Art. 14.1. Filing of pleadings and documents by facsimile transmission

A. Any document in a traffic or criminal action may be filed with the clerk of court by facsimile transmission if permitted by the policy of the clerk of court. Filing shall be deemed complete at the time the facsimile transmission is received by the clerk of court. No later than on the first business day after receiving a facsimile filing, the clerk of court shall transmit to the filing party via facsimile a confirmation of receipt and include a statement of the fees for the facsimile filing and filing of the original document. The facsimile filing fee and transmission fee are incurred upon receipt of the facsimile filing by the clerk of court and payable as provided in Subsection B of this Section. The facsimile filing shall have the same force and effect as filing the original document, if the party complies with Paragraph B of this Article.

B. Within seven days, exclusive of legal holidays, after the clerk of court receives the facsimile filing, all of the following shall be delivered to the clerk of court:

(1) The original document identical to the facsimile filing in number of pages and in content of each page including any attachments, exhibits, and orders. A document not identical to the facsimile filing or which includes pages not included in the facsimile filing shall not be considered the original document.

(2) The fees for the facsimile filing and filing of the original document stated on the confirmation of receipt, if any.

(3) A transmission fee of five dollars, if the defendant had not been declared indigent by the court.

C. If the filing party fails to comply with any of the requirements of Paragraph B of this Article, the facsimile filing shall have no force or effect.

D. Any court district may provide by court rule for any additional requirement or provisions for filings by facsimile transmission.

E. In keeping with the clerk's policy, each clerk of court shall make available the necessary equipment and supplies to accommodate facsimile filing in criminal actions. Purchases for equipment and supplies necessary to accommodate facsimile filings may be funded from any expense fund of the office of the clerk of court as the clerks deem appropriate.

Acts 2001, No. 319, §3; Acts 2016, No. 109, §2.

BAIL

NOTE: Art. 311 effective until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 311. Bail defined

Bail is the security given by a person to assure his appearance before the proper court whenever required.

NOTE: Art. 311 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

TITLE VIII. BAIL

Art. 311. Definitions

For the purpose of this Title, the following definitions shall apply:

(1) Bail is the security given by a person to assure a defendant's appearance before the proper court whenever required.

(2) An appearance is a personal appearance before the court or the court's designee, where the charges are pending.

(3) A surrender is the detention of the defendant at the request of the surety by the officer originally charged with his detention on the original commitment. When the surety has requested

the surrender of the defendant, the officer shall acknowledge the surrender by a certificate of surrender signed by him and delivered to the surety.

(4) A constructive surrender is the detention of the defendant in another parish of the state of Louisiana or a foreign jurisdiction under the following circumstances:

(a) A warrant for arrest has been issued for the defendant in the jurisdiction in which the bail obligation is in place.

(b) The surety has provided proof of the defendant's current incarceration to the court in which the bail obligation is in place, the prosecuting attorney, and the officer originally charged with the defendant's detention.

(c) The surety has paid to the officer the reasonable costs of returning the defendant to the jurisdiction where the warrant for arrest was issued.

(5) A personal surety is a natural person domiciled in the state of Louisiana who owns property in this state that is subject to seizure and is of sufficient value to satisfy, considering all his property, the amount specified in the bail undertaking. The value of the property shall exclude the amount exempt from execution, and shall be over and above all other liabilities including the amount of any other bail undertaking on which he may be principal or surety. If there is more than one personal surety, then the requirements shall apply to the aggregate value of their property. A personal surety shall not charge a fee or receive any compensation for posting a bail undertaking. A bail undertaking of a personal surety may be unsecured or secured.

Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 312 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 312. Types and elections of bail

A. The types of bail in Louisiana 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, with or without security.

(5) Bail with a cash deposit.

B. Except as provided in Paragraphs C and D of this Article, all bail must be posted in the full amount fixed by the court.

C. 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 bond secured by the property of the defendant, or by any combination thereof.

D. 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.

NOTE: Art. 312 as amended by Acts 2016, No. 613, §1, eff. Jan 1, 2017.

Art. 312. Right to bail before and after conviction

A. Except as provided in this Article and Article 313, a person in custody who is charged with the commission of an offense is entitled to bail before conviction.

B. A person released on a previously posted bail undertaking for (1) a crime of violence as defined by R.S. 14:2(B) which carries a minimum mandatory sentence of imprisonment upon conviction or (2) the production, manufacture, distribution, or dispensing or possession with

intent to produce, manufacture, distribute, or dispense a controlled dangerous substance as defined by the Louisiana Uniform Controlled Dangerous Substances Law, shall not be readmitted to bail when the person previously failed to appear and a warrant for arrest was issued and not recalled or the previous bail undertaking has been revoked or forfeited. If a person voluntarily appears without confinement by a law enforcement officer or bail recovery agent following a motion to revoke bail or issuance of an arrest warrant for failure to appear but prior to revocation or forfeiture, then he may be released only under one of the following circumstances:

(1) After a contradictory hearing, a person may be released on the previously posted bail undertaking if the motion to revoke bail is rescinded or the arrest warrant is recalled and the surety is present or represented at the hearing and gives written consent. Previous instances of revocation and forfeiture in unrelated cases are admissible at the hearing. This relief is available only once.

(2) A person may be released on a new bail undertaking without a contradictory hearing only on bail with a commercial surety and in an amount higher than the original bail.

C. A defendant who has been surrendered under the provisions of Article 331, or has been rearrested under the provisions of Article 332, is entitled to bail in accordance with this Code.

D. A convicted person shall be remanded to jail to await sentence unless any of the following occur:

(1) He is allowed to remain free on a bail undertaking posted prior to conviction by operation of Article 331(A), and the bail previously fixed is in accordance with all of the applicable provisions of this Article.

(2) He is released by virtue of a bail undertaking posted after conviction, and the bail was fixed in accordance with this Article.

E. After conviction and before sentence, bail shall be allowed if the maximum sentence which may be imposed is imprisonment for five years or less. Bail may be allowed pending sentence if the maximum sentence which may be imposed is imprisonment exceeding five years, except when the court has reason to believe, based on competent evidence, that the release of the person convicted will pose a danger to any other person or the community, or that there is a substantial risk that the person convicted might flee.

F. After sentence and until final judgment, bail shall be allowed if a sentence of five years or less is actually imposed. Bail may be allowed after sentence and until final judgment if the sentence actually imposed exceeds imprisonment for five years, except when the court has reason to believe, based on competent evidence, that the release of the person convicted will pose a danger to any other person or the community, or that there is a substantial risk that the person convicted might flee.

G. After conviction of a capital offense, a defendant shall not be allowed bail.

H. A person held without bail or unable to post bail may invoke the supervisory jurisdiction of the court of appeal on a claim that the trial court has improperly refused bail or a reduction of bail in a bailable case.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1994, 3rd Ex. Sess., No. 52, §1, eff. Sept. 1, 1994; Acts 2010, No. 914, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 313 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 313. Surety

Surety as used in this Title is a legal suretyship pursuant to the provisions of the Louisiana Civil Code.

NOTE: Art. 313 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

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 Article, 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.

Amended by Acts 1974, Ex.Sess. No. 17, §1, eff. Jan. 1, 1975; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2010, No. 914, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

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.

Acts 2016, No. 474, §1.

NOTE: Art. 314 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 314. Commercial surety

A surety company authorized to do business in the state of Louisiana may become surety for the release of a person on bail. The sufficiency of security posted in the form of an appearance bond by a surety company, as required by the provisions of Title 22 of the Louisiana Revised Statutes of 1950, shall be determined solely by the commissioner of insurance.

NOTE: Art. 314 as amended by Acts 2016, No. 613, §1, eff. until Jan. 1, 2017.

Art. 314. Authority to fix bail; bail order

A. The following magistrates, throughout their several territorial jurisdictions, shall have authority to fix bail:

(1) District courts and their commissioners having criminal jurisdiction, in all cases.

(2) City or parish courts and municipal and traffic courts of New Orleans having criminal jurisdiction, in cases not capital.

(3) Mayor's courts and traffic courts in criminal cases within their trial jurisdiction.

(4) Juvenile and family courts in criminal cases within their trial jurisdiction.

(5) Justices of the peace in cases not capital or necessarily punishable at hard labor.

B. An order fixing bail shall be in writing, set the type and a single amount of bail for each charge, designate the officer or officers authorized to accept the bail, and shall be signed electronically or by any other means by the magistrate. An order fixing bail may issue on request of the state or defendant, or on the initiative of the magistrate.

Amended by Acts 1974, Ex.Sess. No. 18, §1, eff. Jan. 1, 1975; Acts 1981, No. 438, §1; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, 1, eff. Jan. 1, 2017.

NOTE: Art. 315 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 315. Personal surety

A personal surety must be a natural person domiciled in this state who owns property in this state that is subject to seizure and is of sufficient value to satisfy, considering all his property, the amount specified in the bail bond. The value of the property of the surety shall exclude property exempt from execution, and shall be over and above all his other liabilities including the amount of any other bail bond on which he may be principal or surety. When there is more than one personal surety, the requirements of this Article shall apply to the aggregate value of their property. No personal surety shall charge a fee or receive any compensation for posting a personal surety bond.

NOTE: Art. 315 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 315. Schedules of bail

A. Unless the bail is fixed by a schedule in accordance with this Article, the amount of bail shall be specifically fixed in each case. In noncapital felony cases, a bail schedule according to the offense charged may be fixed by a district court. In misdemeanor cases, a bail schedule according to the offense charged may be fixed by a district, parish or city court for offenses committed within its trial jurisdiction. When more than one court has trial jurisdiction, the applicable bail schedule shall be that of the court in which the case is to be tried.

B. The court order setting the bail schedule shall fix the amount of bail for each offense listed, designate the officer or officers authorized to accept the bail, and order that bail be taken in conformity with the schedule. It may also contain a general provision designating the amount of bail for any noncapital felony and misdemeanor not listed in the schedule. A copy of the schedule shall be sent to all jails, sheriff's offices, and police stations within the judicial district, parish, or city. A bail schedule may be revised or rescinded at any time. The type or form of bail shall not be sent in a bail schedule.

C. A person charged with the commission of an offense for which bail is fixed by a schedule may give bail according to the schedule or demand a special order fixing bail. The bail amount fixed by schedule may be modified by the court in accordance with Article 319.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1994, 3rd Ex. Sess., No. 52, §1, eff. Sept. 1, 1994; Acts 2010, No. 914, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 316 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 316. Types of personal surety

There are two types of personal surety in Louisiana: unsecured, and secured.

NOTE: Art. 316 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

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.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 317 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 317. Unsecured personal surety

A person in custody may be released by order of the court on an unsecured personal surety bond. An unsecured personal surety is a personal surety where the surety meets all the qualifications of law and lives and resides in the state of Louisiana without specifically mortgaging or giving a security interest in any property as security to guarantee the surety's performance.

NOTE: Art. 317 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 317. Organization performing or providing pretrial services

Any organization which is contracted, employed, or which receives public funds to perform or provide pretrial services, such as screening of any defendant, shall verify all background information provided by a defendant or otherwise obtained by the organization regarding the defendant.

Amended by Acts 1982, No. 276, §1; Acts 1987, No. 500, §1; Acts 1991, No. 72, §1; Acts 1992, No. 401, §1; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2003, No. 222, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 318 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 318. Secured personal surety

A secured personal surety is a personal surety who meets all the qualifications of law and specifically mortgages immovable property located in the state of Louisiana.

NOTE: Art. 318 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 318. Juvenile records in fixing bail

A. For the purpose of fixing bail, a court may make a written request of any juvenile court for an abstract containing only the delinquent acts of a defendant currently before the requesting court. The request shall be promptly complied with; however, not more than forty-eight hours, exclusive of Saturdays, Sundays, and legal holidays, shall lapse before the requested information is deposited in the mail, addressed to the requesting court.

B. The requesting court shall not copy, duplicate, or otherwise reproduce such juvenile records, and these shall be deposited in the mail and addressed to the issuing juvenile court within seventy-two hours, exclusive of Saturdays, Sundays, and legal holidays, after bail is determined.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2010, No. 914, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 319 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 319. Conditions for providing a property bond

A. A defendant or a secured personal surety, pursuant to Article 312, may establish a legal mortgage over immovable property in favor of the state of Louisiana or the proper political subdivision to secure a bail obligation.

B. The mortgage is established upon the recordation of a written mortgage, in authentic form satisfactory to the officer authorized to receive the bail, in the mortgage records of the parish where the immovable is located that:

(1) Contains the name and signature of the person making the mortgage.

(2) Describes the immovable and declares that a mortgage is given over it as security for the performance of the bail obligation.

(3) Certifies that the person making the mortgage owns the immovable and states its value, in excess of the amount of all encumbrances against it.

(4) Attaches to it a copy of the order fixing the bail obligation.

C. The person providing the security shall deliver a certified copy of the recorded statement establishing the mortgage and a mortgage certificate to the officer authorized to receive the bail. The officer may require additional evidence of ownership and value of the mortgaged property including a copy of the current tax assessment.

D.(1) The recorder shall cancel the mortgage from his records upon the order of the court.

(2) In all other cases, the effect of its recordation shall cease ten years after its recordation unless it is reinscribed in the manner otherwise provided by law.

E. Any materially false or incorrect statements made by a person who intentionally and knowingly gives a mortgage or security interest pursuant to this Article shall be prima facie proof of a violation of the provisions of R.S. 14:125, false swearing.

NOTE: Art. 319 as amended by Acts 2016, No. 613, §1, eff. until Jan. 1, 2017.

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.

Amended by Acts 1979, No. 161, §1; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1994, 3rd Ex. Sess., No. 52, §1, eff. Sept. 1, 1994; Acts 2010, No. 914, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 320 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 320. Those who may not be sureties

A person shall not be released on bail for which an attorney at law, a judge, or ministerial officer of a court becomes a surety or provides money or property for bail; but the invalidity of such bail shall not be a defense to an action to forfeit and enforce the bail.

NOTE: Art. 320 as amended by Acts 2016, No. 613, §1, eff. until Jan. 1, 2017.

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, child care, 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.

C. Operating a vehicle while intoxicated. The court shall require as a condition of release on bail that any person who is charged with a second or subsequent violation of R.S. 14:32.1, 39.1, 39.2, 98, 98.6, or a parish or municipal ordinance that prohibits the operation of a motor vehicle while under the influence of alcohol or drugs to install an ignition interlock device on any vehicle which he operates. The defendant shall have fifteen days from the date that he is released on bail to comply with this requirement, and the ignition interlock device shall remain on the vehicle or vehicles during the pendency of the criminal proceedings. Under exceptional circumstances, the court may waive the provisions of this Article but shall indicate the reasons therefor to the law enforcement agency who has custody of the alleged offender documentation.

D. Drug offenses and crimes of violence. Every person arrested for a violation of the Uniform Controlled Dangerous Substances Law or a crime of violence as provided in R.S. 14:2(B) shall be required to submit to a pretrial drug test for the presence of designated substances in accordance with the provisions of this Article and rules of court governing such testing. Every person arrested for any other felony may be required to submit to a pretrial drug test for the presence of designated substances in accordance with the provisions of this Article and rules of court governing such testing. Every person arrested for a misdemeanor may be required to submit to a pretrial drug test for the presence of designated substances in accordance with the provisions of this Article and rules of court governing such testing.

E. Pretrial drug testing program. The court may implement a pretrial drug testing program. All persons released under the provisions of the pretrial drug testing program must submit to continued random testing and refrain from the use or possession of any controlled dangerous substance or any substance designated by the court. A pretrial drug testing program shall provide for the following:

(1) Mandatory participation for all persons arrested for violations of state law. Additionally, all persons testing positive for the presence of one or more of the designated substances set forth in Subparagraph (2) of this Paragraph, who are not otherwise required to participate, shall submit to a pretrial drug testing program.

(2) Drug testing to determine the presence of any controlled dangerous substance identified in the Uniform Controlled Substances Law prior to first court appearance and random testing thereafter to verify that the person is drug free.

(3) Restrictions on the use of any and all test results to ensure that they are used only for the benefit of the court to determine appropriate conditions of release, monitoring compliance

with court orders, and assisting in determining appropriate sentences. A form statement shall be signed by the law enforcement agency and the person in custody stipulating that under no circumstances shall the information be used as evidence or as the basis for additional charges.

(4) Reasonable testing procedures to ensure the fair administration of the test and protection for the chain of custody for any evidence obtained.

F. Implementation of pretrial drug testing program. The implementation of any pretrial drug testing program authorized pursuant to the provisions of this Article shall be contingent upon receipt by the court requiring the test of sufficient federal or other funding to conduct the testing program in accordance with the provisions of this Article and any rules of court. No elected official who is in any way connected with the administration of the pretrial drug testing program provided for in this Article, either directly or indirectly, shall have any financial interest, either directly or indirectly, in any drug testing company participating in such pretrial drug testing program. All contracts awarded to any drug testing company authorized to conduct the pretrial drug testing program provided for in this Article shall be awarded in accordance with the provisions governing public bids, R.S. 38:2181 et seq.

G. 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 a sexual assault as defined in R.S. 46:2184, or who is alleged to have committed the offense of first degree rape under the provisions of R.S. 14:42, 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 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.

H. Uniform Abuse Prevention Order. (1) If, as part of a bail restriction, an order is issued for purposes of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person for the purpose of preventing domestic abuse, stalking, dating violence, or sexual assault, 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 a bail restriction, 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 against the defendant's family or household member, as defined in R.S. 46:2132, 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 a sexual assault as defined in R.S. 46:2184 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. Crimes of violence. If the defendant has been charged with a crime of violence as defined in R.S. 14:2(B), the court shall 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 while the case is pending. This condition does not apply if the victim consents in person or through a communication through the local prosecuting agency. If an immediate family member of the victim consents in person or through a communication through the local prosecuting agency, then the defendant may contact that person.

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.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 321 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 321. Affidavit of surety

A personal surety shall execute an affidavit that he possesses the sufficiency and qualifications prescribed by Article 315 and that he is not disqualified from becoming a surety by Article 320. The affidavit shall list the number and amount of undischarged bail bonds, if any, entered into by the surety. The officer accepting the bail may require the surety to state in his affidavit the nature and value of his property not exempt from execution, and the amount of his liabilities. An officer authorized to accept the bail shall have authority to administer any affidavit required of the person signing a bail bond.

NOTE: Art. 321 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

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).

(6) R.S. 14:37.7 (domestic abuse aggravated assault).

(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.

Amended by Acts 1979, No. 704, §1; Acts 1991, No. 102, §1; Acts 1992, No. 314, §1; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 322 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 322. Declaration of residence by defendant and surety; social security number; waiver of notice

A. The defendant and personal surety signing a bail bond shall write the address at which each can be served under their respective signatures and the last four digits of their social security number. The defendant and his counsel may, by joint affidavit filed of record in the proceeding in which the bond was given, appoint his counsel as his agent for service of notice to appear. The appointment shall be conclusively presumed to continue until the defendant files of record an affidavit revoking or changing the appointment. The affidavit shall include the address at which to serve his counsel. A commercial surety shall inscribe its proper mailing address on the face of the power of attorney used to execute the bond. The agent or bondsman posting the bond shall write his proper mailing address under his signature. A bail bond shall not be set aside

because of the invalidity of the information required by this Article or for the failure to include the information required by the provisions of this Article.

B. Each address provided pursuant to Paragraph A of this Article shall be conclusively presumed to continue for all proceedings on the bond until the party providing the address changes it by filing a written declaration in the proceeding for which the bond was filed.

C. By signing the bail bond, the defendant and his surety waive any right to notice, except that provided for in Articles 344 and 349.3.

D, E. Repealed by Acts 2010, No. 914, §5.

NOTE: Art. 322 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 322. Commercial surety

A surety company authorized to do business in the state of Louisiana may become surety for the release of a person on a bail undertaking. The sufficiency of security posted in the form of an appearance bond by a surety company, as required by the provisions of Title 22 of the Louisiana Revised Statutes of 1950, shall be determined solely by the commissioner of insurance. A contract to indemnify a surety company against loss on a bail undertaking is valid and enforceable.

Acts 1985, No. 232, §1; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2006, No. 246, §1; Acts 2010, No. 710, §1; Acts 2010, No. 914, §§1, 5; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 323 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 323. Signature or declaration of person unable to write

When a person who is required to sign his name or to make a declaration in writing under the provisions of this Code swears that he cannot sign or write, the officer authorized to receive the signature or declaration in writing may, at the request of the person, sign for him or make for him the declaration in writing, with the same binding effect as if the person had himself signed or himself made the declaration in writing; provided that the declaration and signature shall be witnessed and signed by at least two competent witnesses.

NOTE: Art. 323 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 323. Secured personal surety

A. A secured personal surety is a personal surety who satisfies all the requirements of Article 311(5) and specifically mortgages immovable property located in the state of Louisiana.

B. Bail without surety may be secured by a mortgage on the property of the defendant pursuant to this Article or unsecured. A secured personal surety may establish a mortgage over immovable property in favor of the state of Louisiana or the proper political subdivision to secure a bail undertaking.

C. The mortgage is established upon the recordation of a written mortgage, in authentic form satisfactory to the officer authorized to receive the bail, in the mortgage records of the parish where the immovable is located that:

(1) Contains the name and signature of the person making the mortgage.

(2) Describes the immovable and declares that a mortgage is given over it as security for the performance of the bail obligation.

(3) Certifies that the person making the mortgage owns the immovable and states its value, in excess of the amount of all encumbrances against it.

(4) Attaches to it a copy of the order fixing bail.

D. The person providing the security shall deliver a certified copy of the recorded statement establishing the mortgage and a mortgage certificate to the officer authorized to receive the bail. The officer may require additional evidence of ownership and value of the mortgaged property including a copy of the current tax assessment.

E.(1) The recorder shall cancel the mortgage from his records upon the order of the court.

(2) In all other cases, the effect of its recordation shall cease ten years after its recordation unless it is reinscribed in the manner otherwise provided by law.

F. Any materially false or incorrect statements made by a person who intentionally and knowingly gives a mortgage or security interest pursuant to this Article shall be prima facie proof of a violation of the provisions of R.S. 14:125, false swearing.

Acts 1988, No. 579, §1; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 324 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 324. Cash deposits

A.(1) In lieu of a surety the defendant may furnish his personal undertaking, secured by a deposit with an officer authorized to accept the bail.

(2) The deposit shall consist of any of the following which are equal to the amount of the bail:

(a) Cash.

(b) A certified or cashier's check on any state or national bank.

(c) Bonds of the United States government negotiable by delivery.

(d) Bonds of the state of Louisiana or any political subdivision thereof negotiable by delivery.

(e) United States postal money orders or money orders issued by any state or national bank.

(3) The court in the parishes of St. John the Baptist and St. Charles, by written rule, may alter the percentage amount of bail to be deposited with the officer authorized to accept the bond and authorize the officer to charge an administrative fee, not to exceed fifteen dollars, for processing the bond.

B. Upon final disposition of all cases in which a deposit of money, checks, bonds, or money orders has been made pursuant to this Article, and said deposits have remained unclaimed for a period of one year from the date of the final disposition, the officer authorized to accept said bail shall apply and use one-half of such funds for the operation and maintenance of the office of the clerk of court, or the office of the clerk of the criminal district court, or the office of the clerk of the criminal district court in Orleans Parish, and one-half to the local governing authority after advertising his intention to so utilize the funds by publication in the official parish journal of a notice to the public containing an itemized list of all of such funds on deposit, containing the names and last known addresses of defendants and the docket numbers of the cases involved. The publication shall be made once within thirty days after the final disposition of the case as aforesaid. The clerk shall also send a notice by certified mail to each of such defendants at the last known address of the defendant. Any interest earned on the funds deposited for bail shall be disbursed as provided in Paragraph E of this Article.

C. After the publication and mailing of the notice by certified mail, the clerk of court, or the clerk of the criminal district court in Orleans Parish shall petition the court of proper jurisdiction for permission to utilize the funds for the use, operation, and maintenance of the office of the clerk of court or the clerk of criminal district court in Orleans Parish.

D. When bail has been given in conformity with this Article, the money, check, bond, or money order shall not be subject to garnishment, attachment, or seizure under any legal process. An assignment or sale thereof by the owner, to be valid, must be in the form of an authentic act and filed in the proceedings in the court having jurisdiction to discharge the bail. The property shall remain on deposit and the assignment or sale shall be contingent upon the nonforfeiture of the bail.

E. When money, checks, or money orders have been given for bail in conformity with this Article, those funds may be deposited by the officer authorized to accept bail into an interest-bearing account established exclusively for the deposit of such funds. Interest earned on the deposits in the account shall be used solely for the operation and maintenance of the office of the clerk of court.

NOTE: Art. 324 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 324. Unsecured personal surety

A. A person in custody may be released by order of the court on an unsecured personal surety bail undertaking. An unsecured personal surety is a personal surety where the surety satisfies all the requirements of Article 311(5) and lives and resides in the state of Louisiana without specifically mortgaging or giving a security interest in any property as security to guarantee the surety's performance.

B. A personal surety shall execute an affidavit that he possesses the sufficiency and qualifications of a personal surety and that he is not disqualified from becoming a surety by Article 327. The affidavit shall list the number and amount of undischarged bail undertakings, if any, entered into by the personal surety. The officer accepting the bail may require the personal surety to state in his affidavit the nature and value of his property not exempt from execution, and the amount of his liabilities. An officer authorized to accept the bail shall have authority to administer any affidavit required of the person signing a bail undertaking.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1994, 3rd Ex. Sess., No. 52, §1, eff. Sept. 1, 1994; Acts 2000, 1st Ex. Sess., No. 95, §1; Acts 2011, 1st Ex. Sess., No. 16, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 325 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 325. Bail without surety

A person in custody may be released by order of the court on his personal bail undertaking without the necessity of furnishing a surety.

NOTE: Art. 325 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 325. Bail without surety

A person in custody may be released by order of the court on his personal bail undertaking without the necessity of furnishing a surety, unless otherwise provided in this Title.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 325.1. Repealed by Acts 1983, No. 256, §1.

NOTE: Art. 326 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 326. Condition of the bail undertaking

A. Except as provided in Paragraph B, 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 bail obligation shall run, subject to the provisions of Article 626, in favor of the state of Louisiana, or the city or parish whose ordinance is charged to have been violated, with the proceeds to be disposed of according to law. No error, inaccuracy, or omission in naming the obligee on the bond is a defense to an action thereon.

B.(1) Upon conviction and imposition of sentence or the pronouncement of sentence or condition of probation pursuant to Article 894 in misdemeanor cases, the bail undertaking shall cease and the surety shall be relieved of all obligations under the bond.

(2) Upon conviction in any felony case, the bail undertaking shall cease and the surety shall be relieved of all obligations under the bond.

(3) In all cases, if necessary to assure the presence of the defendant at all future stages of the proceedings, the court may in its discretion, in accordance with Article 332 require the defendant to post another bond or other acceptable security, or may release the defendant on bail without surety as provided for in Article 325. The court may continue the existing bail undertaking with the written approval of the surety on the bond. Such approval must be obtained from the surety after conviction.

NOTE: Art. 326 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 326. Cash deposits

A.(1) In lieu of a surety the defendant may furnish a bail undertaking, secured by a deposit with an officer authorized to accept the bail. The deposit shall consist of any of the following which are equal to the amount of the bail:

(a) Cash.

(b) A certified or cashier's check on any state or national bank.

(c) Bonds of the United States government negotiable by delivery.

(d) Bonds of the state of Louisiana or any political subdivision thereof negotiable by delivery.

(e) United States postal money orders or money orders issued by any state or national bank.

(2) The court in the parishes of St. John the Baptist and St. Charles, by written rule, may alter the percentage amount of bail to be deposited with the officer authorized to accept the bail undertaking and authorize the officer to charge an administrative fee, not to exceed fifteen dollars, for processing the bail undertaking.

B. Upon final disposition of all cases in which a deposit of money, checks, bonds, or money orders has been made pursuant to this Article, and the deposits have remained unclaimed for a period of one year from the date of the final disposition, the officer authorized to accept the bail shall apply and use one-half of such funds for the operation and maintenance of the office of the clerk of court, or the office of the clerk of the criminal district court, or the office of the clerk of the criminal district court in Orleans Parish, and one-half to the local governing authority after advertising his intention to so utilize the funds by publication in the official parish journal of a notice to the public containing an itemized list of all of such funds on deposit, containing the names and last known addresses of defendants and the docket numbers of the cases involved. The

publication shall be made once within thirty days after the final disposition of the case as aforesaid. The clerk shall also send a notice by certified mail to each of such defendants at the last known address of the defendant. Any interest earned on the funds deposited for bail shall be disbursed as provided in Paragraph E of this Article.

C. After the publication and mailing of the notice by certified mail, the clerk of court, or the clerk of the criminal district court in Orleans Parish shall petition the court of proper jurisdiction for permission to utilize the funds for the use, operation, and maintenance of the office of the clerk of court or the clerk of criminal district court in Orleans Parish.

D. When bail has been given in conformity with this Article, the money, check, bond, or money order shall not be subject to garnishment, attachment, or seizure under any legal process. An assignment or sale thereof by the owner, to be valid, must be in the form of an authentic act and filed in the proceedings in the court having jurisdiction to discharge the bail. The property shall remain on deposit and the assignment or sale shall be contingent upon the nonforfeiture of the bail.

E. When money, checks, or money orders have been given for bail in conformity with this Article, those funds may be deposited by the officer authorized to accept bail into an interest-bearing account established exclusively for the deposit of such funds. Interest earned on the deposits in the account shall be used solely for the operation and maintenance of the office of the clerk of court.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2004, No. 496, §1; Acts 2010, No. 914, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 327 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 327. Requisites of the bail undertaking

A. The bail undertaking shall:

(1) Be in writing.

(2) State the court before which the defendant is bound to appear.

(3) Be entered into before an officer who is authorized to take it.

(4) State a single amount of bail for each charge.

B. The bail undertaking shall be enforceable if the above requirements are met; and no officer may refuse to accept the posting of a bail bond and releasing a defendant on bail if the provisions of Code of Criminal Procedure Article 314 and the conditions set by this Article are met. A person shall not be discharged from his bail undertaking, nor shall a judgment of forfeiture be stayed, set aside, or reversed, nor the collection of any such judgment be barred or defeated by reason of any defect of form, omission of a recital, or of a condition of the undertaking, by reason of a failure to note or record the default of any defendant or surety, or because of any other irregularity.

NOTE: Art. 327 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 327. Those who may not be sureties

A person shall not be released on bail for which an attorney at law, a judge, or ministerial officer of a court becomes a surety or provides money or property for bail; but the invalidity of such bail shall not be a defense to an action to forfeit and enforce the bail.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1999, No. 1272, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 327.1 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 327.1. Bail restrictions to be transmitted to Louisiana Protective Order Registry

If, as part of a bail restriction, an order is issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person for the purpose of preventing domestic abuse, stalking, dating violence, or sexual assault, 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 forward it to the clerk of court for filing by the end of 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 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.

NOTE: Art. 327.1 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 327.1. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 1997, No. 1156, §3; Acts 2003, No. 750, §2; Acts 2012, No. 197, §3; Acts 2014, No. 317, §6; Acts 2015, No. 242, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 328 eff. until Jan. 1, 2017. See. Acts 2016, No. 613, §1.

Art. 328. Substitution of security

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.

NOTE: Art. 328 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 328. Bail undertaking

A. The bail undertaking shall:

(1) Be in writing.

(2) State the court before which the defendant is bound to appear.

(3) Be entered into before an officer who is authorized to take it.

(4) State a single amount of bail for each charge.

B. The bail undertaking shall be enforceable if the above requirements are met; and no officer may refuse to accept the posting of a bail undertaking and releasing a defendant on bail if the conditions set by this Title are met. A person shall not be discharged from his bail undertaking, nor shall a judgment of forfeiture be stayed, set aside, or reversed, nor the collection of any such judgment be barred or defeated by reason of any defect of form, omission of a recital, or of a condition of the undertaking, by reason of a failure to note or record the

default of any defendant or surety, or because of any other irregularity. The bail undertaking shall run, subject to the provisions of Article 626, in favor of the state of Louisiana, or the city or parish whose ordinance is charged to have been violated, with the proceeds to be disposed of according to law. No error, inaccuracy, or omission in naming the obligee on the bail undertaking is a defense to an action thereon.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 329 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 329. Contract to indemnify surety

A contract to indemnify a surety against loss on a bail bond is valid and enforceable.

NOTE: Art. 329 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 329. Declaration of residence; waiver of notice

A. The defendant and personal surety signing a bail undertaking shall write the address at which each can be served and mailing address, if different, under their respective signatures and the last four digits of their social security number. The defendant and his counsel may, with the court's approval, by joint affidavit filed of record in the matter in which the bail undertaking was given, appoint his counsel as his agent to whom notice to appear can be sent. The appointment shall be conclusively presumed to continue until the defendant, with court approval, files of record an affidavit revoking or changing the appointment. The affidavit shall include the address to which notice to appear can be sent. A commercial surety shall place its proper mailing address and electronic address on the face of the power of attorney used to execute the bail undertaking. The agent or bondsman posting the bail undertaking shall place his proper mailing address under his signature. A bond forfeiture judgment shall not be denied or set aside because of the invalidity of the information required by this Article or for the failure to include the information required by the provisions of this Article.

B. When a person who is required to sign his name or to make a declaration in writing under the provisions of this Title swears that he cannot sign or write, the officer authorized to receive the signature or declaration in writing may, at the request of the person, sign for him or make for him the declaration in writing, with the same binding effect as if the person had himself signed or himself made the declaration in writing; provided that the declaration and signature shall be witnessed and signed by at least two competent witnesses.

C. When a person who is required to sign his name or to make a declaration in writing under the provisions of this Title indicates that he cannot speak or write the English language, the officer authorized to receive the signature or declaration in writing may provide either an interpreter or a written form in the person's native language, enabling him to sign his name or make a declaration in writing.

D. Each address provided pursuant to Paragraph A of this Article shall be conclusively presumed to continue for all proceedings until the party providing the address changes it by filing a written declaration in the matter for which the bail undertaking was filed.

E. Except for the notice required by Article 330, by signing the bond undertaking, the defendant and his surety waive any right of notice to appear, including actual notice.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 330 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 330. Bail before conviction

Except as provided in Article 331, a person in custody charged with the commission of an offense is entitled to be admitted to bail before conviction unless the person is charged with a crime of violence as defined by law or with production, manufacture, distribution, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance as defined by the Louisiana Controlled Dangerous Substances Law, and after a contradictory hearing, conducted pursuant to the provisions of Article 330.1, the judge or magistrate finds by clear and convincing evidence that the defendant may flee or poses an imminent danger to any other person or the community.

NOTE: Art. 330 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 330. Notice of defendant's required appearance

A. When a bail undertaking fixes an appearance date, the defendant appears as ordered, and notice of the next appearance date is given to the defendant, no additional notice of that appearance date is required to be given to the defendant or the personal surety or the commercial surety or the agent or bondsman who posted the bail undertaking for the commercial surety.

B. When a bail undertaking does not fix the appearance date, written notice of the time, date, and place the defendant is first ordered by the court to appear shall be given to the defendant or his duly appointed agent and his personal surety or the commercial surety or the agent or bondsman who posted the bail undertaking for the commercial surety.

C. If the defendant appears as ordered and the proceeding is continued to a specific date, the defendant and the personal surety or the commercial surety or the agent or bondsman who posted the bail undertaking for the commercial surety and who has been given initial notice pursuant to Paragraph A or B of this Article, need not be given notice of the new appearance date. If the defendant fails to appear as ordered, or the proceeding is not continued to a specific date, the defendant or his duly appointed agent, the personal surety or the agent or bondsman who posted the bail undertaking for the commercial surety shall be given notice of the new appearance date.

D. Notice required pursuant to the provisions of this Article to the defendant and the personal surety or the commercial surety or the agent or bondsman who posted the bail undertaking for the commercial surety shall be made to the address provided pursuant to Article 329. Notice may be:

(1) Delivered by an officer designated by the court at least two days prior to the appearance date.

(2) Mailed by United States first class mail or by electronic means in accordance with Article 329 at least five days prior to the appearance date.

E. Failure to give the notice required by this Article relieves the surety from liability on a judgment of bond forfeiture for the nonappearance of the defendant on that particular date.

Acts 1992, No. 254, §1; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1997, No. 1305, §1; Acts 1997, No. 1498, §1, eff. Nov. 5, 1998; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 330.1 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 330.1. Detention; bail hearing

A. Upon motion of the prosecutor, the judge or magistrate may order the temporary detention of the defendant, for a period of not more than five days, exclusive of weekends and legal holidays, pending the conducting of a contradictory bail hearing.

B. 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.

NOTE: Art. 330.1 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 330.1. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 1997, No. 1305, §1; Acts 1997, No. 1498, §1, eff. Nov. 5, 1998; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 330.2 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 330.2. Bail hearing for certain sex offenders; detention

A. A contradictory bail hearing, as provided for in this Article, shall be held prior to setting bail for a person in custody who is charged with a sex offense and who has been previously convicted of a sex offense.

B. The court, after having been given notice of an applicable prior conviction as described in Paragraph F of this Article, shall order a contradictory hearing to be held within five days of receiving notice of the prior conviction, exclusive of weekends and legal holidays.

C. At the contradictory hearing the court, in addition to hearing whatever evidence it finds relevant, shall, with the consent of the prosecuting attorney, perform an ex parte examination of the evidence against the accused.

D. In addition to the factors listed in Article 334 of the Code of Criminal Procedure, 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.

E.(1) The posting of bail with an unsecured personal surety as authorized by Article 317 for a sex offense is prohibited.

(2) The only types of bail that may be posted for a sex offense are:

(a) Bail with a secured personal surety as authorized by Article 318.

(b) Bail with a commercial surety as authorized by Article 314.

(c) Bail with a cash deposit as authorized by Article 324.

F. For purposes of this Article, "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.

NOTE: Art. 330.2 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 330.2. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2005, No. 237, §1; Acts 2010, No. 914, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 330.3 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 330.3. Bail hearing for certain offenses against a family or household member or dating partner

A. This Article may be cited as and referred to as "Gwen's Law".

B. A contradictory bail hearing, as provided for in this Article, 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.

C. In addition to the factors listed in Article 334, 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 potential threat or danger the defendant poses to the victim, the family of the victim, or to any member of the public, especially children.

(3) 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.

D. Following the contradictory hearing and based upon the judge's or magistrate's review of the factors set forth in Paragraph C 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.

E. If bail is granted, with or without a contradictory hearing, the judge or magistrate shall comply with the provisions of Article 335.1 or 335.2, 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 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.

NOTE: Art. 330.3 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 330.3. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2014, No. 318, §1; Acts 2015, No. 439, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 331 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 331. Capital offenses

A. 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.

B. 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.

C. The burden of proof:

(1) 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.

(2) 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.

NOTE: Art. 331 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 331. Discharge of bail obligation

A.(1) Upon conviction and imposition of sentence or the pronouncement of sentence or condition of probation pursuant to Article 894 in misdemeanor cases, the bail undertaking shall cease and the surety shall be relieved of all obligations under the bail undertaking.

(2) Upon conviction in any felony case, the bail undertaking shall cease and the surety shall be relieved of all obligations under the bail undertaking.

(3) In all cases, if necessary to assure the presence of the defendant at all future stages of the proceedings, the court may in its discretion, in accordance with Article 312 require the defendant to post another bail undertaking or other acceptable security, or may release the defendant on bail without surety as provided for in Article 325. The court may continue the existing bail undertaking with the written approval of the surety on the bail undertaking. Such approval must be obtained from the surety after conviction.

B. When the district attorney dismisses an indictment or information and institutes a subsequent indictment or information for the same offense or for a lesser offense based on the same facts, the court shall reinstate any bail discharged when the district attorney dismissed the initial indictment or information if the surety consents to the reinstatement expressly and in writing. Orleans Parish district judges with criminal jurisdiction sitting en banc may adopt rules effectuating telephonic communication and verification of bail undertakings and releases.

C.(1) A surety may surrender the defendant at any time. For the purpose of surrendering the defendant, the surety may arrest him. The surety shall pay a fee of twenty-five dollars to the officer charged with the defendant's detention for accepting the surrender, processing the paperwork, and giving the surety a certificate of surrender. Upon the surrender of the defendant, the officer shall retain a copy and forward a copy of the certificate of surrender to the clerk of court and the prosecuting attorney.

(2) Upon surrender of the defendant at any time prior to the expiration of one hundred eighty days after the notice of warrant for arrest was sent, the surety shall be fully and finally discharged and relieved of all obligations under the bail undertaking by operation of law, without the need to file a motion or other pleading.

D. A surety may constructively surrender the defendant only within one hundred eighty days of when the notice of warrant for arrest was sent. After the constructive surrender of the defendant, the surety shall be fully and finally discharged and relieved of all obligations under the bail undertaking by operation of law, without the need to file a motion or other pleading.

E. At any time prior to the defendant's failure to appear or within one hundred eighty days after the notice of warrant for arrest is sent, the surety may file with the clerk of court and

present to the court a certificate of death naming the defendant as the deceased party. The certificate shall be under seal of the authority confirming the defendant's death. Upon proof that the surety is unable to obtain a certificate of death, the surety or the court may invoke a contradictory hearing in order to establish proof of death by clear and convincing evidence. If the court determines that the defendant is deceased thereafter, the surety shall be fully and finally discharged and relieved of any and all obligations under the bail undertaking.

F.(1) Forty-five days after the defendant's failure to appear and while there is still an active arrest warrant in the proceeding for which the bond was posted, the surety or bail bond producer who posted the bond may file with the clerk of court where the charges are pending an affidavit requesting the defendant be remanded and surrendered upon his appearance before the court. The clerk of court shall forward a copy of the affidavit to the court before which the charges are pending. The affidavit must meet all the requirements set forth in R.S. 22:1585 and be filed before the court where the charges are pending. A copy of the affidavit must be provided to the prosecuting attorney.

(2) Upon the appearance of the defendant within one hundred eighty days of when the notice of warrant for arrest was sent, the court shall grant the relief requested and remand the defendant to the custody of the officer originally charged with the defendant's detention. Upon remand and payment by the surety of the twenty-five dollar fee to the officer charged with the defendant's detention, the court shall relieve the surety of all obligations under the bail undertaking.

G. Any time after the defendant's failure to appear and the issuance of the warrant of arrest, the surety may request that the officer originally charged with the detention of a defendant place the name of the defendant into the National Crime Information Center registry. The officer shall determine if the placement of the name is authorized by the rules governing the National Crime Information Center registry within thirty days of the request. If not authorized, the officer shall provide notice to the surety of the reason for nonplacement. If placement is authorized, the surety shall pay to that officer a fee of twenty-five dollars for processing the placement. If authorized and after payment of the twenty-five-dollar fee, the name of the defendant is removed from the National Crime Information Center registry without cause during the period provided for surrendering the defendant, the period for filing a rule to show cause under Article 335 shall be suspended until the name of the defendant is placed back in the registry.

H. In the case of any fee required under the provisions of this Article, the officer charged with the defendant's detention shall provide the surety with a receipt indicating the amount of the fee collected, the name of the defendant, the purpose of the fee collected, the name of the person from whom the fee was collected, information sufficient to identify any applicable bail undertaking, and the date and time the defendant was surrendered.

I. The court shall order the bail obligation canceled when there is no further liability thereon.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 332 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 332. Bail after conviction

A. A convicted person shall be remanded to jail to await sentence unless any of the following occur:

(1) He is allowed to remain free on a bail obligation posted prior to conviction by operation of Article 326(B), and the bail previously fixed is in accordance with all of the applicable provisions of this Article.

(2) He is released by virtue of a bail obligation posted after conviction, which bail was fixed in accordance with this Article.

B. After conviction and before sentence, bail shall be allowed if the maximum sentence which may be imposed is imprisonment for five years or less. Bail may be allowed pending sentence if the maximum sentence which may be imposed is imprisonment exceeding five years, except when the court has reason to believe, based on competent evidence, that the release of the person convicted will pose a danger to any other person or the community, or that there is a substantial risk that the person convicted might flee.

C. After sentence and until final judgment, bail shall be allowed if a sentence of five years or less is actually imposed. Bail may be allowed after sentence and until final judgment if the sentence actually imposed exceeds imprisonment for five years, except when the court has reason to believe, based on competent evidence, that the release of the person convicted will pose a danger to any other person or the community, or that there is a substantial risk that the person convicted might flee.

D. In those instances above in which bail shall be allowed, the court shall consider whether the release of the person convicted or sentenced will pose a danger to any other person or the community in determining the amount of bail.

E. After conviction of a capital offense, a defendant shall not be allowed bail.

NOTE: Art. 332 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 332. Court order for arrest of defendant

The court in which the defendant is held to answer may issue a warrant for the arrest and commitment of the defendant who is at large on bail when any of the following are true:

(1) There has been a breach of the bail undertaking.

(2) It appears that a surety has become insufficient, is dead, cannot be found, or has ceased to meet the qualifications of law or does not own adequate immovable property within the state.

(3) The court is satisfied that the bail should be increased or new or additional security required.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1997, No. 1305, §1;Acts 1997, No. 1498, §1, eff. Nov. 5, 1998; Acts 2010, No. 914, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 333 eff. until Jan.1, 2017. See Acts 2016, No. 613, §1.

Art. 333. Authority to fix bail

The following magistrates, throughout their several territorial jurisdictions, shall have authority to fix bail:

(1) District courts having criminal jurisdiction, in all cases.

(2) City or parish courts and municipal and traffic courts of New Orleans having criminal jurisdiction, in cases not capital.

(3) Mayor's courts and traffic courts in criminal cases within their trial jurisdiction.

(4) Juvenile and family courts in criminal cases within their trial jurisdiction.

(5) Justices of the peace in cases not capital or necessarily punishable at hard labor.

NOTE: Art. 333 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 333. Failure to appear; issuance of arrest warrant

If at the time fixed for appearance the defendant, who was properly noticed, fails to appear as required by the court, the court shall, on its own motion or on motion of the prosecuting attorney, immediately issue a warrant for the arrest of the defendant.

Amended by Acts 1975, No. 781, §1; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2004, No. 833, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 334 eff. until Jan 1, 2017. See Acts 2016, No. 613, §1.

Art. 334. Factors in determining amount of bail

The amount of bail shall be such that, in the judgment of the court, commissioner, or magistrate, it will insure 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 of any controlled dangerous substance in the defendant's blood at the time of arrest.

(8) Whether the defendant is currently out on bond 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.

NOTE: Art. 334 as amended by Acts 2016, No. 613, §1, eff. Jan.1, 2017.

Art. 334. Notice of warrant of arrest

After a warrant for arrest is issued, the clerk of court shall, within sixty days, send a notice of warrant for arrest to the prosecuting attorney. The notice shall also be sent by United States mail or electronic means to the defendant, the bail agent or bondsman, if any, and the personal surety. Notice shall be sent by electronic means or by certified mail return receipt requested to the commercial surety. All notices shall be sent to the addresses provided pursuant to Article 329 or an address registered with the Louisiana Department of Insurance. The notice to the commercial surety shall include the power of attorney number used to execute the bail undertaking. Failure to include the power of attorney number shall not affect the validity or enforcement of a resulting judgment. After sending the notice of warrant for arrest, the clerk of court shall execute a certificate that notice was sent and place the certificate in the record. Failure to send notice to the commercial surety within sixty days shall release the surety of all obligations under the bail undertaking.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1995, No. 853, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 334.1 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 334.1. Felony involving firearm; bail

The court shall not release any defendant who has been arrested for a felony offense, an element of which is the discharge, use, or possession of a firearm on his personal undertaking without security or with an unsecured personal surety.

NOTE: Art. 334.1 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 334.1. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2006, No. 811, §1; Acts 2010, No. 914, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 334.2 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 334.2. Arrest for a crime of violence and other offenses related to domestic abuse; release on own recognizance prohibited

Notwithstanding any other provision of law to the contrary, any defendant who has been arrested for any of the following offenses shall not be released by the court on his own recognizance or on the signature of any other person:

(1) Domestic abuse battery.

(2) Domestic abuse aggravated assault.

(3) False imprisonment.

(4) False imprisonment while the offender is armed with a dangerous weapon.

(5) A crime of violence as defined by R.S. 14:2(B).

(6) 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, 327.1, 335.2, and 871.1.

NOTE: Art. 334.2 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 334.2. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2008, No. 66, §1; Acts 2010, No. 479, §1; Acts 2010, No. 584, §1; Acts 2014, No. 194, §2; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 334.3 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 334.3. Prohibition on subsequent bail obligation following revocation or forfeiture; certain offenses

A.(1) Notwithstanding any other provision of law to the contrary, no person released on any type of bail or released on the signature of any other person on one or more criminal charges and where bail has been revoked or is subject to forfeiture may be readmitted to bail or released on the signature of any other person on those same charges, if that person did not voluntarily surrender following the revocation or forfeiture.

(2) Any person who voluntarily surrenders following revocation or forfeiture of bail may be released only on bail with a commercial surety and in an amount higher than the original bail.

(3) Notwithstanding any other provision of law to the contrary, no person who qualifies for bail under Subparagraph (2) of this Paragraph may be readmitted to any type of bail if that bail has been revoked or is subject to forfeiture.

(4) Notwithstanding the provisions of Subparagraphs (2) and (3) of this Paragraph, after a contradictory hearing, any person who voluntarily surrenders following revocation or forfeiture of bail may be released on the forfeited or revoked bail provided the revocation or forfeiture of the bail is rescinded by the court and the surety is present or represented at the hearing and consents. Previous instances of revocation or forfeiture of bail in unrelated cases is admissible at

that contradictory hearing. The relief shall be available only at the first instance of revocation or forfeiture of that bail and within six months of the forfeiture of the bail.

B. For the purposes of this Article, "voluntarily surrender" means personal appearance without confinement by a law enforcement officer or bail recovery agent.

C. The provisions of this Article shall only apply to either of the following:

(1) A person charged with a crime of violence as defined by R.S. 14:2(B) which carries a minimum mandatory sentence of imprisonment upon conviction.

(2) A person charged with the production, manufacture, distribution, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance as defined by the Louisiana Controlled Dangerous Substances Law.

NOTE: Art. 334.3 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 334.3. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2008, No. 659, §1; Acts 2010, No. 892, §1; Acts 2010, No. 914, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 334.4 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 334.4. Arrest for certain crimes; release on own recognizance prohibited

A. Notwithstanding any other provision of law to the contrary, any defendant who has been arrested for any of the following crimes shall not be released by the court on the defendant's own recognizance or on the signature of any other person:

(1) R.S. 14:32.1 (vehicular homicide).

(2) R.S. 14:40.3 (cyberstalking), if the person has two prior convictions for the same offense.

(3) R.S. 14:44.2 (aggravated kidnapping of a child).

(4) Repealed by Acts 2014, No. 194, §3.

(5) R.S. 14:87.1 (killing a child during delivery).

(6) R.S. 14:87.2 (human experimentation).

(7) R.S. 14:93.3 (cruelty to persons with infirmities), if the person has a prior conviction for the same offense.

(8) R.S. 14:98 (operating a vehicle while intoxicated), if the person has a prior conviction for the same offense.

(9) R.S. 14:102.1(B) (aggravated cruelty to animals).

(10) R.S. 14:102.8 (injuring or killing of a police animal).

(11) 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.

B. There shall be a rebuttable presumption that any defendant who has previously been released on his own recognizance or on the signature of any other person on a felony charge, and who has either been arrested for a new felony offense or has at any time failed to appear in court on a 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 if the judge determines, after contradictory hearing in open court, that a review of the relevant factors warrants this type of release. The hearing shall take place within thirty days of the defendant's release.

NOTE: Art. 334.4 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 334.4. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2012, No. 773, §1; Acts 2013, No. 261, §1; Acts 2014, No. 194, §3; Acts 2014, No. 811, §31, eff. June 23, 2014; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 334.5 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 334.5. Reinstatement of bail following dismissal of case by prosecution; conditions

A. When the district attorney dismisses an indictment or information and institutes a subsequent indictment or information for the same offense or for a lesser offense based on the same facts, the court shall reinstate any bail discharged when the district attorney dismissed the initial indictment or information if the surety consents to the reinstatement expressly and in writing.

B. Orleans Parish district judges with criminal jurisdiction sitting en banc may adopt rules effectuating telephonic communication and verification of bonds and releases.

C. Nothing in this Article limits the court's authority to increase or reduce bail pursuant to Article 342.

NOTE: Art. 334.5 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 334.5. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2012, No. 748, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017

NOTE: Art. 334.6 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 334.6. Nonprofit organization performing or providing pretrial services

Any nonprofit organization which is contracted, employed, or which receives public funds to perform or provide pretrial services, such as screening of any defendant, shall verify all background information provided by a defendant or otherwise obtained by the organization regarding the defendant.

NOTE: Art. 334.6 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 334.6. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2013, No. 261, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 335 eff. until Jan.1, 2017. See Acts 2016, No. 613, §1.

Art. 335. Other conditions related to the appearance of defendant

The court may impose any additional condition of release that is reasonably related to assuring the appearance of the defendant before the court. Violation of such condition by the defendant shall be considered as a constructive contempt of court, and shall be grounds for revocation of bail, but does not give rise to a forfeiture.

NOTE: Art. 335 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 335. Rule to show cause; bond forfeiture

If the defendant fails to make an appearance and has not been surrendered or constructively surrendered within one hundred eighty days of the execution of the certificate that notice of warrant for arrest was sent, the prosecuting attorney may file a rule to show cause requesting that a bond forfeiture judgment be rendered. The rule to show cause shall be mailed to the defendant and served on all other parties against whom a judgment is sought. The rule to

show cause shall be set for a contradictory hearing. The time period for filing a rule to show cause to obtain a judgment of bond forfeiture does not begin until after the notice of warrant for arrest is sent.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 335.1 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 335.1. Offenses against a family or household member or dating partner; victims of sexual assault; provisions for forfeiture, arrest, modification

A.(1)(a) 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 a sexual assault as defined in R.S. 46:2184, the court shall consider 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.

(b) If, as part of a bail restriction, an order is issued pursuant to the provisions of this Paragraph, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2, 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.

(c) Except as provided in Subsubparagraph (d) of this Subparagraph, if, as part of a bail restriction, 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. For the purposes of this Subsubparagraph, "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.

(d) If, as part of a bail restriction, an order is issued pursuant to the provisions of this Paragraph and the alleged offense is sexual assault as defined in R.S. 46:2184, the court may order that the defendant be prohibited from possessing a firearm for the duration of the Uniform Abuse Prevention Order. For the purposes of this Subsubparagraph, "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)(a) In addition, the court may order the defendant to be equipped with a global positioning monitoring system as a condition of release on bail pursuant to Paragraph B of this Article.

(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.

B.(1)(a) 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.

(b) 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.

(2) 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.

(3) 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.

(4) The victim, at any time, may request that the court terminate the victim's participation in the global positioning monitoring system of the defendant.

(5) The court shall not impose sanctions on the victim for refusing to participate in global positioning system monitoring provided for in this Paragraph.

C. For the purpose of this Section:

(1) "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.

(2) "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, child care, 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.

D. A violation of the conditions of release may be punishable by the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding the defendant to custody or a modification of the terms of bail.

NOTE: Art. 335.1 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 335.1. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 1994, 3rd Ex. Sess., No. 70, §3; Acts 1999, No. 963, §3; Acts 2003, No. 750, §2; Acts 2010, No. 126, §1; Acts 2014, No. 318, §1; Acts 2015, No. 242, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 335.2 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 335.2. Stalking; conditions of release

A. In determining conditions of release of a defendant who is alleged to have committed the crime of stalking pursuant to the provisions of R.S. 14:40.2, the court shall consider 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.

B. A violation of the conditions of release may be punishable by the forfeiture of bail and issuance of a bench warrant for the arrest of the defendant or remanding the defendant to custody or a modification of the terms of bail.

C. If, as part of a bail restriction, an order is issued pursuant to the provisions of this Article, the judge 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 by the end of 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 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.

NOTE: Art. 335.2 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 335.2. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2012, No. 197, §3; Acts 2014, No. 317, §6; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 336 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 336. Release conditioned on participation in pretrial drug testing program

A.(1) Every person arrested for a violation of the Uniform Controlled Dangerous Substances Law or a crime of violence as provided in R.S. 14:2(B) shall be required to submit to a pretrial drug test for the presence of designated substances in accordance with the provisions of this Article and rules of court governing such testing. A person arrested for the above referenced crimes, who tests positive for the presence of one or more of the designated substances set forth in Subparagraph (2) of Paragraph B of this Article or any person arrested for a violation of R.S. 40:961 through 1036, if released by order of court on his personal surety, shall meet the requirements of Article 315 for a personal surety and shall, as a condition of bail, be required to participate in a pretrial drug testing program.

(2) Every person arrested for a felony, not otherwise required to submit to a pretrial drug test as provided for in Subparagraph (1) of this Paragraph, may be required to submit to a pretrial drug test for the presence of designated substances in accordance with the provisions of this Article and rules of court governing such testing. A person arrested for a felony who tests positive for the presence of one or more of the designated substances set forth in Subparagraph (2) of Paragraph B of this Article or any person arrested for a violation of R.S. 40:961 through 1036, if released by order of court on his personal surety, shall meet the requirements of Article 315 for a personal surety and may, as a condition of bail, be required to participate in a pretrial drug testing program.

(3) Every person arrested for a misdemeanor may be required to submit to a pretrial drug test for the presence of designated substances in accordance with the provisions of this Article and rules of court governing such testing. A person arrested for a misdemeanor who tests positive for the presence of one or more of the designated substances set forth in Subparagraph (2) of Paragraph B of this Article or any person arrested for a violation of R.S. 40:961 through 1036, if released by order of court on his personal surety, shall meet the requirements of Article 315 for a personal surety and may, as a condition of bail, be required to participate in a pretrial drug testing program.

(4) The provisions of this Paragraph requiring mandatory pretrial drug testing shall be contingent upon receipt of adequate funding to cover the costs of such testing, as provided in Paragraph E of this Article.

B. The court may, and in all municipalities with a population of three hundred thousand or more persons shall, implement a pretrial drug testing program which shall provide for the following:

(1) Mandatory participation for all persons arrested for violations of state law.

(2) Drug testing to determine the presence of phencyclidine (PCP), opiates (heroin), cocaine, methadone, amphetamines, or marijuana, prior to first court appearance and random testing thereafter to verify that the person is drug free.

(3) Restrictions on the use of any and all test results to ensure that they are used only for the benefit of the court to determine appropriate conditions of release, monitoring compliance with court orders, and assisting in determining appropriate sentences. A form statement shall be signed by the law enforcement agency and the person in custody stipulating that under no circumstances shall the information be used as evidence or as the basis for additional charges.

(4) Reasonable testing procedures to ensure the fair administration of the test and protection for the chain of custody for any evidence obtained.

C. If the person fails to comply with the pretrial drug testing program rules, the court may hold him in contempt and impose sanctions the court deems appropriate, including the posting of additional bail.

D. No person shall be released under the provisions of the pretrial drug testing program unless he agrees to do the following:

(1) Submit to continued random testing to verify that he is drug free.

(2) Refrain from the use or possession of any controlled dangerous substance or any substance designated by the court.

E. The implementation of any pretrial drug testing program authorized pursuant to the provisions of this Article shall be contingent upon receipt by the court requiring the test of sufficient federal or other funding to conduct the testing program in accordance with the provisions of this Article and any rules of court.

F. No elected official who is in any way connected with the administration of the pretrial drug testing program provided for in this Article, either directly or indirectly, shall have any financial interest, either directly or indirectly, in any drug testing company participating in such pretrial drug testing program.

G. All contracts awarded to any drug testing company authorized to conduct the pretrial drug testing program provided for in this Article shall be awarded in accordance with the provisions governing public bids, R.S. 38:2181 et seq.

NOTE: Art. 336 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 336. Proof necessary at bond forfeiture hearing

A. The court at a contradictory hearing shall forfeit the bail undertaking and sign a judgment of bond forfeiture upon proof of all of the following:

(1) The bail undertaking.

(2) The power of attorney, if any.

(3) Notice to the defendant and the surety as required by Article 334.

(4) Proof that more than one hundred eighty days have elapsed since the notice of warrant for arrest was sent.

B. The judgment of bond forfeiture shall be issued against the defendant and his sureties in solido for the full amount of the bail. A bail agent who represents the surety as an insurance agent shall not be solidarily liable for the judgment of bond forfeiture against the defendant and

his sureties. In the event that a bail agent who represents the surety as an insurance agent is held solidarily liable, then that bail agent may request to be released from the judgment. However, the release of the bail agent shall have no effect on the judgment decreeing the forfeiture of the bail undertaking against the defendant and his sureties.

C. The judgment shall include the address and the last four digits of the social security number for the defendant and the personal sureties. A judgment of bond forfeiture shall not be set aside because of the invalidity of the information required by the provisions of this Article or for the failure to include the information required by this Article.

Amended by Acts 1970, No. 442, §1; Acts 1974, No. 693, §1; Acts 1976, No. 537, §1; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1997, No. 1189, §1; Acts 2004, No. 567, §1; Acts 2011, 1st Ex. Sess., No. 16, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 336.1 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 336.1. Conditions of release on bail; aggravated or first degree rape

A. In making a determination relative to the granting of release or the conditions of such release of a defendant who is alleged to have committed the offense of aggravated or first degree rape as provided in R.S. 14:42(A)(4), 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 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.

B. Any person who is indicted for the crime of aggravated or first degree rape as provided in R.S. 14:42 shall, as a condition of bail, be required to wear an electronic monitoring device and to be placed under active electronic monitoring. The conditions of the electronic monitoring shall be determined by the court, and may include but not be limited to limitation of the defendant's activities outside of the home and 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. A violation of the conditions of bail may be punishable by the forfeiture of bail and the issuance of a bench warrant for the defendant's arrest or remanding the defendant to custody or a modification of the terms of bail.

NOTE: Art. 336.1 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 336.1. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2003, No. 795, §1; Acts 2015, No. 184, §6; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 336.2 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 336.2. Conditions of release on bail; operating a vehicle while intoxicated

The court shall require as a condition of release on bail that any person who is charged with a second or subsequent violation of R.S. 14:32.1, 39.1, 39.2, 98, 98.1, or a parish or municipal ordinance that prohibits the operation of a motor vehicle while under the influence of alcohol or drugs to install an ignition interlock device on any vehicle which he operates. The defendant shall have fifteen days from the date that he is released on bail to comply with this requirement, and the ignition interlock device shall remain on the vehicle or vehicles during the pendency of the criminal proceedings. Failure to comply with this condition of release shall

result in the revocation of bail and reincarceration of the defendant. Under exceptional circumstances, the court may waive the provisions of this Article but shall indicate the reasons therefor to the law enforcement agency who has custody of the alleged offender documentation.

NOTE: Art. 336.2 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 336.2. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2005, No. 381, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 337 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 337. Juvenile records to determine bail

A. For the purpose of fixing bail, a magistrate may make a written request of any juvenile court for an abstract containing only the delinquent acts of a defendant currently before the requesting magistrate. The request shall be promptly complied with; however, not more than forty-eight hours, exclusive of Saturdays, Sundays, and legal holidays, shall lapse before the requested information is deposited in the mail, addressed to the requesting court.

B. The requesting court shall not copy, duplicate, or otherwise reproduce such juvenile records, and these shall be deposited in the mail and addressed to the issuing juvenile court within seventy-two hours, exclusive of Saturdays, Sundays, and legal holidays, after bail is determined.

C. Failure to comply with the provisions of this Article shall subject the violating court to disciplinary action by the Supreme Court of Louisiana upon receipt by the judicial administrator of the supreme court of a written complaint, subsequently substantiated.

NOTE: Art. 337 as amended by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 337. Interruption of the period for obtaining a bond forfeiture judgment

An appearance by the defendant shall interrupt the period for obtaining a bond forfeiture judgment. An appearance by the defendant does not relieve the surety of its bail undertaking obligations.

Amended by Acts 1981, No. 218, §1; Acts 1987, No. 728, §1; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 338 eff. until Jan. 1, 2017. See. Acts 2016, No. 613, §1.

Art. 338. Form and contents of bail order

An order fixing bail shall be in writing, set the type and a single amount of bail for each charge, designate the officer or officers authorized to accept the bail, and shall be signed by the magistrate. An order fixing bail may issue on request of the state or defendant, or on the initiative of the judge or magistrate.

NOTE: Art. 338 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 338. Cases of nonforfeiture

A. A judgment decreeing the forfeiture of a bail undertaking shall not be rendered if it is proven, at or prior to the hearing on a rule to show cause, that the defendant, principal on the bail undertaking, failed to appear in court because of any of the following:

(1) The defendant was serving in the armed forces of the United States.

(2) The defendant was a member of the Louisiana National Guard called to duty pursuant to R.S. 29:7.

(3) The defendant was prevented from appearing due to a state of emergency declared by the governor.

B. There shall be a rebuttable presumption that the calling of the defendant to duty pursuant to R.S. 29:7 prevented the defendant, principal on the bail undertaking, from attending court.

Acts 1983, No. 370, §1; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1995, No. 989, §1; Acts 1999, No. 676, §1; Acts 1999, No. 1272, §1; Acts 2010, No. 914, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 339 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 339. Repealed by Acts 2010, No. 914, §5.

NOTE: Art. 339 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 339. Notice of judgment

A. Notice of the signing of judgment of bond forfeiture shall be mailed by the clerk of court to the counsel of record for each party, and to each party not represented by counsel pursuant to Code of Civil Procedure Article 1913.

B. The clerk shall file a certificate in the record showing the date on which the notice of the signing of the judgment was mailed.

Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 340 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 340. Amount of bail in felony cases; schedules of bail in noncapital cases

A. Unless the bail is fixed by a schedule in accordance with Paragraph B, the amount of bail in felony cases shall be specifically fixed in each case. A person shall not be released on bail pursuant to a general order which authorizes the sheriff, or other officers, to take bail and fixes the amount thereof at a certain sum for particular felonies.

B. A schedule of bail according to the offense charged in noncapital felony cases may be fixed by a district court. The court order setting the bail schedule shall fix the amount of bail for each offense listed, designate the officer or officers authorized to accept the bail, and order that bail be taken in conformity with the schedule. It may also contain a general provision designating the amount of bail for any noncapital felony not listed in the schedule. A copy of the schedule shall be sent to all jails, sheriff's offices, and police stations within the judicial district. A bail schedule may be revised or rescinded at any time.

C. A person charged with the commission of a felony for which bail is fixed by a schedule may give bail according to the schedule or demand a special order fixing bail.

D. Bail herein may be set above the scheduled amount if the court deems it appropriate or the district attorney moves for good cause to have the bail set above the scheduled amount and the court finds it appropriate.

E. Repealed by Acts 2010, No. 914, §5.

NOTE: Art. 340 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 340. Recordation of judgment

A. The district attorney may cause the judgment to be recorded in every parish in which the recordation may be proper. Every such recordation shall be without cost, pursuant to R.S. 13:4521, and shall operate as a judicial mortgage against the defendant and all his sureties.

B. Prior to recordation, the district attorney shall verify the inclusion of information on the judgment, namely, the address and the last four digits of the social security number for the defendant and the personal sureties. Third parties may rely upon the accuracy of the information required by the provisions of this Article for purposes of distinguishing the identity of the defendant and his sureties. Any judgment of bond forfeiture containing inaccurate information required by the provisions of this Article shall be deemed ineffective as a judicial mortgage to third parties who rely upon that information.

Acts 1993, No. 850, §1; Acts 1995, No. 989, §1; Acts 1999, No. 665, §1; Acts 2010, No. 914, §5; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 341 eff. until Jan 1, 2017. See Acts 2016, No. 613, §1,

Art. 341. Schedules of bail in misdemeanor cases

A. Schedules of bail according to the offense charged in misdemeanor cases may be fixed by district, parish, and city courts for offenses within their respective trial jurisdictions. The type or form of bail shall not be set in the bail schedule. When more than one court has trial jurisdiction over an offense, the applicable bail schedule shall be that of the court in which the case is to be tried.

B. The court order setting the bail schedule shall fix the amount of bail for each offense listed, designate the officer or officers authorized to accept the bail, and order that bail be taken in conformity with the schedule. It may also contain a general provision designating the amount of bail for any misdemeanor not listed in the schedule. A copy of the schedule shall be sent to all jails, sheriff's offices, and police stations within the judicial district, parish, or city, respectively. A bail schedule may be revised or rescinded at any time.

C. If a bail schedule has been set up and bail has not previously been specially fixed, a person charged with the commission of a misdemeanor has the right either to give bail according to the bail schedule, or to demand a special order fixing type or form of bail and amount of bail.

NOTE: Art. 341 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 341. Appeals

The rights of appeal of a bail undertaking forfeiture judgment shall be governed by the Code of Civil Procedure Article 2081 et seq.

Acts 1986, No. 696, §1; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 342 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §1.

Art. 342. Increase or reduction of bail; sufficiency of security

The court having trial jurisdiction over the offense charged, on its own motion or on motion of the state 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 bond. The modification of any bail order wherein a bail bond has been posted by a criminal defendant and his sureties shall upon said modification terminate the liability of the defendant and his sureties under the previously existing bail contract. A new bail must be posted in the amount of the new bail order.

NOTE: Art. 342 as amended by Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

Art. 342. Enforcement of judgment

After the delay for filing a suspensive appeal has elapsed or when a judgment becomes final and definitive, the prosecuting attorney may file a rule to show cause in accordance with R.S. 22:1441 or collect the judgment in the same manner as a civil judgment.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1999, No. 677, §1; Acts 2010, No. 914, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017.

NOTE: Art. 343 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 343. Remedy for refusal of bail or excessive bail

A person held may invoke the supervisory jurisdiction of the court of appeal on a claim that the trial court has improperly refused bail or a reduction of bail in a bailable case.

NOTE: Art. 343 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 343. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Amended by Acts 1968, No. 138, §1; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §4, eff. Jan.1, 2017.

NOTE: Art. 344 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 344. Right to notice of time and place of defendant's required appearance

A. When a bail bond fixes an appearance date, the defendant appears as ordered, and notice of the next appearance date is given to the defendant, no additional notice of that appearance date is required to be given to the defendant or the personal surety or the commercial surety or the agent or bondsman who posted the bond for the commercial surety.

B. When a bail bond does not fix the appearance date, written notice of the time, date, and place the defendant is first ordered by the court to appear shall be given to the defendant or his duly appointed agent and his personal surety or the commercial surety or the agent or bondsman who posted the bond for the commercial surety.

C. If the defendant appears as ordered and the proceeding is continued to a specific date, the defendant and the personal surety or the commercial surety or the agent or bondsman who posted the bond for the commercial surety and who has been given initial notice pursuant to Paragraph A or B of this Article, need not be given notice of the new appearance date. If the defendant fails to appear as ordered, or the proceeding is not continued to a specific date, the defendant or his duly appointed agent, the personal surety or the agent or bondsman who posted the bond for the commercial surety shall be given notice of the new appearance date.

D. Notice required pursuant to the provisions of this Article to the defendant and the personal surety or the commercial surety or the agent or bondsman who posted the bond for the commercial surety shall be made to the address provided pursuant to Article 322. Notice may be:

(1) Delivered by an officer designated by the court at least two days prior to the appearance date.

(2) Mailed by United States first class mail at least five days prior to the appearance date.

E. Failure to give the notice required by this Article relieves the surety from liability on a judgment of bond forfeiture for the nonappearance of the defendant on that particular date.

NOTE: Art. 344 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 344. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1995, No. 927, §1; Acts 2006, No. 246, §1; Acts 2010, No. 914, §1; Acts 2012, No. 771, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 345 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 345. Surrender of defendant

A. A surety may surrender the defendant or the defendant may surrender himself, in open court or to the officer charged with his detention, at any time prior to forfeiture or within the time allowed by law for setting aside a judgment of forfeiture of the bail bond. For the purpose of surrendering the defendant, the surety may arrest him. Upon surrender of the defendant, the officer shall detain the defendant in his custody as upon the original commitment and shall acknowledge the surrender by a certificate signed by him and delivered to the surety. The officer shall retain and forward a copy of the certificate to the court. After compliance with the provisions of Paragraph F of this Article, the surety shall be fully and finally discharged and relieved, as provided for in Paragraphs C and D of this Article, of all obligations under the bond.

B. If the defendant is incarcerated by the officer originally charged with his detention at any time prior to forfeiture or within the time allowed by law for setting aside a judgment for forfeiture of the bail bond, the surety may apply for and receive from any officer in charge of any facility in the state of Louisiana or a foreign jurisdiction charged with the detention of the defendant a letter verifying that the defendant is incarcerated, but only after the surety verifies to the satisfaction of the officer charged with the detention of the defendant as to the identity of the defendant. After compliance with the provisions of Paragraph F of this Article, the surety shall be fully and finally discharged and relieved, as provided for in Paragraphs C and D of this Article, of all obligations under the bond.

C. When a surety receives either a certificate of surrender provided for in Paragraph A of this Article or a letter of verification as provided for in Paragraph B of this Article, the surety shall pay a fee of twenty-five dollars to the officer charged with the defendant's detention for recalling the capias, accepting the surrender or verifying the incarceration, processing the paperwork, and giving the surety a certificate of surrender or a letter of verification of incarceration issued pursuant to this Article after compliance with the provisions of Paragraph F of this Article releasing him from his obligation under the defendant's bond.

D. If during the period allowed for the surrender of the defendant, the defendant is found to be incarcerated in another parish of the state of Louisiana or a foreign jurisdiction, the judgment of bond forfeiture is deemed satisfied if all of the following conditions are met:

(1) The defendant or his sureties file a motion within the period allowed for the surrender of the defendant. The motion shall be heard summarily.

(2) The sureties of the defendant provide the court adequate proof of incarceration of the defendant, or the officer originally charged with his detention verifies his incarceration. A letter of incarceration issued pursuant to this Article verifying that the defendant was incarcerated within the period allowed for the surrender of the defendant at the time the defendant or the surety files the motion, shall be deemed adequate proof of the incarceration of the defendant.

(3) The defendant's sureties pay the officer originally charged with the defendant's detention, the reasonable cost of returning the defendant to the officer originally charged with the defendant's detention prior to the defendant's return.

E. At any time prior to forfeiture or within the time allowed by law for setting aside a judgment for forfeiture of the bail bond, the surety may present to the court a certificate of death

naming the defendant as the deceased party. The certificate shall be under seal of the authority confirming the defendant's death. Thereafter, the surety shall be fully and finally discharged and relieved of any and all obligation under the bond.

F. When the defendant has been surrendered in conformity with this Article or a letter of verification of incarceration has been issued to the surety as provided for in this Article, the court shall, upon presentation of the certificate of surrender or the letter of verification of incarceration, order that the surety be exonerated from liability on his bail undertaking and shall order any judgment of forfeiture set aside.

G. During the period provided for surrendering the defendant, the surety may request that the officer originally charged with the detention of a felony defendant place the name of the felony defendant into the National Crime Information Center registry. The surety shall pay to that officer a fee of twenty-five dollars for processing the placement. If, after payment of the twenty-five-dollar fee, the name of the defendant is removed from the National Crime Information Center registry without cause during the period provided for surrendering the defendant, the surety shall be relieved of all obligations under the bond.

H. In the case of any fee required under the provisions of this Article, the officer charged with the defendant's detention shall provide the surety with a receipt indicating the amount of the fee collected, the name of the defendant, the purpose of the fee collected, the date and time the defendant was surrendered, the name of the person from whom the fee was collected, and information sufficient to identify any applicable bond.

I. In addition to and notwithstanding any other provision of law, a surety may seek an extension of time to surrender a defendant, or have the judgment of bond forfeiture set aside by filing a motion in the criminal court of record and after contradictory hearing with the district attorney and with proof satisfactory to the court that a fortuitous event has occurred and that the event has made it impossible to perform as required under the contract. A motion seeking relief pursuant to this Paragraph must be filed within three hundred sixty-six days from the date of the fortuitous event, excluding legal delays. The court in its discretion may do any of the following:

(1) Set aside the forfeiture or grant the nullity.

(2) Grant an extension of up to three hundred sixty-six days from the expiration of the initial time period allowed for the surrender of the defendant from the date of the mailing of proper notice of bond forfeiture. If the court grants that extension, judicial interest shall be suspended during that additional time period.

(3) Deny the relief.

J. Regarding bail bond forfeitures for which the notices of bond forfeiture judgments were mailed between February 28, 2005, and September 21, 2005, inclusive, in addition to and notwithstanding any other provision of law, the defendant or the surety may seek an extension of time to surrender a defendant or to have a judgment of bond forfeiture set aside by filing a motion in the criminal court record and after contradictory hearing with the district attorney and with proof satisfactory to the discretion of the court that after reasonable effort to recover the wanted fugitive, the location and return of the wanted fugitive was made impossible by damage sustained during and immediately following Hurricane Katrina or Hurricane Rita. Such motion must be filed within three hundred sixty-six days of the date of the storm, the effect of which gives rise to the request for relief excluding legal delays. A motion seeking relief pursuant to this Paragraph must be filed within three hundred sixty-six days from the date of the fortuitous event, excluding legal delays. The court in its discretion may do any of the following:

(1) Set aside the forfeiture or grant the nullity.

(2) Grant an extension of time up to three hundred sixty-six days from the expiration of the initial time period allowed for the surrender of the defendant from the date of the mailing of proper notice of bond forfeiture. If the court grants that extension, judicial interest shall be suspended during that additional time period.

(3) Deny the relief.

NOTE: Art. 345 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 345. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1999, No. 325, §1; Acts 1999, No. 759, §1; Acts 1999, No. 1054, §1; Acts 2001, No. 1218, §1; Acts 2004, No. 374, §1; Acts 2006, No. 466, §2, eff. June 15, 2006; Acts 2010, No. 709, §1; Acts 2010, No. 914, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 346 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 346. Court order for arrest of defendant

The court in which the defendant is held to answer may issue a warrant for the arrest and commitment of the defendant who is at large on bail when any of the following are true:

(1) There has been a breach of the bail undertaking.

(2) It appears that a surety has become insufficient, is dead, cannot be found, or has ceased to meet the qualifications of law or does not own adequate immovable property within the state.

(3) The court is satisfied that the bail should be increased or new or additional security required.

NOTE: Art. 346 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 346. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 347 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 347. Bail after surrender

A defendant who has surrendered himself under the provisions of Article 345, or has been rearrested under the provisions of Article 346, is entitled to bail in accordance with this Code.

NOTE: Art. 347 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 347. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 348 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 348. Cancellation of bail bond

The court shall order the bail bond canceled when there is no further liability thereon.

NOTE: Art. 348 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 348. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 349 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 349. Forfeiture procedure

A. A bond that secures the appearance of a person before a court in the state of Louisiana shall be forfeited and collected as provided by law.

B. The court shall immediately issue a warrant for the arrest of the person failing to appear and order a judgment decreeing the forfeiture of the bond and against the defendant and his sureties in solido for the full amount of the bond.

C. A bail agent who represents the surety as an insurance agent shall not be solidarily liable for the forfeiture of a bond against the defendant and his sureties. In the event that a bail agent who represents the surety as an insurance agent is held solidarily liable, then that bail agent may request to be released from the judgment, and the release of the bail agent shall have no effect on the judgment decreeing the forfeiture of the bond against the defendant and his sureties.

NOTE: Art. 349 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 349. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2010, No. 710, §2; Acts 2010, No. 914, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 349.1 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 349.1. Failure to appear; issuance of arrest warrant

If at the time fixed for appearance the defendant fails to appear as required by the court, the judge may, or shall on motion of the prosecuting attorney, issue a warrant for the arrest of the defendant.

NOTE: Art. 349.1 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 349.1. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2010, No. 914, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 349.2 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 349.2. Proof necessary at bond forfeiture hearing

A. Upon motion of the prosecuting attorney, and upon proof of the bail contract, the power of attorney if any, notice to the defendant and the surety as required by Article 344, and the defendant's failure to appear as required, a bond shall be forfeited and a judgment of bond forfeiture shall be signed.

B. The judgment shall include the address and the last four digits of the social security number for the defendant and his sureties. A judgment of bond forfeiture shall not be set aside because of the invalidity of the information required by the provisions of this Article or for the failure to include the information required by this Article.

NOTE: Art. 349.2 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 349.2. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2010, No. 710, §2; Acts 2010, No. 914, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 349.3 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 349.3. Notice of judgment

A.(1) After entering the fact of the signing of the judgment of bond forfeiture in the court minutes, the clerk of court shall promptly mail notice of the signing of the judgment of bond forfeiture. The notice of the signing of the judgment shall be mailed by United States certified mail with return receipt affixed thereto to the defendant, the personal surety, the agent, or bondsman who posted the bond for the commercial surety, and the commercial surety at the addresses designated in Article 322 or an address registered with the Louisiana Department of Insurance. Notice to the commercial surety shall include the power of attorney number used to execute the bond without which the bond obligation of the commercial surety shall be suspended until the power of attorney number is supplied, provided the commercial surety provides notice to the clerk of court who mailed the notice to the surety of the failure to include such number in the notice by certified mail not later than thirty days following receipt of notice of the judgment. If the power of attorney number is not provided to the commercial surety within thirty days after the date of receipt by the clerk of court of the notice that it was not included in the notice of the judgment, the commercial surety shall be released from the bond obligation.

(2) The defendant shall reimburse the clerk of court for postage and other costs incurred by the clerk to send the notice required in Paragraph A of this Article.

B. After mailing the notice of the signing of the judgment of bond forfeiture, the clerk of court shall execute an affidavit of the mailing and place the affidavit and the return receipts in the record.

C. Failure to mail notice of the signing of the judgment within sixty days after the defendant fails to appear shall release the sureties of all obligations under the bond.

NOTE: Art. 349.3 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 349.3. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2010, No. 914, §1; Acts 2012, No. 59, §1, eff. May 11, 2012; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 349.4 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 349.4. Recordation of judgment

A. After mailing notice of the signing of the judgment of bond forfeiture, the district attorney shall cause the judgment to be recorded in every parish in which the recordation may be proper. Every such recordation shall be without cost and shall operate as a judicial mortgage against the defendant and all his sureties.

B. Prior to recordation, the district attorney shall verify the inclusion of information on the judgment, namely, the address and the last four digits of the social security number for the defendant and his sureties. Third parties may rely upon the accuracy of the information required by the provisions of this Article for purposes of distinguishing the identity of the defendant and his sureties. Any judgment of bond forfeiture containing inaccurate information required by the provisions of this Article shall be deemed ineffective as a judicial mortgage to third parties who rely upon that information.

NOTE: Art. 349.4 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 349.4. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2010, No. 710, §2; Acts 2010, No. 914, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 349.5 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 349.5. Nullity actions, summary proceedings, and cumulative actions

A.(1) The defendant and his sureties shall be entitled to assert defenses and actions in nullity by use of summary proceedings in the criminal matter before the trial court that issued the judgment of bond forfeiture within sixty days after the date of mailing the notice of the signing of the judgment of bond forfeiture. Any summary proceeding brought by the defendant or his sureties within the sixty-day period shall be determined by the court within one hundred eighty days of the date of mailing the notice of the signing of the judgment of bond forfeiture.

(2) Nullity actions pursuant to Code of Civil Procedure Article 2001 et seq. not filed within the sixty days provided for filing summary proceedings shall be brought by the use of ordinary civil proceedings.

B. The defendant and his sureties shall be entitled to assert defenses pursuant to Articles 345 and 349.9 by use of summary proceedings in the criminal matter before the trial court that issued the judgment of bond forfeiture within one hundred eighty days after the date of mailing the notice of the signing of the judgment of bond forfeiture.

C. A surety, in an action in nullity or to set aside a bond forfeiture, may cumulate two or more cases that are similarly situated by the facts and legal issues as one cumulative action. The actions cumulated shall be mutually consistent and employ the same form of procedure. The action may be by summary proceedings in the section of the criminal court where those cases are pending, or by an ordinary civil proceeding when the action is within the jurisdiction of the court and in the proper venue. The surety has the burden of proving that the cumulation of the actions is appropriate and in the interest of justice.

D. If the court lacks jurisdiction or venue is improper as to one of the actions cumulated, that action shall be dismissed. If the cumulation is improper for any other reason, the court may do either of the following:

(1) Order separate trials or hearings of the actions.

(2) Order the moving party to elect which action shall proceed and to amend the pleadings to delete all allegations relating to the discontinued action. The penalty for noncompliance with an order to amend is a dismissal of the entire proceeding.

NOTE: Art. 349.5 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 349.5. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2010, No. 914, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 349.6 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 349.6. Appeals

A. The defendant and his sureties shall have the right to a suspensive appeal from the judgment of bond forfeiture, which shall be perfected within sixty days after the date of mailing the notice of the signing of the judgment. The security for the appeal shall be equal to the bail obligation.

B. The defendant and his sureties shall have the right to a devolutive appeal from the judgment of bond forfeiture, which shall be perfected within one hundred twenty days after the date of mailing the notice of the signing of the judgment.

C. All appeals shall be proper in the court having appellate jurisdiction over the court issuing the judgment of bond forfeiture.

NOTE: Art. 349.6 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 349.6. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2010, No. 914, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 349.7 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 349.7. Enforcement of judgment

A.(1) No judgment of bond forfeiture rendered on or after August 15, 1997, shall be enforced until after the expiration of one hundred ninety days after the date of mailing the notice of the signing of the judgment of bond forfeiture for bonds that have a face value under fifty thousand dollars, or until after the expiration of two hundred eighty days for bonds that have a face value of fifty thousand dollars or more.

(2) The court may provide by court rule for the filing of an offset claim against the principal with the secretary of the Department of Revenue, in accordance with R.S. 47:299.1 et seq.

(3) If, after the expiration of one hundred ninety days after the date of mailing the notice of the signing of the judgment of bond forfeiture for bonds that have a face value under fifty thousand dollars, or after the expiration of two hundred eighty days for bonds that have a face value of fifty thousand dollars or more, a judgment of bond forfeiture against a commercial surety company has not been suspensively appealed or satisfied, or if proceedings, other than a devolutive appeal challenging the bond forfeiture have not been timely filed, the prosecuting attorney may either file a rule to show cause with the commissioner of insurance in accordance with R.S. 22:1441 or collect the judgment in the same manner as a civil judgment.

B. The timely filing of a suspensive appeal shall suspend the enforcement of the judgment of the bond forfeiture.

C. A judgment of bond forfeiture shall not be set aside because of the invalidity of the information required by the provisions of this Article or for the failure to include the information required by the provisions of this Article.

NOTE: Art. 349.7 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 349.7. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2010, No. 710, §2; Acts 2010, No. 914, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 349.8 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 349.8. Satisfaction of judgment of bond forfeiture

A.(1) For bonds that have a face value under fifty thousand dollars, a judgment forfeiting the appearance bond shall at any time, within one hundred eighty days after the date of mailing the notice of the signing of the judgment of bond forfeiture, be fully satisfied and set aside upon the surrender of the defendant or the appearance of the defendant. The surrender of the defendant also relieves the surety of all obligations under the bond and the judgment.

(2) A judgment forfeiting the appearance bond rendered according to this Title shall at any time, within ten days of the one-hundred-eighty-day period provided to surrender the defendant, be satisfied by the payment of the amount of the bail obligation without incurring any interest, costs, or fees.

B.(1) For bonds with a face value of fifty thousand dollars or more, a judgment forfeiting the appearance bond shall, at any time within one hundred eighty days after the date of mailing

the notice of the signing of the judgment of bond forfeiture, be fully satisfied and set aside upon the surrender or the appearance of the defendant. The appearance of the defendant shall satisfy the judgment, and the surrender shall relieve the surety of all obligations under the bond and the judgment. A judgment forfeiting the appearance bond shall, at any time within ten days after the expiration of the period provided to surrender the defendant, be fully satisfied by the payment of the amount of the bail obligation without incurring any interest, costs, or fees.

(2) A judgment forfeiting the appearance bond shall, at any time more than one hundred eighty days but within two hundred seventy days after the date of mailing the notice for the signing of the judgment of bond forfeiture, be satisfied and set aside upon the surrender or the appearance of the defendant and the payment in cash of ten percent of the face amount of the bond. The surrender and the payment in cash of ten percent of the face amount of the bond shall satisfy the judgment and shall relieve the surety of all obligations under the bond and the judgment. A judgment forfeiting the appearance bond shall, at any time within ten days after the expiration of the two-hundred-seventy-day period provided to surrender the defendant, be fully satisfied by the payment of the amount of the bail obligation without incurring any interest, costs, or fees.

NOTE: Art. 349.8 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 349.8. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2010, No. 914, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

NOTE: Art. 349.9 eff. until Jan. 1, 2017. See Acts 2016, No. 613, §4.

Art. 349.9. Nonforfeiture situations

A. A judgment decreeing the forfeiture of an appearance bond shall not be rendered if it is shown to the satisfaction of the court that the defendant, principal in the bond, is prevented from attending because of any of the following:

(1) He has a physical disability, illness, or injury.

(2) He is being detained in the jail or penitentiary of another jurisdiction.

(3) He is serving in the armed forces of the United States.

(4) He is a member of the Louisiana National Guard called to duty pursuant to R.S. 29:7. This provision does not apply to appearances in a state military court.

B. An affidavit by the jailer, warden, or other responsible officer where the principal is detained, or commanding officer, attesting to the cause of the failure to appear of the defendant shall be considered adequate proof of the inability to appear by the defendant.

C. If a judgment of bond forfeiture is rendered while the defendant is prevented from appearing for any reason enumerated in this Article, and if the defendant or his sureties file a motion to set aside the judgment of bond forfeiture within one hundred eighty days after the date of the mailing the notice of the signing of the judgment of bond forfeiture, and it is shown to the satisfaction of the court that the defendant was prevented from attending for any cause enumerated in this Article, the court shall declare the judgment of bond forfeiture null and void.

NOTE: Art. 349.9 as repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 349.9. Repealed by Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Acts 2010, No. 914, §1; Acts 2016, No. 613, §4, eff. Jan. 1, 2017.

Art. 404. Appointment of jury commissions; term of office; oath; quorum; performance of functions of jury commissions in certain parishes

A. Except in the parish of East Baton Rouge:

(1) The jury commission of each parish shall consist of five members, each having the qualifications set forth in Article 401.

(2) In Orleans Parish the jury commission shall be appointed by the judges en banc of the Criminal District Court of the parish of Orleans, and the jury commissioners shall serve at the pleasure of the court. Upon the effective date of the Forty-First Judicial District Court, January 1, 2009, the jury commission shall be appointed by the judges en banc of the Forty-First Judicial District Court, Criminal Division, with the concurrence of the judges en banc of the civil division of the court. The jury commissioners shall serve at the pleasure of the court. In other parishes, the jury commission shall consist of the clerk of court or a deputy clerk designated by him in writing to act in his stead in all matters affecting the jury commission, and four other persons appointed by written order of the district court, who shall serve at the court's pleasure.

(3) Before entering upon their duties, members of the jury commission shall take an oath to discharge their duties faithfully.

(4) Three members of the jury commission shall constitute a quorum.

(5) Meetings of the jury commission shall be open to the public.

B. In the parish of East Baton Rouge the function of the jury commission shall be performed by the judicial administrator of the Nineteenth Judicial District Court or by a deputy judicial administrator designated by him in writing to act in his stead in all matters affecting the jury commission. The judicial administrator or his designated deputy shall have the same powers, duties and responsibilities, and be governed by those provisions of law as presently pertain to jury commissioners which are applicable, including the taking of an oath to discharge their duties faithfully. The clerk of court of the parish of East Baton Rouge shall perform the duties and responsibilities otherwise imposed upon him by law with respect to jury venires, shall coordinate the jury venire process, and shall receive the compensation generally authorized for a jury commissioner.

C. In the parish of Lafourche the function of the jury commission may be performed by the clerk of court of the parish of Lafourche or by a deputy clerk of court designated by him in writing to act in his stead in all matters affecting the jury commission. The clerk of court or his designated deputy shall have the same powers, duties, and responsibilities, and shall be governed by applicable provisions of law pertaining to jury commissioners. The clerk of court of the parish of Lafourche shall perform the duties and responsibilities otherwise imposed upon him by law with respect to jury venires, shall coordinate the jury venire process, and shall receive the compensation generally authorized for a jury commissioner.

D. In the parish of Terrebonne, the function of the jury commission shall be performed by the clerk of court of Terrebonne Parish or by a deputy clerk of court designated by him in writing to act in his stead in all matters affecting the jury commission. The clerk of court or his designated deputy shall have the same powers, duties, and responsibilities, and shall be governed by all applicable provisions of law pertaining to jury commissioners. The clerk of court of Terrebonne Parish shall perform the duties and responsibilities otherwise imposed upon him by law with respect to jury venires, shall coordinate the jury venire process, and shall receive the compensation generally authorized for a jury commissioner.

E. In the parish of St. Charles, the function of the jury commission shall be performed by the clerk of court of St. Charles Parish or by a deputy clerk of court designated by him in writing to act in his stead in all matters affecting the jury commission. The clerk of court or his designated deputy shall have the same powers, duties, and responsibilities, and shall be governed by all applicable provisions of law pertaining to jury commissioners. The clerk of court of St.

Charles Parish shall perform the duties and responsibilities otherwise imposed upon him by law with respect to jury venires, shall coordinate the jury venire process, and shall receive the compensation generally authorized for a jury commissioner.

F. In the parishes of East Feliciana and West Feliciana, the function of the jury commission shall be performed by the clerks of court of East Feliciana Parish and West Feliciana Parish or by a deputy clerk of court designated by the respective clerk in writing to act in his stead in all matters affecting the jury commission. The clerk of court or his designated deputy shall have the same powers, duties, and responsibilities, and shall be governed by all applicable provisions of law pertaining to jury commissioners. The clerks of court of East Feliciana Parish and West Feliciana Parish shall perform the duties and responsibilities otherwise imposed upon him by law with respect to jury venires, shall coordinate the jury venire process, and shall receive the compensation generally authorized for a jury commissioner.

Amended by Acts 1975, No. 259, §1; Acts 1993, No. 632, §1; Acts 2007, No. 94, §1; Acts 2013, No. 100, §1; Acts 2013, No. 156, §1; Acts 2016, No. 232, §1.

Art. 412. Repealed by Acts 2016, No. 389, §3.

Art. 413. Method of impaneling of grand jury; selection of foreman

A. The grand jury shall consist of twelve persons plus no fewer than two nor more than four alternates qualified to serve as jurors, selected or drawn from the grand jury venire.

B. The sheriff or his designee, or the clerk or a deputy clerk of court, or the jury commissioner shall draw indiscriminately and by lot from the envelope containing the remaining names on the grand jury venire a sufficient number of names to complete the grand jury. The envelope containing the remaining names shall be replaced into the grand jury box for use in filling vacancies as provided in Article 415. The court shall cause a random selection to be made of one person from the impaneled grand jury to serve as foreman of the grand jury.

C. The alternate grand jurors shall receive the charge as provided in Article 432 but shall not be sworn nor become members of the grand jury except as provided in Article 415.

Acts 1990, No. 47, §1; Acts 1999, No. 984, §1; Acts 2001, No. 281, §§1, 2; Acts 2010, No. 347, §1; Acts 2016, No. 389, §1.

Art. 414. Time for impaneling grand juries; period of service

A. A grand jury shall be impaneled twice a year in each parish, except in the parish of Cameron in which at least one grand jury shall be impaneled each year.

B. The court shall fix the time at which a grand jury shall be impaneled, but no grand jury shall be impaneled for more than eight months, nor less than four months, except in the parish of Cameron in which the grand jury may be impaneled for a year.

C. Repealed by Acts 2016, No. 389, §3.

D. A grand jury shall remain in office until a succeeding grand jury is impaneled. A court may not discharge a grand jury or any of its members before the time for the impaneling of a new grand jury, except for legal cause.

Acts 1985, No. 675, §1; Acts 2016, No. 389, §§1, 3.

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), molestation of a juvenile (R.S. 14:81.2), 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 seventeen years of age. This thirty-year period begins to run when the victim attains the age of eighteen.

Acts 1993, No. 592, §1, eff. June 15, 1993; Acts 2001, No. 207, §1; Acts 2001, No. 533, §1; Acts 2003, No. 809, §1, eff. July 1, 2003; Acts 2004, No. 676, §3; Acts 2005, No. 186, §1; Acts 2012, No. 446, §5; Acts 2014, No. 602, §2, eff. June 12, 2014; Acts 2016, No. 41, §1.

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.

Acts 2016, No. 352, §1.

Art. 718.1. Evidence of obscenity, video voyeurism, or pornography involving juveniles; 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, or pornography involving juveniles as defined in R.S. 14:81.1, 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, 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.

Acts 2012, No. 404, §1; Acts 2012, No. 558, §1, eff. June 5, 2012; Acts 2016, No. 82, §1.

Art. 890.3. Sentencing for crimes of violence

A. Except as provided in Paragraph B 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), upon the written recommendation of the district attorney, the court may designate in the minutes whether such offense is a crime of violence only for the following purposes:

(1) To determine a defendant's eligibility for suspension or deferral of sentence pursuant to Article 893.

(2) To determine a defendant's eligibility for participation in a drug division probation program pursuant to R.S. 13:5304.

B. The following crimes of violence enumerated in R.S. 14:2(B) shall 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.

Acts 2016, No. 509, §1.

CHAPTER 2. SUSPENDED SENTENCE AND PROBATION

Art. 893. Suspension and deferral of sentence and probation in felony cases

A. When it appears that the best interest of the public and of the defendant will be served, the court, after a first or second 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 conviction for an offense that is designated in the court minutes as a crime of violence pursuant to Article 890.3, or of a second conviction if the second conviction is for a violation of R.S. 14:73.5, 81.1, or 81.2. The period of probation shall be specified and shall not be less than one year nor more than five years. The suspended sentence shall be regarded as a sentence for the purpose of granting or denying a new trial or appeal. 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)(a) The court may suspend, in whole or in part, the imposition or execution of the sentence when the following conditions exist:

(i) The sentence is for a third conviction of any of the following:

(aa) A noncapital felony for which a defendant could have his sentence suspended under Paragraph A of this Article had the conviction been for a first or second offense.

(bb) A violation of the Uniform Controlled Dangerous Substances Law.

(cc) A third conviction of operating a vehicle while intoxicated in violation of R.S. 14:98.

(ii) It appears that suspending the sentence is in the best interest of the public and the defendant.

(iii) The district attorney consents to the suspension of the sentence.

(iv) The court orders the defendant to do any of the following:

(aa) Enter and complete a program provided by the drug division of the district court pursuant to R.S. 13:5301 et seq. When a case is assigned to the drug division probation program pursuant to the provisions of R.S. 13:5301 et seq., 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 period of probation to exceed the five-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.

(bb) Enter and complete an established driving while intoxicated court or sobriety court program, as agreed upon by the trial court and the district attorney. When a case is assigned to an established driving while intoxicated court or sobriety court program, 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 period of probation to exceed the five-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.

(cc) Reside for a minimum period of one year in a facility which conforms to the Judicial Agency Referral Residential Facility Regulatory Act, R.S. 40:2852.

(dd) Enter and complete the Swift and Certain Probation Pilot Program established pursuant to R.S. 13:5371 et seq. When a case is assigned to this pilot program, with the consent of the district attorney, the court may place the defendant on probation for a period of not less than one year and 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. If necessary to ensure successful completion of the 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.

(b) When suspension is allowed under this Paragraph, the defendant shall be placed on probation under the supervision of the division of probation and parole. The period of probation shall be specified and shall not be less than two years nor more than five years, except as provided in Subitems (a)(iv)(aa), (bb), and (dd) of this Subparagraph. The suspended sentence shall be regarded as a sentence for the purpose of granting or denying a new trial or appeal.

(2) Notwithstanding any other provisions of law to the contrary, the sentencing alternatives available in Subparagraph (1) of this Paragraph, shall be made available to offenders convicted of a fourth offense violation of operating a vehicle while intoxicated pursuant to R.S. 14:98, only if the offender had not been offered such alternatives prior to his fourth conviction of operating a vehicle while intoxicated.

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 five 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 multiple offender, and further shall be considered as a first offense for purposes of any other law or laws relating to cumulation of offenses. Dismissal under this Paragraph shall occur only once 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 multiple offender, and shall be considered as a first 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 R.S. 44:9 and may occur only once 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 multiple offender, and shall be considered as a first 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 R.S. 44:9 and may occur only once with respect to any person.

F. 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 felony.

Amended by Acts 1994, 3rd Ex. Sess., No. 100, §1; Acts 1994, 3rd Ex. Sess., No. 123, §1; Acts 1995, No. 990, §1; Acts 1995, No. 1251, §4; Acts 1996, 1st Ex. Sess., No. 5, §1, eff. April 23, 1996; Acts 1997, No. 696, §1; Acts 2001, No. 403, §5 eff. June 15, 2001; Acts 2001, No. 1206, §3; Acts 2006, No. 242, §2; Acts 2006, No. 581, §1; Acts 2008, No. 104, §1; Acts 2009, No. 168, §1; Acts 2010, No. 801, §2, eff. June 30, 2010; Acts 2015, No. 199, §1; Acts 2016, No. 509, §1; Acts 2016, No. 676, §2, eff. June 17, 2016.

NOTE: Acts 2008, No. 104, §2, provides that the provisions of the Act are remedial and therefore shall apply retroactively.

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(A)(2). 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 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.

Amended by Acts 1994, 3rd Ex. Sess., No. 57, §1, eff. July 7, 1994; Acts 1994, 3rd Ex. Sess., No. 58, §2, eff. July 7, 1994; Acts 1994, 3rd Ex. Sess., No. 70, §2; Acts 1995, No. 605, §1, eff. June 18, 1995; Acts 1995, No. 906, §1; Acts 1995, No. 928, §2; Acts 1995, No. 1266, §1, eff. June 29, 1995; Acts 1995, No. 1290, §3; Acts 1995, No. 1291, §1; Acts 1995, No. 1303, §2; Acts 1997, No. 134, §1; Acts 1997, No.137, §1; Acts 1997, No. 520, §1; Acts 1997, No. 602, §1; Acts 1997, No. 1148, §1, eff. July 14, 1997; Acts 1999, No. 1150, §2; Acts 1999, No. 1157, §1; Acts 1999, No. 1209, §2; Acts 2001, No. 1206, §3; Acts 2003, No. 750, §2; Acts 2007, No. 460, §3, eff. Jan. 1, 2008; Acts 2008, No. 655; Acts 2008, No. 451, §1, eff. June 25, 2008; Acts 2009,

No. 168, §1; Acts 2009, No. 362, §1; Acts 2012, No. 705, §2; Acts 2014, No. 271, §1; Acts 2016, No. 655, §1.

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. The restitution payment shall be made, in discretion of the court, either in a lump sum or in monthly installments based on the earning capacity and assets of the defendant.

(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, waived a hearing, or stipulated to the amount of the restitution, cost, or fine ordered. In addition to proceedings had 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. 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.

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 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 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, an amount equal to that deposited as required by Subparagraph (1) of this Paragraph shall be credited to a special fund which is hereby created in the state treasury to be known as the "Sex Offender Registry Technology Fund". The monies in this fund 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 Fund 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 fund 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 Fund 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 fund 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.

Acts 1983, No. 13, §1; Acts 1984, No. 940, §1; Acts 1984, No. 136, §1; Acts 1985, No. 863, §1, eff. July 23, 1985; Acts 1986, No. 745, §1; Acts 1987, No. 59, §1; Acts 1988, No. 208, §1; Acts 1989, No. 832, §1; Acts 1990, No. 53, §1; Acts 1990, No. 89, §1; Acts 1990, No. 188, §1; Acts 1994, 3rd Ex. Sess., No. 60, §1; Acts 1998, 1st Ex. Sess., No. 138, §1; Acts 1999, No. 587, §1; Acts 2000, 1st Ex. Sess., No. 84, §1; Acts 2001, No. 964, §1; Acts 2006, No. 502, §1; Acts 2006, No. 663, §4, eff. June 29, 2006; Acts 2007, No. 460, §1, eff. July 11, 2007; Acts 2010, No. 760, §1; Acts 2011, No. 218, §1; Acts 2011, No. 219, §1; Acts 2014, No. 524, §5; Acts 2014, No. 631, §1; Acts 2016, No. 601, §5, eff. June 17, 2016.

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. 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 of this Code.

(b) Notwithstanding the provisions of Subparagraph (A)(5) of this Article, 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 in R.S. 15:541(24), and who has had his probation revoked under the provisions of this Article for his first technical violation of his probation as determined by the court, shall be required to serve a sentence of not more than ninety days without diminution of sentence. 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 Paragraph shall apply only to the defendant's first revocation for a technical violation.

(c) 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) 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(E)(1), which shall be considered a "technical violation".

(cc) Any intentional misdemeanor directly affecting the person.

(dd) At the discretion of the court, any attempt to commit any intentional misdemeanor directly affecting the person.

(ee) 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) Failing to appear at any court hearing.

(iv) Absconding from the jurisdiction of the court.

(v) 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 (4) of Paragraph A 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 (4) of Paragraph A 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.

Amended by Acts 1979, No. 90, §1; Acts 1991, No. 96, §1; Acts 1995, No. 335, §1; Acts 1997, No. 1323, §1; Acts 2006, No. 113, §1; Acts 2007, No. 402, §1; Acts 2009, No. 182, §1; Acts 2010, No. 352, §1; Acts 2011, No. 33, §1; Acts 2014, No. 271, §1; Acts 2014, No. 633, §1; Acts 2016, No. 213, §1.

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 or concurrently 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.

Amended by Acts 1975, No. 331, §1; Acts 1977, No. 397, §2; Acts 1981, No. 439, §1; Acts 2016, No. 214, §1.

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.

(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.

Acts 2014, No. 145, §1; Acts 2015, No. 200, §1; Acts 2016, No. 125, §1, eff. May 19, 2016.

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 either of the following apply:

(1) The conviction was set aside and the prosecution was dismissed pursuant to Article 893(E).

(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 during the ten-year period, 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 and no pending charges under a bill of information or indictment.

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), unless otherwise authorized in Paragraph E of this Article.

(2)(a) Notwithstanding any provision of Article 893, 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.

(3) A violation of the Uniform Controlled Dangerous Substances Law, except for any of the following which may be expunged pursuant to the provisions of this Title:

(a) A conviction for possession of a controlled dangerous substance as provided for in R.S. 40:966(C), 967(C), 968(C), or 969(C), or 970(C).

(b) A conviction for possession of a controlled dangerous substance with the intent to distribute.

(c) A conviction for a violation of the Uniform Controlled Dangerous Substances Law which is punishable by a term of imprisonment of not more than five years.

(d) A conviction for a violation of the Uniform Controlled Dangerous Substances Law which may be expunged pursuant to Article 893(E).

(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.

D. Expungement of a record of arrest and conviction of a felony offense shall occur only once with respect to any person during a fifteen-year period.

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) The person has been employed for a period of ten consecutive years.

(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.

Acts 2014, No. 145, §1; Acts 2015, No. 151, §1, eff. June 23, 2015; Acts 2015, No. 200, §1; Acts 2016, No. 125, §1, eff. May 19, 2016.

Art. 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.

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) The applicant was determined to be factually innocent and entitled to compensation for a wrongful conviction pursuant to the provisions of R.S. 15:572.8.

(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, a juvenile who has successfully completed any juvenile drug court program operated by a court of this state shall be exempt from payment of the processing fees otherwise authorized by this Article.

Acts 2014, No. 145, §1; Acts 2016, No. 8, §1.

Art. 989. Motion for expungement forms to be used

STATE OF LOUISIANA

JUDICIAL DISTRICT FOR THE PARISH OF

_____

No.: _____Division: "_____"

State of Louisiana

vs.

_____

MOTION FOR EXPUNGEMENT

NOW INTO COURT comes mover, who provides the court with the following information in connection with this request:

I.DEFENDANT INFORMATION

NAME: _____

(Last, First, MI)

DOB: _____/_____/_____ (MM/DD/YYYY)

GENDER _____ Female _____Male

SSN (last 4 digits): XXX-XX-_____

RACE: _____

DRIVER LIC.# _____

ARRESTING AGENCY: _____

SID# (if available): _____

ARREST NUMBER: _____

Mover is entitled to expunge the record of his arrest/conviction pursuant to Louisiana Code of Criminal Procedure Article 971 et seq. and states the following in support:

II.ARREST INFORMATION

1. Mover was arrested on _____/_____/_____ (MM/DD/YYYY)

2. _____ YES _____ NO A supplemental sheet with arrests and/or convictions is attached after page 2 of this Motion.

3. Mover was:

_____ YES _____ NO Arrested, but it did not result in conviction

_____ YES _____ NO Convicted of and seeks to expunge a misdemeanor

_____ YES _____ NO Convicted of and seeks to expunge a felony

_____ YES _____ NO Convicted but determined to be factually innocent and entitled to compensation for a wrongful conviction pursuant to the provisions of R.S. 15:572.8.

4. Mover was booked and/or charged with the following offenses: (List each offense booked and charged separately. Attach a supplemental sheet, if necessary.)

____ Yes ____ No ARRESTS THAT DID NOT RESULT IN CONVICTION

ITEM NO. 1 La. Rev. Stat. Ann. § _____ : _____

Name of the offense _____

( ) Time expired for prosecution_____

(MM/DD/YYYY)

( ) Not prosecuted for any offense

arising out of this charge.

( ) Pre-trial Diversion Program.

( ) DWI Pre-Trial Diversion Program

and 5 years have elapsed since the

date of arrest.

( ) Charge dismissed

( ) Found not guilty/judgment of acquittal

ITEM NO. 2 La. Rev. Stat. Ann. § _____ : _____

Name of the offense _____

( ) Time expired for prosecution_____

(MM/DD/YYYY)

( ) Not prosecuted for any

offense arising out of this charge.

( ) Pre-trial Diversion Program.

( ) Charge dismissed

( ) Found not guilty/judgment of acquittal

ITEM NO. 3 La. Rev. Stat. Ann. § _____ : _____

Name of the offense _____

( ) Time expired for prosecution_____

(MM/DD/YYYY)

( ) Not prosecuted for any offense

arising out of this charge.

( ) Pre-trial Diversion Program.

( ) Charge dismissed

( ) Found not guilty/judgment of acquittal

____ Yes ____ No MISDEMEANOR CONVICTIONS

ITEM NO. 1 La. Rev. Stat. Ann. § _____ : _____

Name of the offense _____

( ) Conviction set aside/dismissed _____/____/_____

pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)

( ) More than 5 years have passed

since completion of sentence.

ITEM NO. 2 La. Rev. Stat. Ann. § _____ : _____

Name of the offense _____

( ) Conviction set aside/dismissed _____/____/_____

pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)

( ) More than 5 years have passed

since completion of sentence.

____ Yes ____ No FELONY CONVICTIONS

ITEM NO. 1 La. Rev. Stat. Ann. § _____ : _____

( ) Conviction set aside/dismissed _____/____/_____

pursuant to C.Cr.P. Art. 893(E)(MM/DD/YYYY)

( ) More than 10 years have passed

since completion of sentence

ITEM NO. 2 La. Rev. Stat. Ann. § _____ : _____

( ) Conviction set aside/dismissed _____/____/_____

pursuant to C.Cr.P. Art. 893(E)(MM/DD/YYYY)

( ) More than 10 years have passed

since completion of sentence

____ Yes ____ No OPERATING A MOTOR VEHICLE WHILE INTOXICATED CONVICTIONS

Mover has attached the following:

( ) A copy of the proof from the Department of Public Safety and Corrections, office of motor vehicles, that it has received from the clerk of court a certified copy of the record of the plea, fingerprints of the defendant, and proof of the requirements set forth in C.Cr.P. Art. 556, which shall include the defendant's date of birth, last four digits of social security number, and driver's license number

5. Mover has attached to this Motion the following pertinent documents:

□ Criminal Background Check from the La. State Police/Parish Sheriff dated within the past 30 days (required).

□ Bill(s) of Information (if any).

□ Minute entry showing final disposition of case (if any).

□ Certification Letter from the District Attorney for fee waiver (if eligible).

□ Certification Letter from the District Attorney verifying that the applicant has no convictions or pending applicable criminal charges in the requisite time periods.

- □ Certification Letter from the District Attorney verifying that the charges were refused.
- □ Certification Letter from the District Attorney verifying that the applicant did not participate in a pretrial diversion program.
- □ A copy of the order waiving the sex offender registration and notification requirements.
- □ Documentation verifying that the mover has been employed for ten consecutive years.
- □ A copy of the court order determination of factual innocence and order of compensation for a wrongful conviction pursuant to the provisions of R.S. 15:572.8 if applicable.

The Mover prays that if there is no objection timely filed by the arresting law enforcement agency, the district attorney's office, or the Louisiana Bureau of Criminal Investigation and Information, that an order be issued herein ordering the expungement of the record of arrest and/or conviction set forth above, including all photographs, fingerprints, disposition, or any other such information, which record shall be confidential and no longer considered a public record, nor be made available to other persons, except a prosecutor, member of a law enforcement agency, or a judge who may request such information in writing, certifying that such request is for the purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose of any other statutorily defined law enforcement or administrative duties, or for the purpose of the requirements of sex offender registration and notification pursuant to the

provisions of R.S. 15:541 et seq. or as an order of this Court to any other person for good cause shown, or as otherwise authorized by law.

If an "Affidavit of No Opposition" by each agency named herein is attached hereto and made a part hereof, Defendant requests that no contradictory hearing be required and the Motion be granted ex parte.

Respectfully submitted,

_____

Signature of Attorney for Mover/Defendant

_____

Attorney for Mover/Defendant Name

_____

Attorney's Bar Roll No.

_____

Address

_____

City, State, ZIP Code

_____

Telephone Number

If not represented by counsel:

_____

Signature of Mover/Defendant

_____

Mover/Defendant Name

_____
Address

_____
City, State, ZIP Code

_____
Telephone Number

Acts 2014, No. 145, §1; Acts 2015, No. 200, §1; Acts 2016, No. 125, §1, eff. May 19, 2016.

Art. 992. Order of expungement form to be used

STATE OF LOUISIANA

JUDICIAL DISTRICT FOR THE PARISH OF

_____

No.: _____ **Division: "_____"**

State of Louisiana

vs.

_____

ORDER OF EXPUNGEMENT OF ARREST/CONVICTION RECORD

Considering the Motion for Expungement

□ The hearing conducted and evidence adduced herein, OR

□ Affidavits of No Opposition filed,

IT IS ORDERED, ADJUDGED AND DECREED

□ THE MOTION IS DENIED for Item(s) No.___, , , , _____ the following reasons (check all that apply):

□ More than five years have not elapsed since Mover completed the misdemeanor conviction sentence.

□ More than ten years have not elapsed since Mover completed the felony conviction sentence.

□ Mover was convicted of one of the following ineligible felony offenses:

□ A violation of the Uniform Controlled Dangerous Substances Law which is ineligible to be expunged.

□ An offense currently listed as a sex offense that requires registration pursuant to La. Rev. Stat. Ann. 15:540 et seq., at the

time the Motion was filed, regardless of whether the duty to register was ever imposed.

□ An offense defined or enumerated as a "crime of violence" pursuant to La. Rev. Stat. Ann. 14:2(B) at the time the Motion was filed.

□ The arrest and conviction being sought to have expunged is for operating a motor vehicle while intoxicated and a copy of the proof from the Department of Public Safety and Corrections, office of motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).

□ Mover has had another record of misdemeanor conviction expunged

during the previous five-year period.

□ The record of arrest and conviction which Mover seeks to have expunged is for operating a motor vehicle while intoxicated and Mover has had another record of arrest and misdemeanor conviction expunged during the previous ten-year period.

□ Mover has had another record of felony conviction expunged during the previous fifteen-year period.

□ Mover was convicted of a misdemeanor which arose from circumstances involving a sex offense as defined in R.S. 15:541.

□ Mover was convicted of misdemeanor offense of domestic abuse battery which was not

dismissed pursuant to C.Cr.P. Art. 894(B).

□ Mover did not complete pretrial diversion.

□ The charges against the mover were not dismissed or refused.

□ Mover's felony conviction was not set aside and dismissed pursuant to C.Cr.P. Art. 893(E).

□ Mover's felony conviction was not set aside and dismissed pursuant to C.Cr.P. Art. 894(B).

□ Mover completed a DWI pretrial diversion program, but five years have not elapsed since the mover's date of arrest.

□ Mover's conviction for felony carnal knowledge of a juvenile is not defined as misdemeanor carnal knowledge of a juvenile had the

mover been convicted on or after August 15, 2001.

□ Mover has not been employed for ten consecutive years as required by Article 978(E)(1)(d).

□ Mover was not convicted of a crime that would be eligible for expungement as required by Article 978(E)(1).

□ Mover has criminal charges pending against him.

□ Mover was convicted of a criminal offense during the ten-year period.

□ Denial for any other reason provided by law with attached reasons for denial.

□ **THE MOTION IS HEREBY GRANTED** for Item(s) No. _____ and all agencies are ordered to expunge the record of arrest/conviction and any photographs, fingerprints, or any other such information of any kind maintained in connection with the Arrest(s)/Conviction(s) in the above-captioned matter, which record shall be confidential and no longer considered a public record, nor be available to other persons except a prosecutor, member

of a law enforcement agency, or a judge who may request such information in writing certifying that such request is for the purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose of any other statutorily defined law enforcement or administrative duties, or for the purpose of the requirements of sex offender registration and notification pursuant to the provisions of R.S. 15:541 et seq. or upon an order of this Court to any other person for good cause shown, or as otherwise authorized by law.

□ **THE MOTION IS HEREBY GRANTED FOR EXPUNGEMENT BY REDACTION** If the record includes more than one individual and the mover is entitled to expungement by redaction pursuant to Code of Criminal Procedure Article 985, for Item(s) No. _____ and all agencies are ordered to expunge the record of arrest/conviction and any photographs, fingerprints, or any other such information of any kind maintained in relation to the Arrest(s)/Conviction(s) in the above-captioned matter as they relate to the mover only. The record shall be confidential and no longer considered a public record, nor be available to other persons except a prosecutor, member of a law enforcement agency, or a judge who may request such information in writing certifying that such request is for the purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose of any other statutorily defined law enforcement or administrative duties, or for the purpose of the requirements of sex offender registration and notification pursuant to the provisions of R.S. 15:541 et seq. or upon an order of this Court to any other person for good cause shown, or as otherwise authorized by law.

NAME: _____
(Last, First, MI)

DOB: _____/_____/_____ (MM/DD/YY)

GENDER: _____ Female _____Male

SSN (last 4 digits): XXX-XX-_____

RACE: _____

DRIVER LIC.# _____

ARRESTING AGENCY: _____

SID# (if available): _____

ARREST NUMBER (ATN): _____

AGENCY ITEM NUMBER: _____

ARREST DATE: _____/_____/_____ (MM/DD/YY)

THUS ORDERED AND SIGNED this _____ day of _____, 20____

at _____, Louisiana.

_____

JUDGE

PLEASE SERVE:

1. District Attorney: _____ _____
2. Arresting Agency: _____ _____
3. Parish Sheriff:_____ _____
4. Louisiana Bureau of Criminal Identification and Information_____
5. Attorney for Defendant (or defendant)_____ ___

6. Clerk of Court

_____"

Acts 2014, No. 145, §1; Acts 2015, No. 200, §1; Acts 2016, No. 125, §1, eff. May 19, 2016.