report if information is received under any of the following circumstances:

(1) During a public forum or awareness event in which an individual discloses an incident of power-based violence as part of educating others.

(2) Disclosure is made in the course of academic work consistent with the assignment.

(3) Disclosure is made indirectly, such as in the course of overhearing a conversation.

D. A report under this Section shall include the following information if known:

(1) The identity of the alleged victim.

(2) The identity of the alleged perpetrator.

(3) The type of power-based violence or retaliation alleged to have been committed.

(4) Any other information about witnesses, location, date, and time that the incident occurred.

R.S. 17:3399.13.1. Administrative reporting requirements

A. Not later than October tenth and April tenth of each year, the Title IX coordinator of an institution shall submit to the chancellor of the institution a written incident report on the reports received under R.S. 17:3399.13, including information regarding:

(1) The investigation of those reports.

(2) The disposition, if any, of any disciplinary processes arising from those reports.

(3) The reports for which the institution determined not to initiate a disciplinary process, if any.

(4) Any complaints of retaliation and the status of the investigation of the complaints.

B. The Title IX coordinator of an institution shall immediately report to the chancellor of the institution an incident reported to the coordinator under R.S. 17:3399.13 if the coordinator has cause to believe as a result of the incident that the safety of any person is in imminent danger.

C. The chancellor of each institution shall submit a report to the institution's management board within fourteen days of receiving the report pursuant to Subsection A of this Section from the Title IX coordinator. The report shall include the number of complaints of power-based violence received by the institution, the number of complaints which resulted in a finding that power-based violations occurred, the number of complaints in which the finding of power-based violations resulted in discipline or corrective action, the type of discipline or corrective action taken, the amount of time it took to resolve each complaint, the number of reports of retaliation, and the findings of any investigations of reports of retaliation. The report shall be posted on the institution's website.

D. The system president shall submit a system-wide summary report within fourteen days of receiving the reports from the chancellors to the management board. The report shall be published on the website of the system.

E. The management board shall send an annual system-wide summary incident report to the Board of Regents by December thirty-first. The Board of Regents shall post the report on its website.

F. In addition, each management board shall send an annual training report to the Board of Regents by February twenty-eighth. The report shall include the number of employees and confidential advisors for each institution, and the number and percentage of those who have completed the required annual training. The training report shall be published on the website of each system.

G. The Board of Regents, in consultation with the Power-Based Violence Review Panel, shall annually submit a report to the governor, the president of the Senate, the speaker of the House of Representatives, and the Senate and House committees on education and select committees on women and children by January fifteenth which shall include the systemwide and statewide information. The report shall also include any recommendations for legislation. The report shall be published on the website of the Board of Regents.

R.S. 17:3399.13.2. Immunities

A. A person acting in good faith who reports or assists in the investigation of a report of an incident of power-based violence, or who testifies or otherwise participates in a disciplinary process or judicial proceeding arising from a report of such an incident:

(1) Shall be immune from civil liability and from criminal liability that might otherwise be incurred or imposed as a result of those actions.

(2) May not be subjected to any disciplinary action by the institution in which the person is enrolled or employed for any violation by the person of the institution's code of conduct reasonably related to the incident for which suspension or expulsion from the institution is not a possible punishment.

B. Subsection A of this Section shall not apply to a person who perpetrates or assists in the perpetration of the incident reported under R.S. 17:3399.13.

R.S. 17:3399.13.3. Failure to report or false reporting

A responsible employee who is determined by the institution's disciplinary procedures to have knowingly failed to make a report or, with the intent to harm or deceive, made a report that is knowingly false shall be terminated.

R.S. 17:3399.13.4. Confidentiality

A. Unless waived in writing by the alleged victim, the identity of an alleged victim of an incident reported under R.S. 17:3399.13 is confidential and not subject to disclosure except to:

(1) A person employed by or under contract with the institution to which the report is made, if the disclosure is necessary to conduct the investigation of the report or any related hearings.

(2) A law enforcement officer as necessary to conduct a criminal investigation of the report.

(3) A person alleged to have perpetrated the incident, to the extent required by law.

(4) A potential witness to the incident as necessary to conduct an investigation of the report.

B. The alleged victim shall have the right to obtain a copy of any report made pursuant to this Part that pertains to the alleged victim.

R.S. 17:3399.13.5. Retaliation prohibited

A. An institution shall not discipline, discriminate, or otherwise retaliate against an employee or student who in good faith either:

(1) Makes a report as required by R.S. 17:3399.13.

(2) Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to a report made by the employee or student as required by R.S. 17:3399.13.

B. Subsection A of this Section does not apply to an employee or student who either:

(1) Reports an incident of power-based violence perpetrated by the employee or student.

(2) Cooperates with an investigation, a disciplinary process, or a judicial proceeding relating to an allegation that the employee or student perpetrated an incident of power-based violence.

R.S. 17:3399.14. Coordination with local law enforcement

A. On or before January 1, 2022, each institution and law enforcement and criminal justice agency located within the parish of the campus of the institution, including the campus police department, if any, the local district attorney's office, and any law enforcement agency with criminal jurisdiction over the campus, shall enter into and maintain a written memorandum of 15 understanding to clearly delineate responsibilities and share information in accordance with applicable federal and state confidentiality laws, including but not limited to trends about power-based violence committed by or against students of the institution.

B. Each memorandum of understanding entered into pursuant to this Part shall include:

(1) Delineation and sharing protocols of investigative responsibilities.

(2) Protocols for investigations, including standards for notification and communication and measures to promote evidence preservation.

(3) Agreed-upon training and requirements for the parties to the memorandum of understanding on issues related to power-based violence for the purpose of sharing information and coordinating training to the extent possible.

(4) A method of sharing general information about power-based violence occurring within the jurisdiction of the parties to the memorandum of understanding in order to improve campus safety.

(5) A requirement that the local law enforcement agency include information on its police report regarding the status of the alleged victim as a student at an institution.

C. Each memorandum of understanding shall be signed by all parties to the memorandum.

D. The head of any law enforcement or criminal justice agency located within the parish of the campus of the institution shall execute a memorandum of understanding proposed by an institution within the law enforcement agency's criminal jurisdiction within thirty days of receipt of the proposal.

E. Each executed memorandum of understanding shall be reviewed annually by each institution's chancellor, Title IX coordinator, and the executive officer of the criminal justice agency, and shall be revised as considered necessary.

F. Nothing in this Part or any memorandum of understanding entered into pursuant to this Section shall be construed as prohibiting a victim or responsible employee from making a complaint to both the institution and a law enforcement agency.

R.S. 17:3399.15. Campus security policy

A. The Board of Regents shall establish uniform policies and best practices to implement measures to address the reporting of power-based violence on institution campuses, the prevention of such violence, communication between institutions regarding incidents of power-based violence, and the provision of medical and mental health care needed for alleged victims.

B. Each public postsecondary education management board shall institute policies incorporating the policies and best practices prescribed by the Board of Regents regarding the prevention and reporting of incidents of power-based violence committed by or against students of an institution. The policies, at a minimum, shall require each institution under the board's management to provide for the following:

(1) Confidential advisors.

(a) The institution shall designate individuals who shall serve as confidential advisors, such as health care staff, clergy, staff of a women's center, or other such categories. Such designation shall not preclude the institution from partnering with national, state, or local victim services organizations to serve as confidential advisors or to serve in other confidential roles.

(b) Prior to designating a person as a confidential advisor, the person shall complete a training program that includes information on power-based violence, trauma-informed interactions, Title IX requirements, state law on power-based violence, and resources for victims.

(c) The confidential advisor shall complete annual training relative to power-based violence and Title IX. The initial and annual training shall be developed by the attorney general in collaboration with the Board of Regents and shall be provided through online training materials.

(d) The confidential advisor shall inform the alleged victim of the following:

(i) The rights of the alleged victim under federal and state law and the policies of the institution.

(ii) The alleged victim's reporting options, including the option to notify the institution, the option to notify local law enforcement, and any other reporting options.

(iii) If reasonably known, the potential consequences of the reporting options provided in this Part.

(iv) The process of investigation and disciplinary proceedings of the institution.

(v) The process of investigation and adjudication of the criminal justice system.

(vi) The limited jurisdiction, scope, and available sanctions of the institutional student disciplinary proceeding, and that it should not be considered a substitute for the criminal justice process.

(vii) Potential reasonable accommodations that the institution may provide to an alleged victim.

(viii) The name and location of the nearest medical facility where an alleged victim may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such facility.

(e) The confidential advisor may, as appropriate, serve as a liaison between an alleged victim and the institution or local law enforcement, when directed to do so in writing by an alleged victim who has been fully and accurately informed about what procedures shall occur if information is shared, and assist an alleged victim in contacting and reporting to a responsible employee or local law enforcement.

(f) The confidential advisor shall be authorized by the institution to liaise with appropriate staff at the institution to arrange reasonable accommodations through the institution to allow the alleged victim to change living arrangements or class schedules, obtain accessibility services, or arrange other accommodations.

(g) The confidential advisor shall be authorized to accompany the alleged victim, when requested to do so by the alleged victim, to interviews and other proceedings of a campus investigation and institutional disciplinary proceedings.

(h) The confidential advisor shall advise the alleged victim of, and provide written information regarding, both the alleged victim's rights and the institution's responsibilities regarding orders of protection, no-contact orders, restraining orders, or similar lawful orders issued by a court of competent jurisdiction or by the institution.

(i) The confidential advisor shall not be obligated to report crimes to the institution or law enforcement in a way that identifies an alleged victim or an accused individual, unless otherwise required to do so by law. The confidential advisor shall, to the extent authorized under law, provide confidential services to students. Any requests for accommodations, as provided in Paragraph (f) of this Subsection, made by a confidential advisor shall not trigger an investigation by the institution.

(j) The institution shall appoint an adequate number of confidential advisors. The Board of Regents shall determine the adequate number of confidential advisors for an institution, based upon its size, no later than January 1, 2022, and on January first annually thereafter.

(k) Each institution that enrolls fewer than five thousand students may partner with another institution in their system or region to provide the services described in this Subsection. However, this Paragraph shall not absolve the institution of its obligations under this Part.

(l) Each institution may offer the same accommodations to the accused that are hereby required to be offered to the alleged victim.

(2) Website. The institution shall list on its website:

(a) The contact information for obtaining a confidential advisor.

(b) Reporting options for alleged victims of power-based violence.

(c) The process of investigation and disciplinary proceedings of the institution.

(d) The process of investigation and adjudication of the criminal justice system.

(e) Potential reasonable accommodations that the institution may provide to an alleged victim.

(f) The telephone number and website address for a local, state, or national hotline providing information to victims of power-based violence, which shall be updated on at least an annual basis.

(g) The name and location of the nearest medical facility where an individual may have a rape kit administered by an individual trained in sexual assault forensic medical examination and evidence collection, and information on transportation options and available reimbursement for a visit to such facility.

(h) Each current memorandum of understanding between the institution and a local law enforcement and criminal justice agency located within the parish of the campus.

(3) Online reporting. The institution shall provide an online reporting system to collect anonymous disclosures of incidents of power-based violence and crimes and track patterns of power-based violence and crimes on campus. An individual may submit a confidential report about a specific incident of power-based violence or crime to the institution using the online reporting system. The online system shall also include information regarding how to report an incident of power-based violence or crime to a responsible employee and law enforcement and how to contact a confidential advisor.

(4) Amnesty policy. The institution shall provide an amnesty policy for any student who reports, in good faith, power-based violence to the institution. Such student shall not be sanctioned by the institution for a nonviolent student conduct violation, such as underage drinking, that is revealed in the course of such a report.

(5) Training.

(a) The institution shall require annual training for each employee, individual who is involved in implementing an institution's student grievance procedures, including each individual who is responsible for resolving complaints of reported power-based violence, or sexual misconduct policy violations, each Title IX coordinator at all institutions, and each employee of an institution who has responsibility for conducting an interview with an alleged victim of power-based violence.

(b) Not later than January 1, 2022, the Board of Regents, in coordination with the attorney general and in consultation with state or local victim services organizations, shall develop the annual training program required by Subparagraph (a) of this Paragraph. The Board of Regents shall annually review and revise as needed the annual training program.

(6) Inter-campus transfer policy. Institutions shall implement a uniform transcript notation and communication policy to effectuate communication regarding the transfer of a student who is the subject of a pending power-based violence complaint or who has been found responsible for an incident of power-based violence pursuant to the institution's investigative and adjudication process. The notation and communication policy shall be developed by the Board of Regents, in consultation with the postsecondary education management boards. The policy shall include procedures relative to the withholding of transcripts during the investigative and adjudication process.

(7) A victims' rights policy. The institution shall adopt a victims' rights policy, which, at a minimum, shall provide for a process by which a victim may petition and be granted the right to have a perpetrator of an incident of power-based violence against the victim barred from attending a class in which the victim is enrolled.

R.S. 17:3399.16. Safety education; recognition and reporting of potential threats to safety

A. Not later than the beginning of the fall semester of 2022, the administration of each public institution, in consultation with campus or local law enforcement agencies, shall develop and distribute information to students regarding power-based violence, campus safety, and internet and cell phone safety and online content that is a potential threat to school safety.

B. The information shall include the following:

(1) Instruction on how to identify and prevent power-based violence and how to detect potential threats to school safety exhibited online, including on any social media platform.

(2) How to report incidents of power-based violence, crimes on campus, violations of the student code of conduct, and 11 possible threats to campus safety.

(3) Where to find reports regarding campus safety.

C. The information shall be distributed as part of new student orientation and shall be posted on an easily accessible page of each institution's website.

D. The reporting process for possible threats to the campus shall, at a minimum, include:
(1) A standardized form to be used by students, faculty, and other personnel to report potential threats. The form shall request, at a minimum, the following information:

(a) Name of institution, person, or group being threatened.

(b) Name of student, individual, or group threatening violence.

(c) Date and time the threat was made.

(d) Method by which the threat was made, including the social media outlet or website where the threat was posted, a screenshot or recording of the threat, if available, and any printed evidence of the threat.

(2) A process for allowing anonymous reporting and for safeguarding the identity of a person who reports an incident of power-based violence or a safety threat.

E. Each institution shall adopt a policy to implement the provisions of this Section. The policy shall require that for every report of an incident of power-based violence or a safety threat received, the actions taken by the institution and the campus law enforcement agency or security officers be documented. The policy shall also provide for guidelines on referring the reports to the appropriate law enforcement agencies.

R.S. 17:3399.17. Public institutions of postsecondary education; power-based violence climate surveys

A. (1) Each public institution shall administer an anonymous power-based violence climate survey to its students. If an institution administers other surveys with regard to campus safety, the power-based violence climate survey may be included as a separate component of any such survey provided that the power-based violence component is clearly identified as such.

(2) Participation in the power-based violence climate survey shall be voluntary; no student shall be required or coerced to participate in the survey nor shall any student face retribution or negative consequence of any kind for declining to participate.

(3) Each institution shall make every effort to maximize student participation in the survey.

B. The Board of Regents shall:

(1) Coordinate the survey in consultation with the public postsecondary education management boards and stakeholders in accordance with national best practices.

(2) Work with the management boards in researching and selecting the best method of developing and administering the survey.

(3) Consult with victims' advocacy groups and student leaders who represent a variety of student organizations and affiliations, including student government associations, academic associations, faith-based groups, cultural groups, and fraternities and sororities, when meeting the requirements of Paragraph (1) of this Subsection.

(4) Publish the survey results on the board's website and in any other location or venue the board considers necessary or appropriate.

C. Each public postsecondary institution shall:

(1) Administer a survey during the 2022-2023 academic year and every third year thereafter.

(2) Report survey results to the institution’s board of supervisors and the Board of Regents.

(3) Publish the survey results in a prominent easy to access location on the institution's website.

D. The Board of Regents shall submit a written report on the survey results, to be included in the power-based violence report pursuant to R.S. 17:3399.13.1(F). The report shall summarize results from each public postsecondary education institution and the state as a whole. The report shall be submitted to the David R. Poynter Legislative Research Library as required by R.S. 24:771 and 772.

R.S. 17:3399.18. Louisiana Power-Based Violence Review Panel

A. The Louisiana Power-Based Violence Review Panel is hereby created under the jurisdiction of the Board of Regents.

B. The panel shall be composed of the following members:

(1) The president of the Louisiana Senate or his designee.
(2) The speaker of the Louisiana House of Representatives or his designee.
(3) The chair of the Louisiana Senate Select Committee on Women and Children or his designee.
(4) The chair of the Louisiana House Select Committee on Women and Children or his designee.
(5) The attorney general or his designee.
(6) The commissioner of higher education or his designee.
(7) The president of each public postsecondary education management system or his designee.
(8)A student representative from each of the postsecondary management boards appointed by the respective board's president.
(9) The superintendent of the Louisiana State Police or his designee.
(10) The president of the Louisiana Association of Chiefs of Police or his designee.
(11) A member of the Domestic Violence Prevention Commission appointed by the secretary of the Department of Children and Family Services.
(12) A licensed social worker with experience related to power-based violence appointed by the president of the Board of Directors of the Louisiana Chapter, National Association of Social Workers.
(13) A licensed psychologist with experience related to power-based violence, appointed by the chair of the Louisiana State Board of Examiners of Psychologists.
(14) The executive director of the Louisiana Foundation Against Sexual Assault or his designee.
(15) The president of Sexual Trauma Awareness and Response or his designee.
(16) The governor or his designee.
(17) A Title IX coordinator representing each public postsecondary education system, appointed by the president of the system.

C. Members shall serve without compensation, except for per diem or reimbursement of expenses to which they may be entitled as members of the constituent organizations.

D. A majority of the total membership shall constitute a quorum of the panel, and any official action taken by the panel shall require an affirmative vote of the majority of the quorum present and voting.

E. The panel shall elect a chairman, and any other officers deemed necessary, from among the membership.

F. The panel shall meet at least two times per year upon the call of the chair or as provided by panel rules.

G. The panel may adopt rules of procedures for its operation.

H. The Board of Regents shall provide staff support to the panel.

I. The panel shall:

(1) Evaluate policies and practices of institutions of public postsecondary education, public postsecondary education management boards, and the Board of Regents regarding reporting,

investigating, and adjudicating power-based violence by and against students and recommend revisions to improve such policies and practices.

(2) Advise and assist institutions of public postsecondary education, public postsecondary education management boards, and the Board of Regents in coordinating procedures to provide power-based violence prevention programs.

(3) Serve as an advisory agency to the legislature, the governor, the Board of Regents, and the public postsecondary education management boards regarding power-based violence.

J. To the extent permitted by and in accordance with the Public Records Law, the Board of Regents, each public postsecondary education management board, each public postsecondary education institution, and each law enforcement or criminal justice agency located within a parish with a public postsecondary education institution campus shall make available all facts, records, information, and data required by the panel and in all ways cooperate with the panel in carrying out the functions and duties imposed by this Part.

Chapter 42. Charter School Demonstration Program Law
Part V. Operation of a Charter School

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R.S. 17:3996. Charter schools; exemptions; requirements

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B. Notwithstanding any state law, rule, or regulation to the contrary and except as may be otherwise specifically provided for in an approved charter, a charter school established and operated in accordance with the provisions of this Chapter and its approved charter and the school's officers and employees shall be exempt from all statutory mandates or other statutory requirements that are applicable to public schools and to public school officers and employees except for the following laws otherwise applicable to public schools with the same grades:

. . .

(24) Teaching regarding dating violence, R.S. 17:81(T).

. . .

(28) Reporting by a school employee employed by the governing authority of a public elementary or secondary school of his arrest for one or more of the specified offenses relative to sexual morality affecting minors, R.S. 17:16, any of the crimes provided in R.S. 15:587.1, or any justified complaint of child abuse or neglect on file in the central registry pursuant to Article 615 of the Children's Code.

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(64) In-service training regarding adverse childhood experiences and trauma-informed education, R.S. 17:437.2.

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Title 36. Organization of Executive Branch of State Government
Chapter 6. Louisiana Department of Health

R.S. 36:259. Transfer of agencies and functions to Louisiana Department of Health

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B. The following agencies, as defined in R.S. 36:3, are placed within the Louisiana Department of Health and shall perform and exercise their powers, duties, functions, and responsibilities as otherwise provided by law:

. . .

(38) The Louisiana Domestic Abuse Fatality Review Panel (R.S. 40:2024.1 et seq.). The review panel shall exercise and carry out all powers, duties, functions, and responsibilities as provided in R.S. 36:802.

Chapter 18. Department of Justice

. . .

R.S. 36:706. Transfer of boards, commissions, and agencies to Department of Justice

A. For purposes of this Chapter, references in Chapters 22 and 24 of this Title to the "secretary" shall refer to the attorney general, references to the "undersecretary" shall refer to the director of the administrative services division, and references to an "assistant secretary" shall refer to a director of a division created in this Chapter.

. . .

D. The Louisiana Sexual Assault Oversight Commission, R.S. 15:555 et seq., is placed within the Department of Justice and shall perform and exercise its powers, duties, functions, and responsibilities as provided by law.

Title 40. Public Health and Safety
Chapter 5-D. Health Provisions: Health Care
Subchapter D. Healthcare Services
PART III-a. Healthcare Services for Victims of Sexually-Oriented Criminal Offenses

R.S. 40:1216.1. Procedures for survivors of a sexually-oriented criminal offense; immunity; regional plans; maximum allowable costs; definitions; documents requested by victim

A. All licensed hospitals and healthcare providers in Louisiana shall adhere to the following procedures if a person presents for treatment as a sexual assault survivor:

(1)(a) Except as provided in Subparagraphs (b) and (c) of this Paragraph, a survivor shall decide whether or not the incident will be reported to law enforcement officials. No hospital or healthcare provider shall require the survivor to report the incident to receive medical attention or collect evidence.

(b) If a person under the age of eighteen presents for treatment as a sexual assault survivor, the hospital or healthcare provider shall immediately notify the appropriate law enforcement agency or any other official necessary to fulfill any mandatory reporting obligation required by law.

(c) If a survivor is physically or mentally incapable of making the decision to report, the hospital or healthcare provider shall immediately notify the appropriate law enforcement officials.

(2) All sexual assault survivors shall be examined and treated, without undue delay, in a private space required to ensure the health, safety, and welfare of the survivor by a qualified healthcare provider. Examination and treatment, including the forensic medical examination, shall be adapted as necessary to address the unique needs and circumstances of each survivor. All survivors shall be afforded an advocate whose communications are privileged in accordance with the provisions of R.S. 46:2187, if one is available. With the consent of the survivor, an advocate shall remain in the examination room during the forensic medical examination. With the consent of the survivor, the examination and treatment of all sexual assault survivors shall, at a minimum, include all of the following:

(a) Examination of physical trauma.

(b) Patient interview, including medical history, triage, and consultation.
(c) Collection and evaluation of evidence, including but not limited to the following:

(i) Photographic documentation.
(ii) Preservation and maintenance of chain of custody.
(iii) Medical specimen collection.
(iv) When determined necessary by the healthcare provider, an alcohol or drug-facilitated sexual assault assessment and toxicology screening.

(d) Any testing related to the sexual assault or recommended by the healthcare provider.
(e) Any medication provided during the forensic medical examination, which may include emergency contraception and HIV or STI prophylaxis.

(3)(a) If the survivor wishes to report the incident to law enforcement, the hospital or healthcare provider shall contact the appropriate law enforcement agency having jurisdiction over the location where the crime occurred. If the location where the crime occurred cannot be determined, the hospital or healthcare provider shall contact the law enforcement agency having jurisdiction over the location where the forensic medical examination is performed to determine the appropriate investigating agency.

(b) Upon completion of the forensic medical examination, the sexual assault collection kit shall be turned over to the investigating law enforcement agency. No sexual assault collection kit shall remain at a hospital or medical facility if the hospital or medical facility is unable to store the sexual assault kit in a secure location that ensures proper chain of custody. If a hospital or medical facility has a secure location to store the sexual assault collection kit that ensures proper chain of custody, the investigating law enforcement agency shall take possession of the sexual assault collection kit within seventy-two hours upon notification of completion of the sexual assault collection kit by the hospital or healthcare provider. A healthcare provider working for a coroner's office may store the sexual assault collection kit in a secure location maintained by the coroner.

(4) If the survivor does not wish to report the incident to law enforcement, the hospital or healthcare provider shall, upon completion of the forensic medical examination, contact the law enforcement agency having jurisdiction over the location where the forensic medical examination was performed to transfer possession of the unreported sexual assault collection kit for storage. The unreported sexual assault collection kit shall not be identified or labeled with the survivor's identifying information. The hospital or healthcare provider shall maintain a record of the sexual assault collection kit number in the survivor's record that shall be used for identification should the victim later choose to report the incident. The healthcare provider shall provide all information required by the system operated by the office of state police, pursuant to R.S. 15:624.1. No sexual assault collection kit shall remain at a hospital or medical facility if the hospital or medical facility is unable to store the sexual assault kit in a secure location that ensures proper chain of custody. If a hospital or medical facility has a secure location that ensures proper chain of custody, the law enforcement agency having jurisdiction over the location where the forensic medical examination was performed shall take possession of the unreported sexual assault collection kit within seventy-two hours upon notification of completion of the sexual assault collection kit by the hospital or healthcare provider. A healthcare provider working for a coroner's office may secure the unreported sexual assault collection kit in a secured location maintained by the coroner. The law enforcement agency shall not destroy or dispose of an unreported sexual assault collection kit for a period of at least twenty years after the forensic medical examination was performed. If a healthcare provider working for a coroner's office chooses to store an unreported sexual assault collection kit at a coroner's office, the healthcare provider shall not destroy or dispose of an unreported sexual assault collection kit for period of at least twenty years after the forensic medical examination was performed.

(5) No hospital or healthcare provider shall directly bill a survivor of a sexually-oriented criminal offense for any healthcare services rendered in conducting a forensic medical examination, including the healthcare services rendered in accordance with Paragraph (2) of this Subsection and the following:

(a) Forensic examiner and hospital or healthcare facility services directly related to the exam, including integral forensic supplies.

(b) Scope procedures directly related to the forensic exam including but not limited to anoscopy and colposcopy.

(6) The healthcare provider who performed the forensic medical exam and the hospital or healthcare facility shall submit a claim for payment for conducting a forensic medical exam directly to the Crime Victims Reparations Board to be paid in strict accordance with the provisions of R.S. 46:1822. A survivor of a sexually oriented criminal offense shall not be billed directly or indirectly for the performance of any forensic medical exam. The provisions of this Paragraph shall not be interpreted or construed to apply to either of the following:

(a) A healthcare provider billing for any medical services that are not specifically set forth in this Section or provided for diagnosis or treatment of the survivor for injuries related to the sexual assault.

(b) A survivor of a sexually oriented criminal offense seeking reparations in accordance with the Crime Victims Reparations Act, R.S. 46:1801 et seq. for the costs for any medical services that are not specifically set forth in this Section or provided for the diagnosis or treatment of the survivor for injuries related to the sexual assault.

(7) The department shall make available to every hospital and healthcare provider licensed under the laws of this state a pamphlet containing an explanation of the billing process for services rendered pursuant to this Section. Every hospital and healthcare provider shall provide a copy of the pamphlet to any person presented for treatment as a survivor of a sexually-oriented criminal offense.

(8)(a) The survivor shall be provided with information about emergency contraception which shall be developed and made available electronically to all licensed hospitals in this state through the Louisiana Department of Health's website and by paper form upon request to the department.

(b) The treating healthcare provider shall inform the survivor of the option to be provided emergency contraception at the hospital or healthcare facility and, upon the completion of a pregnancy test yielding a negative result, shall provide emergency contraception upon the request of the survivor.

B.(1) These procedures shall constitute minimum standards for the operation and maintenance of hospitals under the provisions of this Part and failure to comply with the standards shall constitute grounds for denial, suspension, or revocation of license under provisions of this Part.

(2) Failure to comply with the provisions of this Section may constitute grounds for denial, suspension, or revocation of the healthcare provider's license by the appropriate licensing board or commission.

C. No hospital or healthcare provider shall refuse to examine and assist an alleged survivor on the grounds the alleged offense occurred outside of or the survivor is not a resident of the jurisdiction. Nothing in this Subsection shall relieve a licensed hospital or healthcare provider of its obligations under Subsections A and B of this Section.

D. (1) Any member of the hospital staff or a healthcare provider who in good faith notifies the appropriate law enforcement official pursuant to Paragraph (A)(1) of this Section shall have immunity from any civil liability that otherwise might be incurred or imposed because of the notification. The immunity shall extend to participation in any judicial proceeding resulting from the report.

(2) The hospital or healthcare provider staff member who notifies the appropriate law enforcement official shall document the date, time, and method of notification and the name of the official who received the notification.

(3) On or before January first of each year, each law enforcement agency shall provide each hospital located in its respective jurisdiction with the name of the responsible contact person along with the responsible person's contact information in order to comply with the provisions of this Section.

E.(1) The Department of Health and Hospitals, through the medical directors of each of its nine regional health service districts, shall coordinate an annual sexual assault response plan for each district. Each district shall submit a proposed plan for review by the secretary no later than November first of each year. An approved plan shall become effective February first of the following year.

(2) When developing the annual response plan, each district shall incorporate a sexual assault response team protocol. Each district shall develop the annual plan to do all of the following:

(a) Provide an inventory of all available resources and existing infrastructure in the region and clearly outline how the resources and infrastructure will be incorporated in the most effective manner.

(b) Clearly outline the entity responsible for the purchase of sexual assault collection kits and the standards and procedures for the storage of the kits prior to use in a forensic medical examination.

(c) Clearly outline the standards and procedures for a survivor to receive a forensic medical examination, as defined in R.S. 15:622, to ensure access to such an examination in every parish. The plan shall designate a hospital or healthcare provider to be the lead entity for sexual assault examinations for adult survivors and a hospital or healthcare provider to be the lead entity for sexual assault examinations for pediatric survivors. The plan shall also include specific details directing first responders in the transport of survivors of a sexually oriented crime, the appropriate party to perform the forensic medical examination, and any required training for a person performing a forensic medical examination.

(d) Clearly outline the standards and procedures for the handling and payment of medical bills related to the forensic medical examination to clarify and ensure that those standards and procedures are in compliance with this Section and any other applicable section of law.

(e) Clearly outline the standards and procedures for the transfer of sexual assault collection kits pursuant to this Section and any other applicable section of law.

(3) When developing the annual response plan, the department shall solicit the input of interested stakeholders in the region including but not limited to all of the following:

(a) The sheriff for each parish within the region.

(b) The chief of police for any political subdivision located within the region.

(c) All hospitals located within the region.

(d) The coroner for each parish within the region.

(e) First responder organizations located within the region.

(f) Higher education institutions located within the region.

(g) The school board for each parish located within the region.

(h) Sexual assault advocacy organizations and children's advocacy centers providing services within the region.

(i) The district attorney for each parish within the region or his designee.

(j) Each crime lab located within the region.

(4) The annual response plan shall be approved by the stakeholders as provided for in Paragraph (3) of this Subsection.

(5) The department shall include an appendix in each regional plan that provides a copy of all notices sent to stakeholders about the sexual response plan meeting, a list of the individuals and

organizations that were provided notice, the method and timing of the notice provided, and a list of the individuals and organizations in attendance at the meeting.

(6) The department shall record all meetings and make the recordings and annual plans available through the Louisiana Department of Health's website.

F. All sexual assault collection kits used in a forensic medical examination shall meet the standards developed by the Department of Health and Hospitals and the Department of Public Safety and Corrections.

G. (1) Upon request of a competent adult survivor of a sexually oriented criminal offense, the healthcare provider that performed the forensic medical exam shall provide a reproduction of any written documentation which is in the possession of the healthcare provider resulting from the forensic medical exam of the survivor. The documentation shall be provided to the survivor no later than fourteen days after the healthcare provider receives the request or the healthcare provider completes the documentation, whichever is later.

(2) The reproduction of written documentation provided for in this Subsection shall be made available at no cost to the survivor and may only be released at the direction of the survivor who is a competent adult. This release does not invalidate the survivor's reasonable expectation of privacy nor does the record become a public record after the release to the survivor.

H. For purposes of this Section the following definitions apply:

(1) “Emergency contraception” means only drugs approved by the United States Food and Drug Administration with mechanisms of action that likely include the prevention of ovulation, sperm capacitation, or fertilization after sexual intercourse and do not meet the definition of a legend drug as defined in R.S. 40:1060.11.

(2) "Forensic medical examination" has the same meaning as defined in R.S. 15:622.

(3) "Healthcare provider" means either of the following:

(a) A physician, sexual assault nurse examiner, or other healthcare practitioner licensed, certified, registered, or otherwise authorized and trained to perform a forensic medical examination.

(b) A facility or institution providing healthcare services, including but not limited to a hospital or other licensed inpatient center, ambulatory surgical or treatment center, skilled nursing facility, inpatient hospice facility, residential treatment center, diagnostic, laboratory, or imaging center, or rehabilitation or other therapeutic health setting.

(4) "Healthcare services" means services, items, supplies, or drugs for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease ancillary to a sexually oriented criminal offense.

(5) “Sexual assault collection kit” includes all evidence collected during a forensic medical examination.

(6) "Sexually oriented criminal offense" has the same meaning as defined in R.S. 15:622.

(7) “Unreported sexual assault collection kit” means a sexual assault collection kit where a law enforcement agency has not received a related report or complaint alleging that a sexual assault has occurred.

Chapter 6. Department of Public Safety
Part III. State Police. Subpart A. State Police Law

R.S. 40:1379.3.2. Temporary concealed handgun permit; protective order; time limitations

A. A person on whose behalf the court has issued a permanent injunction or a protective order to bring about the cessation of abuse by one family member, household member, or dating partner pursuant to a court-approved consent agreement or pursuant to the provisions of R.S. 9:361 et

seq., R.S. 9:372, R.S. 46:2136, 2151, or 2173, Children's Code Article 1570, Code of Civil Procedure Article 3607.1, or Code of Criminal Procedure Articles 30, 320, or 871.1 and which prohibits the subject of the order from possessing a firearm for the duration of the injunction or protective order pursuant to the provisions of R.S. 46:2136.3 may apply to the deputy secretary of public safety services of the Department of Public Safety and Corrections for the issuance of a temporary concealed handgun permit.

B. When submitting an application for a temporary concealed handgun permit, the applicant shall:

(1) Make sworn application in person or electronically to the deputy secretary of public safety services of the Department of Public Safety and Corrections. The providing of false or misleading information on the application or any documents submitted with the application shall be grounds for the denial or revocation of a temporary concealed handgun permit.

(2) Agree in writing to hold harmless and indemnify the department, the state, or any peace officer for any and all liability arising out of the issuance or use of the temporary concealed handgun permit.

(3) Meet the qualifications for the issuance of a concealed handgun permit as provided for in R.S. 40:1379.3(C); however, an applicant for a temporary concealed handgun permit shall not be required to comply with the provisions of R.S. 40:1379.3(D) upon application.

(4) Pay the twenty-five dollar fee authorized in R.S. 40:1379.3(H)(2).

C. (1) The holder of a temporary concealed handgun permit shall not be subject to the provisions of R.S. 40:1379.3(D) pending completion of the requisite training for a concealed handgun permit issued pursuant to the provisions of R.S. 40:1379.3, but shall otherwise comply with all other restrictions and provisions of R.S. 40:1379.3.

(2) If the applicant for a temporary concealed handgun permit applies for a concealed handgun permit issued pursuant to the provisions of R.S. 40:1379.3, the twenty-five dollar fee paid shall be applied to the cost of a concealed handgun permit as provided for in R.S. 40:1379.3(H)(2) issued once the temporary concealed handgun permittee completes the requisite training pursuant to R.S. 40:1379.3(D).

D. The temporary concealed handgun permit:

(1) Is valid only in Louisiana and shall not be considered as satisfying the requirements of reciprocity with any other state concealed firearm provisions.

(2) Shall not be construed to constitute evidence of a background check required pursuant to 18 U.S.C. 922 prior to the transfer of a firearm as authorized by the provisions of R.S. 40:1379.3(T).

(3) Shall expire forty-five days from the date of issuance.

E. The person issued a temporary concealed handgun permit as provided by the provisions of this Section is authorized to carry a concealed handgun for a period of forty-five days from issuance or until the concealed handgun permit issued pursuant to the provisions of R.S. 40:1379.3 is issued, whichever is less.

F. Failure to carry a copy of the permanent injunction or the protective order at all times the person is carrying the concealed handgun shall render the temporary concealed handgun permit invalid.

G. The department shall conduct a background check as provided for in R.S. 40:1379.3(K) prior to the issuance of a temporary concealed handgun permit.

H. The office of state police shall promulgate rules to implement the provisions of this Section.

Chapter 11. State Department of Health
Part 1-A. Louisiana Domestic Abuse Fatality Review Panel

R.S. 40:2024.1. Title

This Part shall be known and cited as the "Louisiana Domestic Abuse Fatality Review Panel Law".

R.S. 40:2024.2. Definitions

A. For the purposes of this Part, the following terms have the following meanings ascribed to them, unless the context clearly indicates otherwise:

(1) "Adult" means any individual eighteen years of age or older, or any person under the age of eighteen who has been emancipated by marriage or otherwise.

(2) "Dating partner" means any person who is involved or has been involved in a sexual or intimate relationship with the offender characterized by the expectation of affectionate involvement independent of financial considerations, regardless of whether the person presently lives or formerly lived in the same residence with the offender. "Dating partner" shall not include a casual relationship or ordinary association between persons in a business or social context.

(3) "Domestic abuse" includes but is not limited to physical or sexual abuse and any offense against the person, physical or non-physical, as defined in the Louisiana Criminal Code, except negligent injury and defamation, committed by one family member, household member, or dating partner against another. "Domestic abuse" also includes sexual abuse as defined in R.S. 15:1503.

(4) "Domestic abuse fatality" means any death of a person resulting from an incident of domestic abuse or attempted domestic abuse, including the death of a person who is not a family member, household member, or dating partner of the perpetrator's, or the suicide of a person where there are implications that a person is the victim of domestic abuse prior to his suicide. For the purposes of this Section, "domestic abuse fatality" shall be interpreted broadly to give the Domestic Abuse Fatality Review Panel discretion to review fatalities that have occurred both directly or peripherally to domestic relationships.

(5) "Family member" means spouses, former spouses, parents, children, stepchildren, unborn children, foster parents, foster children, other ascendants, and other descendants. "Family member" also means the other parent or foster parent of any child or foster child of the offender.

(6) "Household member" means any person presently or formerly living in the same residence with the offender and who is involved or has been involved in a sexual or intimate relationship with the offender, or any child presently or formerly living in the same residence with the offender, or any child of the offender regardless of where the child resides.

(7) "Review" means an examination or re-examination of information regarding a deceased person from relevant agencies, professionals, healthcare providers, or other sources.

R.S. 40:2024.3. Louisiana Domestic Abuse Fatality Review Panel; membership; chairman; proxies

A. The legislature hereby establishes within the Louisiana Department of Health a review panel which shall be designated as the "Louisiana Domestic Abuse Fatality Review Panel", hereinafter referred to in this Part as "review panel". The review panel shall be comprised of the following members:

(1) The state health officer or his designee.
(2) The secretary of the Louisiana Department of Health or his designee.
(3) The secretary of the Department of Children and Family Services or his designee.
(4) The assistant secretary of the office of behavioral health of the Louisiana Department of Health or his designee.
(5) The director of the bureau of emergency medical services of the Louisiana Department of Health or his designee.
(6) The director of the governor's office on women's policy or his designee.
(7) The superintendent of state police or his designee.
(8) The state registrar of vital records in the office of public health or his designee.
(9) The attorney general or his designee.
(10) A district attorney or assistant district attorney appointed by the Louisiana District Attorneys Association.
(11) A sheriff appointed by the Louisiana Sheriffs' Association.
(12) A police chief appointed by the Louisiana Association of Chiefs of Police.

(13) A coroner appointed by the president of the Louisiana Coroners Association.
(14) The executive director of the Louisiana Coalition Against Domestic Violence or his designee.
(15) The executive director of a community-based domestic violence service organization or his designee.
(16) The president of the Louisiana Clerks of Court Association or his designee.
(17) A forensic pathologist certified by the American Board of Pathology and licensed to practice medicine in the state appointed by the Louisiana State Board of Medical Examiners.
(18) A representative of the Louisiana Protective Order Registry appointed by the judicial administrator of the Louisiana Supreme Court.
(19) A representative of the legal services program funded by the Legal Services Corporation that regularly provides civil legal representation to survivors of domestic violence.
(20) A director or his designee of a local supervised visitation or safe exchange center who is professionally trained to identify the unique safety needs of domestic violence victims.

B. Any additional persons may be appointed to the review panel who are determined to have relevant knowledge regarding domestic abuse and would aid the review panel in fulfilling its duties.

C. The members of the review panel shall elect a chairman to serve the review panel.

D. Notwithstanding the provisions set forth in Subsection A of this Section, each member shall be entitled to appoint a single person to serve as proxy for the duration of his term if the member is unable to attend a meeting of the review panel. The term of the designated proxy shall be the same as the voting member. A member appointing a person to serve as his designated proxy shall make his appointment known to the chairman of the review panel.

R.S. 40:2024.4. Functions; duties of the review panel

A. The functions of the review panel shall include:

(1) Identify and characterize the scope and nature of domestic abuse fatalities in this state and, if the decedent victim is female, report all of the following:

(a) Whether the decedent was pregnant at the time of death.

(b) Is there medical evidence that indicates that the decedent had been recently pregnant but was no longer pregnant at the time of death.

(c) Whether the decedent was single, married, or divorced to the extent such information can be determined.

(2) Research and review trends, data, or patterns that are observed of domestic abuse fatalities.

(3) Review past events and circumstances of domestic abuse fatalities by reviewing records and other pertinent documents of public and private agencies that are responsible for investigating deaths or treating victims.

(4) Research and revise, as necessary, operating rules and procedures for review of domestic abuse fatalities including but not limited to identification of cases to be reviewed, coordination among agencies and professionals involved, and improvement of the identification, data collection, and record-keeping of the causes of domestic violence fatalities.

(5) Recommend systemic improvements to promote improved and integrated public and private systems serving victims of domestic abuse.

(6) Recommend components for prevention and education programs.

(7) Recommend training to improve the identification and investigation of domestic violence fatalities that occur in Louisiana.

B. The review panel may do all of the following:

(1) Establish local and regional panels to which the review panel may delegate some or all of its responsibilities under this Part.

(2) Analyze data available through any state systems that may decrease the incidence of domestic abuse fatalities in this state.
(3) Create formal partnerships with existing local and regional fatality review panels to accomplish its responsibilities under this Section.

R.S 40:2024.5. Records; confidentiality; prohibited disclosure and discovery

A. Notwithstanding any other provision of law to the contrary, the review panel, or any local or regional panel or agent of a local or regional panel, shall be authorized to access medical and vital records in the custody of physicians, hospitals, clinics, other healthcare providers, and the office of public health, and any other information, documents, or records pertaining to the completed investigation of any domestic abuse fatality in the custody of any law enforcement agency in order that it may perform its functions and duties as provided in this Section.

B. The review panel, or any local or regional panel or agent of a local or regional panel, may request from a person, agency, or entity any relevant information, whether written or oral, to carry out its functions and duties. This information may include but is not limited to the following:

(1) Medical information.
(2) Mental health information.
(3) Information from elder abuse reports and investigation reports which exclude the identity of persons who have made a report and shall not be disclosed.
(4) Information from child abuse reports and investigations which exclude the identity of persons who have made a report and shall not be disclosed.
(5) Summary of criminal history, criminal offender record, and local criminal history.
(6) Information pertaining to reports by healthcare providers of persons suffering from physical injuries inflicted by means of a firearm or of persons suffering physical injury where the injury is a result of abusive conduct.
(7) Information concerning a juvenile court proceeding.
(8) Information maintained by a family court or the office of vital records.
(9) Information provided by probation officers in the course of the performance of their duties including but not limited to the duty to prepare reports as well as the information on which these reports are based.
(10) Records of in-home supportive services unless disclosure is prohibited by federal law.

C. The review panel, or any local or regional panel or agent of a local or regional panel, may make a request in writing for the information sought and any person, agency, or entity with information may rely on the request to determine whether information may be disclosed. A person, agency, or entity that has the information and is governed by this Section shall not be required to disclose the information. The intent of this Section is to allow the voluntary disclosure of information by a person, agency, or entity that has the information.

D. Except as provided in this Subsection, information and records obtained by the review panel, or any local or regional panel or agent of a local or regional panel, in accordance with the provisions of this Section, or results of any domestic abuse fatality report, shall be confidential and shall not be available for subpoena nor shall the information be disclosed, discoverable, or compelled to be produced in any civil, criminal, administrative, or other proceeding, nor shall the records be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal or court of any reason. Information and records presented to the review panel, or any local or regional panel or agent of a local or regional panel, shall not be immune from subpoena, discovery, or prohibited from being introduced into evidence solely because they were presented to or reviewed by the review panel, or any local or regional panel or agent of a local or regional panel, if the information and records have been obtained from other sources.

E. Any person, agency, or entity furnishing information, documents, and reports in accordance with this Section shall not be liable for the disclosure and shall not be considered in violation of any privileged or confidential relationship, if the person, agency, or entity has acted in good faith in the reporting pursuant to this Section.

F. A member of the review panel, or any local or regional panel or agent of a local or regional panel, may not disclose any information that is confidential under this Section. A person who appears before, participates in, or provides information to the review panel, or any local or regional panel or agent of a local or regional panel, shall sign a confidentiality notice to acknowledge that any information he provides to the review panel, or any local or regional panel or agent of a local or regional panel, shall be confidential. Information identifying a victim of domestic violence whose case is being reviewed, or that victim's family members, or an alleged or suspected perpetrator of abuse upon the victim, or regarding the involvement of any agency with the victim or victim's family members, shall not be disclosed in any report that is available to the public. Nothing in this Section shall prohibit the publishing by the review panel, or any local or regional panel or agent of a local or regional panel, of statistical compilations relating to domestic abuse fatalities which do not identify a person's case or person's healthcare provider, law enforcement agency, or organization who provides services to victims.

G. When the review panel, or any local or regional panel or agent of a local or regional panel, concludes a review of a domestic abuse fatality or other review, it shall return all information and records that concern a victim or the victim's family members to the person, agency, or entity that furnished the information.

R.S. 40:2024.6. Reporting to the legislature; requirements

The review panel shall issue an annual report of its findings and recommendations to the governor, the speaker of the House of Representatives, and the president of the Senate. The report shall not contain information identifying any victim of domestic abuse or that victim's family members, an alleged or suspected perpetrator of abuse upon a victim, or the involvement of any agency with a victim or the victim's family members. The review panel shall issue its initial report on or before January 30, 2023, and every year thereafter. The report may include any recommendations for legislation that the review panel considers necessary and appropriate.

R.S. 40:2024.7. Financial and human resources obligations

The Louisiana Department of Health may, at its discretion, secure financial and human resources from, or create formal partnerships with, external entities, in order to meet its obligations as described in this Part.

Part VI-a. Licensing of Outpatient Abortion Facilities

R.S. 40:2175.7. Mandatory reports to law enforcement; human trafficking awareness and prevention training

A.(1) Notwithstanding any claim of privileged communication, any mandatory reporter to law enforcement who has cause to believe that a minor or adult female who presents at an outpatient abortion facility is a victim of human trafficking, trafficking of children for sexual purposes, rape, incest, or coerced abortion shall report such crime immediately, or no later than the end of the business day, to the sheriff's department in the parish or local police department where the outpatient abortion facility is located. If the victim does not reside in the parish where the outpatient abortion facility is located, the mandatory reporter to law enforcement shall also report the crime to the law enforcement agency in the parish or county in which the victim resides, if reasonably ascertainable.

(2) The Louisiana Department of Health shall promulgate a form which may be used by a mandatory reporter to law enforcement to report a crime, pursuant to Paragraph (1) of this Subsection, to the parish or local law enforcement agency.

B.(1) Beginning August 1, 2019, every mandatory reporter to law enforcement shall certify to the Louisiana Department of Health that they have participated in a training on human trafficking awareness and prevention on an annual basis. The department shall maintain the name of each mandatory reporter to law enforcement as confidential, and such information shall not be subject to disclosure pursuant to the Public Records Law.

(2) The Louisiana Department of Health shall promulgate rules to provide for compliance of this Subsection utilizing the online educational videos on human trafficking awareness and prevention

provided by the United States Department of Health and Human Services, Administration for Children and Families, office on trafficking in persons or such training tools as may be adopted by the department.

C. The provisions of R.S. 40:1061.8 shall apply to this Part.

Chapter 18. Peace Officers Standards and Training Law

R.S. 40:2405.8. Additional peace officer training requirements

A. The council shall develop and continuously update a Peace Officer Standards and Training (POST) recognized homicide investigator training program and a sexual assault awareness training program for peace officers that shall consist of classroom or Internet instruction, or both. The training programs may include field officer training as prescribed by the council.

B. The council shall create and maintain a current list of those peace officers who have successfully completed the homicide investigator training program for purposes of coordinating homicide investigations occurring in the state. Except for peace officers investigating cases of vehicular homicide as defined in R.S. 14:32.1, on and after January 1, 2017, only peace officers who successfully complete the homicide investigator training program or receive a waiver of compliance based on prior training or experience as a homicide investigator shall be assigned to lead investigations in homicide cases.

C.(1) The council shall develop the sexual assault awareness training program in a series of modules to include all of the following:

(a) The neurobiology of sexual assault and trauma, including victim impact.

(b) Response to sexual assault, including but not limited to investigative methods, collecting and securing evidence, and interviewing victims.

(c) Applicable federal and state victims' rights laws.

(2) The council shall solicit free or no-cost training and technical assistance and may accept gifts, grants, and donations from whatever sources are available for purposes of this Subsection. The council shall consult with appropriate governmental agencies and nongovernmental statewide agencies in the development and presentation of the training required by this Subsection. Regarding nongovernmental agencies, only agencies whose primary purpose is the delivery of sexual assault services to victims are required to be consulted.

(3) On and after July 1, 2016, each peace officer, as defined in R.S. 40:2402(3)(a), shall complete a sexual assault awareness training program as provided by the council.

D. The council shall create and maintain a current list of those peace officers who have successfully completed the sexual assault awareness training program for purposes of coordinating sexual assault investigations.

E.(1) The council shall develop a domestic violence awareness training program in a series of modules to include all of the following:

(a) Dynamics of domestic violence.
(b) Predominant aggressor determination.
(c) Neurobiology of trauma and its implications for victim communication.
(d) Strangulation response and investigation methods.
(e) Evidence-based investigation methods.
(f) Protection order enforcement and the Louisiana Protective Order Registry.
(g) Applicable state and federal domestic violence laws.

(2) On and after July 1, 2018, each peace officer, as defined in R.S. 40:2402(3)(a), shall complete a domestic violence awareness training program as provided by the council.

F.(1) The council, in collaboration with the community, shall develop a communication training plan. The plan shall incorporate officer techniques for face-to-face communications with hard of hearing or deaf persons. The training shall cover the following topics:

(a) Recognition of deaf or hard of hearing individuals.

(b) Communication tips including but not limited to the following:
(i) Review of the ADA publication, "Communicating with People Who Are Deaf or Hard of Hearing: ADA Guide for Law Enforcement Officer".

(ii) Training with communication cards or other forms of assistance technology for law enforcement officers interacting with deaf or hard of hearing individuals.

(c) Information regarding how to access interpreters, TTY, and relay services.

(d) Rights of deaf and hard of hearing individuals, including interrogations.

e) Applicable state and federal laws.

(2) On and after January 1, 2019, each peace officer, as defined in R.S. 40:2402(3)(a), shall complete an interactive training module as provided by the council on communicating with deaf and hard of hearing individuals.

(3) The council shall approve communication cards developed by any public or private entity, including nongovernmental advocacy groups, that specializes in working with deaf and hard of hearing individuals for the use by law enforcement officers. The communication cards should be made available in all law enforcement agency headquarters and substations. Additionally, all officers shall have communication cards available in patrol vehicles.

. . .

H. The council shall ensure that Alzheimer's and dementia training are incorporated within their education programs.

I. (1) The council shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to the oversight of the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B, for the implementation of a homicide investigator training program.

(2)(a) The council shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to the oversight of the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B, for the implementation of a sexual assault awareness training program as provided in R.S. 17:1805(H).

(b) The council shall promulgate rules and regulations in accordance with the Administrative Procedure Act, subject to the oversight of the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary B, for the implementation of a sexual assault awareness training program for peace officers as defined in R.S. 40:2402(3)(a) as provided in Paragraph (C)(3) of this Section.

(3)(a) The council shall promulgate rules in accordance with the Administrative Procedure Act for implementation of the following training programs for peace officers as provided in Subsections E and F of this Section:

(i) Domestic violence awareness training.

(ii) Communication with deaf or hard of hearing individuals.

(b) The council shall create and maintain a list of peace officers who have successfully completed the domestic violence awareness training and the training on communication with deaf or hard of hearing individuals.

J. (1) The council shall develop and continuously update trauma- informed training materials related to domestic violence, sexual assault, and sex trafficking in its basic and in-service training curriculums.

(2) For the purposes of this Subsection, trauma-informed materials shall include skills, practices, and leadership relating only to domestic violence, sexual assault, and sex trafficking.
(3) The initial orientation to sex trafficking trauma-informed training shall be classroom instruction, and shall be conducted at a P.O.S.T. accredited academy or a P.O.S.T. approved training center. The council may designate an alternative method for delivery of the training when otherwise not logistically feasible.

(4) All peace officers employed on August 1, 2024, who have been employed for one year or more, shall complete the training within one year after the curriculum has been developed and approved by the council.

(5) The trauma-informed training and materials required by this Subsection shall not include materials relating to diversity, equity, and inclusion practices or policies.

Title 42. Public Officers and Employees
Chapter 6. Prevention of Sexual Harassment

R.S. 42:342. Mandatory policy prohibiting sexual harassment

A. Each agency head shall develop and institute a policy to prevent sexual harassment which is applicable to all public servants in the agency.

B. At a minimum, the policy shall contain all of the following:

(1) A clear statement that unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature constitute sexual harassment when the conduct explicitly or implicitly affects an individual's employment or the holding of office, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment and shall not be tolerated.

(2) A description of the behavior the agency defines as inappropriate conduct, including examples.

(3) An effective complaint or grievance process that includes taking immediate and appropriate action when a complaint of sexual harassment involving any public servant in the agency is received. The complaint process shall detail who may make a complaint, to whom a complaint may be made, and shall provide for alternative designees to receive complaints. Actions taken on the complaint shall be documented.

(4) A general description of the investigation process, including requiring the alleged sexual harasser and the alleged victim to participate in the investigation.

(5) A clear prohibition against retaliation against an individual for filing a complaint or testifying or participating in any way in an investigation or other proceeding involving a complaint of sexual harassment.

(6) A general description of the possible disciplinary actions which may occur after the conclusion of the investigation, including the possible disciplinary actions that may be taken against a complainant if it is determined that a claim of sexual harassment was intentionally false.

(7) A statement apprising public servants of applicable federal and state law on sexual harassment, including the right of the complainant to pursue a claim under state or federal law, regardless of the outcome of the investigation.

Chapter 6-A. Reimbursement of amounts paid by the state for sexual harassment claims

R.S. 42:351 et seq.

R.S. 42:351. Declaration of public policy

A. The state of Louisiana is committed to providing a workplace that is free from sexual harassment. Sexual harassment in the workplace is strictly prohibited under the Equal Employment Opportunity Act, 42 U.S.C. 2000e-2; the Louisiana Employment Discrimination Law, R.S. 23:301 through 303 and 332; and the Louisiana laws on the prevention of sexual harassment, R.S. 42:341 through 345. The Legislature of Louisiana has enacted laws requiring each agency of a governmental entity to develop and institute a policy to prevent sexual harassment, which is applicable to all public servants, public employees, and elected officials.

B. It is hereby declared that in order to reduce the impact of sexual harassment judgments and settlements on the taxpayers of the state, it is the public policy of this state that as sexual harassment is against state and federal law, and state agencies have adopted policies and required training to prevent sexual harassment, when there has been a determination that sexual harassment has occurred, the state should consider certain factors in determining whether the alleged sexual harasser should be required to reimburse all or a portion of the settlement or judgment.

R.S. 42:352. Definitions

Unless the context clearly indicates otherwise, the following words and terms, when used in this Chapter, shall have the following meanings:

(1) "Agency" means a department, office, division, agency, commission, board, committee, or other organizational unit of state government.

(2) "Agency head" means the chief executive, administrative officer of an agency, or the chairman of a board or commission.

(3) "Complainant" means the person who files a complaint alleging that they have been the victim of sexual harassment as described in this Chapter.

(4) "Elected official" means any person holding an office in state government which is filled by the vote of the electorate. The term includes any person appointed to fill a vacancy in that office.

(5) "Public employee" means anyone who is:

(a) An administrative officer or official of state government who is not holding an elective office.

(b) Appointed to a post or position of state government created by rule, law, resolution, or executive order.

(c) Employed by an agency, officer, or official of state government.

(6) "Public funds" means monies of the state, including but not limited to monies from the state risk management program established by R.S. 39:1528 et seq., monies from an exempted institution of higher education pursuant to R.S. 17:3139.5, the state general fund, dedicated funds, fees and self-generated revenues, or any other source of public funds.

(7) "Public servant" means a public employee or an elected official.

(8) "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature which explicitly or implicitly affects an individual's employment or the holding of office, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment, by a public servant of the state. It includes intimidation, reprisal, retaliation, or discrimination that is unlawful under state or federal law and is taken against a public servant of the state because of a claim of sexual harassment in violation of state or federal law.

(9) "State government" means the legislative branch, executive branch, and judicial branch of state government, but shall not include any parish, municipality, or any other unit of local government, including a school board special district, mayor's court, justice of the peace court, district attorney, sheriff, clerk of court, coroner, tax assessor, registrar of voters, or any other elected parochial or municipal official.

R.S. 42:353. Litigation and settlements

A. Notwithstanding any law to the contrary, including but not limited to R.S. 13:5108.1, when a claim of sexual harassment has been brought and the office of risk management, or the exempted institution of higher education, determines that sexual harassment did occur, the sexual harasser shall be responsible for the payment of all or a portion of the amount of the settlement or judgment. In determining the amount that the sexual harasser should contribute to any compromise of the claim, the following factors shall be considered:

(1) Whether the sexual harasser was engaged in the performance of the duties of his office or employment with the state at the time the sexual harassment occurred.

(2) The severity of the sexual harassment.

(3) The stage of litigation.

(4) The ability of the sexual harasser to pay.

B. When a claim is filed against the state due to a claim of sexual harassment which results in a final judgment or settlement against the state, the attorney general, on behalf of the state, may file suit against the sexual harasser to assert and enforce the state's right to reimbursement and indemnity from the sexual harasser. The attorney general is also entitled to recover from the alleged sexual harasser all costs and reasonable attorney fees incurred in asserting that right.

C. The attorney general shall receive as compensation an amount not to exceed twenty-five percent of the total monies recovered from the enforcement of the state's right to reimbursement from the sexual harasser, as set forth in this Chapter, to be deposited into the Department of Justice Debt Collection Fund. The attorney general, the office of risk management or the exempted institution, and the agency shall determine whether the interests of the state are best served by litigation or by the making of an offer or the acceptance of an offer to settle or compromise the claim or litigation.

R.S. 42:354. Dissemination of information to all elected officials, public employees, and public servants

A. The commissioner of administration shall prepare a notice to be furnished to each agency head in the executive branch of state government for annual dissemination to each public servant in the executive branch of state government advising them of their potential liability if they are determined by the appropriate person in accordance with the public servant's agency policy or by a court of competent jurisdiction to have committed sexual harassment. Notice shall also be disseminated to any newly elected, appointed, or employed public servant in the executive branch of state government.

B. The Legislative Budgetary Control Council shall prepare a notice to be furnished to each agency head in the legislative branch of state government for annual dissemination to each public servant in the legislative branch of state government advising them of their potential liability if they are determined by the appropriate person in accordance with the public servant's agency's policy or by a court of competent jurisdiction to have committed sexual harassment. Notice shall also be disseminated to any newly elected, appointed, or employed public servant in the legislative branch of state government.

C. The chief justice of the supreme court shall prepare a notice to be furnished to each agency head in the judicial branch of state government for annual dissemination to each public servant in the judicial branch of state government advising them of their potential liability if they are determined by an agency head or a court of competent jurisdiction to have committed sexual harassment. Notice shall also be disseminated to any newly elected, appointed, or employed public servant in the judicial branch of state government.

R.S. 42:355. Public record; exception

Any settlement executed in connection with a claim filed pursuant to this Chapter shall be a public record, with the exception of the name of the victim of the sexual harassment.

Title 45. Public Utilities and Carriers

Chapter 8-G-1. Kelsey Smith Act

R.S. 45:844.9. Commercial mobile service device location disclosure to law enforcement agencies; emergency situations

A. This Chapter shall be known and may be cited as the "Kelsey Smith Act".

B. (1) When acting in the course and scope of his official duties, a law enforcement agency supervisor shall have the authority to submit an electronic or other written request to a provider of commercial mobile services, as defined by 47 U.S.C. 332(d), for device location information of a commercial mobile service device user if either of the following events has occurred:

(a) A call for emergency services initiated from the device of the user.

(b) An emergency situation that involves the risk of death or serious bodily harm to the device user.

(2) Upon receipt of the request, the provider of commercial mobile services shall disclose to the law enforcement agency the device location information.

(3) When making a request for device location information pursuant to the provisions of this Chapter, the law enforcement agency making the request shall search the National Crime Information Center system and similar databases to identify whether the device user or the person initiating the call, during an emergency situation involving the device user, either has a history of domestic violence or is subject to any court order restricting contact.

(4) The information obtained by a law enforcement agency pursuant to the provisions of this Subsection shall be used solely for the performance of official duties.

(5) No device location information shall be released by the law enforcement agency to a person who either has a history of domestic violence or stalking or who is subject to any court order restricting contact with the device user.

(6) For the purposes of this Chapter, "law enforcement agency" means any municipality, sheriff's office, or other public agency who employs full-time employees of the state whose permanent duties include but are not limited to:

(a) Making arrests.

(b) Performing searches and seizures.

(c) Executing criminal warrants.

(d) Preventing or detecting crime.

(e) Enforcing the penal, traffic, or highway laws of this state.

C. (1) All providers of commercial mobile services who are registered to do business in this state, or who submit to the jurisdiction thereof, shall submit emergency contact information to the Department of Public Safety and Corrections, office of state police, in order to facilitate requests from law enforcement agencies for location information in accordance with the provisions of this Chapter. The contact information shall be submitted by July first of each year and immediately upon any change in contact information.

(2)(a) The office of state police shall maintain a database containing emergency contact information for all providers of commercial mobile services and shall make such information immediately available to all law enforcement agencies in the state.

(b) The office of state police may adopt rules in accordance with the Administrative Procedure Act to implement the provisions of this Chapter.

D. Notwithstanding any other provision of law to the contrary, nothing in this Chapter shall prohibit a provider of commercial mobile services from establishing protocols by which the provider voluntarily discloses device location information.

E. No person shall file a report with knowledge of the falsity of the information contained therein to a law enforcement agency for the purpose of device location information being requested from a provider of commercial mobile services. Whoever violates the provisions of this Subsection shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

R.S. 45:844.10. Immunity for providers of commercial mobile services

No person shall have a cause of action against any provider of commercial mobile services, its officers, employees, agents, or other specified persons for providing device location information while acting in good faith and in accordance with the provisions of this Chapter. The provisions of this Section shall not apply to damage or injury caused by either gross negligence or willful and wanton misconduct.

Louisiana Revised Statutes – Title 46. Public Welfare and Assistance
Chapter 2. Department of Children and Family Services
Part I. Organization

R.S. 46:51.2. Criminal history and central registry information

A. (1) No person shall be hired by the department whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys, until both the following conditions are met:

(a) The person has submitted his fingerprints to the Louisiana Bureau of Criminal Identification and Information and it has been determined that the person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C).

(b) The department has conducted a search of the state central registry of justified abuse or neglect, hereafter referred to as “central registry”, reports and has determined that the individual's name is not recorded therein. The search shall be limited to those names recorded on the state central registry subsequent to January 1, 2010. If the individual's name is or was entered on the state central registry that individual may make a formal written request to the division of administrative law for an administrative appeal of the justified determination, in accordance with Children's Code Article 616.1.1 and the procedures promulgated by the department.

(2) Any employee of the department whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys and whose name is recorded on the state central registry subsequent to January 1, 2010, shall be terminated by the department. A permanent classified employee shall not be terminated until he has exhausted his administrative appeal rights pursuant to Children's Code Article 616.1.1.

(3) The department shall promulgate rules and regulations, in accordance with the Administrative Procedure Act, necessary to implement the provisions of this Subsection.

(4) to (11) **Repealed by Acts 2017, No. 348, § 5.**

(12) No person shall be hired by any organization listed in Subsection F of this Section until such person has submitted his fingerprints to the Louisiana Bureau of Criminal Identification and Information and it has been determined that such person has not been convicted of or pled nolo

contendere to a crime listed in R.S. 15:587.1(C). The provisions of this Section shall also apply to volunteers of such organizations.

(13) **Repealed by Acts 2017, No. 348, § 5.**

B. No operator, staff person, or employee of a juvenile detention, correction, or treatment facility shall be hired by the department until such person has submitted his fingerprints to the Louisiana Bureau of Criminal Identification and Information and it has been determined that such person has not been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C).

C. (1) No prospective foster or adoptive parent or relative guardian shall be finally approved for placement of a child or to receive kinship guardian assistance payments until it is determined that the prospective foster or adoptive parent, or relative guardian and any other adult living in the home of the relative guardian, does not have any of the following:

(a) A felony conviction for child abuse or neglect; for spousal abuse; for a crime against children, including child pornography; or for a crime involving violence including rape, sexual assault, or homicide, but not including other assault or battery.

(b) A felony conviction for physical assault, battery, or a drug-related offense which occurred within the past five years.

(c) A felony conviction for a crime listed in R.S. 15:587.1(C), other than a crime listed in Subparagraph (a) or (b) of this Paragraph, unless an assessment of the circumstances of the crime and of the current situation of the prospective foster or adoptive parent, or relative guardian and any other adult living in the home of the relative guardian, has been conducted by the department and it has been determined that the child would not be at risk if placed in the home.

(2) Nothing in this Subsection shall be construed to prohibit or prevent the department or its employees from considering any prior convictions of the prospective foster or adoptive parent, relative guardian, or any other adult living in the household in determining whether to place a child in a foster home for temporary care or for adoption. For the purposes of this Paragraph, "any other adult living in the household" does not include a youth participating in the Extended Foster Care Program.

D. The department shall establish by regulation requirements and procedures consistent with the provisions of R.S. 15:587.1 under which such determination shall be made. For those listed in Subsection A, B, or C of this Section, this regulation shall include the requirement and the procedure for the submission of fingerprints in a form acceptable to the Bureau of Criminal Identification and Information.

E. (1) The department shall establish by regulation requirements and procedures consistent with the provision of R.S. 15:587.1 under which the organizations listed in Subsection F of this Section may request information concerning whether or not a person in one of the following categories has been arrested for or convicted of or pled nolo contendere to any criminal offense:

(a) Employees.
(b) Candidates for employment.
(c) Volunteer workers.
(d) **Repealed by Acts 2017, No. 348, § 5.**

(2) This information may be requested only about a person who has, or has applied or volunteered for, a position in the organization which includes supervisory or disciplinary authority over children.

F. Any responsible officer or official, as the department may determine, of the following organizations or the department may request the specified criminal history information:

(1) A child-placing agency, maternity home, or residential home as defined in R.S. 46:1403 or a juvenile detention facility.

(2) Any other organization that the department determines, upon request of the organization, to have supervisory or disciplinary authority over children outside of the home to such extent that the department determines that the well-being and safety of children justifies giving the organization access to the specified criminal history information of those who work or have volunteered to work with the organization.

(3)(a) Any other childcare provider organization with the prior written consent of the person whose criminal history information is being requested. As used in this Paragraph, the term "childcare" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children by persons having unsupervised access to a child. The check shall be conducted by the Department of Public Safety and Corrections, division of state police, for a reasonable fee established by the department. As used in this Paragraph, the term "provider" shall include a person who is employed by or volunteers with a childcare provider organization. As used in this Paragraph, the term "childcare provider organization" shall include but not be limited to "Big Brother/Sister" programs and scouting programs.

(b) The Department of Public Safety and Corrections, division of state police, shall not be liable in civil damages for failure to provide the criminal history checks requested nor shall the child care provider be liable in civil damages for failure to make such a request.

G. Notwithstanding any other provision of law, the department is prohibited from receiving or releasing the results of a national criminal history check unless the receipt or release is permitted by federal law or regulation.

H. (1) The department shall execute a survey to assess the impact and cost of conducting national criminal history records checks and all arrest records checks on potential owners, operators, employees, and volunteers of a child-placing agency, maternity home, residential home, or juvenile detention facility licensed by the department and develop a statewide implementation plan prior to requesting that funds be appropriated for conducting the searches. The department shall submit a report of the survey results, anticipated costs, and implementation plan to the legislature for their consideration in appropriation decisions. The department shall implement the plan to conduct national criminal history records checks on potential owners, operators, employees, or volunteers of a child-placing agency, maternity home, residential home, or juvenile detention facility licensed by the department only upon the appropriation of funds by the legislature for such purpose.

(2) Upon appropriation of funds by the legislature and implementation of the plan in accordance with Paragraph (1) of this Subsection, the Bureau of Criminal Identification and Information shall make available to the department, all criminal history record information as defined in R.S. 15:576 related to potential owners, operators, employees, or volunteers of a child-placing agency, maternity home, residential home, or juvenile detention facility licensed by the department.

(3) Upon appropriation of funds by the legislature and implementation of the plan in accordance with Paragraph (1) of this Subsection, the Bureau of Criminal Identification and Information shall facilitate national criminal history record checks of potential owners, operators, or employees, or volunteers of a child-placing agency, maternity home, residential home, or juvenile detention facility licensed by the department by receiving and forwarding fingerprint cards to the Federal Bureau of Investigation. The department is authorized to receive and screen the results of the state and national criminal history record checks in order to assess the criminal history of a potential owner, operator, employee, or volunteer of a child-placing agency, maternity home, residential home, or juvenile detention facility licensed by the department. The department shall maintain the confidentiality of criminal history information received in accordance with applicable federal or state law.

R.S. 46:56.1. Reporting of certain case records; confidentiality waiver

A. (1) Notwithstanding any other provision of law to the contrary, the Louisiana Department of Health or the office of elderly affairs, for the purpose of adult protective services, shall report upon request to the Louisiana Supreme Court for reporting to the National Instant Criminal Background Check System database the name and any other identifying information contained in case records of any adult that may be prohibited from possessing a firearm pursuant to the laws of this state or 18 U.S.C. 922(d)(4) and (g)(4).

(2)(a) The department shall provide the Louisiana Supreme Court with the name of the court which issued the commitment order and the docket number of the proceeding if that information is in the possession of the department.

(b) In addition, the department shall provide the following available information regarding the client:

(i) Name.
(ii) Date of birth.
(iii) Alias names, if any.
(iv) Social security number.
(v) Sex.
(vi) Race.

B. The department shall provide all documents in its possession as authorized by the provisions of this Section upon request of the court and within a reasonable time period regardless of when the court proceedings occurred.

C. The providing of the information as required by the provisions of this Section shall not be construed to violate the confidentiality provisions of R.S. 46:56 or any other law regarding client confidentiality.

D. For the purposes of this Section, "department" means the Louisiana Department of Health and the office of elderly affairs, for the purposes of adult protection services as provided in R.S. 15:1503.

Chapter 28. Protection from Family Violence Act
Part III. Domestic Violence Prevention Commission
R.S. 46:2145 et seq. Domestic Violence Prevention Commission

R.S. 46:2145. Creation; purpose and duties of the commission

A. The Domestic Violence Prevention Commission is hereby created within the Department of Children and Family Services.

B. The commission shall:

(1) Assist local and state leaders in developing and coordinating domestic violence programs.

(2) Conduct a continuing comprehensive review of all existing public and private domestic violence programs to identify gaps in prevention and intervention services and to increase coordination among public and private programs to strengthen prevention and intervention services.

(3) Make recommendations with respect to domestic violence prevention and intervention.

(4) Develop a state needs assessment and a comprehensive and integrated service delivery approach that meets the needs of all domestic violence victims.

(5) Establish a method to transition domestic violence service providers toward evidence-based national best practices focusing on outreach and prevention.

(6) Develop a plan that ensures state laws on domestic violence are properly implemented and provides training to law enforcement and the judiciary.

(7) Develop a framework to collect and integrate data and measure program outcomes.

C. The commission shall annually issue a report of its findings and recommendations to the governor, the speaker of the House of Representatives, and the president of the Senate. The commission shall issue its initial report on or before February 1, 2015, and no later than the first day of February each year thereafter. The report may include any recommendations for legislation

that it deems necessary and appropriate. Legislation may be recommended by the commission only upon approval by a two-thirds vote of the commission members present.

R.S. 46:2146. Composition of the commission

A. The commission shall be composed of twenty members as follows:

(1) Eighteen of the commission members shall be the following:

(a) The executive director of the Louisiana Sheriffs' Association or his designee.

(b) The executive director of the Louisiana Coalition Against Domestic Violence or his designee.

(c) The executive director of the Louisiana District Attorneys Association or his designee.
(d) The executive director of the New Orleans Family Justice Center or his designee.

(e) The chair of the Louisiana Legislative Women's Caucus or her designee.

(f) The chairman of the House Committee on the Administration of Criminal Justice or his designee.

(g) The chairman of the Senate Committee on Judiciary B or his designee.

(h) One district court judge with experience in criminal law matters, selected by the president of the Louisiana District Court Judges Association.

(i) One district court judge with experience in family law matters, selected by the president of the Louisiana District Court Judges Association.

(j) The president of the Louisiana Clerks of Court Association or his designee.

(k) One representative of the Department of Justice, office of the attorney general or his designee.

(l) The executive director of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice or his designee.

(m) The secretary of the Department of Children and Family Services or his designee.

(n) The secretary of the Department of Health or his designee.

(o) One representative of the Louisiana Association of Criminal Defense Lawyers or his designee.

(p) One representative of the Bureau of Alcohol, Tobacco, Firearms and Explosives or his designee.

(q) The chief justice of the Louisiana Supreme Court or his designee.

(r) The president of the Louisiana Association of Chiefs of Police or his designee.

(2) The following two members of the commission shall be appointed by the governor:

(a) One attorney licensed to practice law in this state who has at least five years experience in representing victims of domestic violence who seek protective orders.

(b) The executive director of a shelter-based or direct service program provider for victims of domestic violence.

B. Of the commission members provided for in Subsection A of this Section, one shall be appointed by the commission members to serve as chairman and one shall be appointed by the commission members to serve as secretary.

C. Members of the commission shall serve for a term concurrent with that of the governor.

D. (1) Each voting member shall be entitled to appoint a single individual to serve as proxy for the duration of his term if the member is unable to attend a meeting of the commission. The term of the designated proxy shall be the same as the voting member. A member appointing an individual to serve as his designated proxy shall make his appointment known to the chairman and to the secretary of the commission.

(2) The proxy appointed by the voting member shall not be subject to the same nominating and appointment procedures as is required for the voting member for whom he is serving.

(3) An individual shall not serve as proxy pursuant to the provisions of this Subsection for more than one voting member of the commission.

E. Legislative members of the commission shall receive the same per diem and reimbursement of travel expenses as is provided for legislative committees under the rules of the respective house. Nonlegislative commission members shall serve without compensation or per diem.

R.S. 46:2147. Meetings

A. The commission shall hold public meetings quarterly except as otherwise provided by vote of the commission or by order of the chairman.

B. A simple majority of the commission membership shall constitute a quorum for the transaction of business.

C. The commission may establish subcommittees within the commission and appoint members to those subcommittees, including persons outside of the commission membership, as it deems necessary and appropriate to accomplish its goals.

D. The Department of Children and Family Services shall provide to the commission such clerical, administrative, and technical assistance and support as may be necessary to enable the commission to accomplish its goals.

Part IV. State Domestic Violence Coalition

R.S. 46:2148. State domestic violence coalition; appeal hearing prior to disciplinary action; notification requirements; mandatory representation

A. The state domestic violence coalition of Louisiana shall not take any action against a member of the coalition or domestic violence services provider that would adversely affect the member's or provider's ability to furnish shelter or supportive services to the victims of domestic abuse and their families in Louisiana unless all of the following conditions are satisfied:

(1) No less than thirty days prior to the disciplinary action being imposed, the state domestic violence coalition provided to the member or domestic violence services provider written notice containing a description of the proposed disciplinary action, the facts setting forth the basis for the proposed disciplinary action, and a statement that the member or provider has the right to request an appeal hearing before the state domestic violence coalition.

(2) If the member or domestic violence services provider requested an appeal hearing, the state domestic violence coalition gave the member or provider written notice of the scheduled appeal hearing and the opportunity to present arguments or evidence in support of the member or provider's position.

B. (1) No later than forty-eight hours after any disciplinary action is taken by the coalition against any member of the coalition or domestic violence services provider, the state domestic violence coalition of Louisiana shall give written notice to the Department of Children and Family Services, the House and Senate committees on health and welfare, and the representative and senator for any district for which the member or provider renders services.

(2) The written notification required by this Section shall contain, at a minimum, a description of the disciplinary action and the facts setting forth the basis for the disciplinary action. However, the

written notification and any other disclosure shall not contain any privileged communications or records and shall be communicated to the parties listed in Paragraph (1) of this Subsection in strict compliance with the provisions of R.S. 46:2124.1.

C. For the purposes of this Section, "shelter", "state domestic violence coalition", and "supportive services" have the same meaning assigned in 42 U.S.C. 10402.

Chapter 28-B. Human Trafficking
Part II. Human Trafficking Prevention Commission and Advisory Board
R.S. 46:2165 et seq. Louisiana Human Trafficking Prevention Commission

R.S. 46:2165. Louisiana Human Trafficking Prevention Commission
A. The Louisiana Human Trafficking Prevention Commission is hereby created within the office of the governor and placed within the office of human trafficking prevention.

B. The commission shall do the following:

(1) Assist state and local leaders in developing and coordinating human trafficking prevention programs.

(2) Conduct a continuing comprehensive review of all existing public and private human trafficking programs to identify gaps in prevention and intervention services.

(3) Increase coordination among public and private programs to strengthen prevention and intervention services.

(4) Make recommendations with respect to human trafficking prevention and intervention.

(5) Develop a state needs assessment and a comprehensive and integrated service delivery approach that meets the needs of all human trafficking victims.

(6) Establish a method to transition human trafficking service providers toward evidence-based national best practices focusing on outreach and prevention.

(7) Develop a plan that ensures that Louisiana laws on human trafficking are properly implemented and provide training to law enforcement, the judiciary, and service providers.

(8) Review the statutory response to human trafficking, analyze the impact and effectiveness of strategies contained in Louisiana law, and make recommendations on legislation to further anti-trafficking efforts.

(9) Develop mechanisms to promote public awareness of human trafficking, including promotion of the national twenty-four-hour toll-free hotline telephone service on human trafficking.

(10) Promote training courses and other educational materials for use by persons required to undergo training on the handling of, and response procedures for, suspected human trafficking activities.

(11) Develop a framework to collect and integrate data and measure program outcomes.

(12) Receive reports and recommendations from the Human Trafficking Prevention Commission Advisory Board.

(13) Do all other things reasonably necessary to accomplish the purposes for which the commission is created.

C. In order to carry out its purposes and functions, the commission may request data and assistance from state departments and agencies. When the commission requests a state department or agency to provide needed data or assistance, the department or agency shall give priority to the request and shall provide the data or assistance as requested. The commission shall maintain the confidentiality of any information or records provided to it by state departments and agencies, as required by laws relative to such information and records.

D. The commission shall annually issue a report of its findings and recommendations to the governor, the speaker of the House of Representatives, and the president of the Senate. The commission shall issue its initial report on or before February 1, 2018, and shall issue annual reports no later than the first day of February each year thereafter. The report may include any recommendations for legislation that the commission deems necessary and appropriate. Legislation may be recommended by the commission only upon approval by a two-thirds vote of the commission members present.

R.S. 46:2166. Composition of the commission

A. The commission shall be composed of the following members:
(1) The president of the Louisiana Senate or his designee.

(2) The speaker of the Louisiana House of Representatives or his designee.

(3) The attorney general of the state of Louisiana or his designee.

(4) The secretary of the Louisiana Workforce Commission or his designee.

(5) The state superintendent of education or his designee.

(6) The deputy secretary of the office of juvenile justice of the Department of Public Safety and Corrections or his designee.

(7) The secretary of the Department of Children and Family Services or his designee.

(8) The secretary of the Louisiana Department of Health or his designee.

(9) The secretary of the Department of Public Safety and Corrections or his designee.

(10) The superintendent of the Louisiana State Police or his designee.

(11) The president of the Louisiana Association of Chiefs of Police or his designee.

(12) The executive director of the Louisiana Sheriffs' Association or his designee.

(13) The chief justice of the Louisiana Supreme Court or his designee.

(14) A representative of the Human Trafficking Prevention Commission Advisory Board selected by its members.

(15) The executive director of the Louisiana Commission on Law Enforcement and Administration of Criminal Justice.

(16) The state public defender or his designee.

(17) The executive director of the Louisiana District Attorneys Association or his designee.

(18) The executive director of the governor's office of human trafficking prevention.

B. At the first meeting, the members of the commission shall elect from their membership a chairman and a secretary and such other offices as the commission may deem advisable. The president of the Senate or his designee shall preside over the commission until a chairman is elected by the commission.

C. Each member of the commission shall serve for a term concurrent with that of the governor.

D. (1) Each member shall be entitled to designate a single individual to serve as his proxy for the duration of the member's term on any occasion that the member is unable to attend a meeting of the commission. The term of the designated proxy shall be the same as that of the member. A

member appointing a designated proxy shall make his appointment known to the chairperson and to the secretary of the commission.

(2) The proxy appointed by a member shall not be subject to the same nominating and appointment procedures as is required for the member for whom he is serving.

(3) An individual shall not serve as proxy pursuant to the provisions of this Subsection for more than one member of the commission.

E. Legislative members of the commission shall receive the same per diem and reimbursement of travel expenses as is provided for legislative committees under the rules of the respective houses in which they serve. Nonlegislative commission members shall serve without compensation or per diem.

R.S. 46:2167. Meetings

A. The commission shall hold public meetings quarterly except as otherwise provided by vote of the commission or by order of the chairperson. The governor shall call the first meeting by August 1, 2017.

B. A simple majority of the commission membership shall constitute a quorum for the transaction of business.

C. The commission may establish subcommittees within the commission and appoint members to those subcommittees, including persons outside of the commission membership, as it deems necessary and appropriate to accomplish its goals.

D. The office of the governor shall provide to the commission such clerical, administrative, and technical assistance and support as may be necessary to enable the commission to accomplish its goals.

R.S. 46:2168. Human Trafficking Prevention Commission Advisory Board

A. The Human Trafficking Prevention Commission Advisory Board, hereinafter referred to as “advisory board”, is hereby created. The purpose of the advisory board shall be to provide information and recommendations from the perspective of advocacy groups, service providers, and victims. Primary responsibilities of the Human Trafficking Prevention Commission Advisory Board are the following:

(1) To ensure information sharing between governmental and nongovernmental entities serving victims of human trafficking.

(2) To make recommendations to the Human Trafficking Prevention Commission as requested by the commission.

(3) To make recommendations to the Human Trafficking Prevention Commission as determined to be necessary by the advisory board.

(4) To make recommendations by August thirty-first of each year to the Human Trafficking Prevention Commission as to the budget priorities for the coming year.

(5) To make recommendations by November thirtieth of each year to the Human Trafficking Prevention Commission as to specific budget items to be supported in the Children's Budget.

(6) To make an annual report by January thirty-first of each year to the legislature, Senate Committee on Health and Welfare, the House Committee on Health and Welfare, Select Committee on Women and Children, and any other legislative committee requesting a copy of the annual report, which shall summarize the well-being of Louisiana's children, the accomplishments of the past year, and specific goals and priorities for the next fiscal year.

B. The advisory board shall be composed of the following members appointed by the governor:

(1) A public defender nominated by the Louisiana Public Defender Board or its designee.

(2) A member nominated by the Louisiana District Attorneys Association.

(3) A member nominated by the Louisiana Association of Juvenile and Family Court Judges.

(4) A member nominated by the Louisiana Chapter, American College of Emergency Physicians.

(5) A member nominated by the Louisiana Chapter, National Association of Social Workers.

(6) An individual with expertise in advocacy for adult victims of human trafficking.

(7) The executive director of a residential program for victims of human trafficking.

(8) The executive director of a direct service program for victims of human trafficking.

(9) An individual with expertise in advocacy for child victims of human trafficking, nominated by the executive director of the Children's Cabinet or his designee.

(10) At least two individuals who are adult survivors of human trafficking, nominated by nonprofit organizations serving victims.

(11) A member nominated by Prevent Child Abuse Louisiana.

(12) A member nominated by the Juvenile Justice and Delinquency Prevention Advisory Board.

(13) A member nominated by the Louisiana Families In Need of Services Association.

(14) A member nominated by LouisianaChildren.org.

(15) A member nominated by the Louisiana Association of Nonprofit Organizations.

(16) A member with experience related to exploitation, nominated by the Louisiana Council of Child and Adolescent Psychiatry or its designee.

(17) A member nominated by the Louisiana School Counselors Association.

(18) A member nominated by the Louisiana Association of Children and Family Agencies.

(19) A member nominated by Louisiana Children's Advocacy Centers.

(20) A licensed psychologist with experience related to exploitation, nominated by the Louisiana State Board of Examiners of Psychologists.

(21) A member nominated by the Foundation Against Sexual Assault.

(22) A member nominated by the Louisiana Chapter of the American Academy of Pediatrics or its designee.

C. Each member shall serve for a term concurrent with that of the governor. All members shall serve without compensation.

D. The advisory board shall be invited to all commission meetings and may participate in its discussions but shall have no vote on any matter brought before the commission.

E. The advisory board shall elect as officers a chairperson, vice chairperson, and secretary from its membership and shall meet as needed. The advisory board shall create its own bylaws. Unless the bylaws provide for a greater quorum requirement, the presence in person or by proxy of one-third of the members who have been appointed by the governor shall constitute a quorum at the meetings of the advisory board.

F. The advisory board may appoint from time to time, to serve at its pleasure, additional members to serve on matters about which such additional members have expertise or experience. In the

consideration of those matters for which an additional member is appointed, he shall have the same powers and duties during the period of his service as are enjoyed by the membership provided by Subsection B of this Section.

R.S. 46:2169. Office of human trafficking prevention

A. The office of human trafficking prevention is hereby created within the office of the governor for the purpose of coordinating resources of public and private entities that develop, manage, operate, and support services and programs for human trafficking victims. The office shall exercise the powers and duties provided in this Part or otherwise provided by law.

B. The office shall be administered by an executive director who shall be appointed by the governor, subject to confirmation by the Senate, to serve at his pleasure.
C. The executive director shall employ necessary staff to carry out the duties and functions of the office as provided in this Part or as otherwise provided by law.

R.S. 46:2169.1. Powers and duties

The office shall have the following powers and duties:

(1) To collect all relevant information including facts and statistics related to human trafficking.

(2) To conduct studies of human trafficking activity in Louisiana.

(3) To identify and make available to state agencies and other stakeholders the information on the best practices related to human trafficking activities and the prevention thereof in Louisiana and throughout the nation.

(4) To develop and implement a comprehensive strategic plan to prevent human trafficking and address the needs of human trafficking victims, which shall be provided to the legislature, the Department of Children and Family Services, and any entity required to submit a report under the provisions of R.S. 46:2161(C) and Children's Code Article 725.2(B) by February 1, 2022.

(5) To assist state agencies in reducing duplication of effort in the prevention of human trafficking and the provision of services to human trafficking victims.

(6) To monitor availability of funds from federal and other sources for financing the provision of services to and programs for human trafficking victims and seek funding where appropriate.

(7) To assist state departments and agencies and other stakeholders in drafting plans to maximize the impact of the use of funds identified in Paragraph (6) of this Section..

(8) To maintain a current list of public and private stakeholders providing services to and programs for human trafficking victims.

(9) To monitor and evaluate the effectiveness and efficiency of programs that provide services to and programs for human trafficking victims, and annually report its findings and recommendations to the legislature, the Department of Children and Family Services, and any entity required to submit a report under the provisions of R.S. 46:2161(C) and Children's Code Article 725.2(B).

(10) To provide the leadership and clerical, administrative, and technical assistance and support necessary for the Louisiana Human Trafficking Prevention Commission and the Human Trafficking Prevention Commission Advisory Board to fulfill their duties.

(11) To create and submit reports as required by law.

(12) To compile and submit data to the legislature as provided by law.

(13) To perform all functions reasonably necessary to accomplish the purposes for which the office is created.

Title 47. Revenue and Taxation
Subtitle II. Provisions Relating to Taxes Collected and Administered by the Collector of Revenue
Chapter 1. Income Tax
Subpart AAA. Louisiana Coalition Against Domestic Violence

R.S. 47:120.341. Income tax checkoff; donation for Louisiana Coalition Against Domestic Violence

A. Every individual who files an individual income tax return for the current tax year and who is entitled to a refund may designate on his current-year return that all or any portion of the total amount of the refund to which he is entitled shall be donated to the Louisiana Coalition Against Domestic Violence in lieu of that amount being paid to him as a refund. In this case, the refund shall be reduced by the amount so designated. The designation shall be made at the time of filing the current-year tax return and shall be made upon the income tax return form as prescribed by the secretary of the Department of Revenue. Donated monies shall be administered by the secretary and distributed to the Louisiana Coalition Against Domestic Violence in accordance with the provisions of R.S. 47:120.37. No donation made under the provisions of this Subpart shall be invalid for want of an authentic act.

B. There is hereby established in the state treasury a special escrow fund to be known as the Louisiana Coalition Against Domestic Violence Fund, hereinafter referred to as the "fund". The fund is established to receive deposits of donations made on individual income tax returns for the benefit of the Louisiana Coalition Against Domestic Violence. The fund shall be administered by the state treasurer, who shall every three months, remit the remaining balance of monies in the fund to the Louisiana Coalition Against Domestic Violence. Monies remitted to Louisiana Coalition Against Domestic Violence from such donations shall be used for the education of women who are victims of domestic violence.

C. The Senate Committee on Revenue and Fiscal Affairs or House Committee on Ways and Means may, at their discretion, request a report from the Louisiana Coalition Against Domestic Violence relative to its operations. The form and content of the report shall be prescribed by the chairman of the committee, but shall at a minimum contain a detailed explanation of the revenues and expenditures, as well as a description of the organization's activities. The committee may summon any person employed by or associated with the Louisiana Coalition Against Domestic Violence to provide testimony with respect to the report.

Subpart BBB. SEXUAL TRAUMA AWARENESS AND RESPONSE (STAR) ORGANIZATION DONATION

R.S. 47:120.351. Income tax checkoff; donation for Sexual Trauma Awareness and Response (STAR) organization

A. Every individual who files an individual income tax return for the current tax year and who is entitled to a refund may designate on his current year return that all or any portion of the total amount of the refund to which he is entitled shall be donated to the Sexual Trauma Awareness and Response (STAR) organization in lieu of that amount being paid to him as a refund. In this case, the refund shall be reduced by the amount so designated. The designation shall be made at the time of filing the current year tax return and shall be made upon the income tax return form as prescribed by the secretary of the Department of Revenue. Donated monies shall be administered by the secretary and distributed to the Sexual Trauma Awareness and Response (STAR) organization in accordance with the provisions of R.S. 7 47:120.37. No donation made pursuant to the provisions of this Subpart shall be invalid for want of an authentic act.

B. The House Committee on Ways and Means may, at its discretion, request a report from the Sexual Trauma Awareness and Response (STAR) organization relative to its operations. The form and content of the report shall be prescribed by the chairman of the committee but shall at a minimum contain a detailed explanation of revenues and expenditures, as well as a description of the organization's activities. The committee may summon any person employed by or associated with the Sexual Trauma Awareness and Response (STAR) organization to provide testimony with respect to the report.

Louisiana Children's Code
Title III. Jurisdiction, General Authority, and Appeals
Chapter 4. Original Criminal Court Jurisdiction over Children

Ch.C. Art. 305. Divestiture of juvenile court jurisdiction; original criminal court jurisdiction over children

A. (1) When a child is fifteen years of age or older at the time of the commission of first degree murder, second degree murder, aggravated or first degree rape, or aggravated kidnapping, he is subject to the exclusive jurisdiction of the juvenile court until either:

(a) An indictment charging one of these offenses is returned.

(b) The juvenile court holds a continued custody hearing pursuant to Articles 819 and 820 and finds probable cause that he committed one of these offenses, whichever occurs first. During this hearing, when the child is charged with aggravated or first degree rape, the court shall inform him that if convicted he shall register as a sex offender for life, pursuant to Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

(2)(a) The district attorney shall have the discretion to file a petition alleging any of the offenses listed in Subparagraph (1) of this Paragraph in the juvenile court or, alternatively, to obtain an indictment. If the child is being held in detention, the district attorney shall file the petition or indictment in the appropriate court within sixty calendar days after the child's arrest, unless the child waives this right.

(b) Failure to institute prosecution as provided in this Subparagraph shall result in release of the child if, after a contradictory hearing with the district attorney, just cause for the failure is not shown. If just cause is shown, the court shall reconsider bail for the child. Failure to institute prosecution as provided in this Subparagraph shall result in the release of the bail obligation if, after a contradictory hearing with the district attorney, just cause for the delay is not shown.

(c) When the juvenile court holds a continued custody hearing pursuant to Articles 819 and 820 and finds probable cause that the child committed one of the offenses listed in Subparagraph (1) of this Paragraph, the time limitations contained in this Code are inapplicable, and the time period for filing an indictment after arrest shall be governed by Code of Criminal Procedure Article 701.

(3) Thereafter, if an indictment is returned, the child is subject to the exclusive jurisdiction of the appropriate court exercising criminal jurisdiction for all subsequent procedures, including the review of bail applications, and the court exercising criminal jurisdiction may order that the child be transferred to the appropriate adult facility for detention prior to his trial as an adult. If the district attorney elects to file a petition and the child waives the right to a continued custody hearing, the child is subject to the exclusive jurisdiction of the juvenile court for all subsequent procedures, including the review of bail applications.

B. (1) When a child is fifteen years of age or older at the time of the commission of any of the offenses listed in Subparagraph (2) of this Paragraph, he is subject to the exclusive jurisdiction of the juvenile court until whichever of the following occurs first:

(a) An indictment charging one of the offenses listed in Subparagraph (2) of this Paragraph is returned.

(b) The juvenile court holds a continued custody hearing and finds probable cause that the child has committed any of the offenses listed in Subparagraph (2) of this Paragraph and a bill of information charging any of the offenses listed in Subparagraph (2) of this Paragraph is filed. During this hearing, when the child is charged with forcible or second degree rape or second degree kidnapping, the court shall inform him that if convicted he shall register as a sex offender for life, pursuant to Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950.

(2)(a) Attempted first degree murder.

(b) Attempted second degree murder.

(c) Manslaughter.

(d) Armed robbery.

(e) Aggravated burglary.

(f) Forcible or second degree rape.

(g) Simple or third degree rape.

(h) Second degree kidnapping.

(i) Repealed by Acts 2001, No. 301, § 2.
(j) Aggravated battery committed with a firearm.

(k) A second or subsequent aggravated battery.

(l) A second or subsequent aggravated burglary.

(m) A second or subsequent offense of burglary of an inhabited dwelling.

(n) A second or subsequent felony-grade violation of Part X or X-B of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950 involving the manufacture, distribution, or possession with intent to distribute controlled dangerous substances.

3)(a) The district attorney shall have the discretion to file a petition alleging any of the offenses listed in Subparagraph (2) of this Paragraph in the juvenile court or, alternatively, to obtain an indictment or file a bill of information. If the child is being held in detention, the district attorney shall file the indictment, bill of information, or petition in the appropriate court within sixty calendar days after the child's arrest, unless the child waives this right.

(b) Failure to institute prosecution as provided in this Subparagraph shall result in release of the child if, after a contradictory hearing with the district attorney, just cause for the failure is not shown. If just cause is shown, the court shall reconsider bail for the child. Failure to institute prosecution as provided in this Subparagraph shall result in the release of the bail obligation if, after a contradictory hearing with the district attorney, just cause for the delay is not shown.

(4) If an indictment is returned or a bill of information is filed, the child is subject to the exclusive jurisdiction of the appropriate court exercising criminal jurisdiction for all subsequent procedures, including the review of bail applications, and the district court may order that the child be transferred to the appropriate adult facility for detention prior to his trial as an adult.

C. Except when a juvenile is held in an adult jail or lockup, the time limitations for the conduct of a continued custody hearing are those provided by Article 819.

D. The court exercising criminal jurisdiction shall retain jurisdiction over the child's case, even though he pleads guilty to or is convicted of a lesser included offense. A plea to or conviction of a lesser included offense shall not revest jurisdiction in the court exercising juvenile jurisdiction over such a child.

E. (1) If a competency or sanity examination is ordered, except for the filing of a delinquency petition, the return of an indictment, or the filing of a bill of information, no further steps to prosecute the child shall occur until the court exercising criminal jurisdiction appoints counsel for the child and provides notification in accordance with Article 809 and determines the child's mental capacity to proceed.

(2) When an indictment has been returned or a bill of information has been filed pursuant to this Subsection, the district court exercising criminal jurisdiction shall be the proper court to determine the child's mental capacity to proceed. In all other instances, the juvenile court shall be the proper court to make this determination.

Title V. Services to Families
Chapter 1. Protection of Children in Abuse Investigations

Ch.C. Article 502. Definitions

For the purposes of this Title, the following terms have the following meanings, unless the context clearly indicates otherwise:

(1) “Abuse” means any one of the following acts that seriously endanger the physical, mental, or emotional health, welfare, and safety of the child:

(a) The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.

(b) The exploitation or overwork of a child by a parent or any other person.

(c) The involvement of the child in any sexual act with a parent or any other person, the aiding or toleration by the parent or the caretaker of the child's sexual involvement with any other person, the child's involvement in pornographic displays, or any other involvement of a child in sexual activity constituting a crime under the laws of this state.

(d) Female genital mutilation as defined by R.S. 14:43.4.

(2) “Child” means a person under the age of eighteen years who has not been judicially emancipated or emancipated by marriage as provided by law.

(3) “Child pornography” means visual depiction of a child engaged in actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals.

(4) “Crime against the child” shall include the commission of or the attempted commission of any of the following crimes against the child as provided by federal or state statutes:

(a) Homicide.
(b) Battery.
(c) Assault.
(d) Rape.
(e) Sexual battery.
(f) Kidnapping.
(g) Criminal Neglect.
(h) Criminal Abandonment.
(i) Repealed by Acts 2014, No. 602, § 7, eff. June 12, 2014.
(j) Carnal knowledge of a juvenile.
(k) Indecent behavior with juveniles.
(l) Pornography involving juveniles.
(m) Molestation of a juvenile.
(n) Crime against nature.
(o) Cruelty to juveniles.
(p) Contributing to the delinquency or dependency of children.
(q) Sale of minor children.
(r) Female genital mutilation.

(5) “Neglect” means the unreasonable refusal or failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health, welfare, and safety is substantially threatened or impaired. Consistent with Article 606(B), the inability of a parent or caretaker to provide for a child's basic support, supervision, treatment, or services due to inadequate financial resources shall not, for that reason alone, be considered neglect. Whenever, in lieu of medical care, a child is being provided treatment in accordance with the tenets of a well-recognized religious method of healing that has a reasonable, proven record of success, the child shall not, for that reason alone, be considered to be neglected or maltreated. However, nothing in

this Subparagraph shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child's health, welfare or safety.

(6) “Nonprofit corporation” means a corporation formed in accordance with the provisions of Chapter 2 of Title 12 of the Louisiana Revised Statutes of 1950.

Title VI. Child in Need of Care
Chapter 1. Preliminary Provisions; Definitions

. . .

Ch.C. Article 603. Definitions

As used in this Title:
(1) “Abortion” means that procedure as defined in R.S. 14:87.1.

(2) “Abuse” means any one of the following acts that seriously endanger the physical, mental, or emotional health, welfare, and safety of the child:

(a) The infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person.

(b) The exploitation or overwork of a child by a parent or any other person, including but not limited to commercial sexual exploitation of the child.

(c) The involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent, caretaker, or any other person of the child's involvement in any of the following:

(i) Any sexual act with any other person.

(ii) Pornographic displays.

(iii) Any sexual activity constituting a crime under the laws of this state.

(d) A coerced abortion conducted upon a child.

(e) Female genital mutilation as defined by R.S. 14:43.4 of the child or of a sister of the child.

(3) “Administrative review body” means a panel of appropriate persons, at least one of whom is not responsible for the case management of or delivery of services to either the child or the parents who are the subject of the review, including the citizen review boards, state hearing examiners, special department reviewers, or department personnel.

(4) “Caretaker” means any person legally obligated to provide or secure adequate care for a child, including a parent, tutor, guardian, legal custodian, foster home parent, an employee of a public or private day care center, an operator or employee of a registered family child day care home, or other person providing a residence for the child.

(5) “Case review hearing” means a review hearing by a court or administrative review body for the purpose of determining the continuing necessity for and appropriateness of the child's placement, to determine the extent of compliance with the case plan, to determine the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement, and to project a likely date by which the child may be permanently placed.

(6) “Child” means a person under eighteen years of age who, prior to juvenile proceedings, has not been judicially emancipated under Civil Code Article 385 or emancipated by marriage under Civil Code Articles 379 through 384.

(7) “Child care agency” means any public or private agency exercising custody of a child.

(8) “Child pornography” means visual depiction of a child engaged in actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals.

(9) “Coerced abortion” means the use of force, intimidation, threat of force, threat of deprivation of food and shelter, or the deprivation of food and shelter by a parent or any other person in order to compel a female child to undergo an abortion against her will, whether or not the abortion procedure has been attempted or completed.

(9.1) “Commercial sexual exploitation” means involvement of the child activity prohibited by the following statutes: R.S. 14:46.2, 46.3, 81.1, 81.3, 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 282.

(10) “Concurrent planning” means departmental efforts to preserve and reunify a family, or to place a child for adoption or with a legal guardian which are made simultaneously.

(11) “Court-appointed or court-approved administrative body” means a body appointed or approved by a court and subject to the court's supervision for the purposes of assisting the court with permanency hearings, including magistrates or other court or noncourt personnel. This body shall not be a part of the Department of Children and Family Services or the Department of Public Safety and Corrections, nor subject to the supervision or direction of either department.

(12) “Crime against the child” shall include the commission of or the attempted commission of any of the following crimes against the child as provided by federal or state statutes:

(a) Homicide.
(b) Battery.
(c) Assault.
(d) Rape.
(e) Sexual battery.
(f) Kidnapping.
(g) Criminal neglect.
(h) Criminal abandonment.
(i) Repealed by Acts 2014, No. 602, § 7, eff. June 12, 2014.
(j) Carnal knowledge of a juvenile.
(k) Indecent behavior with juveniles.
(l) Pornography involving juveniles.
(m) Molestation of a juvenile.
(n) Crime against nature.
(o) Cruelty to juveniles.
(p) Contributing to the delinquency or dependency of children.
(q) Sale of minor children.
(r) Human trafficking.
(s) Trafficking of children for sexual purposes.
(t) Female genital mutilation.

(13) “Department” means the Department of Children and Family Services.

(14) “Foster care” means placement in a foster family home, a relative's home, a residential child caring facility, or other living arrangement approved and supervised by the state for provision of substitute care for a child in the department's custody. Such placement shall not include a detention facility.

(15) “Foster parent” means an individual who provides residential foster care with the approval and under the supervision of the department for a child in its custody.

(16) “Institutional abuse or neglect” means any case of child abuse or neglect that occurs in any public or private facility that provides residential child care, treatment, or education.

(17) “Mandatory reporter” is any of the following individuals:

(a) “Health practitioner” is any individual who provides health care services, including a physician, surgeon, physical therapist, dentist, resident, intern, hospital staff member, an outpatient abortion facility staff member, podiatrist, chiropractor, licensed nurse, nursing aide, dental hygienist, any emergency medical technician, a paramedic, optometrist, medical examiner, or coroner, who diagnoses, examines, or treats a child or his family.

(b) “Mental health/social service practitioner” is any individual who provides mental health care or social service diagnosis, assessment, counseling, or treatment, including a psychiatrist, psychologist, marriage or family counselor, social worker, member of the clergy, aide, or other individual who provides counseling services to a child or his family. Notwithstanding any other provision to the contrary, when representing a child, as defined in this Code, in a case arising out of this Code, a mental health/social service practitioner shall not be considered a mandatory reporter under the flowing circumstances:

(i) when the practitioner is engaged by an attorney to assist in the rendition of professional legal services to that child,

(ii) when the information that would serve as the basis for reporting arises in furtherance of facilitating the rendition of those professional legal services to that child, and

(iii) when the information that would serve as the basis for reporting is documented by the mental health/social service practitioner. The documentation shall be retained by the mental health/social service practitioner until one year after the child has reached the age of majority.

(c) “Member of the clergy” is any priest, rabbi, duly ordained clerical deacon or minister, Christian Science practitioner, or other similarly situated functionary of a religious organization, except that he is not required to report a confidential communication, as defined in Code of Evidence Article 511, from a person to a member of the clergy who, in the course of the discipline or practice of that church, denomination, or organization, is authorized or accustomed to hearing confidential communications, and under the discipline or tenets of the church, denomination, or organization has a duty to keep such communications confidential. In that instance, he shall encourage that person to report the allegations to the appropriate authorities in accordance with Article 610.

(d) “Teaching or child care provider” is any person who provides or assists in the teaching, training, and supervision of a child, including any public or private teacher, teacher's aide, instructional aide, school principal, school staff member, school resource officer, bus driver, coach, professor, technical or vocational instructor, technical or vocational school staff member, college or university administrator, college or university staff member, social worker, probation officer, foster home parent, group home or other child care institutional staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, or any individual who provides these services to a child in a voluntary or professional capacity.

(e) Police officers or law enforcement officials. Any police officer or law enforcement official who works as a school resource officer shall be considered a mandatory reporter. A school resource officer shall not receive information from another mandatory reporter or commence or oversee any investigation into the report.

(f) “Commercial film and photographic print processor” is any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides for compensation.

(g) Mediators appointed pursuant to Chapter 6 of Title IV.

(h) A parenting coordinator appointed pursuant to R.S. 9:358.1 et seq.

(i) A court-appointed special advocates (CASA) volunteer under the supervision of a CASA program appointed pursuant to Chapter 4 of Title IV.

(j) “Organizational or youth activity provider” is any person who provides organized activities for children, including administrators, employees, or volunteers of any day camp, summer camp,

youth center, or youth recreation programs or any other organization that provides organized activities for children.

(k) School coaches, including but not limited to public technical or vocational school, community college, college, or university coaches and coaches of intramural or interscholastic athletics.

(18) “Neglect” means the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health, welfare, and safety is substantially threatened or impaired. Neglect includes prenatal neglect. Consistent with Article 606(B), the inability of a parent or caretaker to provide for a child due to inadequate financial resources shall not, for that reason alone, be considered neglect. Whenever, in lieu of medical care, a child is being provided treatment in accordance with the tenets of a well-recognized religious method of healing that has a reasonable, proven record of success, the child shall not, for that reason alone, be considered to be neglected or maltreated. However, nothing in this Subparagraph shall prohibit the court from ordering medical services for the child when there is substantial risk of harm to the child's health, welfare, or safety.

(19) “Newborn” means a child who is not more than thirty days old, as determined within a reasonable degree of medical certainty by an examining physician.

(20) “Other suitable individual” means a person with whom the child enjoys a close established significant relationship, yet not a blood relative, including a neighbor, godparent, teacher, or close friend of the parent.

(21) “Permanency hearing” means a hearing for the purpose of determining the permanent plan for the child.

(22) “Permanent placement” means:

(a) Return of the legal custody of a child to his parent(s).

(b) Placement of the child with adoptive parents pursuant to a final decree of adoption.

(c) Placement of the child with a legal guardian.

(23) “Person” means any individual, partnership, association, agency, or corporation, and specifically shall include city, parish, or state law enforcement agencies, and a parish or city school board or a person employed by a parish or city school board.

(24) “Prenatal neglect” means exposure to chronic or severe use of alcohol or the unlawful use of any controlled dangerous substance, as defined by R.S. 40:961 et seq., or in a manner not lawfully prescribed, which results in symptoms of withdrawal in the newborn or the presence of a controlled substance or a metabolic thereof in his body, blood, urine, or meconium that is not the result of medical treatment, or observable and harmful effects in his physical appearance or functioning.

(25) "Protective capacity" means the cognitive, behavioral, and emotional knowledge, abilities, and practices that prevent or control threats of danger to children.

(26) “Reasonable efforts” means the exercise of ordinary diligence and care by the department throughout the pendency of a case pursuant to the obligations imposed on the state by federal and state law to provide services and supports designed and intended to prevent or eliminate the need for removing a child from the child's home, to reunite families after separation, and to achieve safe permanency for children. Reasonable efforts shall be determined by the particular facts and circumstances of each case, including the individualized needs of each child and the family, the imminence and potential severity of the threat of danger, the strengths of each child and the family, and the community of support available to the family. In making reasonable efforts, the health, welfare, and safety of the child shall be the paramount concern.

(27) "Relative" means an individual with whom the child has established a significant relationship by blood, adoption, or affinity.

(28) “Removal” means placing a child in the custody of the state or with someone other than the parent or caretaker during or after the course of an investigation of abuse and neglect to secure the child's health, welfare, and safety.

(29) "Safe" and "safety" mean the condition of not being unsafe. Whether a child is unsafe shall be determined by the particular facts and circumstances of each case, including consideration of the threat of danger to the child, whether the child is vulnerable to the threat, and the parent's or caretaker's protective capacity to manage or control the threat.

(30) “Safety plan” means a plan for the purpose of assuring a child's health, welfare, and safety by imposing conditions for the child to safely remain in the home, or, after a child has been removed from the home, for the continued placement of the child with a custodian and terms for contact between the child and the child’s parents or other persons.

(31) "Threat of danger" exists when the behavior of a parent or caretaker or the family situation indicates serious harm, in the near future, to the child’s physical, mental, or emotional health, welfare, and safety.

(32) "Vulnerable" means the inability to protect oneself from identified threats of danger.

Ch.C. Article 606. Grounds; child in need of care

A. Allegations that a child is in need of care shall assert one or more of the following grounds:

(1) The child is the victim of abuse perpetrated, aided, or tolerated by the parent or caretaker, by a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or by a person living in the same residence with the parent or caretaker as a spouse whether married or not, and his welfare is seriously endangered if he is left within the custody or control of that parent or caretaker.

(2) The child is a victim of neglect.

(3) The child is without necessary food, clothing, shelter, medical care, or supervision because of the disappearance or prolonged absence of his parent or when, for any other reason, the child is placed at substantial risk of imminent harm because of the continuing absence of the parent.

(4) As a result of a criminal prosecution, the parent has been convicted of a crime against the child who is the subject of this proceeding, or against another child of the parent, and the parent is now unable to retain custody or control or the child's welfare is otherwise endangered if left within the parent's custody or control.

(5) The conduct of the parent, either as principal or accessory, constitutes a crime against the child or against any other child.

B. A child whose parent is unable to provide basic support, supervision, treatment, or services due to inadequate financial resources shall not, for that reason alone, be determined to be a child in need of care.

C. A diagnosis of factitious disorder imposed on another, formerly known as “Munchausen syndrome by proxy”, shall not constitute grounds, either entirely or partially, for a determination that a child is in need of care unless that diagnosis is made in accordance with the provisions of R.S. 37:1745.2.

Chapter 5. Child Abuse Reporting and Investigation

Ch.C. Art. 609. Mandatory and permitted reporting; training requirements

A. With respect to mandatory reporters:

(1) (a) Notwithstanding any claim of privileged communication, any mandatory reporter who has cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect or that abuse or neglect was a contributing factor in a child's death shall report in accordance with Article 610.

(b) For purposes of this Article, the pregnancy of a child under the age of thirteen years shall constitute cause to consider whether the child has been abused.

(2) Violation of the duties imposed upon a mandatory reporter subjects the offender to criminal prosecution authorized by R.S. 14:403(A)(1).

(3)(a) To familiarize mandatory reporters, as defined by Children's Code Article 603, with their legal mandate for reporting suspected child abuse and neglect, such mandatory reporters shall be offered training on the statutory requirements and responsibility of reporting child abuse and neglect. This training shall be made available by the child welfare division of the Department of Children and Family Services or any other mechanism as approved by the department as long as it includes information on the reporting procedure and the consequences of failing to report.

(b) Each mandatory reporter may obtain mandatory reporting training as each mandatory reporter believes to be necessary in accordance with Subsubparagraph (a) or (d) of this Subparagraph.

(c) The appropriate state regulatory department, board, commission, or agency for each category of mandatory reporter may provide continuing education credit for the completion of the training pursuant to this Paragraph.

(d) Any entity, including but not limited to hospitals, educational and religious institutions, and nonprofits, may provide its employees, volunteers, or educational attendees with equivalent training pursuant to Subsubparagraph (a) of this Subparagraph.

B. With respect to permitted reporters, any other person having cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect, including a judge of any court of this state, may report in accordance with Article 610.

C. The filing of a report, known to be false, may subject the offender to criminal prosecution authorized by R.S. 14:403(A)(3).

Ch.C. Art. 610. Reporting procedure; reports to the legislature and the United States Department of Defense Family Advocacy Program

A. (1) A reporter shall immediately report suspected child abuse or neglect or that child abuse or neglect was a contributing factor in a child's death in the following ways:

(a) To the Department of Children and Family Services if the reporter has reason to believe that the perpetrator is a parent or caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not.

(b) To a local or state law enforcement agency if the reporter has reason to believe that the abuse or neglect is being perpetrated by someone other than the individuals provided for in Subparagraph (a) of this Paragraph. Abuse or neglect perpetrated on a student by a teaching or child care provider, as defined by Article 603, shall be immediately reported to local or state law enforcement.

(c) Dual reporting to both the department and the local or state law enforcement agency is permitted.

(2) Reports to the department shall be made as follows:

(a) A mandatory reporter shall make a report of suspected abuse or neglect requiring immediate assistance via the designated state child protection reporting hotline telephone number. A report of suspected abuse or neglect which is of a non-emergency nature may be reported via the Louisiana Department of Children and Family Services Mandated Reporter Portal online. Reports may also be made in person at any child welfare office.

(b) If a report involves alleged sex trafficking, all mandatory reporters shall report via the hotline telephone number to the department regardless of whether there is alleged parental or caretaker culpability.

(c) A permitted reporter shall make a report through the designated state child protection reporting hotline telephone number or in person at any child welfare office.

(3) If a mandatory reporter is prohibited from immediately making the report required by this Chapter to the department or local or state law enforcement because of an employer's policies or employee manual, the mandatory reporter shall file a complaint with local or state law enforcement. Local or state law enforcement shall investigate the complaint and an employer violating this Chapter shall be subject to the penalties provided for in R.S. 14:131.1 and 403. An employer shall not discriminate or retaliate against an employee who is a mandatory reporter for complying with this Article. If an employer is found discriminating or retaliating against an employee for complying with this Article, the employer shall be subject to double the fines provided for in R.S. 14:131.1 and 403.

(4) In an investigation of a report of abuse or neglect allegedly committed by a parent or caretaker, the department shall determine whether the person is an active duty member of the United States Armed Forces or the spouse of a member on active duty. If the department determines the person is an active duty member of the United States Armed Forces or the spouse of a member on active duty, the department shall notify the United States Department of Defense Family Advocacy Program at the closest active duty military installation of the investigation.

B. The report shall contain the following information, if known:

(1) The name, address, age, sex, and race of the child.

(2) The nature, extent, and cause of the child's injuries or endangered condition, including any previous known or suspected abuse to this child or the child's siblings.

(3) The name and address of the child's parent(s) or other caretaker.

(4) The names and ages of all other members of the child's household.

(5) The name and address of the reporter.

(6) An account of how this child came to the reporter's attention.

(7) Any explanation of the cause of the child's injury or condition offered by the child, the caretaker, or any other person.

(8) The number of times the reporter has filed a report on the child or the child's siblings.

(9) Any other information which the reporter believes might be important or relevant.

C. The report shall also name the person or persons who are thought to have caused or contributed to the child's condition, if known, and the report shall contain the name of such person if he is named by the child.

D. If the initial report was in oral form by a mandatory reporter, it shall be followed by a written report made within five days via the online mandated Reporter Portal of the department or by mail to the centralized intake unit of the department at the address provided on the website of the department; or, if necessary, to the local law enforcement agency. The reporter may use a form for the written report, which shall be developed, approved, and made available by the Department of Children and Family Services. The form is optional and may be available electronically on the department's website.

E. (1) All reports made to any local or state law enforcement agency involving abuse or neglect in which the child's parent or caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not, is believed responsible, shall be promptly communicated to the department through the designated state child protection reporting hotline telephone number in accordance with a written working agreement developed between the local law enforcement agency and the department.

(2) The department shall promptly communicate abuse or neglect cases not involving a parent, caretaker, or occupant of the household to the appropriate law enforcement agency in accordance with a written working agreement developed between the department and law enforcement agency. The department also shall report all cases of child death which involve a suspicion of abuse or neglect as a contributing factor in the child's death to the local and state law enforcement agencies, the office of the district attorney, and the coroner.

(3) Reports involving a felony-grade crime against a child shall be promptly communicated to the appropriate law enforcement authorities as part of the interagency protocols for multidisciplinary investigations of child abuse and neglect in each judicial district as provided in Children's Code Articles 509 and 510.

(4) The department shall communicate as soon as possible all reports involving alleged child victims of sex trafficking to the Louisiana State Police for referral to the appropriate local law enforcement agency for investigation or other action as appropriate.

F. Any commercial film or photographic print processor who has knowledge of or observes, within the scope of this professional capacity or employment, any film, photograph, video tape, negative, or slide depicting a child who he knows or should know is under the age of seventeen years, which constitutes child pornography as defined in Article 603, shall report immediately to the local law enforcement agency having jurisdiction over the case. The reporter shall provide a copy of the film, photograph, videotape, negative, or slide to the agency receiving the report.

G. (1) If a physician has cause to believe that a newborn was exposed in utero to an unlawfully used controlled dangerous substance, as defined by R.S. 40:961 et seq., the physician shall order a toxicology test upon the newborn, without the consent of the newborn's parents or guardian, to determine whether there is evidence of prenatal neglect. If the test results are positive, the physician shall issue a report, as soon as possible, in accordance with this Article. If the test results are negative, all identifying information shall be obliterated if the record is retained, unless the parent approves the inclusion of identifying information. Positive test results shall not be admissible in a criminal prosecution.

(2) If there are symptoms of withdrawal in the newborn or other observable and harmful effects in his physical appearance or functioning that a physician has cause to believe are due to the chronic or severe use of alcohol by the mother during pregnancy, the physician shall issue a report in accordance with this Article.

H. (1) The provisions of this Paragraph shall be known and may be cited as The Alfred C. Williams Child Protection Act.

(2) Beginning May 1, 2017, and annually thereafter, the department shall provide to the legislature the following child-specific information regarding reports of child abuse or neglect reported to the department pursuant to the provisions of this Article:

(a) The actual or estimated age, the sex, and the race of each child at the time the latest report was received.

(b) The parish location of primary case name of the latest report accepted for investigation received.

(c) The categories, levels, and final findings assigned to each allegation contained in reports received for each child.

(d) The number of cases accepted for investigation in which the child was an alleged or valid victim during the report year.

(e) The number of cases accepted for investigation in which the child was a valid victim during the report year.

(f) The number of reports accepted for investigation prior to report year in which the child was an alleged or valid victim.

(g) The number of other alleged victims in reports accepted for investigation in each child's cases prior to report year.

(h) The number of reports accepted for investigation prior to the report year in which the child was a valid victim.

(i) The number of other validated victims in reports accepted for investigation in each child's cases prior to report year.

(j) The number of distinct reporter names for all investigations in which the child is an alleged or valid victim.

(3) For purposes of this Paragraph, the following words shall have the following meanings:

(a) “Alleged victim” includes a child who is the subject of an investigation and for whom there is an allegation of abuse or neglect.

(b) “Valid victim” or “validated victim” includes an alleged victim for whom one or more allegations of abuse or neglect have been determined to be justified pursuant to Article 615.

(4) The information provided in the annual report required by Subparagraph (2) of this Paragraph shall not include the name, street address, or other identifying information of any child, parent, sibling, or reporter.

(5) If the department fails to submit timely the report required by Subparagraph (2) of this Paragraph, then the legislature or either house thereof, through its authorized representative, may petition the Nineteenth Judicial District Court for writs of mandamus to compel the submission of the report. Any failure to obey a writ of mandamus issued by the court may be punishable by the court as contempt thereof.

Chapter 20. Safe Harbor for Sexually Exploited Children

Ch.C. Art. 725. Findings and purpose

The legislature finds that arresting, prosecuting, and incarcerating victimized children serves to re-traumatize them and to increase their feelings of low self-esteem, which only makes the process of recovery more difficult. Both federal and international law recognize that sexually exploited children are the victims of crime and should be treated as such. Therefore, sexually exploited children should not be prosecuted for criminal acts related to prostitution. Instead, sexually exploited children should, where possible, be diverted into services that address the needs of these children outside of the justice system. Sexually exploited children deserve the protection of child welfare services, including diversion, crisis intervention, counseling, and emergency housing services. The purpose of this Chapter is to protect a child from further victimization after the child is discovered to be a sexually exploited child by ensuring that a child protective response is in place in the state. This is to be accomplished by presuming that any child engaged in prostitution, prostitution by massage, or crime against nature by solicitation is a victim of sex trafficking and providing these children with the appropriate care and services where possible. In determining the need for and capacity of services that may be provided, the Department of Children and Family Services shall recognize that sexually exploited children have separate and distinct service needs according to gender, and every effort should be made to ensure these children are not prosecuted or treated as juvenile delinquents, but instead are given the appropriate social services.

Ch.C. Art. 725.1. Definitions

As used in this Chapter, the following terms and phrases shall have the following meaning, unless the context requires otherwise:

(1) “Department” means the Department of Children and Family Services.

(2) “Safe house” means a residential facility or a shelter care facility operated by an authorized agency, including a nonprofit agency, with experience in providing services to sexually exploited children and approved by the department to provide shelter for sexually exploited children.

(3) “Sexually exploited child” means any person under the age of eighteen who has been subject to sexual exploitation because the person either:

(a) Is a victim of trafficking of children for sexual purposes under R.S. 14:46.3.

(b) Is a victim of child sex trafficking under 18 U.S.C. 1591.

Ch.C. Art. 725.2. Safe house for sexually exploited children

A. (1) The department shall identify and maintain a current listing of safe houses which are licensed residential homes that specialize in the provision of services to sexually exploited children, regardless of whether those facilities receive taxpayer funding. This listing shall be made available to the governor’s office of human trafficking prevention and to courts, prosecutors, and other stakeholders involved in proceedings pertaining to an exploited child.

(2) The department may, to the extent funds are available, operate or contract with an appropriate nongovernmental agency with experience working with sexually exploited children to operate one or more safe houses in a geographically appropriate area of the state.

(3) Each safe house shall provide safe and secure housing and specialized services for sexually exploited children.

(4) Nothing in this Article shall be construed to preclude an agency from applying for and accepting grants, gifts, and bequests for funds from private individuals, foundations, and the federal government for the purpose of creating or carrying out the duties of a safe house for sexually exploited children.

B. Each safe house listed with the department to provide services to sexually exploited children pursuant to the provisions of this Article shall submit to the governor’s office of human trafficking prevention and to the department an annual report on their operations including information on the services offered, a listing of credentials, training, and license specific to survivor-centered and trauma-informed services for human trafficking survivors, geographic areas served, number of children served, and individual status updates on each child served. This information shall not include the name, address, or other identifying information of the child served. The governor’s office of human trafficking prevention shall compile the data from all the reports submitted by each safe house pursuant to the provisions of this Article and shall provide this information in an annual report to the legislature on or before the first day of February each year.

Ch.C. Art. 725.3. Statewide protocol; applicability of child in need of care procedure

A. The department shall develop a statewide protocol for helping to coordinate the delivery of services to sexually exploited children and shall work with court intake officers to ensure that all state, federal, and community-based resources for sexually exploited children are known to children who have been granted diversion under Article 839.

B. A child who is a victim of human trafficking is a child in need of care, and unless otherwise specified in this Chapter, the provisions of Title VI of this Code shall govern, when applicable.

Ch.C. Art. 725.4. Duties of law enforcement

The officer shall notify the Louisiana Victim Outreach of the Department of Public Safety and Corrections that the child may be eligible for special services and, as a mandatory reporter as required by Children's Code Article 610, shall notify the Department of Children and Family Services that the child is in need of protective services.

Ch.C. Art. 725.5. Duties of the Department of Children and Family Services

A. The department shall be responsible for investigating reports of abuse or neglect where the abuser is believed to be a parent or caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not.

B. The department shall fully cooperate with law enforcement, prosecutors, and court staff in the investigation and prosecution of child sexual exploitation, including ensuring that all state, federal, and community-based resources for sexually exploited children are known to the child.

C. The department shall maintain a current listing of licensed residential homes that specialize in the provision of services to exploited children. This listing shall be made available to courts, prosecutors, law enforcement, and other stakeholders involved in proceedings pertaining an exploited child.

D. The department shall cooperate with the prosecution of any perpetrator of child exploitation.

E. The department shall develop policies that reflect best practices. It shall consider all protocols developed by the Louisiana Human Trafficking Commission and assist in compiling data requested by the commission when available.

Ch.C. Art. 725.6. Victim confidentiality

In addition to the protections of Article 412, law enforcement officers, investigators, prosecutors, and service providers shall keep confidential all reports and records of sexual exploitation, including the existence of such records. The identity, pictures, and images of the child victim and his family shall be confidential except to the extent that disclosure is:

(1) Essential for the purposes of investigation or prosecution.

(2) Required by court order.

(3) Necessary to ensure services.

Title VIII. Delinquency
Chapter 1. Preliminary provisions; definitions

Ch.C. Art. 804. Definitions

As used in this Title:

(1)(a) Before March 1, 2019, and on or after April 19, 2024, “child” means any person under the age of twenty-one, including an emancipated minor, who commits a delinquent act before attaining seventeen years of age.

(b) From March 1, 2019, and until June 30, 2020, “child” means any person under the age of twenty-one, including an emancipated minor, who commits a delinquent act on or after March 1, 2019, until June 30, 2020, when the act is not a crime of violence as defined in R.S. 14:2, and occurs before the person attains eighteen years of age.

(c) From July 1, 2020, until April 19, 2024, “child” means any person under the age of twenty-one, including an emancipated minor, who commits a delinquent act on or after July 1, 2020, and before the person attains eighteen years of age.

* * *

Chapter 13. Adjudication

Ch.C. Art. 884.1. Informing the child of sex offender registration and notification requirements; form

A. When the child has admitted the allegations of the petition or when adjudicated delinquent for any of the following offenses, the court shall provide him with written notice of the requirements for registration as a sex offender:

(1) Aggravated or first degree rape as defined in R.S. 14:42.

(2) Forcible or second degree rape as defined in R.S. 14:42.1.

(3) Second degree sexual battery as defined in R.S. 14:43.2.

(4) Aggravated kidnapping of a child who has not attained the age of thirteen years pursuant to either R.S. 14:44 or 44.2.

(5) Second degree kidnapping of a child who has not attained the age of thirteen years as defined in R.S. 14:44.1.

(6) Aggravated crime against nature defined by R.S. 14:89.1(A)(2) involving circumstances defined by R.S. 15:541 as an aggravated offense.
(7) Aggravated crime against nature as defined in R.S. 14:89.1(A)(1).

B. The court shall use this form for the notice:

STATE IN THE INTEREST OF _____
_____ JUDICIAL DISTRICT COURT
DOCKET # _____ DIVISION _____
PARISH OF _____ STATE OF LOUISIANA

Notification to Sex Offender in accordance with Children's Code Article 884.1, this Court has the duty to provide _____ (name of juvenile) with the information necessary for awareness of sex offender and child predator registration requirements. _____ (name of juvenile) has admitted the allegations of the petition or has been adjudicated of a violation of R.S. _____. Based on the provisions of Chapter 3-B of Title 15 of the Louisiana Revised Statutes of 1950 and the substance of the statute violated, IT IS ORDERED that _____ shall register for the period of _____ from the date of his release from confinement being placed on aftercare, supervised release or probation, or from the date of his adjudication, if the disposition does not involve a term of confinement.

(1) You shall initially register with the sheriff and chief of police, if any, of the parish of the juvenile court in which you were adjudicated. Additionally, you shall update your registration, in person, every ninety days from the date of initial registration, with the sheriff and chief of police, if any, of the parish of your residence and the parish where you attend school or are employed.
Within three business days of establishing residence in Louisiana or if a current resident, within three business days after adjudication if not immediately committed to confinement or taken into custody, or within three business days after release from confinement, you shall obtain and provide all of the following information to each sheriff or police department (except in Orleans Parish where registration shall take place with the New Orleans Police Department):

(a) Name and any aliases.

(b) Physical address or addresses of residence.

(c) Name and physical address of place of employment. If you do not have a fixed place of employment, you shall provide information with as much specificity as possible regarding the places where you work, including but not limited to travel routes.

(d) Name and physical address of the school in which you are a student.

(e) Two forms of proof of residence for each residential address provided, including but not limited to a driver's license, bill for utility service, and bill for telephone service. If those forms of proof are not available, you may provide an affidavit of an adult resident living at the same address.

(f) The offense for which you were adjudicated and the date and place of the adjudication, and if known, the court in which the adjudication was obtained, the docket number of the case, the specific statute violated, and the disposition imposed. Note that this information is all contained at the beginning of this form.

(g) A current photograph, fingerprints, palm prints, and a DNA sample.

(h) Your telephone numbers, including fixed location phone, mobile phone numbers, or telephone number associated with any residence address.

(i) A description of every vehicle registered to or operated by you, including license plate number and a copy of your driver's license or identification card.

(j) Your social security number and date of birth.

(k) A description of your physical characteristics, including but not limited to sex, race, hair color, eye color, height, age, weight, scars, tattoos, or other identifying marks.

(l) Every e-mail address, online screen name, or other online identity you use or have used to communicate on the Internet.

(m) Temporary lodging information regarding any place where you plan to stay for seven or more days and the length of the planned stay.

(n) Travel and immigration documents, including but not limited to passports and documents establishing immigration status.

(2) If you are committed to the office of juvenile justice, you shall provide this information to that office within ten days prior to release from confinement. You shall still appear in person at the sheriff's office within three business days of release from confinement.

(3) During the declaration of an emergency if you enter an emergency shelter, you shall, within the first twenty-four hours of admittance, notify the management of the shelter, the chief of police of the municipality, and the sheriff of the parish in which the shelter is located of your sex offender status.

(4) You have a duty to provide notice of change of address or other registration information to the sheriff of the parish of residence within three business days. If the new or additional residence is located in a different parish, then you shall register with the sheriff of the parish in which the new or additional residence is located. You shall also send written notice within three business days of re-registering in the new parish to the sheriff of the parish of former registration.

(5) If you provide recreational instruction to persons under the age of seventeen, you shall post a notice in the building or facility where such instruction is being given.

(6) Within ten days prior to release from confinement in a correctional facility, you shall provide a photograph and other relevant information noted in this Article to the office of juvenile justice for purposes of the State Sex Offender and Child Predator Registry.

(7) If you change your place of residence or establish a new or additional residence, you shall appear in person at the office of the sheriff of your parish of residence where you are currently registered within three business days of the change to register the new address. If the new address is located in a different parish, then you shall also appear in person at the office of the sheriff of your new parish of residence within the same time period. If your parish of residence is in Orleans Parish, then the registration shall take place at the New Orleans Police Department and not with the Orleans Parish Sheriff's Office.

(8) If you are absent from your current address of registration for more than thirty consecutive days or an aggregate of thirty days or more in a calendar year, and are physically present at another address during that same period of time, you shall register the new address in person as one of your addresses of residence. If the new address is in a parish different from your current address, you shall also register in person with the sheriff of the new parish within three business days of

the tolling of the time periods listed. This requirement notwithstanding, you shall still notify the sheriff of one of your parishes of residence in person if you are to take up temporary lodging for seven or more days. It is only after the thirty-day limit is exceeded that the new registration shall occur. If your address of residence is in Orleans Parish, this registration update shall take place at the New Orleans Police Department and not with the Orleans Parish Sheriff's Office.

(9) You shall also appear in person at the office of the sheriff of any of your parishes of residence when there is a change in your name, place of employment, or enrollment. This appearance shall occur within three business days of the change. If your address of residence is in Orleans Parish, this registration update shall take place at the New Orleans Police Department and not with the Orleans Parish Sheriff's Office.

(10) You shall also timely sign and return the periodic address verification form sent to you by the Louisiana Bureau of Criminal Identification and Information according to the instructions on the verification form.

(11) You shall update your registration annually on the anniversary of the initial registration by appearing in person at the office of each law enforcement agency with which you are required to register and shall pay an annual registration fee of sixty dollars ($60.00).

(12) Failure to comply with any of these registration and notification requirements is a felony for which you may be punished by a fine of up to one thousand dollars ($1,000.00) and imprisonment at hard labor for not less than two years nor more than ten years without benefit of parole, probation, or suspension of sentence. Upon a second or subsequent conviction, you may be punished by a fine of up to three thousand dollars ($3,000.00) and imprisonment at hard labor for not less than five years, nor more than twenty years without benefit of parole, probation, or suspension of sentence.

(13) If you have been adjudicated of a sex offense as defined in R.S. 15:541 involving a victim who was under the age of thirteen at the time of the offense, you are prohibited from residing or being present in certain locations. A copy of this statute is provided to you with this notification, if applicable.

THUS DONE AND SIGNED this ____ day of _____, 20___ in open court, in _____, Louisiana.
Judge, _____ Juvenile Court

I hereby certify that the above requirements have been explained to me, that I have received a copy of the above notice of sex offender registration and notification requirements, and a copy of the statutes providing for such requirements. I also understand that I will be subject to any changes made by the legislature to the registration laws from this day forward.
Signature of Juvenile

Defense Counsel Signature

Title X. Judicial Certification of Children for Adoption
Chapter 1. Preliminary Provisions; Definitions

Ch.C. Art. 1004. Petition for termination of parental rights; authorization to file

A. At any time, including in any hearing in a child in need of care proceeding, the court on its own motion may order the filing of a petition on any ground authorized by Article 1015 or 1015.1.

B. Counsel appointed for the child pursuant to Article 607 may petition for the termination of parental rights of the parent of the child if the petition alleges a ground authorized by Article 1015(4), (5), or (6) and, although eighteen months have elapsed since the date of the child's adjudication as a child in need of care, no petition has been filed by the district attorney or the department.

C. The district attorney may petition for the termination of parental rights of the parent of the child on any ground authorized by Article 1015.

D. The department may petition for the termination of parental rights of the parent of the child when any of the following apply:

(1) The child has been subjected to abuse or neglect after the child is returned to the parent's care and custody while under department supervision, and termination is authorized by Article 1015(3)(j).

(2) The parent's parental rights to one or more of the child's siblings have been terminated due to neglect or abuse and prior attempts to rehabilitate the parent have been unsuccessful, and termination is authorized by Article 1015(4)(k).

(3) The child has been abandoned and termination is authorized by Article 1015(4).

(4) The child has been placed in the custody of the state, and termination is authorized by Article 1015(6).
(5) The child is in foster care because the parent is incarcerated, and termination is authorized by Article 1015(6).

(6) The child is in foster care and, despite diligent efforts by the department to identify the child's father, his identity is unknown, and termination is authorized by Article 1015(8).

E. When termination is authorized by Article 1015, other than on the grounds specified by Paragraph D of this Article, by special appointment, the district attorney may designate counsel for the department as a special assistant authorized to act in his stead in all such termination actions or in a particular case.

F. By special appointment for a particular case, the court or the district attorney may designate private counsel authorized to petition for the termination of parental rights of the parent of the child on the ground of abandonment authorized by Article 1015(4).

G. Foster parents who intend to adopt the child may petition for the termination of parental rights of the foster child's parents when, in accordance with Article 702(D), adoption is the permanent plan for the child, the child has been in state custody under the foster parent's care for seventeen of the last twenty-two months, and the department has failed to petition for such termination.

H. When termination is authorized by Article 1015(1) or (2) and no petition is filed to terminate the parental rights of the surviving parent pursuant to Paragraph A, C, or E of this Article after a written request to file such action is made to the district attorney by any interested person and no petition is filed within sixty days by the district attorney, that person may file suit to terminate the parental rights of the surviving parent.

I. When a child is conceived as the result of a sex offense as defined in R.S. 15:541, the victim of the sex offense who is the custodial parent may petition to terminate the rights of the perpetrator of the sex offense. Termination shall result in the loss of custody, visitation, contact, and other parental rights of the perpetrator regarding the child, but shall not affect the inheritance rights of the child. The perpetrator shall be cast in judgment for court costs.

Chapter 3. Confidentiality of Records; Duties of Court Clerks; Disclosure Proceedings

Ch.C. Art. 1007. Court records of proceedings

A. All records and reports which result from proceedings held pursuant to the provisions of this Title are confidential and shall not be disclosed except as otherwise provided by this Chapter, by Chapter 7 of this Title, or as may be necessary to facilitate any order for continued contact as authorized by Article 1037.1.

B. The address and parish of the petitioner and each person on whose behalf the petition for termination of parental rights is filed under the provisions of Article 1015.1 may remain confidential with the court.

Chapter 4. Grounds of Involuntary Termination

Ch.C. Art. 1015. Grounds; termination of parental rights

The grounds for termination of parental rights are:

(1) Conviction of murder of the child's other parent.

(2) Unjustified intentional killing of the child's other parent.

(3) Misconduct of the parent toward this child or any other child of the parent or any other child which constitutes extreme abuse, cruel and inhuman treatment, or grossly negligent behavior below a reasonable standard of human decency, including but not limited to the conviction, commission, aiding or abetting, attempting, conspiring, or soliciting to commit any of the following:

(a) Murder.
(b) Unjustified intentional killing.
(c) Aggravated crime against nature as defined by R.S. 14:89.1(A)(2).
(d) Rape.
(e) Sodomy.
(f) Torture.
(g) Starvation.
(h) A felony that has resulted in serious bodily injury.
(i) Abuse or neglect which is chronic, life-threatening, or results in gravely disabling physical or psychological injury or disfigurement.
(j) Abuse or neglect after the child is returned to the parent's care and custody while under department supervision, when the child had previously been removed for his safety from the parent pursuant to a disposition judgment in a child in need of care proceeding.
(k) The parent's parental rights to one or more of the child's siblings have been terminated due to neglect or abuse, prior attempts to rehabilitate the parent have been unsuccessful, and the court has determined pursuant to Article 672.1 that current attempts to reunite the family are not required.
(l) Sexual exploitation or abuse, which shall include but is not limited to acts which are prohibited by R.S. 14:43.1, 43.2, 46.3, 80, 81, 81.1, 81.2, 82.1(A)(2), 89, and 89.1.
(m) Human trafficking when sentenced pursuant to the provisions of R.S. 14:46.2(B)(2) or (3).

(4) Abandonment of the child by placing him in the physical custody of a nonparent, or the department, or by otherwise leaving him under circumstances demonstrating an intention to permanently avoid parental responsibility by any of the following:

(a) For a period of at least four months as of the time of the hearing, despite a diligent search, the whereabouts of the child's parent continue to be unknown.

(b) As of the time the petition is filed, the parent has failed to provide significant contributions to the child's care and support for any period of six consecutive months.

(c) As of the time the petition is filed, the parent has failed to maintain significant contact with the child by visiting him or communicating with him for any period of six consecutive months.

(5) Unless sooner permitted by the court, at least one year has elapsed since a child was removed from the parent's custody pursuant to a court order; there has been no substantial parental compliance with a case plan for services which has been previously filed by the department and approved by the court as necessary for the safe return of the child; and despite earlier intervention, there is no reasonable expectation of significant improvement in the parent's condition or conduct in the near future, considering the child's age and his need for a safe, stable, and permanent home.

(6) The child is in the custody of the department pursuant to a court order or placement by the parent; the parent has been convicted and sentenced to a period of incarceration of such duration that the parent will not be able to care for the child for an extended period of time, considering the child's age and his need for a safe, stable, and permanent home; and despite notice by the department, the parent has refused or failed to provide a reasonable plan for the appropriate care of the child other than foster care.

(7) The relinquishment of an infant pursuant to Chapter 13 of Title XI of this Code.

(8) The child is in the custody of the department pursuant to a court order for at least one year, unless sooner permitted by the court, and the identity of the child's father remains unknown and all the following have occurred:

(a) In the course of investigating the case and providing services to the family, the department has been unable to learn the identity of the father.

(b) No party to the proceedings or the mother, if not a party, is able to provide a first and last name of a putative father or alias sufficient to provide a reasonable possibility of identification and location.

(c) The department has obtained all of the following:

(i) A certified copy of the child's birth certificate with no one indicated thereon as the father of the child, or the father listed has been determined not to be the biological father of the child.

(ii) A recent certificate from the putative father registry indicating that no person is listed or registered as the child's father.

(iii) A recent certificate from the clerk of court in the parish in which the child was born indicating that no acknowledgment with respect to this child has been recorded.

Ch.C. Art. 1015.1. Termination of parental rights; certain grounds; costs and fees

A. A petitioner shall not be required to prepay nor be cast with court costs or costs of service or subpoena for the filing of the petition pursuant to Article 1015(3) or (9). The clerk of court shall immediately file and process the petition, regardless of the ability of the petitioner to pay court costs.

B. All court costs, attorney fees, costs of enforcement and modification proceedings, costs of appeals, evaluation fees, and expert witness fees incurred in filing, maintaining, or defending any proceeding under Article 1015(3) or (9) shall be paid by the perpetrator of the sex offense, including all costs of medical and psychological care for the sexually abused adult, or for the child conceived as a result of the sex offense.

Title VI. Special Proceedings
Chapter 6. Authorization of Minor Marriages

Ch.C. Art. 1545. Necessary consent; parents; judicial authorization

A. An officiant may not perform a marriage ceremony in which a minor sixteen or seventeen is a party unless the minor has judicial authorization and the written consent to marry of either:

(1) Both of his parents.

(2) The tutor of his person.

(3) A person who has been awarded custody of the minor.

B. No marriage ceremony shall be performed for a minor under the age of sixteen.

Ch.C. Art. 1547. Judicial authorization; compelling reasons

Upon application by a minor of the age of sixteen or seventeen, the judge may authorize the marriage when there is a compelling reason why the marriage should take place. The court shall consider the best interest of the minor prospective spouse.

Ch.C. Art. 1548. Hearing; confidentiality; best interest of the minor; evidence of human trafficking, sexual assault, domestic violence, coercion, duress, or undue influence

A. The court shall hear a request for authorization for a minor to marry in chambers.

B. The judge shall require that both the prospective husband and prospective wife be present for the hearing and there shall be a separate in camera interview of the prospective spouses.

C. In determining the best interest of the minor prospective spouse, the court shall consider all of the following:

(1) Pregnancy of the prospective wife.

(2) If the prospective spouses are already living together.
(3) Housing and living conditions prior to the prospective marriage and where the prospective spouses intend to live after the marriage.

(4) The ages of the prospective spouses.

(5) The age differential between the prospective spouses.

(6) How the prospective spouses came to know each other.

(7) The stated reasons why each of the prospective spouses desires to marry one another.

(8) Consent of mother, father, or person having legal custody of the minor.

D. The judge may require evidence of proof of residency, educational attainment, juvenile offense history, or criminal history to be produced.

E. The judge shall conduct an inquiry to determine if there exists any evidence that the minor is a victim of human trafficking, sexual assault, domestic violence, coercion, duress, or undue influence. In conducting the inquiry, the judge shall ask all of the following questions:

(1) Whether one prospective spouse is in a position of authority over the other prospective spouse.

(2) Previous marriage or marriages of either of the prospective spouses.

(3) Residency and length of residency of the prospective spouses.

(4) How long the prospective spouses have known each other.

(5) Length of relationship between the prospective spouses.

(6) Any evidence of kidnaping, sexual assault, or domestic violence between the prospective spouses.

(7) Whether one of the prospective spouses was the victim of a sexual offense committed by the other prospective spouse.

(8) Evidence of domestic violence, spousal abuse, or sexual offenses committed by either of the prospective spouses upon anyone.

(9) Criminal history of the prospective spouses.

(10) Whether either prospective husband or wife provided or promised a third party anything of value in exchange for the marriage.

(11) Evidence of maturity and self-sufficiency of the prospective spouses through educational attainment or employment.

(12) Evidence of at least eight hours of premarital counseling from the prospective spouses.

(13) Any history of any medical condition or chemical dependency of either of the prospective spouses.

F. If the judge finds any evidence of human trafficking, sexual assault, domestic violence, coercion, or undue influence, he shall immediately report it to local law enforcement or child protective services, and shall not authorize the marriage.