

2017 Regular Session
HOUSE BILL NO. 190

ACT No. 36

BY REPRESENTATIVE DWIGHT

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 892(A) and (B)(2), relative to
3 post-sentence statements by sheriffs; to provide relative to statements prepared by
4 the sheriff indicating the amount of time a defendant has spent in custody prior to
5 conviction; to provide for the cases in which such statements must be prepared; to
6 provide with respect to the duties of the clerk of court relative to the sheriff's
7 statement and other documents; to provide relative to the dissemination of the
8 sheriff's statement and other documents; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Code of Criminal Procedure Article 892(A) and (B)(2) are hereby
11 amended and reenacted to read as follows:

12 Art. 892. Post-sentence statement by sheriff; accompanying documents

13 A. The sheriff shall prepare a statement indicating the amount of time a
14 defendant has spent in custody prior to conviction when ~~such the~~ defendant has been
15 convicted of a felony and is committed to the Department of Public Safety and
16 Corrections, has been convicted of a misdemeanor and sentenced for a term of one
17 year or more to any penal institution, or has been ordered committed to any mental
18 institution or mental hospital. The sheriff shall retain a copy of the statement and
19 submit the original to the ~~officer in charge~~ sheriff of the ~~institution or department~~
20 parish to which the defendant is sentenced.

21 B.

22 * * *

23 (2) The clerk shall retain a copy of the statement and documents and send
24 the original to the ~~officer in charge~~ sheriff of the ~~department or penal institution~~

2017 Regular Session
HOUSE BILL NO. 223

ACT No. 84

BY REPRESENTATIVE MORENO AND SENATOR CLAITOR

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AN ACT

To amend and reenact R.S. 14:95.10(A), (C), and (E), R.S. 15:590(8), R.S. 46:2136.3(A)(introductory paragraph) and (1) and 2151(B), Code of Evidence Article 412(A) and (D), and Code of Criminal Procedure Article 387(A)(introductory paragraph) and to enact R.S. 14:2(B)(47), 34.9, and 34.9.1, relative to domestic abuse; to provide relative to acts of abuse involving dating partners; to provide relative to the definition of "dating partner"; to create the crimes of battery of a dating partner and aggravated assault upon a dating partner; to prohibit the possession of a firearm by persons convicted of certain offenses of battery of a dating partner; to add offenses of abuse involving dating partners to the types of offenses for which certain information is obtained upon arrest and conviction; to provide relative to the possession of firearms by persons subject to a permanent injunction or protective order for acts of abuse involving dating partners; to provide relative to admissibility of evidence of similar crimes, wrongs, or acts in cases of abuse involving dating partners; to provide relative to the information required when instituting the prosecution for an offense involving abuse against a dating partner; to provide definitions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:95.10(A), (C), and (E) are hereby amended and reenacted and R.S. 14:2(B)(47), 34.9, and 34.9.1 are hereby enacted to read as follows:

§2. Definitions

* * *

B. In this Code, "crime of violence" means an offense that has, as an element, the use, attempted use, or threatened use of physical force against the

1 person or property of another, and that, by its very nature, involves a substantial risk
2 that physical force against the person or property of another may be used in the
3 course of committing the offense or an offense that involves the possession or use
4 of a dangerous weapon. The following enumerated offenses and attempts to commit
5 any of them are included as "crimes of violence":

6 * * *

7 (47) Aggravated assault upon a dating partner.

8 * * *

9 §34.9. Battery of a dating partner

10 A. Battery of a dating partner is the intentional use of force or violence
11 committed by one dating partner upon the person of another dating partner.

12 B. For purposes of this Section:

13 (1) "Burning" means an injury to flesh or skin caused by heat, electricity,
14 friction, radiation, or any other chemical or thermal reaction.

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

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

22 (b) Experience in facilitating batterer intervention groups.

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

25 (d) "Dating partner" means any person who is involved or has been involved
26 in a sexual or intimate relationship with the offender characterized by the expectation
27 of affectionate involvement independent of financial considerations, regardless of
28 whether the person presently lives or formerly lived in the same residence with the
29 offender. "Dating partner" shall not include a casual relationship or ordinary
30 association between persons in a business or social context.

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

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

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

15 (1) The offender is placed on probation with a minimum condition that he
16 serve four days in jail and complete a court-monitored domestic abuse intervention
17 program, and the offender shall not possess a firearm throughout the entirety of the
18 sentence.

19 (2) The offender is placed on probation with a minimum condition that he
20 perform eight eight-hour days of court-approved community service activities and
21 complete a court-monitored domestic abuse intervention program, and the offender
22 shall not possess a firearm throughout the entirety of the sentence.

23 D. On a conviction of a second offense, notwithstanding any other provision
24 of law to the contrary and regardless of whether the second offense occurred before
25 or after the first conviction, the offender shall be fined not less than seven hundred
26 fifty dollars nor more than one thousand dollars and shall be imprisoned with or
27 without hard labor for not less than sixty days nor more than one year. At least
28 fourteen days of the sentence imposed shall be served without benefit of parole,
29 probation, or suspension of sentence, and the offender shall be required to complete
30 a court-monitored domestic abuse intervention program. Imposition or execution of

1 the remainder of the sentence shall not be suspended unless either of the following
2 occurs:

3 (1) The offender is placed on probation with a minimum condition that he
4 serve thirty days in jail and complete a court-monitored domestic abuse intervention
5 program, and the offender shall not possess a firearm throughout the entirety of the
6 sentence.

7 (2) The offender is placed on probation with a minimum condition that he
8 perform thirty eight-hour days of court-approved community service activities and
9 complete a court-monitored domestic abuse intervention program, and the offender
10 shall not possess a firearm throughout the entirety of the sentence.

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

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

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

1 G.(1) For purposes of determining whether an offender has a prior
2 conviction for violation of this Section, a conviction under this Section, or a
3 conviction under the laws of any state or an ordinance of a municipality, town, or
4 similar political subdivision of another state which prohibits the intentional use of
5 force or violence committed by one household member, family member, or dating
6 partner upon another household member, family member, or dating partner shall
7 constitute a prior conviction.

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

15 H. An offender ordered to complete a court-monitored domestic abuse
16 intervention program required by the provisions of this Section shall pay the cost
17 incurred by participation in the program. Failure to make such payment shall subject
18 the offender to revocation of probation, unless the court determines that the offender
19 is unable to pay.

20 I. This Subsection shall be cited as the "Dating Partner Abuse Child
21 Endangerment Law". When the state proves, in addition to the elements of the crime
22 as set forth in Subsection A of this Section, that a minor child thirteen years of age
23 or younger was present at the residence or any other scene at the time of the
24 commission of the offense, of the sentence imposed by the court, the execution of the
25 minimum mandatory sentence provided by Subsection C or D of this Section, as
26 appropriate, shall not be suspended, the minimum mandatory sentence imposed
27 under Subsection E of this Section shall be two years without suspension of sentence,
28 and the minimum mandatory sentence imposed under Subsection F of this Section
29 shall be four years without suspension of sentence.

1 J. If the victim of the offense is pregnant and the offender knows that the
2 victim is pregnant at the time of the commission of the offense, the offender, who is
3 sentenced under the provisions of this Section, shall be required to serve a minimum
4 of forty-five days without benefit of suspension of sentence for a first conviction,
5 upon a second conviction shall serve a minimum of one year imprisonment without
6 benefit of suspension of sentence, upon a third conviction shall serve a minimum of
7 two years with or without hard labor without benefit of probation, parole, or
8 suspension of sentence, and upon a fourth and subsequent offense shall serve a
9 minimum of four years at hard labor without benefit of probation, parole, or
10 suspension of sentence.

11 K. Notwithstanding any other provision of law to the contrary, if the offense
12 involves strangulation, the offender shall be imprisoned at hard labor for not more
13 than three years.

14 L. Notwithstanding any other provision of law to the contrary, if the offense
15 is committed by burning that results in serious bodily injury, the offense shall be
16 classified as a crime of violence, and the offender shall be imprisoned at hard labor
17 for not less than five nor more than fifty years without benefit of probation, parole,
18 or suspension of sentence.

19 §34.9.1. Aggravated assault upon a dating partner

20 A. Aggravated assault upon a dating partner is an assault with a dangerous
21 weapon committed by one dating partner upon another dating partner.

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

28 C. Whoever commits the crime of aggravated assault upon a dating partner
29 shall be imprisoned at hard labor for not less than one year nor more than five years
30 and fined not more than five thousand dollars.

1 Code Article 1570, Code of Civil Procedure Article 3607.1, or Code of Criminal
2 Procedure Articles 30, ~~327.1, 335.1, 335.2~~ 320, or 871.1 shall be prohibited from
3 possessing a firearm for the duration of the injunction or protective order if both of
4 the following occur:

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

9 * * *

10 §2151. Dating violence

11 * * *

12 B. For purposes of this Section, "dating partner" means any person who is
13 involved or has been involved in a ~~social~~ sexual or intimate relationship ~~of a~~
14 ~~romantic or intimate nature~~ with the offender characterized by the expectation of
15 affectionate involvement independent of financial considerations, regardless of
16 whether the person presently lives or formerly lived in the same residence with the
17 offender. "Dating partner" shall not include a casual relationship or ordinary
18 association between persons in a business or social context. ~~victim and where the~~
19 ~~existence of such a relationship shall be determined based on a consideration of the~~
20 ~~following factors:~~

21 (1) ~~The length of the relationship.~~

22 (2) ~~The type of relationship.~~

23 (3) ~~The frequency of interaction between the persons involved in the~~
24 ~~relationship.~~

25 * * *

26 Section 4. Code of Evidence Article 412.4(A) and (D) are hereby amended and
27 reenacted to read as follows:

1 Art. 412.4. Evidence of similar crimes, wrongs, or acts in domestic abuse cases and
2 cruelty against juveniles cases

3 A. When an accused is charged with a crime involving abusive behavior
4 against a family member, household member, or dating partner or with acts which
5 constitute cruelty involving a victim who was under the age of seventeen at the time
6 of the offense, evidence of the accused's commission of another crime, wrong, or act
7 involving assaultive behavior against a family member, ~~or~~ household member, or
8 dating partner or acts which constitute cruelty involving a victim who was under the
9 age of seventeen at the time of the offense, may be admissible and may be
10 considered for its bearing on any matter to which it is relevant, subject to the
11 balancing test provided in Article 403.

12 * * *

13 D. For purposes of this Article:

14 (1) "Abusive behavior" means any behavior of the offender involving the use
15 or threatened use of force against the person or property of a family member, ~~or~~
16 household member, or dating partner of the alleged offender.

17 (2) "Dating partner" means any person who is involved or has been involved
18 in a sexual or intimate relationship with the offender characterized by the expectation
19 of affectionate involvement independent of financial considerations, regardless of
20 whether the person presently lives or formerly lived in the same residence with the
21 offender. "Dating partner" shall not include a casual relationship or ordinary
22 association between persons in a business or social context.

23 ~~(2)~~(3) "Family member" means spouses, former spouses, parents and
24 children, stepparents, stepchildren, foster parents, and foster children.

25 ~~(3)~~(4) "Household member" means any person having reached the age of
26 majority presently or formerly living in the same residence with the offender as a
27 spouse, whether married or not, or any child presently or formerly living in the same
28 residence with the offender, or any child of the offender regardless of where the child
29 resides.

2017 Regular Session
HOUSE BILL NO. 509

ACT No. 90

BY REPRESENTATIVE SCHRODER

1 AN ACT

2 To amend and reenact R.S. 14:79(A)(1)(a), (B), and (C) and Code of Criminal Procedure
3 Article 320(G), relative to the issuance and violation of protective orders; to provide
4 for penalties for violations of temporary restraining orders; to provide relative to the
5 issuance of protective orders and the prohibition on communication and contact as
6 conditions of release on bail for certain offenses; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:79(A)(1)(a), (B), and (C) are hereby amended and reenacted to
9 read as follows:

10 §79. Violation of protective orders

11 A.(1)(a) Violation of protective orders is the willful disobedience of a
12 preliminary or permanent injunction or protective order issued pursuant to R.S. 9:361
13 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., R.S.
14 46:2181 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure
15 Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 320, ~~327.1~~, ~~335.1~~,
16 ~~335.2~~, and 871.1 after a contradictory court hearing, or the willful disobedience of
17 a temporary restraining order or any ex parte protective order issued pursuant to R.S.
18 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq.,
19 criminal stay-away orders as provided for in Code of Criminal Procedure Articles
20 320, ~~327.1~~, ~~335.1~~, ~~335.2~~, Children's Code Article 1564 et seq., or Code of Civil
21 Procedure Articles 3604 and 3607.1, if the defendant has been given notice of the

1 temporary restraining order or ex parte protective order by service of process as
2 required by law.

3 * * *

4 B.(1) On a first conviction for violation of protective orders which does not
5 involve a battery or any crime of violence as defined by R.S. 14:2(B) against the
6 person protected by the protective order, the offender shall be fined not more than
7 five hundred dollars or imprisoned for not more than six months, or both.

8 ~~(2) On a second conviction for violation of protective orders which does not
9 involve a battery or any crime of violence as defined by R.S. 14:2(B) against the
10 person protected by the protective order, regardless of whether the second offense
11 occurred before or after the first conviction, the offender shall be fined not more than
12 one thousand dollars and imprisoned for not less than forty-eight hours nor more
13 than six months. At least forty-eight hours of the sentence of imprisonment imposed
14 under this Paragraph shall be without benefit of probation, parole, or suspension of
15 sentence. If a portion of the sentence is imposed with benefit of probation, parole,
16 or suspension of sentence, the court shall require the offender to participate in a
17 court-monitored domestic abuse intervention program as defined by R.S. 14:35.3.~~

18 ~~(3)~~(2) On a ~~third~~ second or subsequent conviction for violation of protective
19 orders which does not involve a battery or any crime of violence as defined by R.S.
20 14:2(B) against the person protected by the protective order, regardless of whether
21 the current offense occurred before or after the earlier convictions, the offender shall
22 be fined not more than one thousand dollars and imprisoned with or without hard
23 labor for not less than fourteen days nor more than two years. At least fourteen days
24 of the sentence of imprisonment imposed under this Paragraph shall be without
25 benefit of probation, parole, or suspension of sentence. If a portion of the sentence
26 is imposed with benefit of probation, parole, or suspension of sentence, the court
27 shall require the offender to participate in a court-monitored domestic abuse
28 intervention program as defined by R.S. 14:35.3.

29 C.(1) ~~Whoever is convicted of the offense of violation of protective orders
30 where the violation involves a battery or any crime of violence as defined by R.S.~~

1 ~~14:2(B) against the person protected by the protective order, and who has not been~~
 2 ~~convicted of violating a protective order or of an assault or battery upon the person~~
 3 ~~protected by the protective order within the five years prior to commission of the~~
 4 ~~instant offense, shall be fined not more than five hundred dollars and imprisoned for~~
 5 ~~not less than fourteen days nor more than six months. At least fourteen days of the~~
 6 ~~sentence of imprisonment imposed under this Paragraph shall be without benefit of~~
 7 ~~probation, parole, or suspension of sentence. If a portion of the sentence is imposed~~
 8 ~~with benefit of probation, parole, or suspension of sentence, the court shall require~~
 9 ~~the offender to participate in a court-monitored domestic abuse intervention program~~
 10 ~~as defined by R.S. 14:35.3 as part of that probation.~~

11 ~~(2)~~(1) Whoever is convicted of the offense of violation of protective orders
 12 where the violation involves a battery or any crime of violence as defined by R.S.
 13 14:2(B) against the person for whose benefit the protective order is in effect, ~~and~~
 14 ~~who has been convicted not more than one time of violating a protective order or of~~
 15 ~~an assault or battery upon the person for whose benefit the protective order is in~~
 16 ~~effect within the five-year period prior to commission of the instant offense,~~
 17 ~~regardless of whether the instant offense occurred before or after the earlier~~
 18 ~~convictions,~~ shall be fined not more than one thousand dollars and imprisoned with
 19 or without hard labor for not less than three months nor more than two years. At
 20 least thirty days of the sentence of imprisonment imposed under this Paragraph shall
 21 be without benefit of probation, parole, or suspension of sentence. If a portion of the
 22 sentence is imposed with benefit of probation, parole, or suspension of sentence, the
 23 court shall require the offender to participate in a court-monitored domestic abuse
 24 intervention program as defined by R.S. 14:35.3.

25 ~~(3)~~(2) Whoever is convicted of the offense of violation of protective orders
 26 where the violation involves a battery or any crime of violence as defined by R.S.
 27 14:2(B) against the person for whose benefit the protective order is in effect, and
 28 who has ~~more than one~~ a conviction of violating a protective order or of an assault
 29 or battery upon the person for whose benefit the protective order is in effect during
 30 the five-year period prior to commission of the instant offense, regardless of whether

1 the instant offense occurred before or after the earlier convictions, the offender shall
 2 be fined not more than two thousand dollars and imprisoned with or without hard
 3 labor for not less than one year nor more than five years. At least one year of the
 4 sentence of imprisonment imposed under this Paragraph shall be without benefit of
 5 probation, parole, or suspension of sentence.

* * *

7 Section 2. Code of Criminal Procedure Article 320(G) is hereby amended and
 8 reenacted to read as follows:

9 Art. 320. Conditions of bail undertaking

* * *

11 G. Domestic offenses, stalking, and sex offenses. (1) In determining
 12 conditions of release of a defendant who is alleged to have committed an offense
 13 against the defendant's family or household member, as defined in R.S. 46:2132(4),
 14 or against the defendant's dating partner, as defined in R.S. 46:2151, or who is
 15 alleged to have committed the offense of domestic abuse battery under the provisions
 16 of R.S. 14:35.3, or who is alleged to have committed the offense of stalking under
 17 the provisions of R.S. 14:40.2, or who is alleged to have committed a sexual assault
 18 as defined in R.S. 46:2184, or who is alleged to have committed the offense of first
 19 degree rape under the provisions of R.S. 14:42, the court shall consider the previous
 20 criminal history of the defendant and whether the defendant poses a threat or danger
 21 to the victim. If the court determines that the defendant poses such a threat or
 22 danger, it shall require as a condition of bail that the defendant refrain from going
 23 to the residence or household of the victim, the victim's school, and the victim's place
 24 of employment or otherwise contacting the victim in any manner whatsoever, and
 25 shall refrain from having any further contact with the victim. The court shall also
 26 consider any statistical evidence prepared by the United States Department of Justice
 27 relative to the likelihood of such defendant or any person in general who has raped
 28 or molested victims under the age of thirteen years to commit sexual offenses against
 29 a victim under the age of thirteen in the future.

2017 Regular Session
HOUSE BILL NO. 204
BY REPRESENTATIVE BILLIOT

ACT No. 98

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Articles 883.1 and 892(A) and (B)(1),
3 relative to criminal sentences; to provide for documentation regarding criminal
4 cases; to remove the requirement that the court provide a copy of the court minutes
5 to the Department of Public Safety and Corrections in certain cases; to require the
6 court to provide the department with a certified copy of the Uniform Sentencing
7 Commitment Order; to authorize the department to request additional information
8 from the court when necessary; to provide for an effective date; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Code of Criminal Procedure Articles 883.1 and 892(A) and (B)(1) are
12 hereby amended and reenacted to read as follows:

13 Art. 883.1. Sentences concurrent with sentences of other jurisdictions

14 A. The sentencing court may specify that the sentence imposed be served
15 concurrently with a sentence imposed by a federal court or a court of any other state
16 and that service of the concurrent terms of imprisonment in a federal correctional
17 institution or a correctional institution of another state shall be in satisfaction of the
18 sentence imposed in this state in the manner and to the same extent as if the
19 defendant had been committed to the ~~Louisiana~~ Department of Public Safety and
20 Corrections for the term of years served in a federal correctional institution or a
21 correctional institution of another state. When serving a concurrent sentence in a
22 federal correctional institution or a correctional institution of another state, the
23 defendant shall receive credit for time served as allowed under the laws of this state.

2017 Regular Session
HOUSE BILL NO. 485
BY REPRESENTATIVE JEFFERSON

ACT No. 104

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 404(A), (C), (D), (E), and (F) and
3 to enact Code of Criminal Procedure Article 404(G) and (H), relative to jury
4 commissions; to provide for technical corrections; to provide for the functions of the
5 jury commission in the parishes of Claiborne, DeSoto, Union, and Webster; to
6 transfer the functions of the jury commission to the clerks of court of Claiborne
7 Parish, DeSoto Parish, Union Parish, and Webster Parish; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Code of Criminal Procedure Article 404(A), (C), (D), (E), and (F) are
11 hereby amended and reenacted and Code of Criminal Procedure Article 404(G) and (H) are
12 hereby enacted to read as follows:

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

15 A. ~~Except in the parish of East Baton Rouge as otherwise provided in this~~
16 Article:

17 (1) The jury commission of each parish shall consist of the clerk of court or
18 a deputy clerk designated by him in writing to act in his stead in all matters affecting
19 the jury commission, and five four other members, each having the qualifications set
20 forth in Article 401 and appointed by written order of the district court, who shall
21 serve at the court's pleasure.

22 (2) ~~In Orleans Parish the jury commission shall be appointed by the judges~~
23 ~~en banc of the Criminal District Court of the parish of Orleans, and the jury~~
24 ~~commissioners shall serve at the pleasure of the court. Upon the effective date of the~~

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

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

11 ~~(4)~~(3) Three members of the jury commission shall constitute a quorum.

12 ~~(5)~~(4) Meetings of the jury commission shall be open to the public.

13 * * *

14 C. In Orleans Parish, the jury commission shall be appointed by the judges
 15 en banc of the Criminal District Court of the parish of Orleans, and the jury
 16 commissioners shall serve at the pleasure of the court.

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

26 D.E. In the parish of Terrebonne, the function of the jury commission shall
 27 be performed by the clerk of court of Terrebonne Parish or by a deputy clerk of court
 28 designated by him in writing to act in his stead in all matters affecting the jury
 29 commission. The clerk of court or his designated deputy shall have the same powers,
 30 duties, and responsibilities, and shall be governed by all applicable provisions of law

1 pertaining to jury commissioners. The clerk of court of Terrebonne Parish shall
2 perform the duties and responsibilities otherwise imposed upon him by law with
3 respect to jury venires, shall coordinate the jury venire process, and shall receive the
4 compensation generally authorized for a jury commissioner.

5 E.F. In the parish of St. Charles, the function of the jury commission shall
6 be performed by the clerk of court of St. Charles Parish or by a deputy clerk of court
7 designated by him in writing to act in his stead in all matters affecting the jury
8 commission. The clerk of court or his designated deputy shall have the same powers,
9 duties, and responsibilities, and shall be governed by all applicable provisions of law
10 pertaining to jury commissioners. The clerk of court of St. Charles Parish shall
11 perform the duties and responsibilities otherwise imposed upon him by law with
12 respect to jury venires, shall coordinate the jury venire process, and shall receive the
13 compensation generally authorized for a jury commissioner.

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

24 H. In the parishes of Claiborne, DeSoto, Union, and Webster, the function
25 of the jury commission shall be performed by the clerks of court of Claiborne Parish,
26 DeSoto Parish, Union Parish, and Webster Parish or by a deputy clerk of court
27 designated by the respective clerk in writing to act in his stead in all matters affecting
28 the jury commission. The clerk of court or his designated deputy shall have the same
29 powers, duties, and responsibilities, and shall be governed by all applicable
30 provisions of law pertaining to jury commissioners. The clerks of court of Claiborne

1 Parish, DeSoto Parish, Union Parish, and Webster Parish shall perform the duties and
2 responsibilities otherwise imposed upon him by law with respect to jury venires,
3 shall coordinate the jury venire process, and shall receive the compensation generally
4 authorized for a jury commissioner.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

ACT No. 146

HOUSE BILL NO. 253

BY REPRESENTATIVES SMITH, ABRAHAM, AMEDEE, BACALA, BAGLEY, BAGNERIS, BARRAS, BERTHELOT, BILLIOT, BISHOP, BOUIE, CHAD BROWN, TERRY BROWN, CARMODY, CARPENTER, GARY CARTER, ROBBY CARTER, STEVE CARTER, CHANEY, CONNICK, COUSSAN, COX, CROMER, DEVILLIER, DWIGHT, EMERSON, FALCONER, FOIL, FRANKLIN, GAINES, GAROFALO, GISCLAIR, GLOVER, GUINN, HALL, JIMMY HARRIS, HAVARD, HENSGENS, HILFERTY, HOFFMANN, HORTON, HOWARD, HUNTER, HUVAL, JACKSON, JAMES, JEFFERSON, JENKINS, JOHNSON, JORDAN, NANCY LANDRY, LEBAS, LEOPOLD, LYONS, MARINO, MCFARLAND, DUSTIN MILLER, GREGORY MILLER, MORENO, JIM MORRIS, PEARSON, POPE, PRICE, PYLANT, RICHARD, SCHRODER, SHADOIN, STAGNI, STEFANSKI, THIBAUT, THOMAS, AND ZERINGUE AND SENATORS ALARIO, ALLAIN, APPEL, BARROW, BOUDREAUX, CARTER, CHABERT, CLAITOR, COLOMB, CORTEZ, DONAHUE, ERDEY, FANNIN, GATTI, HEWITT, JOHNS, LAFLEUR, LAMBERT, LONG, LUNEAU, MARTINY, MILKOVICH, MILLS, MIZELL, MORRELL, PEACOCK, PERRY, PETERSON, RISER, GARY SMITH, JOHN SMITH, TARVER, THOMPSON, WALSWORTH, WARD, AND WHITE

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AN ACT

To amend and reenact R.S. 4:715(B)(2), R.S. 14:32(D)(3) and 39(D)(3), R.S. 17:43(B)(2) and 1942(B), R.S. 21:51(C) and 52(A) and (B), R.S. 22:245, 1027(A), and 1038(C)(2)(a) and (E), R.S. 36:259(N), R.S. 37:2446.1(B)(7) and 2651(7)(b)(v)(hh), R.S. 40:1580.1(A) and 2208, R.S. 42:1119(B)(2)(a)(i), R.S. 45:1355(A), the heading of Chapter 30-A of Title 46 of the Louisiana Revised Statutes of 1950, R.S. 46:2261, 2262(A) and (C), 2262.1(introductory paragraph), (4), and (12), 2263(3), (4), and (6) through (8), 2264(A), (C), and (D), 2265(A)(introductory paragraph), (9), and (10), 2266(1) and (3) through (5), 2352(7)(a) and (10)(a)(introductory paragraph), 2361, 2362(2) through (6), 2363 through 2365, 2367, 2368(B), and 2372, R.S. 47:6301(A)(3), the heading of Part X of Chapter 1 of Title 49 of the Louisiana Revised Statutes of 1950, R.S. 49:181(A), and Code of Criminal Procedure Article 401.1(B)(introductory paragraph), relative to terminology referring to the deaf and hard of hearing; to delete and make substitutions for terms which are derogatory, inaccurate, or obsolete; to provide for consistency in usage of terms referring to the

1 deaf and hard of hearing and to hearing loss; to provide for revision of terminology
2 relative to the deaf and hard of hearing in administrative rules, policy documents,
3 professional resources, reference materials, manuals, and other publications; to
4 provide for legislative intent; to provide for construction; and to provide for related
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 4:715(B)(2) is hereby amended and reenacted to read as follows:

8 §715. Personnel to hold games; commissions or salaries; equipment and supplies;
9 expenses

10 * * *

11 B.

12 * * *

13 (2) Notwithstanding any provision of law to the contrary, any person,
14 association, or corporation licensed to hold, operate, or conduct any games of chance
15 that benefit persons with visual ~~or hearing~~ impairments, hearing loss, paraplegia,
16 quadriplegia, intellectual disabilities, or persons sixty years of age or older, under
17 any license issued pursuant to this Chapter, may compensate for services rendered,
18 any fifteen employees who assist in the holding, operating, or conducting of such
19 games. The rate of compensation shall be no more than fifteen dollars per hour and
20 in any event shall not exceed ninety dollars per session for any employee. Each
21 employee or volunteer worker may also be provided meals and beverages to be eaten
22 on the premises not to exceed a total value of fifteen dollars per person.
23 Expenditures made under the provisions of this Subsection shall be subject to the
24 reporting provisions of R.S. 4:716. Compensation provided for in this Subsection
25 shall not constitute a violation of the prohibition against the payment or giving of a
26 commission, salary, compensation, reward, or recompense to any person holding,
27 operating, or conducting, or assisting in the holding, operation, or conduct of any
28 such game.

29 Section 2. R.S. 14:32(D)(3) and 39(D)(3) are hereby amended and reenacted to read
30 as follows:

1 §32. Negligent homicide

2 * * *

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

4 * * *

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

9 * * *

10 §39. Negligent injuring

11 * * *

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

13 * * *

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

18 * * *

19 Section 3. R.S. 17:43(B)(2) and 1942(B) are hereby amended and reenacted to read
20 as follows:

21 §43. Special schools defined; benefits for certificated teachers; legislative policy

22 * * *

23 B.

24 * * *

25 (2) Teachers at the Louisiana Schools for the Deaf and Visually Impaired
26 may attain tenure in the educational program, either the educational program for the
27 ~~hearing impaired~~ deaf and hard of hearing or the educational program for the visually

1 with medical treatment or diagnostic consultations performed by a ~~health care~~
2 healthcare provider.

3 * * *

4 §1027. ~~Hearing-impaired interpreter~~ Interpreter services for the deaf and hard of
5 hearing; expenses

6 A. Any hospital or medical expense insurance policy delivered or issued for
7 delivery in this state on or after December 1, 1991, shall contain a provision or
8 endorsement requiring payment for expenses incurred by the insured for services
9 performed by a qualified interpreter/transliterater, other than a family member of the
10 insured, when such services are used by the insured in connection with medical
11 treatment or diagnostic consultations performed by a physician, dentist, chiropractor,
12 or podiatrist, provided such medical treatment or consultation is covered under said
13 insurance policy and provided the services are required because of ~~a hearing~~
14 ~~impairment~~ loss of the insured or a failure of the insured to understand or otherwise
15 communicate in spoken language.

16 * * *

17 §1038. Hearing aid coverage for minor child

18 * * *

19 C.

20 * * *

21 (2)(a) An entity subject to this Section may limit the benefit payable under
22 Paragraph (1) of this Subsection to one thousand and four hundred dollars per
23 hearing aid for each ~~hearing-impaired~~ ear with hearing loss every thirty-six months.

24 * * *

25 E. The provisions of this Section shall apply to any new policy, contract,
26 program, or plan issued by an entity subject to the provisions of this Section on or
27 after January 1, 2004. Any such policy, contract, program, or plan in effect prior to
28 January 1, 2004, shall convert to the provisions of this Section on or before the
29 renewal date but in no event later than January 1, 2005. Any policy affected by the
30 provisions of this Section shall apply to an insured or participant under such policy,

1 contract, program, or plan whether or not the hearing ~~impairment~~ loss is a
2 pre-existing condition of the insured or participant.

3 * * *

4 Section 6. R.S. 36:259(N) is hereby amended and reenacted to read as follows:

5 §259. Transfer of agencies and functions to Louisiana Department of Health

6 * * *

7 N. The advisory council for the program of early identification of deaf or
8 hard of hearing ~~impaired~~ infants (R.S. 46:2261 et seq.) is placed within the Louisiana
9 Department of Health and shall exercise and perform its powers, duties, functions,
10 and responsibilities as provided by or pursuant to law.

11 * * *

12 Section 7. R.S. 37:2446.1(B)(7) and 2651(7)(b)(v)(hh) are hereby amended and
13 reenacted to read as follows:

14 §2446.1. Continuing education requirement

15 * * *

16 B. Among those subjects which shall be approved by the board as categories
17 of study toward completion of the annual requirement of continuing education are:

18 * * *

19 (7) Allied professional disciplines relating to the ~~hearing-impaired~~ deaf or
20 hard of hearing and hearing aid devices may be approved by the board.

21 * * *

22 §2651. Definitions

23 As used in this Chapter:

24 * * *

25 (7)

26 * * *

27 (b) An individual who meets the requirements of this Chapter for licensure
28 as an audiologist and who engages in the fitting and selling of hearing aids shall:

29 * * *

1 (v) Provide documentation of completion of at least thirty semester credit
 2 hours of professional coursework, twenty-one hours of which shall be in audiology.
 3 A minimum of six semester credit hours shall be in specific areas in amplification,
 4 including:

5 * * *

6 (hh) Rehabilitative procedures, such as hearing aid orientation, counseling
 7 of ~~hearing impaired~~ individuals who are deaf or hard of hearing and their families,
 8 speechreading, and auditory training.

9 * * *

10 Section 8. R.S. 40:1580.1(A) and 2208 are hereby amended and reenacted to read
 11 as follows:

12 §1580.1. Fire alarms; hotel or motel rooms

13 A. Every new or renovated hotel or motel room shall have sleeping rooms
 14 equipped with approved fire detection and alarm systems for the deaf or hard of
 15 hearing impaired in case of fire in accordance with the requirements of Section 9 of
 16 the Americans with Disabilities Act Accessibility Guidelines (ADAAG) table 9.1.2
 17 and 9.1.3.

18 * * *

19 §2208. ~~Hearing impaired interpreter~~ Interpreter services for the deaf and hard of
 20 hearing; expenses; coverage

21 As a requirement for authorization to do business in this state pursuant to
 22 R.S. 40:2203, all preferred provider organizations shall provide coverage for
 23 expenses incurred by any ~~hearing impaired~~ covered patient who is deaf or hard of
 24 hearing for services performed by a qualified interpreter/translator, other than a
 25 family member of the covered patient, when such services are used by the covered
 26 patient in connection with medical treatment or diagnostic consultations performed
 27 by the health care provider.

28 Section 9. R.S. 42:1119(B)(2)(a)(i) is hereby amended and reenacted to read as
 29 follows:

1 other appropriate means of communication in order to provide such persons with the
2 same information or instructions as is provided to hearing persons.

3 * * *

4 Section 11. The heading of Chapter 30-A of Title 46 of the Louisiana Revised
5 Statutes of 1950, R.S. 46:2261, 2262(A) and (C), 2262.1(introductory paragraph), (4), and
6 (12), 2263(3), (4), and (6) through (8), 2264(A), (C), and (D), 2265(A)(introductory
7 paragraph), (9), and (10), 2266(1) and (3) through (5), 2352(7)(a) and (10)(a)(introductory
8 paragraph), 2361, 2362(2) through (6), 2363 through 2365, 2367, 2368(B), and 2372 are
9 hereby amended and reenacted to read as follows:

10 CHAPTER 30-A. IDENTIFICATION OF HEARING

11 ~~IMPAIRMENT LOSS~~ IN INFANTS LAW

12 §2261. Short title

13 This Chapter may be cited as the "Identification of Hearing ~~Impairment Loss~~
14 in Infants Law".

15 §2262. Purpose

16 A. The purpose of the program for early identification of hearing ~~impairment~~
17 loss is to identify ~~hearing impaired~~ deaf or hard of hearing infants at the earliest
18 possible time so that medical treatment, early audiological evaluation, selection of
19 amplification, and early educational intervention can be provided.

20 * * *

21 C. Early identification and management of the ~~hearing impaired~~ deaf or hard
22 of hearing infant are essential if that infant is to acquire the vital language and speech
23 skills needed to achieve maximum potential educationally, emotionally, and socially.

24 * * *

25 §2262.1. Bill of Rights

26 In order to ~~insure~~ ensure that children who are deaf or hard of hearing
27 ~~impaired~~ have the same rights and potential to become independent and self-
28 actualizing as children who are not deaf or hard of hearing ~~impaired~~, the Deaf Child's

1 Bill of Rights is established so that children who are deaf or hard of hearing ~~impaired~~
2 are entitled:

3 * * *

4 (4) To adult role models who are deaf or hard of hearing ~~impaired~~.

5 * * *

6 (12) Where appropriate, to have deaf and hard of hearing ~~impaired~~ adults
7 directly involved in determining the extent, content, and purpose of all programs that
8 affect their education.

9 §2263. Definitions

10 Except where the context clearly indicates otherwise, in this Chapter:

11 * * *

12 (3) "~~Hearing impaired~~ Deaf or hard of hearing infant" means an infant who
13 has a disorder of the auditory system of any type or degree, causing a ~~hearing~~
14 ~~impairment~~ hearing loss sufficient to interfere with the development of language and
15 speech skills. ~~The term "hearing impaired infant" includes both deaf and hard-of-~~
16 ~~hearing infants.~~

17 (4) "~~Infants at risk~~" "Infants susceptible to a hearing disability" means those
18 infants who are ~~at risk for~~ susceptible to hearing ~~impairment~~ loss because they have
19 one or more risk factors.

20 * * *

21 (6) "Program" means the program that the office of public health establishes
22 to provide for the early identification and follow-up of infants ~~at risk~~ susceptible to
23 a hearing disability, of deaf or hard of hearing ~~impaired~~ infants, and of infants who
24 have a risk factor for developing a progressive hearing ~~impairment~~ loss.

25 (7)(a) "Risk factors" means those criteria or factors, any one of which
26 identifies an infant as being ~~at risk for~~ susceptible to hearing ~~impairment~~ loss.

27 (a) (b) The risk factors that identify those neonates, infants from birth
28 through the first twenty-eight days, who are ~~at risk for~~ susceptible to sensorineural
29 hearing ~~impairment~~ loss include the following:

1 (i) Family history of congenital or delayed onset childhood sensorineural
2 impairment.

3 (ii) Congenital infection known or suspected to be associated with
4 sensorineural hearing ~~impairment~~ loss such as toxoplasmosis, syphilis, rubella,
5 cytomegalovirus, and herpes.

6 (iii) Craniofacial anomalies including morphologic abnormalities of the
7 pinna and ear canal, absent philtrum, low hairline, et cetera.

8 (iv) Birth weight less than one thousand five hundred grams or less than
9 three and three tenths pounds.

10 (v) Hyperbilirubinemia at a level exceeding indication for exchange
11 transfusion.

12 (vi) Ototoxic medications, including but not limited to the aminoglycosides
13 used for more than five days, such as gentamicin, tobramycin, kanamycin,
14 streptomycin, and loop diuretics used in combination with aminoglycosides.

15 (vii) Bacterial meningitis.

16 (viii) Severe depression at birth, which may include infants with Apgar
17 scores of zero to three at five minutes or those who fail to initiate spontaneous
18 respiration by ten minutes or those with hypotonia persisting to two hours of age.

19 (ix) Prolonged mechanical ventilation for a duration equal to or greater than
20 ten days, such as persistent pulmonary hypertension.

21 (x) Stigmata or other findings associated with a syndrome known to include
22 sensorineural hearing loss, such as Waardenburg or ~~Usher's~~ Usher Syndrome.

23 (xi) Other risk factors added or deleted by the office of public health upon
24 recommendation of the advisory council for early identification of deaf or hard of
25 hearing ~~impaired~~ children.

26 ~~(b)~~ (c) The factors that identify those infants aged twenty-nine days to two
27 years who are ~~at risk for~~ susceptible to sensorineural hearing ~~impairment~~ loss include
28 the following:

29 (i) Parent or caregiver concerns regarding hearing, speech, language, or
30 ~~and/or~~ developmental delay.

1 (ii) Bacterial meningitis.

2 (iii) Neonatal risk factors that may be associated with progressive
 3 sensorineural hearing loss, such as cytomegalovirus, prolonged mechanical
 4 ventilation, and inherited disorders.

5 (iv) Head trauma, especially with either longitudinal or transverse fracture
 6 of the temporal bone.

7 (v) Stigmata or other findings associated with syndromes known to include
 8 sensorineural hearing loss, such as Waardenburg or ~~Usher's~~ Usher Syndrome.

9 (vi) Ototoxic medications, including but not limited to the aminoglycosides
 10 used for more than five days, such as gentamicin, tobramycin, kanamycin,
 11 streptomycin, and loop diuretics used in combination with aminoglycosides.

12 (vii) Neurodegenerative disorders such as neurofibromatosis, myoclonic
 13 epilepsy, Werdnig-Hoffman disease, ~~Tay-Sach's~~ Tay-Sachs disease, infantile
 14 Gaucher's disease, ~~Nieman-Pick~~ Niemann-Pick disease, any metachromatic
 15 leukodystrophy, or any infantile demyelinating neuropathy.

16 (viii) Childhood infectious diseases known to be associated with
 17 sensorineural hearing loss, such as mumps or measles.

18 (ix) Other risk factors added or deleted by the office of public health upon
 19 recommendation of the advisory council for early identification of deaf or hard of
 20 hearing ~~impaired~~ children.

21 (8) "Screening for hearing ~~impairment~~ loss" means employing a device for
 22 identifying whether an infant has a disorder of the auditory system, but may not
 23 necessarily provide a comprehensive determination of hearing thresholds in the
 24 speech range. Procedures may include auditory brainstem response (ABR)
 25 screening, ~~or~~ evoked otoacoustic emissions (EOAE) screening, ~~or~~ and other devices
 26 approved by the office upon recommendation of the advisory council.

27 §2264. Identification of hearing ~~impairment~~ loss in infants

28 A. ~~The office of public health in the Louisiana Department of Health~~ shall
 29 establish, in consultation with the advice of the Louisiana Commission for the Deaf
 30 and the advisory council created in R.S. 46:2265, a program for the early

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 identification and follow-up of ~~infants at risk~~ infants susceptible to a hearing
 2 disability, deaf or hard of hearing ~~impaired~~ infants, and infants ~~at risk of~~ susceptible
 3 to developing a progressive hearing ~~impairment~~ loss. ~~That~~ The program shall, at a
 4 minimum:

5 (1) Develop criteria or factors to identify those infants ~~at risk for hearing~~
 6 ~~impairment and infants at risk of developing a progressive hearing impairment~~ who
 7 are likely deaf or hard of hearing and infants who may develop a progressive hearing
 8 loss, including the risk factors set forth in this Chapter, and develop ~~an at-risk a~~
 9 susceptibility questionnaire for infant hearing loss.

10 (2) Create ~~an at-risk a~~ susceptibility registry to include, but not be limited to,
 11 the identification of infants ~~at risk for~~ susceptible to hearing ~~impairment~~ loss, ~~deaf~~
 12 ~~or hard of hearing~~ ~~impaired~~ infants, and infants ~~at risk of~~ susceptible to developing
 13 a progressive hearing ~~impairment~~ loss.

14 (3) Provide to the hospitals and other birthing sites the ~~at-risk~~ susceptibility
 15 questionnaire for infant hearing loss and require that the form be completed for any
 16 newborn prior to discharge from the hospital or other birthing site. As to ~~infants at~~
 17 ~~risk~~ infants susceptible to a hearing disability, copies of the completed ~~at-risk~~
 18 susceptibility questionnaire shall be distributed to the ~~at-risk~~ susceptibility registry
 19 of the office, the parent or guardian, and, if known, the infant's primary care
 20 physician and the provider of audiological services.

21 (4) Require for all newborn infants that the hospital of birth or that hospital
 22 to which the newborn infant may be transferred provide screening for hearing
 23 ~~impairment~~ loss by auditory brainstem response (ABR) screening, ~~or~~ evoked
 24 otoacoustic emissions (EOAE) screening, or any other screening device approved by
 25 the office before discharge. The results of that screening for hearing ~~impairment~~ loss
 26 shall be provided to the ~~at-risk~~ susceptibility registry of the office ~~of public health~~,
 27 the parent or guardian, and if known, the primary care physician and the provider of
 28 audiological services.

29 (5) Develop and provide to the hospitals or other birthing sites appropriate
 30 written materials regarding hearing ~~impairment~~ loss, and require that the hospitals

1 or other birthing sites provide this written material to all parents or guardians of
2 newborn infants.

3 (6) Develop methods to contact parents or guardians of ~~infants at risk~~ infants
4 susceptible to a hearing disability, of deaf or hard of hearing ~~impaired~~ infants, and
5 of infants ~~at risk of~~ susceptible to developing a progressive hearing impairment loss.

6 (7) Establish a telephone hotline to communicate information about hearing
7 ~~impairment loss~~, hearing screening, audiological evaluation, and other services for
8 deaf or hard of hearing ~~impaired~~ infants.

9 (8) Provide that when a screening for hearing impairment indicates a hearing
10 loss, audiological evaluation shall be done as soon as practical. The parents or
11 guardians of the infant shall be provided with information on locations at which
12 medical and audiological follow up can be obtained.

13 * * *

14 C. The office shall develop a system for the collection of data, determine the
15 cost-effectiveness of the program, and disseminate statistical reports to the Louisiana
16 Commission for the Deaf.

17 D. The office, in cooperation with the state Department of Education, shall
18 develop a plan to coordinate early educational and audiological services for infants
19 identified as deaf or hard of hearing ~~impaired~~.

20 * * *

21 §2265. Advisory council creation; membership; terms; quorum; compensation

22 A. There is hereby created an advisory council for the program of early
23 identification of deaf or hard of hearing ~~impaired~~ infants. The council shall consist
24 of fourteen members as follows:

25 * * *

26 (9) A parent ~~of an oral hearing impaired~~ who chose the oral method for their
27 deaf or hard of hearing child.

28 (10) A parent of a deaf or hard of hearing ~~impaired~~ child utilizing total
29 communication.

30 * * *

1 §2266. Powers, duties, functions of the advisory council

2 The advisory council shall:

3 (1) Advise and recommend risk factors or criteria for infants who are ~~at risk~~
4 ~~of hearing impairments and infants at risk of developing a progressive hearing~~
5 ~~impairment~~ likely deaf or hard of hearing and infants who may develop a progressive
6 hearing loss.

7 * * *

8 (3) Advise the office as to integrating the program for early identification of
9 deaf or hard of hearing ~~impaired~~ infants with existing medical, audiological, and
10 early infant education programs.

11 (4) Advise the office as to materials to be distributed to the public
12 concerning deaf or hard of hearing ~~impaired~~ infants.

13 (5) Advise the office on the implementation of the program for early
14 identification and follow-up of ~~infants at risk~~ infants susceptible to a hearing
15 disability, deaf or hard of hearing ~~impaired~~ infants, and infants who are at risk of
16 developing a progressive hearing ~~impairment~~ loss.

17 * * *

18 §2352. Duties

19 The commission shall:

20 * * *

21 (7) Certify interpreters and maintain a registry of certified interpreters. The
22 commission shall promulgate rules for the examination of applicants for certification
23 and the issuance of certificates. Such rules shall be subject to legislative oversight
24 review pursuant to the Administrative Procedure Act and shall be subject to the
25 following limitations:

26 (a) The commission shall not promulgate any rule or regulation which denies
27 a ~~hearing-impaired~~ deaf or hard of hearing person's right to choose his interpreter.

28 * * *

29 (10)(a) Establish, administer, and promote a statewide program to provide
30 access to all public telecommunications services by persons who are deaf, deaf-blind,

1 and others such as ~~severely hearing impaired~~ persons with severe hearing loss or
2 ~~severely speech impaired~~ severe speech impairments. This program shall include but
3 is not limited to:

4 * * *

5 §2361. Purpose

6 It is the policy of this state to secure the rights of persons with hearing
7 ~~impairments~~ loss who cannot readily understand or communicate in spoken
8 languages and who consequently cannot equally participate in or benefit from
9 proceedings, programs, and activities of the courts, legislative bodies, administrative
10 agencies, licensing commissions, departments, and boards of the state and its
11 subdivisions unless qualified interpreters/transliterators are available to facilitate
12 communication.

13 §2362. Definitions

14 As used in this Chapter:

15 * * *

16 (2) A "~~hearing-impaired~~ person who is deaf or hard of hearing" means a
17 person who, because of a hearing ~~impairment~~ loss, has difficulty understanding the
18 communication occurring.

19 (3) "Interpreter/transliterator" means a facilitator of communication among
20 persons with hearing and ~~hearing-impaired~~ persons who are deaf or hard of hearing
21 as provided in R.S. 46:2365 and ~~R.S. 14:2368~~ 2368.

22 (4) "Intermediary interpreter/transliterator" means any person, including any
23 ~~hearing-impaired~~ person who is deaf or hard of hearing, who is able to assist in
24 providing an accurate interpretation between spoken English and sign language or
25 between variants of sign language by acting as an intermediary between a ~~hearing-~~
26 ~~impaired~~ person who is deaf or hard of hearing and a qualified
27 interpreter/transliterator. The intermediary interpreter/transliterator may be needed
28 for non-manual ~~hearing-impaired~~ persons who are deaf or hard of hearing and shall
29 be provided.

1 (5) "Qualified interpreter/transliterator" means any person certified by the
 2 Registry of Interpreters for the Deaf, or in the event an interpreter/transliterator so
 3 certified is not available, one whose qualifications are such that he is able to
 4 accurately communicate with and convey information to and from the ~~hearing-~~
 5 ~~impaired~~ person who is deaf or hard of hearing.

6 (6) "Quasi-judicial proceeding" means any proceeding of a public
 7 administrative office or body which is required to investigate facts, ascertain the
 8 existence of facts, hold hearings, and draw conclusions from them as a basis for their
 9 official action, and to exercise discretion of a judicial nature.

10 §2363. Waiver

11 The right of a ~~hearing-impaired~~ person who is deaf or hard of hearing to the
 12 services of an interpreter/transliterator may not be waived except by a ~~hearing-~~
 13 ~~impaired~~ person who is deaf or hard of hearing who requests a waiver. The failure
 14 of the ~~hearing-impaired~~ person who is deaf or hard of hearing to request the services
 15 of an interpreter/transliterator is not deemed a waiver of that right.

16 §2364. Interpreter/transliterator required

17 A. Whenever a ~~hearing-impaired~~ person who is deaf or hard of hearing is a
 18 party or witness at any stage involving direct communication with ~~hearing-impaired~~
 19 persons who are deaf or hard of hearing or his legal representative or custodian
 20 during any judicial or quasi-judicial proceeding in this state or in its political
 21 subdivisions, including but not limited to proceedings of civil and criminal court,
 22 grand jury, before a magistrate, juvenile, adoption, mental health commitment, and
 23 any proceeding in which a ~~hearing-impaired~~ person who is deaf or hard of hearing
 24 may be subjected to confinement or criminal sanction, the appointing authority shall
 25 appoint and pay for a qualified interpreter/transliterator to interpret or transliterate
 26 the proceedings to the ~~hearing-impaired~~ person who is deaf or hard of hearing and
 27 to interpret or transliterate the ~~hearing-impaired person's~~ testimony of the person who
 28 is deaf or hard of hearing.

29 B. Whenever a juvenile whose parent is ~~hearing-impaired~~ deaf or hard of
 30 hearing is brought before a court for any reason, the court shall appoint and pay for

1 a qualified interpreter/transliterator to interpret or transliterate the proceedings to the
2 ~~hearing-impaired~~ deaf or hard of hearing parent and to interpret or transliterate ~~the~~
3 ~~hearing-impaired~~ that parent's testimony.

4 C. If any hearing or proceeding of any department, board, licensing
5 authority, commission, or administrative agency of the state or of its political
6 subdivision is held, the appointing authority shall appoint and pay for a qualified
7 interpreter/transliterator for ~~hearing-impaired~~ deaf or hard of hearing participants.

8 D. Whenever a ~~hearing-impaired~~ person who is deaf or hard of hearing is a
9 witness before any legislative committee or subcommittee, or legislative research or
10 study committee, or subcommittee or commission authorized by the state legislature
11 or by the legislative body of any political subdivision of the state, the appointing
12 authority shall appoint and pay for a qualified interpreter/transliterator to
13 interpret/transliterate the proceedings to the ~~hearing-impaired~~ person who is deaf or
14 hard of hearing and to interpret/transliterate ~~the hearing-impaired~~ that person's
15 testimony.

16 E.(1) Whenever a ~~hearing-impaired~~ person who is deaf or hard of hearing is
17 arrested for an alleged violation of a criminal law, including a local ordinance, the
18 arresting officer shall procure and the court with jurisdiction over the alleged
19 violation shall pay for a qualified interpreter/transliterator for any interrogation,
20 warning, notification of rights, or taking of a statement.

21 (2) No ~~hearing-impaired~~ person who is deaf or hard of hearing who has been
22 arrested and who is otherwise eligible for release shall be held in custody pending
23 arrival of an interpreter/transliterator.

24 (3) No answer, statement, or admission, written or oral, made by a ~~hearing-~~
25 ~~impaired~~ person who is deaf or hard of hearing in reply to a question of a law
26 enforcement officer or any other person having a prosecutorial function in any
27 criminal proceeding may be used against that ~~hearing-impaired~~ person who is deaf
28 or hard of hearing unless either the statement was made or elicited through a
29 qualified interpreter/transliterator and was made knowingly, voluntarily, and
30 intelligently or, in the case of waiver of interpreters/transliterators, unless the court

1 makes a special finding that any statement made by the ~~hearing-impaired~~ person who
2 is deaf or hard of hearing was made knowingly, voluntarily, and intelligently.

3 F. Where it is the policy and practice of a court of this state or of its political
4 subdivisions to appoint counsel for indigent persons, the appointing authority shall
5 appoint and pay for a qualified interpreter/transliterater for ~~hearing-impaired~~ indigent
6 people who are deaf or hard of hearing to assist in communication with counsel in
7 all phases of the preparation and presentation of the case.

8 §2365. Determination of interpreter's/transliterater's qualifications

9 A. Before appointing an interpreter/transliterater, the appointing authority
10 shall make a preliminary determination; based on the ~~hearing-impaired person's~~
11 ~~needs, the certification of an interpreter/transliterater~~ needs of the person who is deaf
12 or hard of hearing and upon the recommendation of the Louisiana Commission for
13 the Deaf. If the interpreter/transliterater is not able to facilitate effective
14 communication with the ~~hearing-impaired~~ person who is deaf or hard of hearing, the
15 appointing authority shall provide another qualified interpreter/transliterater.

16 B. Upon request of the person for whom the interpreter/transliterater is
17 appointed, or on the appointing authority's own motion, an interpreter/transliterater
18 may be removed for the inability to communicate with the ~~hearing-impaired~~ person
19 who is deaf or hard of hearing, or if, for reasonable cause, another
20 interpreter/transliterater is so desired by the ~~hearing-impaired~~ person who is deaf or
21 hard of hearing for whom the interpreter/transliterater is serving.

22 * * *

23 §2367. Interpreter/transliterater in full view

24 Whenever an interpreter/transliterater is required to be appointed under this
25 Chapter, the appointing authority shall not commence proceedings until the
26 appointed interpreter/transliterater is in full view of and spatially situated to assure
27 effective communication with the ~~hearing-impaired~~ deaf or hard of hearing
28 participant.

29 §2368. Coordination of interpreter/transliterater requests

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1 a mental disability, hearing ~~impairment~~ loss (including deafness), multiple
2 disabilities, deaf-blindness, speech or language impairment, visual impairment
3 (including blindness), emotional disturbance, orthopedic impairment, other health
4 impairment, specific learning disability, traumatic brain injury, dyslexia and related
5 disorders, or autism, and as a result requires special education and related services.

6 * * *

7 Section 13. The heading of Part X of Chapter 1 of Title 49 of the Louisiana Revised
8 Statutes of 1950 and R.S. 49:181(A) are hereby amended and reenacted to read as follows:

9 PART X. EMPLOYMENT AND LICENSING

10 EXAMINATIONS--INTERPRETERS FOR ~~DEAF PERSONS~~

11 THE DEAF AND HARD OF HEARING

12 §181. ~~Interpreters for deaf or severely hearing-impaired persons taking state~~
13 ~~examinations~~ State examinations; interpreters for the deaf and hard of
14 hearing

15 A. Any ~~deaf or severely hearing-impaired~~ person who is deaf or hard of
16 hearing and takes ~~taking~~ an examination which is a prerequisite for employment or
17 licensing by the state or any of its agencies is entitled to be furnished, upon request,
18 with an interpreter by the state or its agency.

19 * * *

20 Section 14. Code of Criminal Procedure Article 401.1(B)(introductory paragraph)
21 is hereby amended and reenacted to read as follows:

22 Art. 401.1. Court instructions for interpreter

23 * * *

24 B. When a deaf or hard of hearing ~~or hearing-impaired~~ person is summoned
25 for jury duty, the court shall:

26 * * *

27 Section 15.(A) The legislature hereby finds that language used to refer to persons
28 with disabilities and other persons with exceptionalities shapes and reflects attitudes toward
29 and perceptions of those persons by society.

1 (B) It is hereby declared that the intent of the legislature is to delete from the
2 lawbodies of this state terms that convey negative or derogatory perceptions of persons with
3 disabilities and other persons with exceptionalities. Accordingly, the intent of the legislature
4 is to provide in this Act for establishment of terminology in law referring to the deaf and
5 hard of hearing that is more appropriate than the terminology replaced herein, and which
6 conveys no indignity toward persons with hearing loss.

7 (C) It is the intent of the legislature that no provision of this Act shall alter or affect
8 in any way the substance, interpretation, or application of any present law or administrative
9 rule.

10 (D) Nothing in this Act shall be construed to expand or diminish any right of or
11 benefit for any person provided by any existing law or administrative rule.

12 Section 16.(A) Each agency, board, commission, department, office, and other
13 instrumentality of the state to which the legislature has delegated authority to promulgate
14 rules and regulations in accordance with the Administrative Procedure Act, R.S. 49:950 et
15 seq., is hereby authorized and requested to employ the preferred terminology enacted in
16 Sections 1 through 14 of this Act for referring to the deaf and hard of hearing and to hearing
17 loss in duly promulgated administrative rules, policy publications, and materials published
18 in paper format or electronically, whether for internal use or public use, including but not
19 limited to informational brochures, resource guides, reference materials, manuals, and the
20 content of any Internet website or other electronic media. The provisions of this Section
21 shall apply prospectively; however, nothing herein shall be construed to limit any agency,
22 board, commission, department, office, or other instrumentality of the state from amending
23 existing administrative rules for the purpose of instituting the preferred terminology
24 provided for in this Act.

1 (B) The legislative services offices of the House of Representatives and the Senate
2 are hereby authorized and requested to publish guidance in legislative drafting manuals and
3 in any other professional resources as those offices may deem appropriate concerning use
4 of the preferred terminology for referring to the deaf and hard of hearing and to hearing loss
5 provided for in this Act.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 76

BY SENATOR LAMBERT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact Code of Criminal Procedure Article 611(C), relative to venue in criminal matters; to allow venue for certain criminal matters to be the parish in which the victim resides as well as the parish in which the crime occurred; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 611(C) is hereby amended and reenacted to read as follows:

Art. 611. Venue; trial where offense committed

* * *

C. If the offender is charged with ~~the crime of identity theft~~ any of the following offenses, the offense is deemed to have been committed either in the parish where the ~~theft~~ offense occurred or where the victim resides:

(1) R.S. 14:67.3, unauthorized use of an access card.

(2) R.S. 14:67.16, identity theft.

(3) R.S. 14:70.4, access device fraud.

(4) R.S. 14:70.8, illegal transmission of monetary funds.

(5) R.S. 14:71.1, bank fraud.

(6) R.S. 14:72, forgery.

(7) R.S. 14:72.2, monetary instrument abuse.

1 Section 2. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

SENATE BILL NO. 234

BY SENATOR LAFLEUR AND REPRESENTATIVE MARCELLE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact Code of Criminal Procedure Article 323(B), relative to bail; to provide that a secured personal surety specifically relate to identified property; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 323(B) is hereby amended and reenacted to read as follows:

Art. 323. Secured personal surety

* * *

B. Bail without surety may be secured by a mortgage on the immovable 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. The security shall apply only to and be limited to that immovable property specifically described in the mortgage.

* * *

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2017 Regular Session
HOUSE BILL NO. 110
BY REPRESENTATIVE BILLIOT

ACT No. 196

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AN ACT

To amend and reenact Code of Criminal Procedure Article 890.3, relative to crimes of violence; to provide relative to sentencing for crimes of violence; to provide relative to the procedure by which certain crimes are designated in the court minutes as crimes of violence; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 890.3 is hereby amended and reenacted to read as follows:

Art. 890.3. Sentencing for crimes of violence

A. Except as provided in Paragraph ~~B~~ C of this Article, when a defendant is sentenced for any offense, or the attempt to commit any offense, defined or enumerated as a crime of violence in R.S. 14:2(B), ~~upon the district attorney may make a written recommendation of the district attorney, the court may designate in the minutes whether such offense is~~ to the court that the offense should not be designated as a crime of violence only for the following purposes:

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

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

1 B. In the absence of a written recommendation by the district attorney as
 2 provided in Paragraph A of this Article, the offense shall be designated as a crime
 3 of violence as a matter of law.

4 ~~B-C.~~ The following crimes of violence enumerated in R.S. 14:2(B) shall
 5 always be designated by the court in the minutes as a crime of violence:

- 6 (1) Solicitation for murder.
- 7 (2) First degree murder.
- 8 (3) Second degree murder.
- 9 (4) Manslaughter.
- 10 (5) Aggravated or first degree rape.
- 11 (6) Forcible or second degree rape.
- 12 (7) Simple or third degree rape.
- 13 (8) Sexual battery.
- 14 (9) Second degree sexual battery.
- 15 (10) Intentional exposure to AIDS virus.
- 16 (11) Aggravated kidnapping.
- 17 (12) Second degree kidnapping.
- 18 (13) Aggravated arson.
- 19 (14) Armed robbery.
- 20 (15) Assault by drive-by shooting.
- 21 (16) Carjacking.
- 22 (17) Terrorism.
- 23 (18) Aggravated second degree battery.
- 24 (19) Aggravated assault with a firearm.
- 25 (20) Armed robbery; use of firearm; additional penalty.
- 26 (21) Second degree robbery.
- 27 (22) Disarming of a peace officer.
- 28 (23) Second degree cruelty to juveniles.
- 29 (24) Aggravated crime against nature.
- 30 (25) Trafficking of children for sexual purposes.

- 1 (26) Human trafficking.
- 2 (27) Home invasion.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2017 Regular Session
HOUSE BILL NO. 219
BY REPRESENTATIVE LEOPOLD

ACT No. 205

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 331(A)(1) and (2) and to repeal
3 Code of Criminal Procedure Article 331(A)(3), relative to bail; to provide relative
4 to the discharge of bail obligations; to provide that the bail undertaking ceases and
5 the surety is relieved of bail obligations upon conviction in any case; and to provide
6 for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 331(A)(1) and (2) are hereby
9 amended and reenacted to read as follows:

10 Art. 331. Discharge of bail obligation

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

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

17 (3) In all cases, if necessary to assure the presence of the defendant at all
18 future stages of the proceedings, the court may in its discretion, in accordance with
19 Article 312 require the defendant to post another bail undertaking or other acceptable
20 security, or may release the defendant on bail without surety as provided for in
21 Article 325. The court may continue the existing bail undertaking with the written

1 approval of the surety on the bail undertaking. Such approval must be obtained from
2 the surety after conviction.

3 * * *

4 Section 2. Code of Criminal Procedure Article 331(A)(3) is hereby repealed in its
5 entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

ACT No. 260

HOUSE BILL NO. 249

BY REPRESENTATIVES MAGEE, BAGNERIS, BOUIE, CARPENTER, GARY CARTER, COX, DWIGHT, GAINES, GISCLAIR, GLOVER, HALL, JIMMY HARRIS, HUNTER, JACKSON, JAMES, JEFFERSON, JORDAN, TERRY LANDRY, LEGER, LYONS, MARCELLE, MARINO, MORENO, NORTON, REYNOLDS, AND SMITH

1 AN ACT

2 To amend and reenact R.S. 47:1676(B)(1) and Code of Criminal Procedure Articles
3 883.2(D), 884, 885.1(A), (C), and (D), 888, 894.4, 895.1(A)(1) and (2)(a) and (E),
4 and 895.5(C) and to enact Code of Criminal Procedure Article 875.1, relative to the
5 financial obligations for criminal offenders; to provide relative to the payment of
6 fines, fees, costs, restitution, and other monetary obligations related to an offender's
7 conviction; to require the court to determine the offender's ability to pay the financial
8 obligations imposed; to authorize the court to waive, modify, or create a payment
9 plan for the offender's financial obligations; to provide relative to the court's
10 authority to extend probation under certain circumstances; to provide relative to the
11 recovery of uncollected monetary obligations at the end of a probation period; to
12 provide for legislative intent; to provide relative to the disbursement of collected
13 payments; to authorize the court to impose certain conditions in lieu of payment in
14 certain situations; to provide relative to the penalties imposed when an offender fails
15 to make certain payments or fails to appear for a hearing relative to missed
16 payments; to require notice to an offender upon his failure to make certain payments;
17 to provide for an effective date; and to provide for related matters.

18 Be it enacted by the Legislature of Louisiana:

19 Section 1. Code of Criminal Procedure Articles 883.2(D), 884, 885.1(A), (C), and
20 (D), 888, 894.4, 895.1(A)(1) and (2)(a) and (E), and 895.5(C) are hereby amended and
21 reenacted and Code of Criminal Procedure Article 875.1 is hereby enacted to read as
22 follows:

1 Art. 875.1. Determination of substantial financial hardship to the defendant

2 A. The purpose of imposing financial obligations on an offender who is
3 convicted of a criminal offense is to hold the offender accountable for his action, to
4 compensate victims for any actual pecuniary loss or costs incurred in connection
5 with a criminal prosecution, to defray the cost of court operations, and to provide
6 services to offenders and victims. These financial obligations should not create a
7 barrier to the offender's successful rehabilitation and reentry into society. Financial
8 obligations in excess of what an offender can reasonably pay undermine the primary
9 purpose of the justice system which is to deter criminal behavior and encourage
10 compliance with the law. Financial obligations that cause undue hardship on the
11 offender should be waived, modified, or forgiven. Creating a payment plan for the
12 offender that is based upon the ability to pay, results in financial obligations that the
13 offender is able to comply with and often results in more money collected. Offenders
14 who are consistent in their payments and in good faith try to fulfill their financial
15 obligations should be rewarded for their efforts.

16 B. For purposes of this Article, "financial obligations" shall include any fine,
17 fee, cost, restitution, or other monetary obligation authorized by this Code or by the
18 Louisiana Revised Statutes of 1950 and imposed upon the defendant as part of a
19 criminal sentence, incarceration, or as a condition of the defendant's release on
20 probation or parole.

21 C.(1) Notwithstanding any provision of law to the contrary, prior to ordering
22 the imposition or enforcement of any financial obligations as defined by this Article,
23 the court shall determine whether payment in full of the aggregate amount of all the
24 financial obligations to be imposed upon the defendant would cause substantial
25 financial hardship to the defendant or his dependents.

26 (2) The defendant may not waive the judicial determination of a substantial
27 financial hardship required by the provisions of this Paragraph.

28 D.(1) If the court determines that payment in full of the aggregate amount
29 of all financial obligations imposed upon the defendant would cause substantial

1 financial hardship to the defendant or his dependents, the court shall do either of the
 2 following:

3 (a) Waive all or any portion of the financial obligations.

4 (b) Order a payment plan that requires the defendant to make a monthly
 5 payment to fulfill the financial obligations.

6 (2)(a) The amount of each monthly payment for the payment plan ordered
 7 pursuant to the provisions of Subsubparagraph (1)(b) of this Paragraph shall be equal
 8 to the defendant's average gross daily income for an eight-hour work day.

9 (b) If the court has ordered restitution, half of the defendant's monthly
 10 payment shall be distributed toward the defendant's restitution obligation.

11 (c) During any periods of unemployment, homelessness, or other
 12 circumstances in which the defendant is unable to make the monthly payment, the
 13 court or the defendant's probation and parole officer is authorized to impose a
 14 payment alternative, including but not limited to any of the following: substance
 15 abuse treatment, education, job training, or community service.

16 (3) If, after the initial determination of the defendant's ability to fulfill his
 17 financial obligations, the defendant's circumstances and ability to pay his financial
 18 obligations change, the defendant or his attorney may file a motion with the court to
 19 reevaluate the defendant's circumstances and determine, in the same manner as the
 20 initial determination, whether under the defendant's current circumstances payment
 21 in full of the aggregate amount of all the financial obligations imposed upon the
 22 defendant would cause substantial financial hardship to the defendant or his
 23 dependents. Upon such motion, if the court determines that the defendant's current
 24 circumstances would cause substantial financial hardship to the defendant or his
 25 dependents, the court may either waive or modify the defendant's financial
 26 obligation, or recalculate the amount of the monthly payment made by the defendant
 27 under the payment plan set forth in Subsubparagraph (1)(b) of this Paragraph.

28 E. If a defendant is ordered to make monthly payments under a payment plan
 29 established pursuant to the provisions of Subsubparagraph (D)(1)(b) of this Article,
 30 the defendant's outstanding financial obligations resulting from his criminal

1 conviction are forgiven and considered paid-in-full if the defendant makes consistent
2 monthly payments for either twelve consecutive months or consistent monthly
3 payments for half of the defendant's term of supervision, whichever is longer.

4 F. The provisions of this Article shall apply only to defendants convicted of
5 offenses classified as felonies under applicable law.

6 * * *

7 Art. 883.2. Restitution to victim

8 * * *

9 D. Notwithstanding any other provision of law to the contrary, if the
10 defendant is found to be indigent and therefore unable to make restitution in full at
11 the time of conviction, the court may order a periodic payment plan ~~consistent with~~
12 ~~the person's financial ability~~ pursuant to the provisions of Article 875.1.

13 Art. 884. Sentence of fine with imprisonment for default

14 A. If a sentence imposed includes a fine or costs, the sentence shall provide
15 that in default of payment thereof the defendant shall be imprisoned for a specified
16 period not to exceed one year; provided that where the maximum prison sentence
17 which may be imposed as a penalty for a misdemeanor is six months or less, the total
18 period of imprisonment upon conviction of the offense, including imprisonment for
19 default in payment of a fine or costs, shall not exceed six months for that offense.

20 B. The provisions of this Article do not apply if the court has determined,
21 pursuant to the provisions of Article 875.1, that payment in full of the aggregate
22 amount of all financial obligations imposed upon the defendant would cause
23 substantial financial hardship to the defendant or his dependents. In such cases, the
24 provisions of Article 875.1 shall apply.

25 * * *

26 Art. 885.1. Suspension of driving privileges; failure to pay criminal fines

27 A. When a fine is levied against a person convicted of any felony criminal
28 offense, ~~including any violation of the Louisiana Highway Regulatory Act or any~~
29 ~~municipal or parish ordinance regulating traffic in any municipality or in any parish~~
30 and the defendant is ~~granted an extension of time~~ is able but has willfully refused to

1 pay the fine, the judge of the court having jurisdiction may order the driver's license
 2 to be surrendered to the sheriff or official of the court collecting fines for a period
 3 of time not to exceed one hundred eighty days. ~~If, after expiration of one hundred~~
 4 ~~eighty days, the defendant has not paid the fine, the sheriff or official of the court~~
 5 ~~designated to collect fines shall forward the license to the Department of Public~~
 6 ~~Safety and Corrections.~~

7 * * *

8 C. If, after expiration of one hundred eighty days, the court finds that the
 9 ~~defendant has not paid~~ remains able but has willfully refused to pay the fine, the
 10 sheriff or official of the court designated to collect fines shall forward the license to
 11 the Department of Public Safety and Corrections. Upon receipt of the defendant's
 12 surrendered driver's license, the department shall suspend the driver's license of the
 13 defendant. The suspension shall begin when the department receives written
 14 notification from the court, and the department shall send immediate written
 15 notification to the defendant informing him of the suspension of driving privileges.

16 D. The department shall ~~not~~ reinstate, return, reissue, or renew a driver's
 17 license in its possession pursuant to this Section ~~until~~ upon payment of the fine and
 18 any additional administrative cost, fee, or penalty required by the judge having the
 19 jurisdiction and any other cost, fee, or penalty required by the department in
 20 accordance with R.S. 32:414(H) or other applicable cost, fee, or penalty provision.

21 * * *

22 Art. 888. Costs and fines; payment

23 Costs and any fine imposed shall be payable immediately except as provided
 24 in Article 875.1 relative to the determination of the defendant's ability to pay;
 25 provided, however, that in cases involving the violation of any traffic law or
 26 ordinance, the court having jurisdiction may grant the defendant five judicial days
 27 after rendition of judgment to pay any costs and any fine imposed.

28 * * *

1 Art. 894.4. Probation; extension

2 A. When a defendant has been sentenced to probation and has a monetary
3 obligation, including but not limited to court costs, fines, costs of prosecution, and
4 any other monetary costs associated with probation, the judge may not extend the
5 period of probation ~~until the monetary obligation is extinguished~~ for the purpose of
6 collecting any unpaid monetary obligation, except as provided in Paragraph B of this
7 Article, but may refer the unpaid monetary obligation to the office of debt recovery
8 pursuant to R.S. 47:1676.

9 B. The judge may extend probation only one time and only by a period of
10 six months for the purpose of monitoring collection of unpaid victim restitution if the
11 court finds on the record by clear and convincing evidence that the court's temporary
12 ongoing monitoring would ensure collection of unpaid restitution more effectively
13 than any of the following:

14 (1) Converting the unpaid restitution to a civil money judgment pursuant to
15 Article 886 or 895.1.

16 (2) Referring the unpaid restitution to the office of debt recovery pursuant
17 to R.S. 47:1676.

18 (3) Any other enforcement mechanism for collection of unpaid restitution
19 authorized by law.

20 C. A six-month extension of probation as provided in Paragraph B shall
21 apply only to the order of victim restitution. All other conditions of probation during
22 the six-month extension shall be terminated.

23 * * *

24 Art. 895.1. Probation; restitution; judgment for restitution; fees

25 A.(1) When a court places the defendant on probation, it shall, as a condition
26 of probation, order the payment of restitution in cases where the victim or his family
27 has suffered any direct loss of actual cash, any monetary loss pursuant to damage to
28 or loss of property, or medical expense. The court shall order restitution in a
29 reasonable sum not to exceed the actual pecuniary loss to the victim in an amount
30 certain. However, any additional or other damages sought by the victim and

1 available under the law shall be pursued in an action separate from the establishment
 2 of the restitution order as a civil money judgment provided for in Subparagraph (2)
 3 of this Paragraph. ~~The~~ If the court has determined, pursuant to the provisions of
 4 Article 875.1, that payment in full of the aggregate amount of all financial
 5 obligations imposed upon the defendant would cause substantial financial hardship
 6 to the defendant or his dependents, restitution ~~payment~~ payments shall be made, in
 7 discretion of the court, either in a lump sum or in monthly installments based on the
 8 ~~earning capacity and assets of the defendant~~ pursuant to the provisions of Article
 9 875.1.

10 (2)(a) The order to pay restitution together with any order to pay costs or
 11 fines, as provided in this Article, is deemed a civil money judgment in favor of the
 12 person to whom restitution, costs, or fines is owed, if the defendant is informed of
 13 his right to have a judicial determination of the amount and is provided with a
 14 hearing, ~~waived a hearing, or stipulated to the amount of the restitution, cost, or fine~~
 15 ~~ordered.~~ In addition to proceedings ~~had~~ by the court which orders the restitution,
 16 cost, or fine, the judgment may be enforced in the same manner as a money
 17 judgment in a civil case. Likewise, the judgment may be filed as a lien as provided
 18 by law for judgment creditors. Prior to the enforcement of the restitution order, or
 19 order for costs or fines, the defendant shall be notified of his right to have a judicial
 20 determination of the amount of restitution, cost, or fine. Such notice shall be served
 21 personally by the district attorney's office of the respective judicial district in which
 22 the restitution, cost, or fine is ordered.

23 * * *

24 E. When the court places any defendant convicted of a violation of the
 25 ~~controlled dangerous substances law~~ Uniform Controlled Dangerous Substances
 26 Law, R.S. 40:966 through 1034, on any type of probation, it shall order as a
 27 condition of probation a fee of not less than fifty nor more than one hundred dollars,

1 payable to the Louisiana Commission on Law Enforcement and Administration of
2 Criminal Justice to be credited to the Drug Abuse Education and Treatment Fund and
3 used for the purposes provided in R.S. 15:1224.

4 * * *

5 Art. 895.5. Restitution recovery division; district attorneys; establishment

6 * * *

7 C. Compliance enforcement. ~~The~~ (1) Except as provided in Subparagraph
8 (2) of this Paragraph, the district attorney may take all lawful action necessary to
9 require compliance with court-ordered payments, including filing a petition for
10 revocation of probation, filing a petition to show cause for contempt of court, or
11 institution of any other civil or criminal proceedings which may be authorized by law
12 or by rule of court. In addition, the district attorney may issue appropriate notices
13 to inform the defendant of his noncompliance and of the penalty for noncompliance.
14 In the event that the district attorney institutes any other civil or criminal proceedings
15 pursuant to this Paragraph, the defendant shall be charged costs of court and such
16 costs shall be added to the amount due.

17 (2) If a court authorizes a payment plan to collect financial obligations
18 associated with a criminal case and the defendant fails to make a payment, the court
19 shall serve the defendant with a citation for a rule to show cause why the defendant
20 should not be found in contempt of court for failure to comply with the payment
21 plan. This citation shall include the following notice:

22 "If you make a payment toward the above listed fines and
23 fees on or before _____, you will not have to come
24 to court for this matter.

25 IMPORTANT NOTICE REGARDING THE HEARING ON
26 THE RULE TO SHOW CAUSE FOR PROOF OF
27 SATISFACTION OF FINANCIAL OBLIGATION:

28 (a) At the rule to show cause hearing, the court will
29 evaluate your ability to pay the fines and fees listed above.

1 **(b) You are ordered to bring any documentation or**
2 **information that you want the court to consider in**
3 **determining your ability to pay.**

4 **(c) Your failure to make a payment toward the**
5 **ordered financial obligation may result in your incarceration**
6 **only if the court finds, after a hearing, that you had the ability**
7 **to pay and willfully refused to do so.**

8 **(d) You have the right to be represented by counsel**
9 **(attorney/lawyer) of your choice. If you cannot afford**
10 **counsel, you have the right to be represented by a court-**
11 **appointed lawyer at no cost to you. However, you must apply**
12 **for a court-appointed lawyer at least seven (7) days before**
13 **this court date by going to the public defender's office. There**
14 **is a forty-dollar (\$40) application fee.**

15 **(e) If you are unable to make a payment toward the**
16 **ordered financial obligation, you may request payment**
17 **alternatives including but not limited to community service,**
18 **a reduction of the amount owed, or both.**

19 **(f) During the hearing, you will have a meaningful**
20 **opportunity to explain why you have not paid the above-listed**
21 **amounts by presenting evidence and testimony."**

22 **(3) If after the hearing provided for by Subparagraph (2) of this Paragraph,**
23 **the court continues to authorize a payment plan, the defendant shall be served with**
24 **the same notice provided for in Subparagraph (2) of this Paragraph regarding the**
25 **consequences and due process for the willful failure to pay.**

26 * * *

27 Section 2. R.S. 47:1676(B)(1) is hereby amended and reenacted to read as follows:

28 §1676. Debt recovery

29 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

SENATE BILL NO. 139

BY SENATORS MARTINY AND BISHOP AND REPRESENTATIVES BAGNERIS, BILLIOT, BOUIE, CARPENTER, GARY CARTER, CONNICK, COX, DWIGHT, GAINES, GLOVER, HALL, JIMMY HARRIS, HOFFMANN, HUNTER, JACKSON, JAMES, JORDAN, TERRY LANDRY, LEGER, LYONS, MAGEE, MARCELLE, MARINO, MORENO, NORTON, PIERRE AND SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact Code of Criminal Procedure Articles 893(A) and (B), 899.1(A)(introductory paragraph), 900(A)(5) and (6), and 903.1, R.S. 13:5304(B)(10)(b), and R.S. 15:571.3(B) and (D), 574.2(C)(1) and (2)(introductory paragraph) and (D)(1),(6)(introductory paragraph), (8)(a), and (9), 574.4(A)(1), (B)(1), and (C)(2)(a)(introductory paragraph) and (b), 574.4.1(A)(1), 574.6, 574.7(B)(1)(introductory paragraph) and (C), 574.9(D), (E), (F), and (G), 574.20, and 828(B) and (C) and to enact Code of Criminal Procedure Articles 893(G), 895.6, and 899.2 and R.S. 15:574.2(C)(4), 574.4(F), 574.6.1, 574.7(D), 574.9(H), 827(A)(7), and 828(D), relative to criminal justice; to provide for alternatives to incarceration; to provide for release from incarceration and from supervision; to provide for felony probation and parole; to provide for suspension and deferral of sentence; to provide for the term of probation and of parole; to provide for extended probation periods; to provide for discharge credits for felony probation and for parole; to provide for the earning of discharge credits; to provide for the regulation of number of credits earned; to provide for methods to rescind credits; to provide for notice; to provide for the satisfaction of sentences; to provide for discharge from probation and from parole; to provide for administrative sanctions; to provide for technical violations of probation and of parole; to authorize use of administrative sanctions; to provide for a system of administrative rewards; to provide for probation and for parole revocation; to provide for sentences imposed for technical violations

1 of probation and of parole; to provide for credit for time served; to provide for the
2 substance abuse probation program; to provide for diminution of sentence; to provide
3 for good time; to provide for earning rates for good time; to provide for the
4 committee on parole; to provide for meetings of the committee on parole; to provide
5 for voting; to provide for administrative parole; to provide for notice to victims; to
6 provide for notice for victim's spouse or next of kin; to provide for parole eligibility;
7 to provide for parole eligibility for offenders serving a life sentence; to provide for
8 parole hearings; to provide for conditions of parole; to provide for custody and
9 supervision of parolees; to provide for modification of parole; to provide for
10 suspension of probation and of parole; to provide for return to custody hearings; to
11 provide for detainers; to provide for enforceability of detainers; to provide for
12 medical parole; to authorize medical treatment furloughs; to provide for the terms
13 of medical parole and medical treatment furlough; to provide for revocation of
14 medical parole or medical treatment furlough for improved health; to provide for
15 written case plans; to provide for classification and treatment programs; to provide
16 for credit for participation in certain programs; to provide relative to good time for
17 offenders sentenced as habitual offenders; to provide for rulemaking; to provide for
18 record collection; to provide for maintenance of records; to provide for effective
19 dates; and to provide for related matters.

20 Be it enacted by the Legislature of Louisiana:

21 Section 1. Code of Criminal Procedure Articles 893(A) and (B),
22 899.1(A)(introductory paragraph), 900(A)(5) and (6), and 903.1 are hereby amended and
23 reenacted and Code of Criminal Procedure Articles 893(G), 895.6, and 899.2 are hereby
24 enacted to read as follows:

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

26 A.**(1)(a)** When it appears that the best interest of the public and of the
27 defendant will be served, the court, after a first, ~~or~~ second, **or third** conviction of a
28 noncapital felony, may suspend, in whole or in part, the imposition or execution of
29 either or both sentences, where suspension is allowed under the law, and in either or
30 both cases place the defendant on probation under the supervision of the division of

1 probation and parole. The court shall not suspend the sentence of a second or
 2 third conviction of R.S. 14:73.5. Except as provided in Paragraph G of this
 3 Article, the period of probation shall be specified and shall not be more than
 4 three years.

5 (b) The court shall not suspend the sentence of a second or third
 6 conviction of R.S. 14:81.1 or 81.2. If the court suspends the sentence of a first
 7 conviction of R.S. 14:81.1 or 81.2, the period of probation shall be specified and
 8 shall not be more than five years.

9 (2) The court shall not suspend the sentence of a conviction for an offense
 10 that is designated in the court minutes as a crime of violence pursuant to Article
 11 890.3, ~~or of a second conviction if the second conviction is for a violation of R.S.~~
 12 ~~14:73.5, 81.1, or 81.2.~~ except a first conviction for an offense with a maximum
 13 prison sentence of ten years or less that was not committed against a family
 14 member or household member as defined by R.S. 14:35.3, or dating partner as
 15 defined by R.S. 46:2151. The period of probation shall be specified and shall not be
 16 less than one year nor more than five years.

17 (3) The suspended sentence shall be regarded as a sentence for the purpose
 18 of granting or denying a new trial or appeal.

19 (4) Supervised release as provided for by Chapter 3-E of Title 15 of the
 20 Louisiana Revised Statutes of 1950 shall not be considered probation and shall not
 21 be limited by the five-year or three-year period for probation provided for by the
 22 provisions of this Paragraph.

23 B.(1)(a) ~~The court~~ Notwithstanding any other provision of law to the
 24 contrary, when it appears that the best interest of the public and of the
 25 defendant will be served, the court, after a fourth conviction of operating a
 26 vehicle while intoxicated pursuant to R.S. 14:98, may suspend, in whole or in part,
 27 the imposition or execution of the sentence when the defendant was not offered
 28 such alternatives prior to his fourth conviction of operating a vehicle while
 29 intoxicated and the following conditions exist:

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

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

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

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

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

9 ~~(iii)(a)~~ **(a)** The district attorney consents to the suspension of the sentence.

10 ~~(iv)(b)~~ **(b)** The court orders the defendant to do any of the following:

11 ~~(aa)(i)~~ **(i)** Enter and complete a program provided by the drug division of the
 12 ~~district court pursuant to R.S. 13:5301 et seq. When a case is assigned to the drug~~
 13 ~~division probation program pursuant to the provisions of R.S. 13:5301 et seq., with~~
 14 ~~the consent of the district attorney, the court may place the defendant on probation~~
 15 ~~for a period of not more than eight years if the court determines that successful~~
 16 ~~completion of the program may require that period of probation to exceed the five-~~
 17 ~~year limit. If necessary to assure successful completion of the drug division~~
 18 ~~probation program, the court may extend the duration of the probation period. The~~
 19 ~~period of probation as initially fixed or as extended shall not exceed eight years.~~

20 ~~(bb)(ii)~~ **(ii)** Enter and complete an established driving while intoxicated court or
 21 ~~sobriety court program, as agreed upon by the trial court and the district attorney.~~
 22 ~~When a case is assigned to an established driving while intoxicated court or sobriety~~
 23 ~~court program, with the consent of the district attorney, the court may place the~~
 24 ~~defendant on probation for a period of not more than eight years if the court~~
 25 ~~determines that successful completion of the program may require that period of~~
 26 ~~probation to exceed the five-year limit. If necessary to assure successful completion~~
 27 ~~of the drug division probation program, the court may extend the duration of the~~
 28 ~~probation period. The period of probation as initially fixed or as extended shall not~~
 29 ~~exceed eight years.~~

30 ~~(ee)(iii)~~ **(iii)** Reside for a minimum period of one year in a facility which

1 conforms to the Judicial Agency Referral Residential Facility Regulatory Act, R.S.
 2 ~~40:2852~~ **40:2851 et seq.**

3 ~~(dd)(iv)~~ Enter and complete the Swift and Certain Probation Pilot Program
 4 established pursuant to R.S. 13:5371 et seq. ~~When a case is assigned to this pilot~~
 5 ~~program, with the consent of the district attorney, the court may place the defendant~~
 6 ~~on probation for a period of not less than one year and not more than eight years if~~
 7 ~~the court determines that successful completion of the program may require that~~
 8 ~~period of probation to exceed the five-year limit. If necessary to ensure successful~~
 9 ~~completion of the program, the court may extend the duration of the probation~~
 10 ~~period. The period of probation as initially fixed or as extended shall not exceed~~
 11 ~~eight years.~~

12 ~~(b)(2)~~ When suspension is allowed under this Paragraph, the defendant shall
 13 be placed on probation under the supervision of the division of probation and parole.
 14 The period of probation shall be specified and shall not be ~~less than two years nor~~
 15 ~~more than five~~ **three** years, except as provided in ~~Subitems (a)(iv)(aa), (bb), and (dd)~~
 16 ~~of this Subparagraph~~ **Paragraph G of this Article**. The suspended sentence shall be
 17 regarded as a sentence for the purpose of granting or denying a new trial or appeal.

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

24 * * *

25 **G. If the court, with the consent of the district attorney, orders a**
 26 **defendant, upon a third conviction or fourth felony conviction, to enter and**
 27 **complete a program provided by the drug division of the district court pursuant**
 28 **to R.S. 13:5301, an established driving while intoxicated court or sobriety court**
 29 **program, a mental health court program established pursuant to R.S. 13:5351**
 30 **et seq., a Veterans Court program established pursuant to R.S. 13:5361 et seq.,**

1 a reentry court established pursuant to R.S. 13:5401, or the Swift and Certain
 2 Probation Pilot Program established pursuant to R.S. 13:5371, the court may
 3 place the defendant on probation for a period of not more than eight years if the
 4 court determines that successful completion of the program may require that
 5 period of probation to exceed the three-year limit. The court may not extend the
 6 duration of the probation period solely due to unpaid fees and fines. The period
 7 of probation as initially fixed or as extended shall not exceed eight years.

8 * * *

9 Art. 895.6. Compliance credits; probation

10 A. Every defendant on felony probation pursuant to Article 893 for an
 11 offense other than a crime of violence as defined in R.S. 14:2(B) or a sex offense
 12 as defined in R.S. 15:541 shall earn a diminution of probation term, to be known
 13 as "earned compliance credits", by good behavior. The amount of diminution
 14 of probation term allowed under this Article shall be at the rate of thirty days
 15 for every full calendar month on probation.

16 B. If the defendant's probation and parole officer has reasonable cause
 17 to believe that a defendant on felony probation has not been compliant with the
 18 conditions of his probation in a given calendar month, he may rescind thirty
 19 days of earned compliance credits as an administrative sanction pursuant to
 20 Article 899.2. Credits may be rescinded only for a month in which the defendant
 21 is found not to be in compliance.

22 C. The Department of Public Safety and Corrections shall develop
 23 written policies and procedures for the implementation of earned compliance
 24 credits for defendants on felony probation supervision provided for by the
 25 provisions of this Article. The policies and procedures shall include but not be
 26 limited to written guidelines regarding the process to rescind earned compliance
 27 credits, and the placement of these credits in the administrative sanctions grid.
 28 The Department of Public Safety and Corrections shall also collect data on the
 29 implementation of earned compliance credits, including the names of
 30 defendants that earned credits, how many credits are applied to each defendant,

1 and reductions to supervision periods at the time of discharge.

2 D. When a defendant's total probation term is satisfied through a
3 combination of time served on felony probation and earned compliance credits,
4 the Department of Public Safety and Corrections shall order the termination of
5 the probation of the defendant.

6 * * *

7 Art. 899.1. Administrative sanctions for technical violations; crimes of violence
8 and sex offenses

9 A. At the time of sentencing for a crime of violence as defined by R.S.
10 14:2(B) or a sex offense as defined by R.S. 15:541, the court may make a
11 determination as to whether a defendant is eligible for the imposition of
12 administrative sanctions as provided for in this Article. If authorized to do so by the
13 sentencing court, each time a defendant violates a condition of his probation, a
14 probation agency may use administrative sanctions to address a technical violation
15 committed by a defendant when all of the following occur:

16 * * *

17 Art. 899.2. Administrative sanctions for technical violations; offenses other
18 than crimes of violence or sex offenses

19 A. Each time a defendant on probation for a crime other than a crime of
20 violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541
21 violates a condition of his probation, a probation agency is authorized to use
22 administrative sanctions to address a technical violation committed by a
23 defendant when all of the following occur:

24 (1) The defendant, after receiving written notification of the right to a
25 hearing before a court and the right to counsel provides a written waiver of a
26 probation violation hearing.

27 (2) The defendant admits to the violation or affirmatively chooses not to
28 contest the violation alleged in the probation violation report.

29 (3) The defendant consents to the imposition of administrative sanctions
30 by the Department of Public Safety and Corrections.

1 **B. The department shall promulgate rules to implement the provisions**
2 **of this Article to establish the following:**

3 **(1)(a) A system of structured, administrative sanctions which shall be**
4 **imposed for technical violations of probation and which shall take into**
5 **consideration the following factors:**

6 **(i) The severity of the violation behavior.**

7 **(ii) The prior violation history.**

8 **(iii) The severity of the underlying criminal conviction.**

9 **(iv) The criminal history of the probationer.**

10 **(v) Any special circumstances, characteristics, or resources of the**
11 **probationer.**

12 **(vi) Protection of the community.**

13 **(vii) Deterrence.**

14 **(viii) The availability of appropriate local sanctions, including but not**
15 **limited to jail, treatment, community service work, house arrest, electronic**
16 **surveillance, restitution centers, work release centers, day reporting centers, or**
17 **other local sanctions.**

18 **(b) Incarceration shall not be used for the lowest-tier violations including**
19 **the first positive drug test and the first or second violation for the following:**

20 **(i) Association with known felons or persons involved in criminal**
21 **activity.**

22 **(ii) Changing residence without permission.**

23 **(iii) Failure to initially report as required. However, incarceration may**
24 **be used if the court, after a contradictory hearing, finds that the probationer**
25 **wilfully failed to report as required and instructed for the purpose of**
26 **permanently avoiding probation supervision.**

27 **(iv) Failure to pay restitution for up to three months.**

28 **(v) Failure to report as instructed. However, incarceration may be used**
29 **if the court, after a contradictory hearing, finds that the probationer wilfully**
30 **failed to report as required and instructed for the purpose of permanently**

1 avoiding probation supervision.

2 (vi) Traveling without permission.

3 (vii) Occasion of unemployment and failure to seek employment within
4 ninety days.

5 (c) Incarceration shall not be used for first or second violations of alcohol
6 use or admission, except for defendants convicted of operating a vehicle while
7 intoxicated pursuant to R.S. 14:98; defendants convicted of domestic abuse
8 battery pursuant to R.S. 14:35.3 committed by one family member or household
9 member against another; defendants convicted of battery by one dating partner
10 as defined by R.S. 46:2151 against another; or defendants convicted of violation
11 of a protective order, pursuant to R.S. 14:79, issued against the defendant to
12 protect a family member or household member as defined by R.S. 14:35.3, or
13 a dating partner as defined by R.S. 46:2151.

14 (2) Procedures to provide a probationer with written notice of the right
15 to a probation violation hearing to determine whether the probationer violated
16 the conditions of probation alleged in the violation report and the right to be
17 represented by counsel at state expense at that hearing if financially eligible.

18 (3) Procedures for a probationer to provide written waiver of the right
19 to a probation violation hearing, to admit to the violation or affirmatively
20 choose not to contest the violation alleged in the probation violation report, and
21 to consent to the imposition of administrative sanctions by the department.

22 (4) The level and type of sanctions that may be imposed by probation
23 officers and other supervisory personnel.

24 (5) The level and type of violation behavior that warrants a
25 recommendation to the court that probation be revoked.

26 (6) Procedures notifying the probationer, the district attorney, the
27 defense counsel of record, and the court of probation of a violation admitted by
28 the probationer and the administrative sanctions imposed.

29 (7) Such other policies and procedures as are necessary to implement the
30 provisions of this Article and to provide adequate probation supervision.

1 **C. If the administrative sanction imposed pursuant to the provisions of**
 2 **this Article is jail confinement, the confinement shall not exceed ten days per**
 3 **violation and shall not exceed a total of sixty days per year.**

4 **D. For purposes of this Article, "technical violation" means any violation**
 5 **of a condition of probation, except that it does not include any of the following:**

6 **(1) An allegation of a criminal act that is subsequently proven to be a**
 7 **felony.**

8 **(2) An allegation of a criminal act that is subsequently proven to be an**
 9 **intentional misdemeanor directly affecting the person.**

10 **(3) An allegation of a criminal act pursuant to R.S. 14:2(B).**

11 **(4) An allegation of a criminal act pursuant to R.S. 15:541.**

12 **(5) An allegation of domestic abuse battery pursuant to R.S. 14:35.3**
 13 **committed by one family member or household member against another, or**
 14 **battery committed by one dating partner as defined by R.S. 46:2151 against**
 15 **another.**

16 **(6) An allegation of a violation of a protective order, pursuant to R.S.**
 17 **14:79, issued against the offender to protect a family member or household**
 18 **member as defined by R.S. 14:35.3, or a dating partner as defined by R.S.**
 19 **46:2151.**

20 **(7) Being in possession of a firearm or other prohibited weapon.**

21 **(8) Absconding from the jurisdiction of the court by leaving the state**
 22 **without the prior approval of the probation and parole officer.**

23 Art. 900. Violation hearing; sanctions

24 A. After an arrest pursuant to Article 899, the court shall cause a defendant
 25 who continues to be held in custody to be brought before it within thirty days for a
 26 hearing. If a summons is issued pursuant to Article 899, or if the defendant has been
 27 admitted to bail, the court shall set the matter for a violation hearing within a
 28 reasonable time. The hearing may be informal or summary. If the court decides that
 29 the defendant has violated, or was about to violate, a condition of his probation it
 30 may:

* * *

1
2 (5)(a) Order that the probation be revoked. In the event of revocation the
3 defendant shall serve the sentence suspended, with or without credit for the time
4 served on probation at the discretion of the court. If the imposition of sentence was
5 suspended, the defendant shall serve the sentence imposed by the court at the
6 revocation hearing.

7 **(b) Notwithstanding the provisions of Subsubparagraph (a) of this**
8 **Subparagraph, in the event of revocation for a defendant placed on probation**
9 **for the conviction of an offense other than a crime of violence as defined in R.S.**
10 **14:2(B) or a sex offense as defined in R.S. 15:541, the defendant shall serve the**
11 **sentence suspended with credit for time served on probation.**

12 (6)(a) Notwithstanding the provisions of Subparagraph (A)(5) of this Article,
13 any defendant who has been placed on probation by the drug division probation
14 program pursuant to R.S. 13:5304, and who has had his probation revoked under the
15 provisions of this Article for a technical violation of drug division probation as
16 determined by the court, may be ordered to be committed to the custody of the
17 Department of Public Safety and Corrections and be required to serve a sentence of
18 not more than twelve months without diminution of sentence in the intensive
19 incarceration program pursuant to the provisions of R.S. 15:574.4.4. Upon successful
20 completion of the program, the defendant shall return to active, supervised probation
21 with the drug division probation program for a period of time as ordered by the court,
22 subject to any additional conditions imposed by the court and under the same
23 provisions of law under which the defendant was originally sentenced. If an offender
24 is denied entry into the intensive incarceration program for physical or mental health
25 reasons or for failure to meet the department's suitability criteria, the department
26 shall notify the sentencing court for resentencing in accordance with the provisions
27 of Article 881.1.

28 (b) Notwithstanding the provisions of Subparagraph (A)(5) of this Article,
29 any defendant who has been placed on probation by the court for the conviction of
30 an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex

1 offense as defined in ~~R.S. 15:541(24)~~ **by R.S. 15:541**, and who has had his probation
 2 revoked under the provisions of this Article for ~~his first~~ **a** technical violation of his
 3 probation as determined by the court, shall be required to serve ~~a sentence of not~~
 4 ~~more than ninety days without diminution of sentence,~~ **without diminution of**
 5 **sentence, as follows:**

6 **(i) For a first technical violation, not more than fifteen days.**

7 **(ii) For a second technical violation, not more than thirty days.**

8 **(iii) For a third or subsequent technical violation, not more than**
 9 **forty-five days.**

10 **(iv) For custodial substance abuse treatment programs, not more than**
 11 **ninety days.**

12 **(c)** The defendant shall be given credit for time served prior to the revocation
 13 hearing for time served in actual custody while being held for a technical violation
 14 in a local detention facility, state institution, or out-of-state institution pursuant to
 15 Article 880. The term of the revocation for a technical violation shall begin on the
 16 date the court orders the revocation. Upon completion of the imposed sentence for
 17 the technical revocation, the defendant shall return to active and supervised probation
 18 for a period equal to the remainder of the original period of probation subject to any
 19 additional conditions imposed by the court. ~~The provisions of this Paragraph shall~~
 20 ~~apply only to the defendant's first revocation for a technical violation.~~

21 ~~(e)~~**(d)** A "technical violation", as used in this Paragraph, means any violation
 22 except it shall not include any of the following:

23 ~~(i) Being arrested, charged, or convicted of any of the following:~~ **An**
 24 **allegation of a criminal act that is subsequently proven to be a felony.**

25 ~~(aa) A felony.~~

26 ~~(bb) A violation of any provision of Title 40 of the Louisiana Revised~~
 27 ~~Statutes of 1950, except for misdemeanor possession of marijuana or~~
 28 ~~tetrahydrocannabinol, or chemical derivatives thereof, as provided in R.S.~~
 29 ~~40:966(E)(1), which shall be considered a "technical violation".~~

30 ~~(ee)~~**(ii) Any An allegation of a criminal act that is subsequently proven**

1 to be an intentional misdemeanor directly affecting the person.

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

4 ~~(ee) At the discretion of the court, any attempt to commit any other~~
5 ~~misdemeanor.~~

6 (iii) An allegation of a criminal act that is subsequently proven to be a
7 violation of a protective order, pursuant to R.S. 14:79, issued against the
8 offender to protect a family member or household member as defined by R.S.
9 14:35, or dating partner as defined by R.S. 46:2151.

10 ~~(ii)(iv)~~ Being in possession of a firearm or other prohibited weapon.

11 ~~(iii)~~ Failing to appear at any court hearing.

12 ~~(iv)(v)~~ Absconding from the jurisdiction of the court by leaving the state
13 without the prior approval of the court or the probation and parole officer.

14 ~~(v)~~ Failing to satisfactorily complete a drug court program if ordered to do
15 so as a special condition of probation.

16 ~~(vi)~~ At the discretion of the court, failing to report to the probation officer
17 for more than one hundred twenty consecutive days.

18 * * *

19 Art. 903.1. Substance abuse probation program; eligibility

20 A. In order to be eligible for the substance abuse probation program, the
21 defendant must be charged with a violation of a statute of this state relating to
22 the use and possession of or possession with intent to distribute any narcotic
23 drugs, coca leaves, marijuana, stimulants, depressants, or hallucinogenic drugs,
24 or where there is a significant relationship between the use of alcohol or drugs
25 and the crime before the court. shall not be excluded from participation pursuant
26 to the provisions of Paragraph B of this Article and shall be charged with any of the
27 following offenses:

28 ~~(1)~~ Felony possession of a controlled dangerous substance as defined in R.S.
29 ~~40:966(C), 967(C), 968(C), or 969(C).~~

30 ~~(2)~~ Except as provided in Subparagraph (3) of this Paragraph, possession with

1 intent to distribute a controlled dangerous substance as defined in R.S. 40:966(A),
2 967(A), 968(A), or 969(A) where the offense involves less than twenty-eight grams
3 of the controlled dangerous substance.

4 ~~(3) Possession with intent to distribute marijuana or synthetic cannabinoids~~
5 ~~as defined in R.S. 40:966(A) where the offense involves less than one pound of~~
6 ~~marijuana or synthetic cannabinoids.~~

7 B. The provisions of this Article shall not apply to any defendant who has
8 been convicted of a crime of violence as defined in R.S. 14:2(B), **except for a first**
9 **conviction of an offense with a maximum prison sentence of ten years or less**
10 **that was not committed against a family member or household member as**
11 **defined by R.S. 14:35.3, or against a dating partner as defined by R.S. 46:2151,**
12 or a sex offense as defined in R.S. 15:541, or any defendant who has participated in
13 or declined to participate in a drug division probation program as provided for in
14 R.S. 13:5301 et seq.

15 Section 2. R.S. 13:5304(B)(10)(b) is hereby amended and reenacted to read as
16 follows:

17 §5304. The drug division probation program

18 * * *

19 B. Participation in probation programs shall be subject to the following
20 provisions:

21 * * *

22 (10) In order to be eligible for the drug division probation program, the
23 defendant must satisfy each of the following criteria:

24 * * *

25 (b) The crime before the court cannot be a crime of violence as defined in
26 R.S. 14:2(B), **except a first conviction of an offense with a maximum prison**
27 **sentence of ten years or less that was not committed against a family member**
28 **or household member as defined by R.S. 14:35.3, or against a dating partner as**
29 **defined by R.S. 46:2151,** or an offense of domestic abuse battery which is
30 punishable by imprisonment at hard labor as provided in R.S. 14:35.3.

1 * * *

2 Section 3. R.S. 15:571.3(B) and (D), 574.2(C)(1) and (2)(introductory paragraph),
 3 and (D)(1), (6)(introductory paragraph), (8)(a), and (9), 574.4(A)(1), (B)(1), and
 4 (C)(2)(a)(introductory paragraph) and (b), 574.4.1(A)(1), 574.6, 574.7(B)(1)(introductory
 5 paragraph) and (C), 574.9(D), (E), (F), and (G), 574.20, and 828(B) and (C) are hereby
 6 amended and reenacted and R.S. 15:574.2(C)(4), 574.4(F), 574.6.1, 574.7(D), 574.9(H),
 7 827(A)(7), and 828(D) are hereby enacted to read as follows:

8 §571.3. Diminution of sentence for good behavior

9 * * *

10 B.(1)(a) Unless otherwise prohibited, every **inmate offender** in the custody
 11 of the department who has been convicted of a felony, except an **inmate offender**
 12 convicted a second time of a crime of violence as defined by R.S. 14:2(B), and
 13 sentenced to imprisonment for a stated number of years or months, may earn, in lieu
 14 of incentive wages, a diminution of sentence by good behavior and performance of
 15 work or self-improvement activities, or both, to be known as "good time". Those
 16 **inmates offenders** serving life sentences will be credited with good time earned
 17 which will be applied toward diminution of their sentences at such time as the life
 18 sentences might be commuted to a specific number of years. The secretary shall
 19 establish regulations for awarding and recording of good time and shall determine
 20 when good time has been earned toward diminution of sentence. The amount of
 21 diminution of sentence allowed under the provisions of this Section shall be at the
 22 rate of ~~one and one half day for every one day~~ **thirteen days for every seven days**
 23 in actual custody served on the imposed sentence, including time spent in custody
 24 with good behavior prior to sentencing for the particular sentence imposed as
 25 authorized by the provisions of Code of Criminal Procedure Article 880.

26 (b) The provisions of Subparagraph (a) of this Paragraph shall be applicable
 27 to ~~persons~~ **offenders** convicted of offenses on or after January 1, 1992, and who are
 28 not serving a sentence for the following offenses:

29 (i) A sex offense as defined in R.S. 15:541.

30 (ii) A crime of violence as defined in R.S. 14:2(B).

1 (iii) Any offense which would constitute a crime of violence as defined in
 2 R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, regardless of the date of
 3 conviction.

4 (2)(a) An inmate **offender** convicted ~~a first time~~ of a crime of violence as
 5 defined in R.S. 14:2(B), **without a prior conviction of a crime of violence as**
 6 **defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541,** shall earn
 7 diminution of sentence at a rate of ~~three days for every seventeen~~ **one day for every**
 8 **three** days in actual custody held on the imposed sentence, including time spent in
 9 custody with good behavior prior to sentencing for the particular sentence imposed
 10 as authorized by Code of Criminal Procedure Article 880.

11 **(b) The provisions of this Paragraph shall not apply to an offender if his**
 12 **instant conviction is for a crime that is listed both as a crime of violence**
 13 **pursuant to R.S. 14:2(B) and sex offense pursuant to R.S. 15:541.**

14 **(c) The provisions of this Paragraph shall apply only to offenders who**
 15 **commit an offense or whose probation or parole is revoked on or after**
 16 **November 1, 2017.**

17 (3) ~~A person shall not be eligible for diminution of sentence for good~~
 18 ~~behavior if he has been convicted of or pled guilty to, or where adjudication has been~~
 19 ~~deferred or withheld for, a violation of any one of the following offenses:~~

20 (a) ~~Rape (R.S. 14:41).~~

21 (b) ~~Aggravated or first degree rape (R.S. 14:42).~~

22 (c) ~~Forcible or second degree rape (R.S. 14:42.1).~~

23 (d) ~~Simple or third degree rape (R.S. 14:43).~~

24 (e) ~~Sexual battery (R.S. 14:43.1).~~

25 (f) ~~Second degree sexual battery (R.S. 14:43.2).~~

26 (g) ~~Oral sexual battery (R.S. 14:43.3).~~

27 (h) ~~Intentional exposure to AIDS virus (R.S. 14:43.5).~~

28 (i) ~~Repealed by Acts 2014, No. 602, §7, eff. June 12, 2014.~~

29 (j) ~~Repealed by Acts 2014, No. 602, §7, eff. June 12, 2014.~~

30 (k) ~~Felony carnal knowledge of a juvenile (R.S. 14:80).~~

1 ~~(f) Indecent behavior with juveniles (R.S. 14:81).~~

2 ~~(m) Pornography involving juvenile (R.S. 14:81.1).~~

3 ~~(n) Molestation of a juvenile or a person with a physical or mental disability~~
4 ~~(R.S. 14:81.2).~~

5 ~~(o) Computer-aided solicitation of a minor (R.S. 14:81.3).~~

6 ~~(p) Crime against nature (R.S. 14:89).~~

7 ~~(q) Aggravated crime against nature (R.S. 14:89.1).~~

8 ~~(r) Sexual battery of persons with infirmities (R.S. 14:93.5).~~

9 ~~(4) Diminution of sentence shall not be allowed an inmate in the custody of~~
10 ~~the Department of Public Safety and Corrections if the inmate has been convicted~~
11 ~~one or more times under the laws of this state, any other state, or the federal~~
12 ~~government of any one or more of the following crimes or attempts to commit any~~
13 ~~of the following crimes:~~

14 ~~(a) Felony carnal knowledge of a juvenile.~~

15 ~~(b) Indecent behavior with juveniles.~~

16 ~~(c) Molestation of a juvenile or a person with a physical or mental disability.~~

17 ~~(d) Crime against nature as defined by R.S. 14:89(A)(2).~~

18 ~~(e) Aggravated crime against nature as defined by R.S. 14:89.1(A)(2).~~

19 * * *

20 D.(1) Diminution of sentence shall not be allowed an inmate **offender** in the
21 custody of the Department of Public Safety and Corrections if the instant offense is
22 a second offense crime of violence as defined by R.S. 14:2(B).

23 **(2) Diminution of sentence shall not be allowed an offender in the**
24 **custody of the Department of Public Safety and Corrections if the instant**
25 **offense is a sex offense as defined by R.S. 15:541.**

26 * * *

27 §574.2. Committee on parole, Board of Pardons; membership; qualifications;
28 vacancies; compensation; domicile; venue; meetings; quorum;
29 panels; powers and duties; transfer of property to committee;
30 representation of applicants before the committee; prohibitions

* * *

C.(1) The committee shall meet in a minimum of three-member panels at the adult correctional institutions on regular scheduled dates, not less than every three months. Such dates are to be determined by the chairman. Except as provided for in Paragraph (2) of this Subsection **or in cases where the offender is released pursuant to Paragraph (4) of this Subsection**, three votes of a three-member panel shall be required to grant parole, or, if the number exceeds a three-member panel, a unanimous vote of those present shall be required to grant parole.

(2) ~~The~~ **Except in cases where the offender is released pursuant to Paragraph (4) of this Subsection, the** committee may grant parole with two votes of a three-member panel, or, if the number exceeds a three-member panel, a majority vote of those present if all of the following conditions are met:

* * *

(4)(a) Notwithstanding any provision of law to the contrary, each offender who commits an offense on or after November 1, 2017, other than a crime of violence as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, and eligible for parole pursuant to R.S. 15:574.4(A)(1), except those sentenced under R.S. 15:529.1 or R.S. 13:5401, shall be released on administrative parole on the offender's parole eligibility date without a hearing before the committee if all of the following conditions are met:

(i) The offender has completed a case plan pursuant to R.S. 15:827(A)(7), except as provided in Subparagraph (b) of this Paragraph.

(ii) For any offender whose charge or amended charge on the bill of information was a crime of violence as defined by R.S. 14:2(B) or a sex offense as defined by R.S. 15:541, the following conditions are met:

(aa) A victim of the offender has been notified pursuant to Subsection D of this Section and has not requested that the committee conduct a hearing.

(bb) The district attorney of the parish in which the conviction occurred has been notified pursuant to Subsection D of this Section and has not requested that the committee conduct a hearing.

1 **(iii) The offender has not committed any major disciplinary offenses in**
 2 **the twelve consecutive months prior to the administrative parole eligibility date.**
 3 **A major disciplinary offense is an offense identified as a Schedule B offense by**
 4 **the Department of Public Safety and Corrections in the Disciplinary Rules and**
 5 **Procedures for Adult Offenders.**

6 **(iv) The offender has agreed to the conditions of supervision.**

7 **(b)(i) Except as provided in Item (ii) of this Subsection, if the offender**
 8 **has met the conditions provided in Items (a)(ii), (iii), and (iv) of this Paragraph,**
 9 **he shall still be released on administrative parole if the case plan was not**
 10 **created for him or the incomplete case plan was not the fault of the offender.**

11 **(ii) The provisions of Item (i) of this Subparagraph shall not apply to**
 12 **persons who commit the offense on or after January 1, 2021.**

13 D. In accordance with the provisions of this Part, the committee on parole
 14 shall have the following powers and duties:

15 (1) ~~To~~ **Except as provided in Paragraph (C)(4) of this Section, to**
 16 determine the time and conditions of release on parole of any ~~person~~ **offender** who
 17 has been convicted of a felony and sentenced to imprisonment, and confined in any
 18 penal or correctional institution in this state.

19 * * *

20 (6) ~~To~~ **Except as provided in Paragraph (C)(4) of this Section, to** consider
 21 all pertinent information with respect to each ~~prisoner~~ **offender** who is incarcerated
 22 in any penal or correctional institution in this state at least one month prior to the
 23 parole eligible date and thereafter at such other intervals as it may determine, which
 24 information shall be a part of the ~~inmate's~~ **offender's** consolidated summary record
 25 and which shall include:

26 * * *

27 (8)(a) To notify the district attorney of the parish where the conviction
 28 occurred. The notification shall be in writing and shall be issued at least ~~thirty~~ **sixty**
 29 days prior to the hearing date. **For offenders eligible for release pursuant to**
 30 **Paragraph (C)(4) of this Section, the notification shall be in writing and shall be**

1 issued at least ninety days prior to the offender's administrative parole
 2 eligibility date. If the offender's charge or amended charge on the bill of
 3 information was a crime of violence as defined in R.S. 14:2(B) or a sex offense
 4 as defined in R.S. 15:541, the district attorney of the parish in which the
 5 conviction occurred shall have thirty days from the date of notification to object
 6 to the offender's release on administrative parole and may request that the
 7 committee on parole conduct a hearing. The district attorney of the parish where
 8 the conviction occurred shall be allowed to review the record of the offender since
 9 incarceration, including but not limited to any educational or vocational training,
 10 rehabilitative program participation, disciplinary conduct, and risk assessment score.
 11 The district attorney shall be allowed to present testimony to the committee on parole
 12 and submit information relevant to the proceedings, except as provided in
 13 Paragraph (C)(4) of this Section.

14 * * *

15 (9)(a) To notify the victim, or the spouse or next of kin of a deceased victim,
 16 when the offender is scheduled for a parole hearing. The notification shall be in
 17 writing and sent no less than ~~thirty~~ sixty days prior to the hearing date. The notice
 18 shall advise the victim, or the spouse or next of kin of a deceased victim, of their
 19 rights with regard to the hearing. The notice is not required when the victim, or the
 20 spouse or next of kin of a deceased victim, advises the committee in writing that such
 21 notification is not desired. The victim, or the spouse or next of kin of a deceased
 22 victim, shall be allowed to testify at the hearing. The victim, or the spouse or next
 23 of kin of a deceased victim, shall be allowed to testify directly, or in rebuttal to
 24 testimony or evidence offered by or on behalf of the offender, or both.

25 (b) To notify the victim, or the spouse or next of kin of a deceased victim
 26 of those offenders eligible for release pursuant to Paragraph (C)(4) of this
 27 Section. The notification shall meet all requirements set forth in Subparagraph
 28 (9)(a) of this Section except that it shall give notice of the offender's
 29 administrative parole eligibility date and be sent no less than ninety days prior
 30 to the offender's administrative parole eligibility date. If the offender's charge

1 or amended charge on the bill of information was a crime of violence as defined
 2 in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, the victim, or the
 3 spouse or next of kin of a deceased victim, shall have thirty days from the date
 4 of notification to object to the offender's release on administrative parole and
 5 may request that the committee on parole conduct a hearing.

6 * * *

7 §574.4. Parole; eligibility

8 A.(1)(a) Unless eligible at an earlier date ~~and except as provided for in~~
 9 ~~Subparagraph (b) of this Paragraph and Subsection B of this Section~~, a person;
 10 otherwise eligible for parole, ~~convicted of a first felony offense~~ shall be eligible for
 11 parole consideration upon serving **twenty-five percent of the sentence imposed.**
 12 **The provisions of this Subparagraph shall not apply to any person whose**
 13 **instant offense is a crime of violence as defined in R.S. 14:2(B), a sex offense as**
 14 **defined in R.S. 15:541, or any offense which would constitute a crime of violence**
 15 **as defined in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541, regardless**
 16 **of the date of conviction. Notwithstanding any provisions of law to the contrary,**
 17 **the provisions of this Subparagraph shall be applicable to persons convicted of**
 18 **offenses prior to and on or after November 1, 2017.** ~~thirty-three and one-third~~
 19 ~~percent of the sentence imposed. Upon conviction of a second felony offense, such~~
 20 ~~person shall be eligible for parole consideration upon serving fifty percent of the~~
 21 ~~sentence imposed. A person convicted of a third or subsequent felony offense shall~~
 22 ~~not be eligible for parole.~~

23 (b)(i) ~~Notwithstanding the provisions of Subparagraph (a) of this Paragraph,~~
 24 ~~a person, otherwise eligible for parole, convicted of a first felony offense shall be~~
 25 ~~eligible for parole consideration upon serving twenty-five percent of the sentence~~
 26 ~~imposed. The provisions of this Subparagraph shall not apply to any person who has~~
 27 ~~been convicted of a crime of violence as defined in R.S. 14:2(B), has been convicted~~
 28 ~~of a sex offense as defined in R.S. 15:541, has been sentenced as a habitual offender~~
 29 ~~pursuant to R.S. 15:529.1, or is otherwise ineligible for parole.~~ **A person, otherwise**
 30 **eligible for parole, whose instant offense is a second conviction of a crime of**

1 violence as defined in R.S. 14:2(B) or a first or second conviction of a sex offense
 2 as defined in R.S. 15:541 shall be eligible for parole consideration upon serving
 3 seventy-five percent of the sentence imposed. A person convicted a third or
 4 subsequent time of a crime of violence as defined in R.S. 14:2(B) or a third or
 5 subsequent time of a sex offense as defined in R.S. 15:541 shall not be eligible
 6 for parole.

7 (ii) Notwithstanding the provisions of Subparagraph (b)(i) of this
 8 Paragraph, a person, otherwise eligible for parole, convicted of a crime of
 9 violence as defined in R.S. 14:2(B) who does not have a prior felony conviction
 10 for a crime of violence as defined in R.S. 14:2(B) or a prior felony conviction for
 11 a sex offense as defined in R.S. 15:541 shall be eligible for parole consideration
 12 upon serving sixty-five percent of the sentence imposed. The provisions of this
 13 Item shall not apply to any person convicted of a sex offense as defined in R.S.
 14 15:541.

15 (iii) The provisions of this Subparagraph shall be applicable only to
 16 persons who commit an offense or whose probation or parole is revoked on or
 17 after November 1, 2017.

18 ~~(ii) Notwithstanding the provisions of Subparagraph (a) of this Paragraph, a~~
 19 ~~person, otherwise eligible for parole, convicted of a second felony offense shall be~~
 20 ~~eligible for parole consideration upon serving thirty-three and one-third percent of~~
 21 ~~the sentence imposed. The current offense shall not be counted as a second or~~
 22 ~~subsequent offense if more than ten years have lapsed between the date of the~~
 23 ~~commission of the current offense or offenses and the expiration of the person's~~
 24 ~~maximum sentence or sentences of the previous conviction or convictions, or~~
 25 ~~between the expiration of his maximum sentence or sentences of each preceding~~
 26 ~~conviction and the date of the commission of the following offense or offenses. In~~
 27 ~~computing the intervals of time, any period of parole, probation, or incarceration by~~
 28 ~~a person in a penal institution, within or without the state shall not be included in the~~
 29 ~~computation of any of the ten-year periods between the expiration of the person's~~
 30 ~~maximum sentence or sentences and the next succeeding offense or offenses. The~~

1 provisions of this Item shall not apply to any person who has been convicted of a
2 crime of violence as defined in R.S. 14:2(B), has been convicted of a sex offense as
3 defined in R.S. 15:541, has been sentenced as a habitual offender pursuant to R.S.
4 15:529.1, or is otherwise ineligible for parole.

5 (iii) Any person eligible for parole pursuant to the provisions of this
6 Subparagraph shall not be eligible for parole pursuant to the provisions of
7 Subparagraph (a) of this Paragraph.

8 (iv) Nothing in this Subparagraph shall prevent a person from reapplying for
9 parole as provided by rules adopted in accordance with the Administrative Procedure
10 Act.

11 * * *

12 B.(1) No person shall be eligible for parole consideration who has been
13 convicted of armed robbery and denied parole eligibility under the provisions of R.S.
14 14:64. Except as provided in Paragraph (2) of this Subsection, and except as
15 provided in Paragraph (A)(5) and Subsections ~~D₂~~ and E₂ and F of this Section, no
16 prisoner serving a life sentence shall be eligible for parole consideration until his life
17 sentence has been commuted to a fixed term of years. No prisoner sentenced as a
18 serial sexual offender shall be eligible for parole. No prisoner may be paroled while
19 there is pending against him any indictment or information for any crime suspected
20 of having been committed by him while a prisoner. Notwithstanding any other
21 provisions of law to the contrary, a person convicted of a crime of violence and not
22 otherwise ineligible for parole shall serve at least ~~seventy~~ sixty-five percent of the
23 sentence imposed, before being eligible for parole. The victim or victim's family
24 shall be notified whenever the offender is to be released provided that the victim or
25 victim's family has completed a Louisiana victim notice and registration form as
26 provided in R.S. 46:1841 et seq., or has otherwise provided contact information and
27 has indicated to the Department of Public Safety and Corrections, Crime Victims
28 Services Bureau, that they desire such notification.

29 * * *

30 C.

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(2)(a) ~~In~~ **Except as provided in R.S. 15:574.2(C)(4), in** cases where the offender has been convicted of, or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of a violation of a sex offense as defined in R.S. 15:541 and parole is permitted by law and the offender is otherwise eligible, the committee shall consider reports, assessments, and clinical information, as available, including any testing and recommendations by mental health professionals, as to all of the following:

* * *

(b) ~~The~~ **Except as provided in R.S. 15:574.2(C)(4), the** committee shall render its decision ordering or denying the release of the prisoner on parole only after considering this clinical evidence where such clinical evidence is available.

* * *

F. Notwithstanding any provision of law to the contrary, an offender serving a life sentence for second degree murder (R.S. 14:30.1), shall be eligible for parole consideration pursuant to the provisions of this Subsection if all of the following conditions are met:

(1) The offender committed the offense after July 2, 1973, and prior to June 29, 1979.

(2) The offender has served at least forty years of the sentence imposed.

(3) The committee on parole has granted parole with a unanimous vote of those present.

§574.4.1. Parole consideration and hearings

A.(1) The parole hearings shall be conducted in a formal manner in accordance with the rules formulated by the committee and with the provisions of this Part. ~~Before~~ **Except as provided in R.S. 15:574.2(C)(4), before** the parole of any prisoner is ordered, such prisoner shall appear before and be interviewed by the committee, except those incarcerated in parish prisons or parish correctional centers, in which case one committee member may conduct the interview. The committee may order a reconsideration of the case or a rehearing at any time.

* * *

§574.6. Parole term; automatic discharge

The parole term, when the committee orders a ~~prisoner~~ **an offender** released on parole, shall be for the remainder of the ~~prisoner's~~ **offender's** sentence, ~~without any diminution of sentence for good behavior~~ **with credits for compliance with the terms and conditions of parole supervision pursuant to R.S. 15:574.6.1.** When the parolee has completed his full parole term, he shall be discharged from parole by the Department of Public Safety and Corrections without order by the committee, provided that:

(1) No warrant has been issued by the committee for the arrest of the parolee.

(2) No detainer has been issued by the parole officer for the detention of the parolee pending revocation proceedings.

(3) No indictment or bill of information is pending for any felony the parolee is suspected to have committed while on parole.

§574.6.1. Compliance credits; parole

A. Every offender on parole for an offense other than a crime of violence as defined by R.S. 14:2(B) or a sex offense as defined by R.S. 15:541 shall earn a diminution of parole term, to be known as "earned compliance credits", by good behavior on parole. The amount of diminution of parole term allowed under this Section shall be at the rate of thirty days for every full calendar month on parole.

B. If the probation and parole officer has reasonable cause to believe that an offender on parole has not been compliant with the conditions of his parole in a given calendar month, he may rescind thirty days of earned compliance credits as an administrative sanction under R.S. 15:574.7. Credits may be rescinded only for a month in which the offender is found not to be in compliance.

C. The Department of Public Safety and Corrections shall develop written policies and procedures for the implementation of earned compliance credits for offenders on parole supervision provided by the provisions of this

1 parole violation hearing.

2 (b) The parolee admits to the violation or affirmatively chooses not to
3 contest the violation alleged in the parole violation report.

4 (c) The parolee consents to the imposition of administrative sanctions by
5 the Department of Public Safety and Corrections.

6 (2) The department shall promulgate rules to implement the provisions
7 of this Subsection to establish the following:

8 (a) A system of structured, administrative sanctions which shall be
9 imposed for technical violations of parole and which shall take into
10 consideration the following factors:

11 (i) The severity of the violation behavior.

12 (ii) The prior violation history.

13 (iii) The severity of the underlying criminal conviction.

14 (iv) The criminal history of the parolee.

15 (v) Any special circumstances, characteristics, or resources of the
16 parolee.

17 (vi) Protection of the community.

18 (vii) Deterrence.

19 (viii) The availability of appropriate local sanctions, including but not
20 limited to jail, treatment, community service work, house arrest, electronic
21 surveillance, restitution centers, work release centers, day reporting centers, or
22 other local sanctions.

23 (ix) Incarceration shall not be used for the lowest-tier violations
24 including the first positive drug test and the first or second violation for the
25 following:

26 (aa) Association with known felons or persons involved in criminal
27 activity.

28 (bb) Changing residence without permission.

29 (cc) Failure to initially report as required.

30 (dd) Failure to pay restitution for up to three months.

1 (ee) Failure to report as instructed.

2 (ff) Traveling without permission.

3 (gg) Occasion of unemployment and failure to seek employment within
4 ninety days.

5 (x) Incarceration shall not be used for first or second violations of alcohol
6 use or admission, except for defendants convicted of operating a vehicle while
7 intoxicated pursuant to R.S. 14:98; defendants convicted of domestic abuse
8 battery pursuant to R.S. 14:35.3 committed by one family member or household
9 member against another; defendants convicted of battery by one dating partner
10 as defined by R.S. 46:2151 against another; or defendants convicted of a
11 violation of a protective order, pursuant to R.S. 14:79, issued against the
12 defendant to protect a family member or household member as defined by R.S.
13 14:35.3, or a dating partner as defined by R.S. 46:2151.

14 (b) Procedures to provide a parolee with written notice of the right to a
15 parole violation hearing to determine whether the parolee violated the
16 conditions of parole alleged in the violation report and the right to be
17 represented by counsel at state expense at that hearing if financially eligible.

18 (c) Procedures for a parolee to provide written waiver of the right to a
19 parole violation hearing, to admit to the violation or affirmatively choose not to
20 contest the violation alleged in the parole violation report, and to consent to the
21 imposition of administrative sanctions by the department.

22 (d) The level and type of sanctions that may be imposed by parole
23 officers and other supervisory personnel.

24 (e) The level and type of violation behavior that warrants a
25 recommendation to the board that parole be revoked.

26 (f) Procedures notifying the parolee and the committee on parole of a
27 violation admitted by the parolee and the administrative sanctions imposed.

28 (g) Such other policies and procedures as are necessary to implement the
29 provisions of this Subsection and to provide adequate parole supervision.

30 (3) If the administrative sanction imposed pursuant to the provisions of

1 this Subsection is jail confinement, the confinement shall not exceed ten days
 2 per violation and shall not exceed a total of sixty days per year.

3 (4) For purposes of this Subsection, "technical violation" means any
 4 violation of a condition of parole, that does not include any of the following:

5 (a) An allegation of a criminal act that is subsequently proven to be a
 6 felony.

7 (b) An allegation of a criminal act that is subsequently proven to be an
 8 intentional misdemeanor directly affecting the person.

9 (c) An allegation of a criminal act that if proven would be a crime of
 10 violence as defined in R.S. 14:2(B).

11 (d) An allegation of a criminal act that if proven would be a sex offense
 12 as defined in R.S. 15:541.

13 (e) An allegation of domestic abuse battery pursuant to R.S. 14:35.3
 14 committed by one family member or household member against another, or an
 15 allegation of battery committed by one dating partner as defined by R.S.
 16 46:2151 against another.

17 (f) An allegation of violation of a protective order, pursuant to R.S.
 18 14:79, issued against the offender to protect a family member or household
 19 member as defined by R.S. 14:35.3, or a dating partner as defined by R.S.
 20 46:2151.

21 (g) Being in possession of a firearm or other prohibited weapon.

22 (h) Absconding from the jurisdiction of the court by leaving the state
 23 without the prior approval of the committee on parole or the probation and
 24 parole officer.

25 D.(1) If the chief probation and parole officer, upon recommendation by a
 26 parole officer, has reasonable cause to believe that a parolee has violated the
 27 conditions of parole, he shall notify the committee, and shall cause the appropriate
 28 parole officer to submit the parolee's record to the committee. After consideration of
 29 the record submitted, and after such further investigation as it may deem necessary,
 30 the committee may order:

1 (a) The issuance of a reprimand and warning to the parolee.

2 (b) That the parolee be required to conform to one or more additional
3 conditions of parole which may be imposed in accordance with R.S. 15:574.4.

4 (c) That the parolee be arrested, and upon arrest be given a prerevocation
5 hearing within a reasonable time, at or reasonably near the place of the alleged parole
6 violation or arrest, to determine whether there is probable cause to detain the parolee
7 pending orders of the parole committee.

8 (2) Upon receiving a summary of the prerevocation proceeding, the
9 committee may order the following:

10 (a) The parolee's return to the physical custody of the Department of Public
11 Safety and Corrections, corrections services, to await a hearing to determine whether
12 his parole should be revoked.

13 (b) As an alternative to revocation, that the parolee, as a condition of parole,
14 be committed to a community rehabilitation center or a substance abuse treatment
15 program operated by, or under contract with, the department, for a period of time not
16 to exceed six months, without benefit of good time, provided that such commitment
17 does not extend the period of parole beyond the full parole term. Upon written
18 request of the department that the offender be removed for violations of the rules or
19 regulations of the community rehabilitation center or substance abuse program, the
20 committee shall order that the parole be revoked, with credit for time served in the
21 community rehabilitation center.

22 * * *

23 §574.9. Revocation of parole for violation of condition; committee panels; return to
24 custody hearing; duration of reimprisonment and reparole after
25 revocation; credit for time served; revocation for a technical violation

26 * * *

27 **D.(1) When a judge sets bond on allegations of a new felony offense for**
28 **a parolee, the Department of Public Safety and Corrections, division of**
29 **probation and parole and the committee on parole must be notified within three**
30 **business days.**

1 **(2) The parole detainer will expire ten days after the bond has been set,**
 2 **unless the division of probation and parole seeks to maintain the detainer.**

3 ~~DE~~. Parole revocation shall require two votes of a three-member panel of
 4 parole committee members or, if the number of members present exceeds a three-
 5 member panel, a majority vote of those members present and voting, and the order
 6 of revocation shall be reduced to writing and preserved.

7 ~~EF~~. When the parole of a parolee has been revoked by the committee for
 8 violation of the conditions of parole, the parolee shall be returned to the physical
 9 custody of the Department of Public Safety and Corrections, corrections services,
 10 and serve the remainder of his sentence as of the date of his release on parole, and
 11 any credit for time served for good behavior while on parole. The parolee shall be
 12 given credit for time served prior to the revocation hearing for time served in actual
 13 custody while being held for a parole violation in a local detention facility, state
 14 institution, or out-of-state institution pursuant to Code of Criminal Procedure Article
 15 880.

16 ~~FG~~. Any such prisoner whose parole has been revoked may be considered by
 17 the committee for reparole in accordance with the provisions of this Part.

18 ~~GH~~.(1)(a)(i) ~~Except as provided in Subparagraph (b) of this Paragraph, any~~
 19 **Any** offender who has been released on parole and whose parole supervision is being
 20 revoked pursuant to the provisions of this Subsection for a technical violation of the
 21 conditions of parole as determined by the committee on parole, shall be required to
 22 serve the following sentences:

23 ~~(aa)~~**(i)** For the first technical violation, ~~the offender shall serve~~ not more than
 24 **ninety fifteen** days.

25 ~~(bb)~~**(ii)** For a second technical violation, ~~the offender shall serve~~ not more
 26 than ~~one hundred twenty~~ **thirty** days.

27 ~~(cc)~~**(iii)** For a third or subsequent technical violation, ~~the offender shall serve~~
 28 not more than ~~one hundred eighty~~ **forty-five** days.

29 **(iv) For custodial substance abuse treatment programs, not more than**
 30 **ninety days.**

1 ~~(ii)~~**(b)** The sentences imposed pursuant to ~~Item (i) of this Subparagraph (a)~~
 2 **of this Paragraph** shall be served without diminution of sentence ~~or credit for time~~
 3 ~~served prior to the revocation for a technical violation.~~ The term of the revocation
 4 for the technical violation shall begin on the date the committee on parole orders the
 5 revocation. Upon completion of the imposed technical revocation sentence, the
 6 offender shall return to active parole supervision for the remainder of the original
 7 term of supervision.

8 **(c) The offender shall be given credit toward service of his sentence for**
 9 **time spent in actual custody prior to the revocation hearing while being held for**
 10 **a technical violation in a local detention facility, state institution, or out-of-state**
 11 **institution.**

12 ~~(b)~~**(d)** The provisions of Subparagraph (a) of this Paragraph shall not apply
 13 to the following offenders:

14 (i) Any offender released on parole for the conviction of a crime of violence
 15 as defined in R.S. 14:2(B).

16 (ii) Any offender released on parole for the conviction of a sex offense as
 17 defined in R.S. 15:541.

18 (iii) Any offender released on parole who is subject to the sex offender
 19 registration and notification requirements of R.S. 15:541 et seq.

20 (2) A "technical violation", as used in this Subsection, means any violation
 21 except it shall not include any of the following:

22 (a) ~~Being arrested, charged, or convicted of any of the following:~~

23 ~~(i) A~~ **An allegation of a criminal act that is subsequently proven to be a**
 24 **felony.**

25 ~~(ii) Repealed by Acts 2010, No. 510, §1.~~

26 ~~(iii) Any~~ **(b) An allegation of a criminal act that is subsequently proven**
 27 **to be an** intentional misdemeanor directly affecting the person.

28 ~~(iv) At the discretion of the committee on parole, any attempt to commit any~~
 29 ~~intentional misdemeanor directly affecting the person.~~

30 ~~(v) At the discretion of the committee on parole, any attempt to commit any~~

1 other misdemeanor:

2 (c) An allegation of a criminal act that is subsequently proven to be a
 3 violation of a protective order, pursuant to R.S. 14:79, issued against the
 4 offender to protect a household member or family member as defined by R.S.
 5 14:35.3, or dating partner as defined by R.S. 46:2151.

6 ~~(b)(d)~~ Being in possession of a firearm or other prohibited weapon.

7 ~~(e) Failing to appear at any court hearing.~~

8 ~~(d)(e)~~ Absconding from the jurisdiction of the committee on parole by
 9 leaving the state without the prior approval of the probation and parole officer.

10 * * *

11 §574.20. Medical parole program; eligibility; revocation

12 A.~~(1)~~ Notwithstanding the provisions of this Part or any other law to the
 13 contrary, any person sentenced to the custody of the Department of Public Safety and
 14 Corrections may, upon referral by the department, be considered for medical parole
 15 or medical treatment furlough by the committee on parole. ~~Medical~~
 16 Consideration for medical parole ~~consideration~~ or medical treatment furlough
 17 pursuant to the provisions of this Section shall be in addition to any other parole
 18 for which an inmate may be eligible; ~~but shall not be available to any inmate who is~~
 19 ~~awaiting execution.~~

20 ~~(2) Medical parole shall not be available to any inmate serving time for the~~
 21 ~~violation of R.S. 14:30, first degree murder; or R.S. 14:30.1, second degree murder.~~

22 B. Medical parole.

23 (1) The committee on parole shall establish the medical parole program to be
 24 administered by the Department of Public Safety and Corrections. An ~~inmate~~
 25 offender eligible for consideration for release under the program shall be any ~~person~~
 26 offender who, because of an existing medical or physical condition, is determined
 27 by the department to be within one of the following designations:

28 ~~(1)(a)~~ "Permanently disabled inmate offender" means any ~~person~~ offender
 29 who is unable to engage in any substantial gainful activity by reason of any
 30 medically determinable physical impairment which can be expected to result in death

1 or which is or can be expected to be permanently irreversible.

2 ~~(2)(b)~~ "Terminally ill inmate **offender**" means any inmate **offender** who,
3 because of an existing medical condition, is irreversibly terminally ill. For the
4 purposes of this Section, "terminally ill" is defined as having a life expectancy of less
5 than one year due to an underlying medical condition.

6 **(2) Medical parole shall not be available to any offender serving a**
7 **sentence for a conviction of first degree murder (R.S. 14:30) or second degree**
8 **murder (R.S. 14:30.1) or an offender who is awaiting execution.**

9 C. **Medical treatment furlough.**

10 **(1)(a) The committee on parole shall establish the medical treatment**
11 **furlough program to be administered by the Department of Public Safety and**
12 **Corrections for the purpose of utilizing off-site medical facilities for an eligible**
13 **offender's medical treatment. Medical treatment furlough shall not be available**
14 **to any offender who is awaiting execution.**

15 **(b) For purposes of this Section, "off-site medical facility" means an**
16 **acute care hospital, nursing home, or other licensed medical facility which**
17 **complies with all state and federal laws and regulations and is appropriate to**
18 **meet the offender's medical and treatment needs.**

19 **(2)(a) An offender eligible for consideration for release under the**
20 **medical treatment furlough program shall be any offender who is ineligible for**
21 **release on medical parole pursuant to Subsection B of this Section and is**
22 **determined by the department to be a limited-mobility offender.**

23 **(b) For the purposes of this Section, "limited-mobility offender" means**
24 **any offender who is unable to perform activities of daily living without help or**
25 **is bedbound, including but not limited to prolonged coma and medical**
26 **ventilation.**

27 **(3) Notwithstanding any provision of law to the contrary, the committee**
28 **on parole may authorize the release of an eligible offender on medical treatment**
29 **furlough when all of the following conditions are met:**

30 **(a) Placement is secured in an acute care hospital, nursing home, or**

1 other appropriate medical facility able to meet the offender's medical and
 2 treatment needs.

3 (b) All monitoring, security, and supervision requirements that the
 4 committee deems necessary are secured by the division of probation and parole.

5 (c) The committee determines that the offender does not present a
 6 substantial flight risk.

7 D. No ~~inmate~~ offender shall be recommended for ~~medical parole~~ or medical
 8 treatment furlough pursuant to this Section by the department until full
 9 consideration has been given to the ~~inmate's~~ offender's crime and criminal history,
 10 length of time served in custody, institutional conduct, an indication that the ~~inmate~~
 11 offender represents a low risk to himself or society, and a medical assessment of the
 12 ~~inmate's~~ offender's condition. In the assessment of risk, emphasis shall be given to
 13 the ~~inmate's~~ offender's medical condition and how this relates to his overall risk to
 14 society.

15 DE. The authority to grant ~~medical parole~~ or medical treatment furlough
 16 pursuant to this Section shall rest solely with the committee on parole, and the
 17 committee shall establish additional conditions of the parole or medical treatment
 18 furlough in accordance with the provisions of this Subpart. The Department of
 19 Public Safety and Corrections shall identify those ~~inmates~~ offenders who may be
 20 eligible for medical parole or medical treatment furlough based upon available
 21 medical information. In considering an ~~inmate~~ offender for medical parole or
 22 medical treatment furlough, the committee may require that additional medical
 23 evidence be produced or that additional medical examinations be conducted. The
 24 committee on parole shall determine the risk to public safety and shall grant medical
 25 parole or medical treatment furlough only after determining that the ~~inmate~~
 26 offender does not pose a threat to public safety.

27 EF. The parole term of an ~~inmate~~ offender released on medical parole or
 28 medical treatment furlough shall be for the remainder of the ~~inmate's~~ offender's
 29 sentence, without diminution of sentence for good behavior. Supervision of the
 30 ~~parolee~~ offender shall consist of periodic medical evaluations at intervals to be

determined by the committee at the time of release. Release of protected health information to the Department of Public Safety and Corrections or the committee on parole shall be in accordance with all state and federal laws and regulations.

~~F.G.~~ If it is discovered through the supervision of the offender released on medical parole or medical treatment furlough that his condition has improved such that he would not then be eligible for medical parole or medical treatment furlough under the provisions of this Subpart, the committee may order that the ~~person~~ offender be returned to the custody of the Department of Public Safety and Corrections to await a hearing to determine whether his parole or medical treatment furlough shall be revoked. Any ~~person~~ offender whose medical parole or medical treatment furlough is revoked due to an improvement in his condition shall resume serving the balance of his sentence with credit given for the duration of the medical parole or medical treatment furlough. If the ~~person's~~ offender's medical parole or medical treatment furlough is revoked due to an improvement in his condition, and he would be otherwise eligible for parole, he may then be considered for parole under the provisions of R.S. 15:574.4. Medical parole and medical treatment furlough may also be revoked for violation of any condition of the parole as established by the committee on parole.

~~G.H.~~ The committee on parole shall promulgate such rules as are necessary to effectuate this Subpart, including rules relative to the conduct of medical parole and medical treatment furlough hearings, and the conditions of medical parole and medical treatment furlough release.

* * *

§827. Duties of Department of Public Safety and Corrections

A. In addition to other duties imposed upon the department it shall be the duty of the department to:

* * *

(7) Establish a procedure that provides for each offender who is sentenced to one hundred eighty days or more in the custody of the Department

1 of Public Safety and Corrections, a written case plan that is based on the results
 2 of an assessment of the offender's risk and needs and includes participation in
 3 programming that addresses the needs identified in that assessment. For
 4 offenders eligible for administrative parole pursuant to R.S. 15:574.2(C)(4), the
 5 case plan should be reasonably achievable prior to the offender's administrative
 6 parole eligibility date and the department shall notify the committee in writing
 7 of an offender's compliance or noncompliance with the case plan not less than
 8 sixty days before an offender's administrative parole release date. The
 9 provisions of this Paragraph shall be implemented to the extent that funds are
 10 appropriated for this purpose and to the extent that it is consistent with the
 11 available resources.

12 * * *

13 §828. Classification and treatment programs; qualified sex offender programs;
14 reports; earned credits

15 * * *

16 B. The secretary shall adopt rules and regulations for local jail facilities and
 17 state correctional institutions to encourage voluntary participation by inmates
 18 **offenders** in certified treatment and rehabilitation programs, including but not
 19 limited to basic education, job skills training, values development and faith-based
 20 initiatives, therapeutic programs, and treatment programs. When funds are provided,
 21 such educational programs shall be available at each penal or correctional institution
 22 under the jurisdiction of the department. The rules and regulations may include
 23 provisions for furloughs or the awarding of earned credits toward the reduction of
 24 the projected good time parole supervision date. Offenders may be awarded up to
 25 ~~ninety days toward the reduction of the projected good time parole supervision date~~
 26 ~~for satisfactory participation in each approved program pursuant to the provisions of~~
 27 ~~this Subsection, but no offender shall receive more than three hundred sixty days~~
 28 total earned credits toward the reduction of the projected good time parole
 29 supervision date for program participation.

30 C. Notwithstanding any other provision of law to the contrary, any offender

1 in the custody of the Department of Public Safety and Corrections ~~who has been,~~
 2 **including those** sentenced as an habitual offender pursuant to the provisions of R.S.
 3 15:529.1, may earn additional good time for participation in certified treatment and
 4 rehabilitation programs as provided for in Subsection B of this Section, unless the
 5 offender was convicted of a sex offense as defined by R.S. 15:541 or a crime of
 6 violence as defined by R.S. 14:2(B). **offender's instant offense is one of the**
 7 **following:**

8 **(1) A sex offense as defined in R.S. 15:541.**

9 **(2) A crime of violence as defined in R.S. 14:2(B) and the offender has**
 10 **more than one prior conviction of a crime of violence as defined in R.S. 14:2(B)**
 11 **or a sex offense as defined in R.S. 15:541.**

12 **D. Offenders who are otherwise eligible under this Section who are**
 13 **participating in the workforce development work release program pursuant to**
 14 **R.S. 15:1199.9, shall be eligible to earn an additional one hundred eighty days**
 15 **of credit toward the reduction of the projected good time parole supervision**
 16 **date.**

17 Section 4. This Act shall become effective on November 1, 2017; if vetoed by the
 18 governor and subsequently approved by the legislature, this Act shall become effective on
 19 November 1, 2017, or on the day following such approval by the legislature, whichever is
 20 later.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

2017 Regular Session
HOUSE BILL NO. 341
BY REPRESENTATIVE DUSTIN MILLER

ACT No. 369

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AN ACT

To amend and reenact R.S. 17:1607, the heading of Title 28 of the Louisiana Revised Statutes of 1950, the heading of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:1, 2(1), (7), (9), (10), (14), (17), (20), (21), (26), (29), and (32)(a) and (b), 3, the heading of Part I-A of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:11, 12, 13(introductory paragraph), (1), and (3) through (5), 14, 15(A)(introductory paragraph), (3), (9), and (B), the heading of Part II of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:21(A) and (B), 21.1, 22(B)(introductory paragraph) and (C)(1), 22.5, 22.7(A), 22.9, 23, 25, 25.1(A), (C)(1)(a)(introductory paragraph) and (v), (b), (c), (2)(a)(iv), and (D), 25.2, the heading of Part III of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:50(1), (3), (4), and (6), 51(C), 51.1(A)(1), 52(A) through (C), (G)(2)(a), and (H)(2), 52.2, 52.3, 52.4(A) through (C), 53(A), (B)(1) and (2)(b) and (d)(introductory paragraph), (G)(2) and (6), (J), (K)(1), and (L)(1) and (3), 53.2(A)(introductory paragraph) and (1), (B), (C)(3), and (F), 54(A) and (D)(1)(introductory paragraph) and (a) and (3), 55(B), (E)(1) and (3) through (5), (F), (G), (I), and (J), 56(A)(1)(a) and (2)(b), (B), (C), and (G), 59(A), (C), and (D), 62, 64(F), 67(1) and (3), 69(A)(1), 70(A), (B)(introductory paragraph) and (1), and (E)(2)(f), 71(B), (C), (E), and (F), 72(A), 73, 91 through 93, 94(A), 96(A) through (C) and (E) through (H), 96.1(A), (B), and (D) through (F), 97 through 100, 101 through 145, 146(A), 147, the heading of Part VI of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:171(C)(4)(a) and (D)(5), 171.1(introductory paragraph) and (5) through (8), 172 through 181, 183, 184, 185(A), 200 through 202, 215.2(1)(introductory paragraph) and (2), 215.3(A) and

1 (B), 215.4(A), the heading of Part X of Chapter 1 of Title 28 of the Louisiana
 2 Revised Statutes of 1950, R.S. 28:221(1) through (6), (8), (9), and (11) through (13),
 3 222 through 225, 227(A), (C), and (E), 228, 229(A) and (C), 230(A)(introductory
 4 paragraph) and (2)(a) and (d)(i), (B), and (C), 232, 233(2), 234(introductory
 5 paragraph) and (2), the heading of Chapter 5 of Title 28 of the Louisiana Revised
 6 Statutes of 1950, R.S. 28:475, 476, 477(1) and (3)(a)(introductory paragraph) and
 7 (b), 478(A), the heading of Chapter 11 of Title 28 of the Louisiana Revised Statutes
 8 of 1950, R.S. 28:771, 772(A)(1) and (2)(c) and (B), the heading of Chapter 15 of
 9 Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:841(A), 911(1),
 10 913(A)(2) and (3), 915(A)(3), and 931(B)(2), R.S. 36:258(C) and 259(C)(10) and
 11 (16), R.S. 40:1237.1(A)(9)(a)(ii)(introductory paragraph) and 2142(A), Code of
 12 Criminal Procedure Articles 648(A)(1) and (B)(1), 657, 657.1(A)(4), and 657.2(A),
 13 and Children's Code Article 1404(9), to enact R.S. 28:2(33) through (39), and to
 14 repeal R.S. 28:2(11), 22.4, 22.10, 52.1, 95, 100.1, 182, Chapter 6 of Title 28 of the
 15 Louisiana Revised Statutes of 1950, comprised of R.S. 28:501 through 506, and
 16 Chapter 7 of Title 28 of the Louisiana Revised Statutes of 1950, comprised of R.S.
 17 28:561, relative to mental health and behavioral health laws; to revise terminology
 18 and definitions of terms relating to mental health and behavioral health; to provide
 19 relative to healthcare services for persons with mental illness and substance-related
 20 and addictive disorders; to provide for care and treatment of persons with behavioral
 21 health needs; to provide relative to facilities where such care is delivered; to provide
 22 for the administration of state psychiatric hospitals; to make technical changes and
 23 corrections in laws pertaining to mental health and behavioral health; and to provide
 24 for related matters.

25 Be it enacted by the Legislature of Louisiana:

26 Section 1. R.S. 17:1607 is hereby amended and reenacted to read as follows:

27 §1607. Medical scholarship; recipient to serve as physician at the forensic unit of

28 ~~East Louisiana State Hospital~~ Eastern Louisiana Mental Health System

29 A. Upon the recommendation of the director of the forensic unit of the ~~East~~

30 ~~Louisiana State Hospital~~ Eastern Louisiana Mental Health System at Jackson and

1 subsequent approval by the medical school of the Louisiana State University and
 2 Agricultural and Mechanical College, the board of supervisors of the Louisiana State
 3 University and Agricultural and Mechanical College shall award annually a ~~four year~~
 4 four-year scholarship to the medical school of the Louisiana State University and
 5 Agricultural and Mechanical College. The recipient of any such scholarship may
 6 attend the medical school without the necessity of paying tuition, matriculation,
 7 registration, laboratory, athletic, medical or other special fees, and may receive a
 8 stipend from the board of supervisors. No person shall be awarded any such
 9 scholarship unless such person agrees to serve as a physician at the forensic unit of
 10 the ~~East Louisiana State Hospital~~ Eastern Louisiana Mental Health System at
 11 Jackson at the rate of pay provided in appropriate civil service pay schedules for a
 12 period of two years after such person is awarded a certificate to practice medicine
 13 in the state of Louisiana. Any person awarded such a scholarship shall pay back to
 14 the state of Louisiana all funds received from such a scholarship if he fails to
 15 complete this required ~~two year~~ two-year service or a pro rata percentage of funds
 16 received if he completes less than two years service.

17 B. Information concerning any scholarships awarded pursuant to the
 18 provisions of Subsection A of this Section shall be published on the Louisiana
 19 Department of Health website. Such information shall include the name of the
 20 recipient and the award amount.

21 Section 2. The heading of Title 28 of the Louisiana Revised Statutes of 1950, the
 22 heading of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:1, 2(1),
 23 (7), (9), (10), (14), (17), (20), (21), (26), (29), and (32)(a) and (b), 3, the heading of Part I-A
 24 of Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:11, 12,
 25 13(introductory paragraph), (1), and (3) through (5), 14, 15(A)(introductory paragraph), (3),
 26 (9), and (B), the heading of Part II of Chapter 1 of Title 28 of the Louisiana Revised Statutes
 27 of 1950, R.S. 28:21(A) and (B), 21.1, 22(B)(introductory paragraph) and (C)(1), 22.5,
 28 22.7(A), 22.9, 23, 25, 25.1(A), (C)(1)(a)(introductory paragraph) and (v), (b), (c), (2)(a)(iv),
 29 and (D), 25.2, the heading of Part III of Chapter 1 of Title 28 of the Louisiana Revised
 30 Statutes of 1950, R.S. 28:50(1), (3), (4), and (6), 51(C), 51.1(A)(1), 52(A) through (C),

1 (G)(2)(a), and (H)(2), 52.2, 52.3, 52.4(A) through (C), 53(A), (B)(1) and (2)(b) and
 2 (d)(introductory paragraph), (G)(2) and (6), (J), (K)(1), and (L)(1) and (3),
 3 53.2(A)(introductory paragraph) and (1), (B), (C)(3), and (F), 54(A) and (D)(1)(introductory
 4 paragraph) and (a) and (3), 55(B), (E)(1) and (3) through (5), (F), (G), (I), and (J),
 5 56(A)(1)(a) and (2)(b), (B), (C), and (G), 59(A), (C), and (D), 62, 64(F), 67(1) and (3),
 6 69(A)(1), 70(A), (B)(introductory paragraph) and (1), and (E)(2)(f), 71(B), (C), (E), and (F),
 7 72(A), 73, 91 through 93, 94(A), 96(A) through (C) and (E) through (H), 96.1(A), (B), and
 8 (D) through (F), 97 through 100, 101 through 145, 146(A), 147, the heading of Part VI of
 9 Chapter 1 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:171(C)(4)(a) and
 10 (D)(5), 171.1(introductory paragraph) and (5) through (8), 172 through 181, 183, 184,
 11 185(A), 200 through 202, 215.2(1)(introductory paragraph) and (2), 215.3(A) and (B),
 12 215.4(A), the heading of Part X of Chapter 1 of Title 28 of the Louisiana Revised Statutes
 13 of 1950, R.S. 28:221(1) through (6), (8), (9), and (11) through (13), 222 through 225,
 14 227(A), (C), and (E), 228, 229(A) and (C), 230(A)(introductory paragraph) and (2)(a) and
 15 (d)(i), (B), and (C), 232, 233(2), 234(introductory paragraph) and (2), the heading of Chapter
 16 5 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:475, 476, 477(1) and
 17 (3)(a)(introductory paragraph) and (b), 478(A), the heading of Chapter 11 of Title 28 of the
 18 Louisiana Revised Statutes of 1950, R.S. 28:771, 772(A)(1) and (2)(c) and (B), the heading
 19 of Chapter 15 of Title 28 of the Louisiana Revised Statutes of 1950, R.S. 28:841(A), 911(1),
 20 913(A)(2) and (3), 915(A)(3), and 931(B)(2) are hereby amended and reenacted and R.S.
 21 28:2(33) through (39) are hereby enacted to read as follows:

22 TITLE 28. ~~MENTAL~~ BEHAVIORAL HEALTH

23 CHAPTER 1. ~~MENTAL~~ BEHAVIORAL HEALTH LAW

24 PART I. SHORT TITLE, INTERPRETATIONS, AND DEFINITIONS

25 §1. Short title

26 This Chapter may be cited as the ~~Mental~~ Behavioral Health Law.

27 §2. Definitions

28 Whenever used in this Title, the masculine shall include the feminine, the
 29 singular shall include the plural, and the following definitions shall apply:

1 how many symptoms are identified. Based on a set of eleven criteria, two or three
2 symptoms indicate a mild substance use disorder, four or five symptoms indicate a
3 moderate substance use disorder, and six or more symptoms indicate a severe
4 substance use disorder.

5 * * *

6 (32)(a) "Treatment facility" means any public or private hospital, retreat,
7 institution, mental health center, or facility licensed by the state in which any person
8 who ~~is mentally ill~~ has a mental illness or person who is suffering from ~~substance~~
9 ~~abuse~~ a substance-related or addictive disorder is received or detained as a patient
10 or client. The term includes Veterans Administration and public health hospitals and
11 forensic facilities. "Treatment facility" includes but is not limited to the following,
12 and shall be selected with consideration of first, medical suitability; second, least
13 restriction of the person's liberty; third, nearness to the patient's usual residence; and
14 fourth, financial or other status of the patient, except that such considerations shall
15 not apply to forensic facilities:

16 (i) ~~Community mental health centers~~ Public and private behavioral health
17 services providers licensed pursuant to R.S. 40:2151 et seq.

18 (ii) ~~Private clinics~~ Licensed residential treatment facilities.

19 (iii) ~~Public or private halfway houses.~~

20 (iv) ~~Public or private nursing homes.~~

21 (v) ~~(iv)~~ Public or private general hospitals.

22 (vi) ~~(v)~~ Public or private mental psychiatric hospitals.

23 (vii) ~~Detoxification centers.~~

24 (viii) ~~Substance abuse clinics.~~

25 (ix) ~~Substance abuse in-patient facility.~~

26 (x) ~~(vi)~~ Forensic facilities.

27 (b) ~~Patients involuntarily hospitalized by emergency certificate or mental~~
28 ~~health treatment shall not be admitted to the facilities listed in Items (ii), (iii), (iv),~~
29 ~~(viii) or (x) of Subparagraph (a) of this Paragraph, except that patients~~ Clients in
30 custody of the Department of Public Safety and Corrections may be admitted to

1 forensic facilities by emergency certificate provided that judicial commitment
 2 proceedings are initiated during the period of treatment at the forensic facility
 3 authorized by emergency certificate. ~~Patients involuntarily hospitalized by~~
 4 ~~emergency certificate for substance abuse treatment shall not be admitted to the~~
 5 ~~facilities listed in Items (ii), (iii), (iv), or (x) of Subparagraph (a) of this Paragraph.~~
 6 Judicial commitments, however, may be made to any of the ~~above~~ facilities listed in
 7 Subparagraph (a) of this Paragraph except forensic facilities. However, in the case
 8 of any involuntary hospitalization as a result of such emergency certificate for
 9 ~~substance abuse~~ a substance-related or addictive disorder or in the case of any
 10 judicial commitment as the result of ~~substance abuse~~ a substance-related or addictive
 11 disorder, such commitment or hospitalization may be made to any of the ~~above~~
 12 facilities listed in Subparagraph (a) of this Paragraph, except forensic facilities,
 13 provided that such facility has a ~~substance abuse in-patient~~ substance-related or
 14 addictive disorder inpatient operation maintained separate and apart from any mental
 15 health ~~in-patient~~ inpatient operation at such facility.

16 * * *

17 (33)(a) "Addictive disorder" is a primary, chronic neurobiologic disease with
 18 genetic, psychosocial, and environmental factors influencing its development and
 19 manifestations. An addictive disorder is characterized by behaviors that include one
 20 or more of the following:

21 (i) Impaired control over drug use.

22 (ii) Compulsive use.

23 (iii) Continued use despite harm.

24 (iv) Cravings.

25 (b) Addictive disorders include mood-altering behaviors or activities or
 26 process addictions. Examples of process addictions include, without limitation,
 27 gambling, spending, shopping, eating, and sexual activity.

28 (34) "Behavioral health" is a term used to refer to both mental health and
 29 substance use.

1 (35) "Client" refers to a recipient of services who has been charged with or
 2 convicted of a crime and who requires special protection and restraint in a forensic
 3 treatment facility.

4 (36) "Legal guardian" means a person judicially or statutorily designated
 5 with the duty and authority to make decisions in matters having a permanent effect
 6 on the life and development of the individual on whose behalf the guardianship is
 7 established.

8 (37) "Local governing entity" means an integrated human services delivery
 9 system with local accountability and management and which provides behavioral
 10 health and developmental disabilities services through local human services districts
 11 and authorities.

12 (38) "State psychiatric hospital" means a public, state-owned and operated
 13 inpatient facility for the treatment of mental illness and substance-related and
 14 addictive disorders.

15 (39) "Substance-related disorders" encompass disorders relating to the use
 16 of drugs in any of the following classes, which are not fully distinct:

- 17 (a) Alcohol.
- 18 (b) Caffeine.
- 19 (c) Cannabis.
- 20 (d) Hallucinogens, with separate categories for phencyclidine or similarly
 21 acting arylcyclohexylamines and for other hallucinogens.
- 22 (e) Inhalants.
- 23 (f) Opioids.
- 24 (g) Sedatives, hypnotics, and anxiolytics.
- 25 (h) Stimulants, including amphetamine-type substances and cocaine.
- 26 (i) Tobacco.
- 27 (j) Other or unknown substances.

28 §3. Application of Chapter; costs
 29 The provisions of this Chapter apply to persons who are suffering from
 30 mental illness or ~~substance abuse~~ substance-related or addictive disorders. Nothing

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1 in this Chapter referring to costs shall be construed to defer or prevent the care of a
 2 person in a state ~~mental institution~~ psychiatric hospital or state treatment facility, nor
 3 ~~their~~ his release therefrom.

4 * * *

5 PART I-A. ~~MENTAL AND~~ BEHAVIORAL HEALTH SERVICES

6 PRESERVATION ACT

7 §11. Short title

8 This Part shall be known and may be cited as the "~~Mental and Behavioral~~
 9 Health Services Preservation Act".

10 §12. Legislative declaration of intent

11 It is the intent of the legislature to preserve vital state funding for ~~mental~~
 12 behavioral health services to ensure delivery of and access to quality care for those
 13 in desperate need of such services throughout the state. Many citizens in the state
 14 have limited access to ~~mental and~~ behavioral health services because of the massive
 15 cuts, both federal and state, in ~~mental and~~ behavioral health funding. The legislature
 16 also finds that the provision of high-quality ~~mental and~~ behavioral health services,
 17 regardless of setting, is of overriding importance. The state wholly supports efforts
 18 to assist individuals suffering from serious and persistent mental illness, substance-
 19 related or addictive disorders, or both in their efforts to participate fully in society.

20 As such, the ~~department~~ Louisiana Department of Health, referred to hereafter in this
 21 Part as the "department", should streamline the delivery of ~~mental and~~ behavioral
 22 health services through the prudent allocation of existing resources. The ~~Louisiana~~
 23 ~~Department of Health~~ department will improve the safety and health of individuals,
 24 families, and communities by providing leadership and establishing and participating
 25 in partnerships for the continuation of ~~mental and~~ behavioral health services
 26 throughout the state, including cooperative agreements, mergers, joint ventures, and
 27 consolidations among ~~mental and~~ behavioral health care facilities. Consumer and
 28 advocate participation in the process can only aid in the delivery of services to those
 29 most in need. To improve the quality of services available and promote treatment,
 30 which often involves the rehabilitation, recovery, and reintegration of persons

1 suffering from mental illness, substance-related or addictive disorders, or both, the
2 state should secure adequate funding for ~~mental and~~ behavioral health services and
3 require state departments to exercise fiscal responsibility in the allocation of these
4 resources.

5 §13. Management of ~~mental and~~ behavioral health resources

6 In the operational management of the office of behavioral health, the
7 department may guarantee the efficient and effective use and retention of the state's
8 scarce ~~mental and~~ behavioral health resources to adequately provide for the peace,
9 health, safety, and general welfare of the public, by ensuring the following:

10 (1) Accountability of efficient and effective services through state-of-the-art
11 quality and performance measures and statewide standards for monitoring quality of
12 service and performance and reporting of quality of service and performance
13 information. These processes may be designed so as to maximize the use of
14 available resources for direct care of people with who have a mental illness or a
15 substance-related or addictive disorder and to assure uniform data collection across
16 the state.

17 * * *

18 (3) Coordination of integration of services offered by department and ~~mental~~
19 ~~and~~ behavioral health communities, including the office of behavioral health and
20 ~~their~~ its respective contract providers, involved in the delivery of mental and
21 behavioral health treatment, along with local systems and groups, public and private,
22 such as state ~~mental~~ psychiatric hospitals, public health organizations, parish
23 authorities, child protection, and regional support networks, aimed at reducing
24 duplication in service delivery and promoting complementary services among all
25 entities that provide ~~mental and~~ behavioral health services to adults and children
26 throughout the state.

27 (4) Implementation of a system of reimbursement by the Medical Assistance
28 Program to private hospitals and to state hospitals for covered Medicaid services
29 that, to the extent possible, allocates funding in the areas of the state based on needs,
30 population, and acuity level as determined by the ~~Louisiana Department of Health~~

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1 department. The ~~above-mentioned~~ system of reimbursement provided for in this
2 Paragraph may be subject to approval by the Centers for Medicare and Medicaid
3 Services.

4 (5) Recognition of the respective ~~regions of the department~~ local governing
5 entities of the state as ~~the~~ a focal point of all ~~mental and~~ behavioral health planning
6 activities, including budget submissions, grant applications, contracts, and other
7 arrangements that can be effected at the state and ~~regional~~ local levels.

8 * * *

9 §14. Funding priorities; cost-effectiveness

10 A. The department may ensure that all current and future funds are expended
11 in the most cost-effective manner and services are provided in accordance with
12 recommended best practices subject to state oversight to ensure accountability to
13 taxpayers and the public. The department may evaluate existing proposed
14 expenditure plans for ~~mental and~~ behavioral health services and determine the best
15 use of such funds to achieve positive policy outcomes in the ~~mental and~~ behavioral
16 health ~~communities~~ community. This effort may involve the use of innovative
17 methods of expanding the reach of current funding and securing increased local,
18 regional, state, federal, or private source funding in the future. The department may
19 develop methods for estimating the need for ~~mental and~~ behavioral health services
20 in certain regions of the state, with special attention to underfunded and inaccessible
21 programs, and allocate state funds or resources according to that need.

22 B. The state may continue to provide funding for ~~mental and~~ behavioral
23 health services that are not less than the existing allocations from the state general
24 fund.

25 §15. Innovative ~~mental and~~ behavioral health services; programs

26 A. The department may develop goals, objectives, and priorities for the
27 creation of innovative programs which promote and improve the ~~mental and~~
28 behavioral health of the citizens of the state by making treatment and support

1 services available to those persons who are most in need and least able to pay. These
2 programs may achieve the following:

3 * * *

4 (3) Promote interagency collaboration by improving the integration and
5 effectiveness of state agencies responsible for ~~mental and~~ behavioral health care.

6 * * *

7 (9) Promote emerging best practices and increased quality of care in the
8 delivery of ~~mental and~~ behavioral health services.

9 B. The department may collaborate with ~~mental and~~ behavioral health
10 advocates, clinicians, physicians, professional organizations, ~~parish human service~~
11 ~~authorities~~ local governing entities, local citizens, consumers, and family members
12 in the planning, designing, and implementation of innovative mental and behavioral
13 health service programs and priorities in their respective regions throughout the state.

14 PART II. ~~INSTITUTIONS~~ FACILITIES AND PLACES FOR ~~MENTAL~~
15 BEHAVIORAL HEALTH PATIENTS OR CLIENTS

16 * * *

17 §21. State psychiatric hospitals ~~for persons with mental illness and addictive~~
18 ~~disorders~~

19 A. ~~The~~ For purposes of this Part, "state psychiatric hospital" refers to the
20 hospital at Jackson, known as the ~~East Louisiana State Hospital~~ Eastern Louisiana
21 Mental Health System, and the hospital at Pineville, known as the Central Louisiana
22 State Hospital, ~~and the hospital at Mandeville, known as the Southeast Louisiana~~
23 ~~Hospital,~~ which are designated as the hospitals for persons ~~with~~ who have a mental
24 ~~illness and addictive disorders~~ or a substance-related or addictive disorder until such
25 time as separate or other hospitals are established. The assistant secretary of the
26 office of behavioral health of the department may reorganize and consolidate the
27 administration of the hospitals or facilities, ~~including the Feliciana Forensic Facility,~~
28 ~~the Greenwell Springs Hospital, and the New Orleans Adolescent Hospital as~~
29 ~~necessary to comply with the provisions of the State Mental Health Plan.~~

1 B. The assistant secretary of the office of behavioral health of the department
2 may establish residential settings as satellite facilities to these hospitals from funds
3 presently allocated or to be allocated to these ~~institutions~~ hospitals by the legislature.

4 * * *

5 §21.1. ~~Alcoholism~~ Substance-related and addictive disorders; treatment in state
6 supported psychiatric hospitals

7 A. The Louisiana Department of Health is authorized to accept as indigent
8 patients ~~poor and destitute persons~~ suffering from ~~alcoholism~~ co-occurring
9 substance-related or addictive disorders and to give such patients the care and
10 treatment required ~~to restore them in mind and body.~~

11 B. The purpose of this Section is to recognize ~~alcoholism~~ substance-related
12 and addictive disorders as a sickness or disease and to place those suffering from it
13 in the same position relative to obtaining treatment as persons suffering from other
14 diseases.

15 §22. Crisis response system

16 * * *

17 B. Each human service district, authority, local governing entity, or region
18 of the Louisiana Department of Health shall develop a plan to do all of the following:

19 * * *

20 C. Each crisis response system will be designed by a local collaborative
21 which shall include but not be limited to:

22 (1) The local provider of mental health, substance-related or addictive
23 disorders, and developmental disability services.

24 * * *

25 §22.5. Community ~~mental health centers~~ behavioral health clinics; behavioral health
26 services providers

27 ~~The community mental health centers located in Lafayette, Pineville, Lake~~
28 ~~Charles, Baton Rouge, New Orleans, Crowley, Shreveport, and Monroe for the care,~~
29 ~~treatment, and rehabilitation at the community level of persons with mental illness~~
30 ~~and persons who are mentally defective as defined in R.S. 28:2 are created and~~

1 an outpatient center for the care, treatment, and rehabilitation of persons ~~with who~~
2 have a mental illness and persons ~~who are mentally defective~~ with intellectual or
3 developmental disabilities at the region level.

4 §23. Psychiatric inpatient units in state general hospitals

5 The department ~~shall~~ may establish psychiatric inpatient units in state-owned
6 or state-contracted general hospitals for the emergency and temporary care of cases
7 of acute mental illness.

8 §25. Provisions for close confinement of certain ~~mental~~ patients who have a mental
9 illness

10 A. At ~~institutions~~ hospitals that it may designate, the department may
11 provide facilities for the care and confinement of ~~mental~~ patients who have a mental
12 illness and who require close confinement in the interest of themselves and of the
13 public.

14 B. The department shall designate places of confinement for patients of
15 dangerous tendencies and for ~~those~~ clients charged with or convicted of a crime ~~or~~
16 ~~misdemeanor~~ who require special protection and restraint.

17 §25.1. Establishment of Feliciana Forensic Facility; authorization to establish
18 forensic facilities in New Orleans, Baton Rouge, Shreveport, and Alexandria

19 A. The forensic unit at ~~East Louisiana State Hospital~~ Eastern Louisiana
20 Mental Health System is hereby declared to be a separate and distinct facility from
21 East Louisiana State Hospital and hereafter shall be known as the Feliciana Forensic
22 Facility.

23 * * *

24 C.(1)(a) The ~~superintendent~~ director or administrator of any such facility
25 shall admit only those persons:

26 * * *

27 (v) Judicially committed to and transferred from any ~~state~~ hospital for
28 persons ~~with~~ who have a mental illness or ~~who are inebriate~~ substance-related or
29 addictive disorder.

1 (b) A transfer from any other ~~state~~ hospital shall be had only after the
 2 director or administrator of the transferring facility, in concurrence with two
 3 psychiatrists, has determined and certified in writing to such forensic facility that the
 4 person to be transferred is dangerous to others and that the transferring facility
 5 cannot adequately protect its staff and patients from such person.

6 (c) The decision to transfer shall not be made until after the person who is
 7 proposed to be transferred has had an opportunity to be heard regarding his actions
 8 upon which the proposed transfer is based by the director or administrator and two
 9 concurring psychiatrists.

10 * * *

11 (2)(a) The administrator of the Feliciana Forensic Facility shall refuse
 12 admission to any person if:

13 * * *

14 (iv) The person from a ~~state~~ hospital or correctional institution is not
 15 accompanied by a summary of the facts presented at the hearing at which the person
 16 objected to his transfer to the forensic facility and a summary of the person's
 17 objections.

18 * * *

19 D. The department may contract with local law enforcement agencies and
 20 the Department of Public Safety and Corrections to provide security personnel for
 21 ~~mental health patients~~ clients placed in such forensic units, or other facilities to
 22 which such ~~patients~~ clients may be temporarily referred for medical treatment.

23 §25.2. Granting of passes to ~~patients~~ Feliciana Forensic Facility clients

24 A. Notwithstanding any other provision of law to the contrary, including any
 25 provision of the Code of Criminal Procedure, the administrator of the Feliciana
 26 Forensic Facility, in his discretion, may grant any ~~patient~~ client committed to his
 27 custody a pass or furlough from the facility, except those ~~patients~~ clients who are
 28 under commitment to the Department of Public Safety and Corrections.

29 B. The administrator shall not grant any ~~patient~~ client a pass or furlough for
 30 release from the facility except upon the recommendation of the ~~patient's~~ client's

1 treating psychiatrist and with prior approval of the committing court. The
2 administrator may impose conditions on a pass or furlough. Any pass or furlough
3 granted shall be for a fixed period of time.

4 * * *

5 PART III. EXAMINATION, ADMISSION, COMMITMENT, AND
6 TREATMENT OF PERSONS SUFFERING FROM MENTAL ILLNESS AND
7 SUBSTANCE-ABUSE SUBSTANCE-RELATED OR ADDICTIVE DISORDERS

8 §50. Declaration of policy

9 The underlying policy of this Chapter is as follows:

10 (1) That persons ~~with~~ who have a mental illness and persons suffering from
11 ~~substance-abuse~~ a substance-related or addictive disorder be encouraged to seek
12 voluntary treatment.

13 * * *

14 (3) That continuity of care for persons ~~with~~ who have a mental illness and
15 persons suffering from ~~substance-abuse~~ a substance-related or addictive disorder be
16 provided.

17 (4) That mental health and ~~substance-abuse~~ substance-related and addictive
18 disorder treatment services be delivered as near to the place of residence of the
19 person receiving such services as is reasonably possible and medically appropriate.

20 * * *

21 (6) That no person solely as a result of mental illness, ~~or alcoholism~~
22 substance-related or addictive disorder, or incapacitation by alcohol shall be confined
23 in any jail, prison, correctional facility, or criminal detention center. This shall not
24 apply to persons arrested, charged, or convicted under Title 14 of the Louisiana
25 Revised Statutes of 1950.

26 * * *

27 §51. Procedures for admission

28 * * *

29 C. The Louisiana Department of Health, through its hospitals, ~~mental~~
30 behavioral health clinics, and similar ~~institutions, shall have the duty to assist~~

1 facilities, may direct petitioners and other persons ~~in the preparation of~~ to appropriate
2 resources regarding petitions for commitment, requests for protective custody orders,
3 and requests for emergency certificates; upon request of such persons.

4 §51.1. Treatment facility; staff membership and institutional privileges; certain
5 ~~health care~~ healthcare providers

6 A.(1) Notwithstanding any provision of the law to the contrary, the
7 governing body of a treatment facility, as defined in R.S. 28:2, may grant staff
8 membership, specifically delineated institutional privileges, or both, to any duly
9 licensed, certified, or registered ~~health care~~ healthcare provider in accordance with
10 the needs and bylaws of the treatment facility, including but not limited to a
11 physician, psychiatrist, psychologist, medical psychologist, or psychiatric mental
12 health nurse practitioner, as defined in R.S. 28:2.

13 * * *

14 §52. Voluntary admissions; general provisions

15 A. Any person who ~~is mentally ill~~ has a mental illness or person who is
16 suffering from ~~substance abuse~~ a substance-related or addictive disorder may apply
17 for voluntary admission to a treatment facility. ~~The admitting physician may admit~~
18 ~~the person on either a formal or informal basis, as hereinafter provided.~~

19 B. Admitting physicians are encouraged to admit persons ~~with~~ who have a
20 mental illness or persons suffering from ~~substance abuse~~ a substance-related or
21 addictive disorder to treatment facilities on voluntary admission status whenever
22 medically feasible.

23 C. No director or administrator of a treatment facility shall prohibit any
24 person who ~~is mentally ill~~ has a mental illness or person who is suffering from
25 ~~substance abuse~~ a substance-related or addictive disorder from applying for
26 conversion of involuntary or emergency admission status to voluntary admission
27 status. Any patient on an involuntary admission status shall have the right to apply
28 for a writ of habeas corpus in order to have his admission status changed to voluntary
29 status.

30 * * *

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G.

* * *

(2) Knowing and voluntary consent shall be determined by the ability of the individual to understand all of the following:

(a) That the treatment facility to which the patient is requesting admission is one for persons ~~with~~ who have a mental illness or persons suffering from ~~substance abuse~~ a substance-related or addictive disorder.

* * *

H.

* * *

(2)(a) Notwithstanding the ~~provision~~ provisions of Paragraph (1) of this Subsection, any licensed physician may administer medication to a patient without his consent and against his wishes in a situation which, in the reasonable judgment of the physician who is observing the patient during the emergency, constitutes a psychiatric or behavioral emergency. For purposes of this Paragraph a "psychiatric or behavioral emergency" occurs when a patient, as a result of mental illness, ~~substance abuse~~ a substance-related or addictive disorder, or intoxication, engages in behavior which, in the clinical judgment of the physician, places the patient or others at significant and imminent risk of damage to life or limb. The emergency administration of medication may be continued until the emergency subsides, but in no event shall it exceed forty-eight hours, except on weekends or holidays when it may be extended for an additional twenty-four hours.

(b) The physician shall make a reasonable effort to consult with the primary physician or primary care provider outside the facility that has previously treated the patient for his ~~mental~~ behavioral health condition at the earliest possible time, but in no event more than forty-eight hours after the emergency administration of medication has begun, except on weekends or holidays, when the time period may be extended an additional twenty-four hours. The physician shall record in the patient's file either the date and time of the consultation and a summary of the comments of the primary physician or primary care provider or, if the physician is

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1 unable to consult with the primary physician or primary care provider, the date and
 2 time that a consultation with the primary physician or primary care provider was
 3 attempted.

4 §52.2. Formal voluntary admission

5 A. Any person who ~~is mentally ill~~ has a mental illness or person who is
 6 suffering from ~~substance abuse~~ a substance-related or addictive disorder desiring
 7 admission to a treatment facility for diagnosis ~~and/or~~ or treatment of a psychiatric
 8 disorder or ~~substance abuse~~ a substance-related or addictive disorder and who is
 9 deemed suitable for formal voluntary admission by the admitting physician may be
 10 so admitted upon his written request.

11 B. A patient admitted under the provisions of this Section shall not be
 12 detained in the treatment facility for longer than seventy-two hours after making a
 13 valid written request for discharge to the director or administrator of the treatment
 14 facility unless an emergency certificate is executed pursuant to R.S. 28:53, or unless
 15 judicial commitment is instituted pursuant to R.S. 28:54, ~~after making a valid written~~
 16 ~~request for discharge to the director of the treatment facility.~~

17 §52.3. Noncontested admission

18 A. A person who ~~is mentally ill~~ has a mental illness or person who is
 19 suffering from ~~substance abuse~~ a substance-related or addictive disorder who does
 20 not have the capacity to make a knowing and voluntary consent to a voluntary
 21 admission status and who does not object to his admission to a treatment facility may
 22 be admitted to a treatment facility as a noncontested admission. Such person shall
 23 be subject to the same rules and regulations as a person admitted on a voluntary
 24 admission status and his treatment shall be governed by the provisions of R.S.
 25 28:52(H).

26 B. A noncontested admission may be made by a physician to a treatment
 27 facility in order to initiate a complete diagnostic and evaluative study. The diagnosis
 28 and evaluation shall include complete medical, social, and psychological studies and,
 29 when medically indicated, any other scientific study which may be necessary in
 30 order to make decisions relative to the treatment needs of the patient. In the absence

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1 of specified medical reasons, the diagnostic studies shall be completed in fourteen
2 days. Alternative community-based services shall be thoroughly considered.

3 C. Following a review of the diagnostic evaluation study, the director or
4 administrator of the treatment facility shall determine if the person is to remain on
5 noncontested status, is to be discharged, is to be converted to formal ~~or informal~~
6 voluntary status, or is to be involuntarily hospitalized pursuant to R.S. 28:53 or R.S.
7 28:54. Nothing in this Section shall be interpreted to prohibit the director of a
8 treatment facility from transferring the patient to another treatment facility when it
9 is medically indicated.

10 ~~C.~~ D. A person admitted pursuant to this Section may object to his admission
11 at any time. If the person informs a staff member of his desire to object to his
12 admission, a staff member shall assist him in preparing and submitting a valid
13 written objection to the director or administrator of the treatment facility. Upon
14 receipt of a valid objection, the director or administrator shall release the person
15 within seventy-two hours unless proceedings are instituted pursuant to R.S. 28:53 or
16 R.S. 28:54.

17 ~~D.~~ E. In no case shall a patient remain on noncontested status longer than
18 three months. Within that time, the patient must be converted to ~~either~~ a formal ~~or~~
19 ~~an informal~~ voluntary status, ~~or~~ be involuntarily hospitalized pursuant to R.S. 28:53
20 or R.S. 28:54, or be discharged.

21 §52.4. Admission by relative or legal guardian for substance-related or addictive
22 disorder treatment

23 A. A person suffering from ~~substance abuse~~ a substance-related or addictive
24 disorder may be admitted and detained at a ~~public or private general~~ hospital or a
25 ~~substance abuse in-patient~~ other treatment facility for observation, diagnosis, and
26 treatment for a medically necessary period ~~not to exceed twenty-eight days~~, when a
27 parent, spouse, legal guardian, or the major child of the person if that child has
28 attained the age of ~~18~~ eighteen years has admitted the person or caused him to be
29 admitted pursuant to the provisions of R.S. 28:53.2.

1 writing on the second certificate that the person remains dangerous to himself or
 2 others or gravely disabled, and that his condition is likely to improve during the
 3 extended period. The director shall inform the patient of the execution of the second
 4 certificate, the length of the extended period, and the specific reasons therefor, and
 5 shall also give notice of the same to the patient's nearest relative or other designated
 6 responsible party initially notified pursuant to Subsection F of this Section.

7 B.(1) Any physician, psychiatric mental health nurse practitioner, or
 8 psychologist may execute an emergency certificate only after an actual examination
 9 of a person alleged to ~~be mentally ill~~ have a mental illness or be suffering from
 10 ~~substance abuse~~ a substance-related or addictive disorder who is determined to be in
 11 need of immediate care and treatment in a treatment facility because the examining
 12 physician, psychiatric mental health nurse practitioner, or psychologist determines
 13 the person to be dangerous to self or others or to be gravely disabled. The actual
 14 examination of the person by a psychiatrist may be conducted by telemedicine
 15 utilizing video conferencing technology provided that a licensed ~~health care~~
 16 healthcare professional who can adequately and accurately assist with obtaining any
 17 necessary information including but not limited to the information listed in
 18 Paragraph (4) of this Subsection shall be in the examination room with the patient
 19 at the time of the video conference. A patient examined in such a manner shall be
 20 medically cleared prior to admission to a mental health treatment facility. Failure
 21 to conduct an examination prior to the execution of the certificate will be evidence
 22 of gross negligence.

23 (2) The certificate shall state:

24 * * *

25 (b) The objective findings of the physician, psychiatric mental health nurse
 26 practitioner, or psychologist relative to the physical or mental condition of the
 27 person, leading to the conclusion that the person is dangerous to self or others or is
 28 gravely disabled as a result of ~~substance abuse~~ a substance-related or addictive
 29 disorder or mental illness.

30 * * *

1 (d) The determination of whether the person examined is in need of
2 immediate care and treatment in a treatment facility because the patient is ~~either~~ any
3 of the following:

4 * * *

5 G.

6 * * *

7 (2) Within seventy-two hours of admission, the person shall be
8 independently examined by the coroner or his deputy who shall execute an
9 emergency certificate, pursuant to Subsection B of this Section, which shall be a
10 necessary precondition to the person's continued confinement. Except as provided
11 in Paragraph (7) of this Subsection, if the actual examination by the psychiatrist
12 referred to in Paragraph ~~(1) of Subsection B~~ (B)(1) of this Section is conducted by
13 telemedicine, the seventy-two-hour independent examination by the coroner shall be
14 conducted in person.

15 * * *

16 (6) When a person is confined in a treatment facility other than a state ~~mental~~
17 ~~institution~~ psychiatric hospital, the examining coroner in the parish where the patient
18 is confined shall be entitled to the usual fee paid for this service to the coroner of the
19 parish in which the patient is domiciled or residing. When a person is confined in
20 a state ~~mental institution~~ psychiatric hospital in a parish other than his parish of
21 domicile or residence, the examining coroner shall be entitled to the fee authorized
22 by law in his parish for the service. In either case, the fee shall be paid and accurate
23 records of such payments kept by the governing authority of the parish in which the
24 patient is domiciled or residing from parish funds designated for the purpose of
25 payment to the coroner. ~~All coroners~~ Each coroner shall keep accurate records
26 showing the number of patients confined in ~~their parishes~~ his parish pursuant to this
27 Section.

28 * * *

29 J.(1) Upon the request of a credible person of legal age who is financially
30 unable to afford a private physician or who cannot immediately obtain an

1 examination by a physician, the parish coroner may render, or the coroner or a judge
 2 of a court of competent jurisdiction may cause to be rendered by a physician, an
 3 actual examination of a person alleged to ~~be mentally ill~~ have a mental illness or be
 4 ~~suffering from substance abuse~~ a substance-related or addictive disorder and in need
 5 of immediate medical treatment because he is dangerous to himself or others or is
 6 gravely disabled. The actual examination of the person by a psychiatrist may be
 7 conducted by telemedicine utilizing video conferencing technology provided that a
 8 licensed ~~health care~~ healthcare professional who can adequately and accurately assist
 9 with obtaining any necessary information including but not limited to the
 10 information listed in Paragraph (B)(4) of this Section shall be in the examination
 11 room with the patient at the time of the video conference. If the coroner is not a
 12 physician he may deputize a physician to perform this examination. To accomplish
 13 the examination authorized by this Subsection, if the coroner or the judge is
 14 apprehensive that his own safety or that of the deputy or other physician may be
 15 endangered thereby, he shall issue a protective custody order pursuant to R.S.
 16 28:53.2.

17 (2) If the examining physician determines that the ~~above~~ standard provided
 18 in Paragraph (1) of this Subsection is met, he shall execute an emergency certificate
 19 and shall transport or cause to be transported the person named in the emergency
 20 certificate to a treatment facility. Failure to render an actual examination prior to
 21 execution of the emergency certificate shall be evidence of gross negligence.

22 (3) In any instance where the coroner or his deputy executes the first
 23 emergency certificate, the second emergency certificate shall not be executed by the
 24 coroner or his deputy, but the second emergency certificate may be executed by any
 25 other physician including a physician at the treatment ~~center~~ facility. However, if
 26 the first examination by the coroner is conducted by a psychiatrist utilizing video
 27 conferencing technology, the second examination shall be conducted in person.

28 K.(1)(a) Patients admitted by emergency certificate may receive medication
 29 and treatment without their consent, but no major surgical procedure or electroshock
 30 therapy may be performed without the written consent of a court of competent

1 jurisdiction after a hearing. With regard to the administration of medicine, if the
2 patient objects to being medicated, prior to making a final decision, the treating
3 physician shall make a reasonable effort to consult with the primary physician or
4 primary care provider outside of the facility that has previously treated the patient
5 for his ~~mental~~ behavioral health condition. The treating physician shall, prior to the
6 administration of such medication, record in the patient's file either the date and time
7 of the consultation and a summary of the comments of the primary physician or
8 primary care provider or, if the treating physician is unable to consult with the
9 primary physician or primary care provider, the date and time that a consultation
10 with the primary physician or primary care provider was attempted.

11 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
12 any licensed physician may administer medication to a patient without his consent
13 and against his wishes in a situation which, in the reasonable judgment of the
14 physician who is observing the patient during the emergency, constitutes a
15 psychiatric or behavioral health emergency. For purposes of this Paragraph a
16 "psychiatric or behavioral health emergency" occurs when a patient, as a result of
17 mental illness, ~~substance abuse~~ a substance-related or addictive disorder, or
18 intoxication engages in behavior which, in the clinical judgment of the physician,
19 places the patient or others at significant and imminent risk of damage to life or limb.
20 The emergency administration of medication may be continued until the emergency
21 subsides, but in no event shall it exceed forty-eight hours, except on weekends or
22 holidays when it may be extended for an additional twenty-four hours.

23 (c) The physician shall make a reasonable effort to consult with the primary
24 physician or primary care provider outside the facility ~~that~~ who has previously
25 treated the patient for his ~~mental~~ behavioral health condition at the earliest possible
26 time, but in no event more than forty-eight hours after the emergency administration
27 of medication has begun, except on weekends or holidays, when the time period may
28 be extended an additional twenty-four hours. The physician shall record in the
29 patient's file either the date and time of the consultation and a summary of the
30 comments of the primary physician or primary care provider or, if the physician is

1 compliance with this ~~section~~ Section is acting in the course of his official duty and
2 ~~cannot~~ shall not be subjected subject to criminal or civil liability as a result thereof.

3 * * *

4 §53.2. Order for custody; grounds; civil liability; criminal penalty for making a false
5 statement

6 A. Any parish coroner or judge of a court of competent jurisdiction may
7 order a person to be taken into protective custody and transported to a treatment
8 facility or the office of the coroner for immediate examination when a peace officer
9 or other credible person executes a statement under private signature specifying that,
10 to the best of his knowledge and belief, the person ~~is mentally ill~~ has a mental illness
11 ~~or is suffering from substance abuse~~ a substance-related or addictive disorder and is
12 in need of immediate treatment to protect the person or others from physical harm.
13 The statement may include the following information:

14 (1) A statement of facts, including the affiant's observations, leading to the
15 conclusion that the person ~~is mentally ill~~ has a mental illness or is suffering from
16 ~~substance abuse~~ a substance-related or addictive disorder and is dangerous to himself
17 or others or gravely disabled.

18 * * *

19 B. Any parish coroner or judge of a court of competent jurisdiction may
20 order that a person be taken into protective custody and transported to a treatment
21 facility or the office of the coroner for immediate examination when a physician,
22 psychiatric mental health nurse practitioner, psychologist, or assigned case manager
23 pursuant to Part III-A of Chapter 1 of this Title presents to the coroner or judge an
24 order of involuntary outpatient treatment, and executes a statement specifying that
25 there is substantial evidence that the patient is not in compliance with the order and
26 there are reasonable grounds to believe that he poses a significant risk of being a
27 danger to self or others.

1 C. The order for custody shall be in writing, in the name of the state of
2 Louisiana, signed by the district judge or parish coroner, and shall state the
3 following:

4 * * *

5 (3) A description of the acts or threats which have led to the belief that the
6 person ~~is mentally ill~~ has a mental illness or is suffering from ~~substance abuse a~~
7 substance-related or addictive disorder and is in need of immediate hospitalization
8 to protect the person or others from physical harm, ~~and.~~

9 * * *

10 F. Any person who is found guilty of executing a statement that another
11 person ~~is mentally ill~~ has a mental illness or is suffering from ~~substance abuse a~~
12 substance-related or addictive disorder and is in need of immediate treatment to
13 protect the person or others that the affiant knows or should know is false may be
14 imprisoned, with or without hard labor, for not more than one year, or fined not more
15 than one thousand dollars.

16 * * *

17 §54. Judicial commitment; procedure

18 A. Any person of legal age may file with the court a petition which asserts
19 his belief that a person is suffering from mental illness which contributes or causes
20 that person to be a danger to himself or others or to be gravely disabled, or is
21 suffering from ~~substance abuse a~~ substance-related or addictive disorder which
22 contributes or causes that person to be a danger to himself or others or to be gravely
23 disabled and may thereby request a hearing. The petition may be filed in the judicial
24 district in which the respondent is confined, or if not confined, in the judicial district
25 where he resides or may be found. The hearing shall not be transferred to another
26 district except for good cause shown. A petitioner who is unable to afford an
27 attorney may seek the assistance of any legal aid society or similar agency if
28 available.

29 * * *

1 determined by the court is unavailable, the court shall commit the respondent to the
 2 Louisiana Department of Health for placement in a state treatment facility until such
 3 time as an opening is available for transfer to the treatment ~~center~~ facility determined
 4 by the court, unless the respondent waives the requirement for such transfer. Within
 5 fifteen days following an alternative placement, the department shall submit a report
 6 to the court stating the reasons for such placement and seeking court approval of the
 7 placement.

* * *

9 (3) Unless prohibited by the respondent, the department shall notify the
 10 respondent's family of his placement at ~~and/or~~ or transfer to a state treatment facility.

11 (4) The director or administrator shall notify the court in writing when a
 12 patient has been discharged or conditionally discharged.

13 (5) The court order shall order a suitable person to convey such person to the
 14 treatment facility and deliver respondent, together with a copy of the judgment and
 15 certificates, to the director or administrator. In appointing a person to execute the
 16 order, the court should give preference to a legal guardian, near relative, or friend of
 17 the respondent.

* * *

19 F. Notice of any action taken by the court shall be given to the respondent
 20 and his attorney as well as to the director or administrator of the designated treatment
 21 facility in such manner as the court concludes would be appropriate under the
 22 circumstances.

23 G. Each court shall keep a record of the cases relating to persons ~~with~~ who
 24 have a mental illness coming before it under this Title and the disposition of ~~them~~
 25 those cases. It shall also keep on file the original petition and certificates of
 26 physicians required by this Section, or a microfilm duplicate of such records. All
 27 records maintained in the courts under the provisions of this Section shall be sealed
 28 and available only to the respondent or his attorney, unless the court, after hearing

1 held with notice to the respondent, determines such records should be disclosed to
2 a petitioner for cause shown.

3 * * *

4 I.(1)(a) A patient confined to a treatment facility by judicial commitment
5 may receive medication and treatment without his consent, but no major surgical
6 procedures or electroshock therapy may be performed without the written authority
7 of a court of competent jurisdiction after a hearing. With regard to the
8 administration of medicine, if the patient objects to being medicated, prior to making
9 a final decision, the treating physician shall make a reasonable effort to consult with
10 the primary physician or the primary care provider outside of the facility ~~that~~ who
11 has previously treated the patient for his ~~mental~~ behavioral health condition. The
12 treating physician shall, prior to the administration of such medication, record in the
13 patient's file either the date and time of the consultation and a summary of the
14 comments of the primary physician or primary care provider or, if the treating
15 physician is unable to consult with the primary physician or primary care provider
16 the date and time that a consultation with the primary physician or primary care
17 provider was attempted.

18 (b) Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
19 any licensed physician may administer medication to a patient without his consent
20 and against his wishes in situations which, in the reasonable judgment of the
21 physician who is observing the patient during the emergency, constitutes a
22 psychiatric or behavioral health emergency. For purposes of this Paragraph, a
23 "psychiatric or behavioral health emergency" occurs when a patient, as a result of
24 mental illness, ~~substance abuse~~ a substance-related or addictive disorder, or
25 intoxication engages in behavior which, in the clinical judgment of the physician,
26 places the patient or others at significant and imminent risk of damage to life or limb.
27 The emergency administration of medication may be continued until the emergency
28 subsides, but in no event shall it exceed forty-eight hours, except on weekends or
29 holidays when it may be extended for an additional twenty-four hours.

1 (c) The physician shall make a reasonable effort to consult with the primary
 2 physician or primary care provider outside the facility ~~that~~ who has previously
 3 treated the patient for his ~~mental~~ behavioral health condition at the earliest possible
 4 time, but in no event more than forty-eight hours after the emergency administration
 5 of medication has begun, except on weekends or holidays, when the time period may
 6 be extended an additional twenty-four hours. The physician shall record in the
 7 patient's file either the date and time of the consultation and a summary of the
 8 comments of the primary physician or primary care provider or, if the physician is
 9 unable to consult with the primary physician or primary care provider, the date and
 10 time that a consultation with the primary physician or primary care provider was
 11 attempted.

12 (2) If the director or administrator of the hospital, in consultation with two
 13 physicians, determines that the condition of a committed patient is of such critical
 14 nature that it may be life-threatening unless major surgical procedures or
 15 electroshock treatment is administered, such measures may be performed without the
 16 consent otherwise provided for in this Section.

17 J. No director or administrator of a treatment facility shall prohibit any
 18 person who ~~is mentally ill~~ has a mental illness or person who is suffering from
 19 ~~substance abuse~~ a substance-related or addictive disorder from applying for
 20 conversion of involuntary or emergency admission status to voluntary admission
 21 status. Any patient on an involuntary admission status shall have the right to apply
 22 for a writ of habeas corpus to have his admission status changed to voluntary status.

23 §56. Judicial commitment; review; appeals

24 A.(1)(a) Except as provided in Subparagraph (b) of this Paragraph, all
 25 judicial commitments except those for ~~alcoholism~~ alcohol use disorder shall be for
 26 a period not to exceed one hundred eighty days. The period of commitment shall
 27 expire at the end of the judicial commitment period, and the patient, if not converted
 28 to a voluntary status, shall be discharged unless a petition for judicial commitment
 29 has been filed prior to the expiration of the commitment period. If the court finds by
 30 clear and convincing evidence that the patient is dangerous to self or others or is

1 restrictive. The director or administrator may at any time convert an involuntary
 2 commitment to a voluntary one should he deem that action medically appropriate.
 3 He shall inform the court of any action in that regard. The director or administrator
 4 may discharge any patient if in his opinion discharge is appropriate. The director or
 5 administrator shall not be legally responsible to any person for the subsequent acts
 6 or behavior of a patient discharged in good faith.

7 * * *

8 G.(1) A person who is judicially committed may be conditionally discharged
 9 for a period of up to one hundred twenty days by the director or administrator or by
 10 the court. The patient may be required to report for outpatient treatment as a
 11 condition of his release. The terms and conditions of the conditional discharge shall
 12 be specifically set forth in writing and signed by the patient. A copy of the
 13 conditional discharge shall be given to the patient and explained to him before he is
 14 discharged.

15 (2) If the patient is conditionally discharged by the director or administrator,
 16 a copy of the conditional discharge shall be sent to the court which judicially
 17 committed him. If the patient is conditionally discharged by the court, a copy of the
 18 conditional discharge shall be sent to the facility to which the patient has been
 19 committed.

20 (3) If a patient does not comply with the terms and conditions of his
 21 conditional discharge, he is subject to any of the procedures for involuntary
 22 treatment, including but not limited to the issuance of an order for custody and the
 23 execution of an emergency certificate. A conditionally discharged patient who is
 24 confined pursuant to any of these involuntary procedures shall have all rights of an
 25 involuntary patient, including the right to demand a probable cause hearing, the right
 26 to periodic reports and review, and a hearing pursuant to Subsections A and B of this
 27 Section.

28 (4) An extension of a conditional discharge may be granted upon application
 29 by the director or administrator of the treatment facility to the court and notification
 30 to respondent's counsel of record. The court may grant the extension of the

1 conditional discharge for a period of up to one hundred twenty days. No further
2 extension may be made without a contradictory hearing. The burden of proof is on
3 the director or administrator of the treatment facility to show why continued
4 treatment is necessary.

5 * * *

6 §59. Commitment of prisoners

7 A. Any person acquitted of a crime ~~or misdemeanor~~ by reason of insanity or
8 mental defect may be committed to the proper institution in accordance with Code
9 of Criminal Procedure Arts. 654 et seq.

10 * * *

11 C. Any person serving a sentence who ~~becomes mentally ill~~ develops a
12 mental illness may be committed to the proper institution in the manner provided for
13 judicial commitment by the district court of the place of incarceration and
14 contradictorily with the ~~superintendent~~ director or administrator of the place of
15 incarceration or with the sheriff of that parish. The period of commitment shall be
16 credited against the sentence imposed by the court.

17 D. The department shall designate ~~institutions~~ treatment facilities for the care
18 of ~~mental patients~~ clients who have a mental illness committed in accordance with
19 this Section.

20 §62. Commitment to United States veterans and public health service hospitals

21 A. The judge of the civil district court may commit to a United States
22 veterans hospital or United States public health service hospital any eligible
23 incompetent veteran or other person who is in need of ~~institutional~~ inpatient
24 psychiatric care.

25 B. Prior to commitment, the ~~superintendent~~ director or administrator of the
26 hospital shall have indicated his willingness to accept the patient and the ability to
27 care for him. Upon admission, the patient is subject to the rules and regulations of
28 the hospital and its officials are vested with the same powers exercised by
29 ~~superintendents~~ directors or administrators of state ~~mental~~ psychiatric hospitals with
30 reference to the retention of custody of the committed patient.

1 appropriate categories of services, as set forth in Subsection E of this Section, which
2 such team recommends the patient should receive. If the written treatment plan
3 includes medication, it shall state whether the medication should be self-
4 administered or administered by authorized personnel, and shall specify type and
5 dosage range of medication most likely to provide maximum benefit for the patient.

6 B. If the written treatment plan includes ~~alcohol or substance abuse~~
7 substance-related or addictive disorder counseling and treatment, it may include a
8 provision requiring testing for either alcohol or illegal substances provided the
9 clinical basis for recommending such plan provides sufficient facts for the court to
10 find all of the following:

11 (1) The patient has a history of ~~alcohol or substance abuse~~ a substance-
12 related or addictive disorder that is clinically related to the mental illness.

13 * * *

14 E.

15 * * *

16 (2) Services may include, but are not limited to, the following:

17 * * *

18 (f) ~~Alcohol or substance abuse~~ Substance-related or addictive disorder
19 treatment.

20 * * *

21 §71. Disposition

22 * * *

23 B. If the court finds by clear and convincing evidence that the patient meets
24 the criteria for involuntary outpatient treatment, and no less restrictive alternative is
25 feasible, the court shall order that the patient receive involuntary outpatient treatment
26 for an initial period not to exceed one year. The court shall state reasons why the
27 proposed treatment plan is the least restrictive treatment appropriate and feasible for
28 the patient. The order shall state the categories of involuntary outpatient treatment
29 as set forth in R.S. 28:70, which the patient is to receive, and the court may not order
30 treatment that has not been recommended by the physician, psychiatric mental health

1 nurse practitioner, or psychologist in consultation with the treatment team and
 2 included in the written treatment plan. The plan shall be certified by the director of
 3 the ~~human service district or the regional manager of the Louisiana Department of~~
 4 ~~Health, office of behavioral health,~~ local governing entity responsible for services
 5 in the district where the petition is filed, as offering services which are available
 6 through their offices. The court shall not order an outpatient commitment unless the
 7 director ~~or regional manager~~ so certifies.

8 C. If the court finds by clear and convincing evidence that the patient meets
 9 the criteria for involuntary outpatient treatment, and a written proposed treatment
 10 plan has not been submitted, the court shall order the director of the ~~human service~~
 11 ~~district or the regional manager of the Louisiana Department of Health, office of~~
 12 ~~behavioral health,~~ local governing entity to provide a plan and testimony within five
 13 days of the date of the order.

14 * * *

15 E. If the petitioner is the director or administrator of a hospital that operates
 16 an involuntary outpatient treatment program, the court order shall direct the hospital
 17 to provide all categories of involuntary outpatient treatment services. If the hospital
 18 does not have such a program or if the patient is discharged to a different ~~district or~~
 19 ~~region~~ local governing entity, or if the director of the ~~human service district or~~
 20 ~~regional manager for the Louisiana Department of Health, office of behavioral~~
 21 ~~health,~~ local governing entity has filed the petition and certified services are
 22 available, the court order shall require the appropriate director ~~or regional manager~~
 23 to provide for all categories of involuntary outpatient treatment services.

24 F. The director ~~or regional manager~~ shall apply for court approval prior to
 25 instituting a proposed material change in the involuntary outpatient treatment order
 26 unless such change is contemplated in the order. For purposes of this Subsection, a
 27 material change shall mean an addition or deletion of a category of involuntary
 28 outpatient treatment service, or any deviation without the consent of the patient from
 29 the terms of an existing order relating to the administration of psychotropic drugs,
 30 or a change of residence from one ~~district or region~~ local governing entity to another.

1 Any application for court approval shall be served upon all persons required to be
2 served with notice of a petition for an order authorizing involuntary outpatient
3 treatment. Either party may move for a hearing on the application. If a motion is not
4 filed within five days from the date the application is filed, the court shall grant the
5 application.

6 * * *

7 §72. Application for additional periods of treatment

8 A. The court order for outpatient treatment shall expire at the end of the
9 specified period unless a petition or motion for an extension has been filed. If the
10 director ~~or regional manager~~ determines that a patient requires further involuntary
11 outpatient treatment, he shall file a petition or motion for continued treatment prior
12 to the expiration of the initial involuntary outpatient treatment ordered by the court.
13 If a patient has been ordered to receive outpatient treatment for four consecutive six-
14 month to one-year periods, the period of any subsequent order may exceed one year
15 but shall not exceed two years.

16 * * *

17 §73. Application to stay, vacate, or modify

18 In addition to any right or remedy available by law, the patient may apply to
19 the court to stay, vacate, or modify the order and he shall notify the director ~~or~~
20 ~~manager~~ of his application.

21 * * *

22 §91. Transfer to ~~mental institution~~ psychiatric hospital

23 A. The judge shall designate or shall request the ~~superintendent~~ administrator
24 to provide an attendant to ~~conduct~~ transfer the patient to the ~~institution~~ psychiatric
25 hospital and may authorize the employment of assistants if necessary.

26 B. Wherever practicable, the ~~mental~~ patient to be hospitalized shall be
27 permitted to be accompanied by one or more of his friends or relatives.

28 ~~Upon delivering the patient, the attendant shall indorse that fact upon a~~
29 ~~warrant and the superintendent receiving the patient shall sign the warrant in~~
30 ~~acknowledgment.~~

1 §92. Transfer of patients from military establishments

2 A. Any resident and rightful charge upon the state who ~~becomes mentally~~
 3 ~~ill~~ suffers from a mental illness while in military service and is returned to the state
 4 because of need of ~~institutional~~ inpatient psychiatric care; shall be directly
 5 transferred from the military establishment to a state psychiatric hospital, provided
 6 arrangements to receive him are made in advance with the ~~superintendent~~ hospital
 7 administrator.

8 B. Unless sooner discharged from military service, the patient shall be
 9 detained for a period of observation not to exceed thirty days. If it is found that he
 10 should remain at the hospital, he shall, after discharge from military service, be
 11 committed in accordance with the provisions of this Chapter.

12 §93. Transfer of veterans to United States veterans hospitals

13 A. Any veteran eligible for treatment in a United States veterans hospital
 14 who has been committed to a ~~mental~~ psychiatric hospital within the state may be
 15 transferred to a United States veterans hospital.

16 B. The transfer shall be by order of the committing court or by order of the
 17 ~~superintendent~~ director or administrator of the ~~mental~~ psychiatric hospital in which
 18 the veteran is confined or by order of the division if the veteran is on leave.

19 §94. Transfer of patients between ~~institutions~~ psychiatric hospitals

20 A.(1) Except as otherwise provided in this Subsection, the department may
 21 transfer any patient from one ~~mental institution~~ psychiatric hospital to another if
 22 applicable eligibility criteria are met. Moreover, the ~~superintendent of an institution~~
 23 administrator of a psychiatric hospital may request the department to transfer a
 24 patient when he believes that a transfer is necessary.

25 ~~(1)~~ (2) A patient may be transferred to or from a private ~~mental institution~~
 26 psychiatric hospital only upon the joint application of the ~~superintendent~~ director or
 27 administrator of that ~~institution~~ hospital and of the legal ~~or natural~~ guardian or the
 28 person liable for the support of the patient. However, no private ~~mental institution~~
 29 psychiatric hospital shall be obligated to retain a patient because of the refusal to
 30 sign the application by the legal guardian or the person liable for support.

1 health nurse practitioner and with the approval of the committing court if the
 2 commitment was by criminal court order.

3 §97. Discharge by the department

4 The department may order the examination and the discharge of any patient,
 5 except those committed in accordance with R.S. 28:59 and under Title XXI relating
 6 to insanity proceedings of the Code of Criminal Procedure, if as a result of the
 7 examination it believes that the patient should no longer be detained. When a
 8 discharge in accordance with this Section is contemplated, the department shall give
 9 notice to the ~~superintendent~~ director or administrator and to the person who ~~caused~~
 10 filed the original petition causing the patient to be committed, in order that they may
 11 state their reasons why the patient should be detained for further treatment.

12 §98.2. Immunity of ~~superintendent and mental~~ psychiatric hospital and director or
 13 administrator

14 Any detentions, confinements, commitments or discharges made of a ~~mental~~
 15 patient who has a mental illness in accordance with this Chapter to any state or
 16 private ~~mental psychiatric hospital or institution~~ by the ~~superintendent~~ director or
 17 administrator thereof, acting in good faith, reasonably and without negligence, are
 18 hereby declared to be administrative acts of the ~~superintendent and/or~~ director,
 19 administrator, or the hospital, and the ~~superintendent~~ director, administrator, and the
 20 hospital are hereby granted immunity from liability for damages to any patient so
 21 detained, confined, or committed for false imprisonment or otherwise; provided,
 22 however, that the ~~superintendent and/or~~ director, administrator, or the hospital shall
 23 not thereby be exempt from liability for negligence in the care or treatment of such
 24 patient.

25 §99. Discharge by lapse of time

26 Any patient continuously absent from ~~an institution~~ a psychiatric hospital
 27 without authorized leave for ~~twelve months~~ seventy-two hours is automatically
 28 discharged and may be readmitted only according to law. This Section ~~does~~ shall not
 29 apply to ~~mental defectives or epileptics, whose leaves are indefinite and who can be~~

1 properly, the ~~superintendent~~ director or administrator shall recall him to the
 2 ~~institution~~ state psychiatric hospital with the consent of the department.

3 §102. ~~Return~~ State psychiatric hospitals; return of escaped patients

4 Any escaped patient from a state psychiatric hospital shall be returned at the
 5 expense of the ~~institution~~ state psychiatric hospital from which he ~~escaped~~ left
 6 without authorization unless his discharge is granted before his return.

7 §103. Deportation of nonresident patients

8 A. The department or executive authority of this state may return any
 9 nonresident patient to the state or ~~county~~ country of which he is a legal resident.
 10 Pending the return, the department shall provide necessary temporary care for the
 11 patient. He shall be suitably clothed and, if necessary, shall be accompanied by an
 12 attendant who shall deliver the patient with due care to the proper officials at the
 13 destination. If the patient is able to travel alone, he shall be provided with sufficient
 14 funds for sustenance and travel.

15 B. The department or executive authority of this state may enter into
 16 agreements with other states for reciprocity in deporting ~~mental~~ psychiatric patients.

17 §104. Importation of ~~mental~~ nonresident psychiatric patients prohibited

18 A. No person or public carrier shall knowingly import a ~~non-resident~~
 19 nonresident ~~mental~~ psychiatric patient into this state for the purpose of having him
 20 committed.

21 B. Any person who violates the provisions of this Section shall be fined one
 22 hundred dollars or imprisoned for sixty days, or both, and the patient shall be
 23 removed from the state at the expense of the offending person or public carrier.

24 §105. Extradition of escaped patients

25 ~~The extradition of escaped patients shall be in accordance with the Uniform~~
 26 ~~Act for the Extradition of Persons of Unsound Mind.~~

27 A. For purposes of this Section, the following definitions relative to
 28 extradition of escaped patients apply:

1 B. Fees for services rendered by coroners or other experts in the commitment
 2 of patients shall be in accordance with the provisions contained in Article ~~267~~ 659
 3 of the Code of Criminal Procedure and the special laws relating to the fees of
 4 coroners and assisting physicians in interdiction proceedings. Except for emergency
 5 commitments which do not result in court commitment and voluntary admissions,
 6 the coroner of the parish of domicile shall receive the usual fee allowed in a formal
 7 commitment; for all types of commitment under this Chapter, even though he does
 8 not act personally in the commitment proceeding.

9 §142. Costs of transportation

10 A. If financially able, the patient or his ~~legally responsible relative~~ legal
 11 guardian shall pay all ~~the~~ costs incident to transporting the patient to the ~~mental~~ state
 12 psychiatric hospital; otherwise the department, in the case of a nonresident, or the
 13 parish in which the hearing was held, in the case of a resident, shall pay these costs.
 14 If a patient's domicile is in a parish other than that in which the hearing was held, the
 15 former parish shall reimburse the latter for these costs.

16 B. Fees for transporting patients shall be in accordance with the special laws
 17 establishing fees for transporting prisoners.

18 §143. Costs of maintenance and ~~boarding-out~~ daily care

19 A. The ~~superintendent~~ director or administrator of each ~~mental institution~~
 20 state psychiatric hospital shall include the costs of maintenance and ~~boarding-out~~
 21 daily care of patients as an expense of the ~~institution~~ state psychiatric hospital and
 22 shall prepare budgets in accordance with the provisions of Chapter 1 of Title 39 of
 23 the Louisiana Revised Statutes of 1950.

24 B. If financially able, the patient or his ~~legally responsible relative~~ legal
 25 guardian shall reimburse the ~~institution~~ state psychiatric hospital for all or a part of
 26 the cost of his maintenance or ~~boarding-out~~ daily care.

27 §144. Investigation and assessment of charges

28 The department shall develop procedures to determine the ability of a patient
 29 or his ~~legally responsible relative~~ legal guardian to pay all or a part of the costs of the

1 patient's care and shall adopt a policy including rules and regulations for the
2 assessment of charges in accordance with the ability to pay.

3 §145. Costs of transfer

4 The person requesting the transfer shall pay the costs of transferring a patient
5 between ~~institutions~~ hospitals. The department shall pay the costs of transfers made
6 at its request.

7 §146. Expenses incident to discharge, removal, or funeral

8 A. If financially able, the patient or his ~~legally responsible relative~~ legal
9 guardian shall pay the costs of the patient's funeral or his discharge and removal,
10 including traveling expenses to his home; otherwise the ~~institution~~ state psychiatric
11 hospital shall pay these costs. If discharge is ordered by the department and the
12 ~~institution has to pay~~ state psychiatric hospital pays the patient's traveling expenses
13 to his home, the department shall reimburse the ~~institution~~ state psychiatric hospital
14 out of appropriations for persons who are indigent and have a mental illness.

15 * * *

16 §147. Method of collection

17 The department may demand and receive any sums assessed as costs against
18 a patient or his ~~legally responsible relative~~ legal guardian, and in the case of
19 nonpayment, may sue to enforce collection.

20 * * *

21 PART VI. RIGHTS OF PERSONS SUFFERING FROM MENTAL ILLNESS AND
22 ~~SUBSTANCE ABUSE~~ SUBSTANCE-RELATED OR ADDICTIVE DISORDERS

23 §171. Enumerations of rights guaranteed

24 * * *

25 C.

26 * * *

27 (4)(a) The director of any substance ~~abuse~~ use treatment facility may restrict
28 the visitation rights of a patient who is voluntarily admitted to such treatment facility
29 under the provisions of R.S. 28:52, 52.1, 52.2, 52.3, and 52.4 for the initial phase of
30 treatment but no longer than seven days unless good cause exists to extend the

1 restriction and is so documented in the patient's record. This restriction shall not
 2 apply to visitation by the patient's attorney, or if he is not represented by counsel, the
 3 mental health advocate, or the patient's minister. This restriction shall also not apply
 4 to a parent or legal guardian of a patient who is a minor unless the director
 5 determines that good cause exists that such restriction shall be in the best interest of
 6 the patient and is so documented in the patient's record. When the facility director
 7 determines the need to restrict visitation of new patients he shall post notice of such
 8 restriction in places prominent to all new admissions, and shall inform each new
 9 patient of the restriction prior to the admission of the patient, and the length and
 10 duration thereof, and further, that such restriction may be extended on an individual
 11 basis as determined to be in the patient's interest by the treatment staff with the
 12 concurrence of the medical director.

* * *

14 D. Seclusion or restraint shall only be used to prevent a patient from
 15 physically injuring himself or others. Seclusion or restraint may not be used to
 16 punish or discipline a patient or used as a convenience to the staff of the treatment
 17 facility. Seclusion or restraint shall be used only in accordance with the following
 18 standards:

* * *

20 (5) A renewal order for up to twelve hours of seclusion or restraint may be
 21 issued by a physician, psychologist, medical psychologist, or psychiatric mental
 22 health nurse practitioner with institutional authority to order seclusion or restraint
 23 after determining that there is no less restrictive means of preventing injury to the
 24 patient or others. If any patient is held in seclusion or restraint for twenty-four
 25 consecutive hours, the physician, psychologist, medical psychologist, or psychiatric
 26 mental health nurse practitioner with institutional authority shall conduct an actual
 27 examination of the patient and document the reason why the use of seclusion or
 28 restraint beyond twenty-four consecutive hours is necessary, and the next of kin or
 29 responsible party shall be notified by the twenty-sixth hour.

* * *

1 §171.1. Principles for the ~~mental~~ behavioral health system

2 The department and any entity which receives funding through a state
3 contract to provide services to persons ~~who are mentally ill~~ with needs relating to
4 behavioral health, as defined in R.S. 28:2, shall provide, to the maximum extent
5 possible, ~~mental~~ behavioral health treatment, services, and supports which are
6 consistent with the following principles:

7 * * *

8 (5) Persons with ~~mental illness~~ behavioral health needs are generally best
9 able to determine their own needs, rather than their needs being determined by
10 others.

11 (6) For children with ~~mental illness~~ behavioral health needs, the needs of the
12 entire family should be considered in the development of family supports.

13 (7) Family supports may enable children to live in stable family
14 environments with enduring relationships with one or more adults regardless of the
15 severity of the ~~mental illness~~ behavioral health needs of the child or the degree of
16 support necessary.

17 (8) Children and young adults with ~~mental illness~~ behavioral health needs
18 receive and participate in an appropriate education which enables them to have
19 increased opportunities for well being, development, and inclusion in their
20 communities.

21 * * *

22 §172. Deposit of patients' funds; disbursement

23 A. The ~~superintendent~~ administrator of each state psychiatric hospital ~~for~~
24 ~~persons with mental illness~~ is authorized to receive and receipt for funds belonging
25 to a patient and shall keep such funds on deposit for the use and benefit of the
26 patient. Such funds shall be considered as being on deposit with an agency of the
27 state of Louisiana and no bond shall be required of the ~~superintendent~~ department.
28 Disbursement thereof shall be made only on order of the court having jurisdiction
29 over the patient if he has been judicially interdicted or if not, an order of the person
30 or governmental agency making the deposit in behalf of the patient.

1 §185. Unlicensed counseling

2 A. No person shall hold himself out to be a counselor with a specific
3 specialty to provide mental health or ~~substance abuse~~ substance-related or addictive
4 disorder treatment services, or attempt to provide counseling services in this state,
5 and receive fees either from the patient or a third party, unless he is authorized to
6 practice in the specific specialty area by the appropriate state or regulatory authority.

7 * * *

8 §200. Promotion of a community-based system of care

9 It is hereby declared to be a function of the Louisiana Department of Health
10 to promote the establishment and administration of a community-based system of
11 care, including but not limited to community behavioral health ~~centers~~ clinics for
12 persons ~~with~~ who have a mental illness, persons with developmental disabilities, or
13 persons with both conditions as contemplated by the provisions of R.S. 40:2013.
14 ~~Behavioral health centers as used herein shall include guidance centers.~~

15 §201. Transfer of administration

16 The department may continue to administer any such existing ~~centers~~ clinics,
17 but its primary endeavor shall be to transfer responsibility for the administration of
18 existing facilities or facilities that may hereafter be created to local associations,
19 nonprofit corporations, police juries, school boards, municipalities, or other public
20 agencies that have demonstrated a desire to establish, maintain, and operate facilities
21 for persons ~~with~~ who have a mental illness, developmental disabilities, or both
22 conditions on a municipal, parish, or other local area basis.

23 §202. Lease of land, buildings, and equipment

24 The department may lease to responsible local organizations or to the
25 governing bodies of local public agencies any ~~state-owned~~ state-owned land,
26 buildings, and equipment designed for or being operated as a behavioral health
27 ~~center~~ clinic.

28 * * *

1 §215.2. Coroner's Strategic Initiative for a Health Information and Intervention
2 Program; powers and duties

3 Subject to the availability of adequate funding, a CSI/HIP may perform any
4 of the following functions:

5 (1) Provide a home-based support system, which shall not provide any
6 ~~mental~~ behavioral health treatment but rather shall provide aid to the individual to
7 ensure that the treatment protocol is being met and to access available ~~mental~~
8 behavioral health resources in the community for persons who satisfy all of the
9 following criteria:

10 * * *

11 (2) Establish a community resource center that is accessible by telephone or
12 Internet to provide twenty-four hour support for persons suffering from a mental
13 ~~health or substance abuse condition or~~ illness or substance-related or addictive
14 disorder by providing educational and outreach materials about the resources for
15 ~~mental~~ behavioral health patients which are available in the community, including
16 the location, transportation, and methods for accessing these resources.

17 * * *

18 §215.3. Treatment facilities; dissemination of information

19 A. ~~For~~ Notwithstanding R.S. 28.2, for the purposes of this Section,
20 "treatment facility" shall mean any healthcare facility which provides services or
21 treatment to a person who is suffering from a mental ~~health or substance abuse~~
22 ~~condition or~~ illness or substance-related or addictive disorder except for a nursing
23 home as defined in R.S. 40:2009.2.

24 B. A treatment facility shall provide to all individuals in the parish suffering
25 from a mental ~~health condition~~ illness or substance-related or addictive disorder upon
26 discharge or release an information and consent form which details the information,
27 programs, and services which can be provided by the CSI/HIP to individuals
28 suffering from mental ~~health conditions~~ illness and substance-related or addictive
29 disorders and includes a voluntary consent form for the individual to complete if the
30 individual desires to have the treatment facility notify the CSI/HIP on behalf of the

1 individual that the individual would like to be contacted by the CSI/HIP to receive
2 additional information about the program.

3 * * *

4 §215.4. Consent

5 A. Prior to personnel of the coroner's office or CSI/HIP providing any home-
6 based supports or services to an individual, the personnel of the coroner's office or
7 of the CSI/HIP shall provide to the individual in writing a full disclosure of all
8 services to be provided, frequency of home visits, and notice that the individual may
9 withdraw his consent in writing at any time. In addition, the individual shall also
10 consent in writing to the list of persons, if any, with whom the personnel of the
11 coroner or the CSI/HIP may discuss his ~~mental~~ behavioral health condition.

12 * * *

13 PART X. ADVANCE DIRECTIVES FOR ~~MENTAL~~
14 BEHAVIORAL HEALTH TREATMENT

15 §221. Definitions

16 As used in this Part:

17 (1) "Advance directive for ~~mental~~ behavioral health treatment" or "advance
18 directive" means a written document voluntarily executed by a principal in
19 accordance with the requirements of this Part and includes a declaration or the
20 appointment of a representative or both.

21 (2) "Declaration for ~~mental~~ behavioral health treatment" or "declaration"
22 means a written document executed by a principal, in accordance with the
23 requirements of this Part, setting forth preferences or instructions regarding ~~mental~~
24 behavioral health treatment in the event the principal is determined to be incapable
25 and ~~mental~~ behavioral health treatment is necessary.

26 (3) "Director" or "~~superintendent~~" administrator means a person in charge
27 of a treatment facility or his deputy.

28 (4) "Incapable" means that, due to any infirmity, the principal is currently
29 unable to make or to communicate reasoned decisions regarding the principal's
30 ~~mental~~ behavioral health treatment.

1 as long as the advance directive appointing the representative is in effect or until the
 2 representative has withdrawn.

3 C. If an advance directive for ~~mental~~ behavioral health treatment has been
 4 delivered to the principal's treating physician or other provider and the principal has
 5 been determined to be incapable pursuant to R.S. 28:226, at the expiration of five
 6 years after its execution, it shall remain effective until the principal is no longer
 7 incapable.

8 §223. Designation of representative for decisions about ~~mental~~ behavioral health
 9 treatment

10 An advance directive for ~~mental~~ behavioral health treatment may designate
 11 a competent adult to act as a representative to make decisions about ~~mental~~
 12 behavioral health treatment. An alternative representative may also be designated
 13 to act as representative if the original designee is unable or unwilling to act at any
 14 time. A representative who has accepted the appointment in writing may make
 15 decisions about ~~mental~~ behavioral health treatment on behalf of the principal only
 16 when the principal is determined to be incapable pursuant to R.S. 28:226. The
 17 decisions shall be consistent with any desires the principal has expressed in the
 18 declaration.

19 §224. Execution of advance directive; witnesses; ~~mental-status~~ psychiatric
 20 examination

21 A. An advance directive for ~~mental~~ behavioral health treatment shall be valid
 22 only if it is signed by the principal and two competent witnesses and accompanied
 23 by a written ~~mental-status~~ psychiatric examination performed by a physician or
 24 psychologist attesting to the principal's ability to make reasoned decisions
 25 concerning his ~~mental~~ behavioral health treatment. The witnesses shall attest that the
 26 principal is known to them, signed the advance directive in their presence, and does
 27 not appear to be unable to make reasoned decisions concerning his ~~mental~~ behavioral
 28 health treatment or under duress, fraud, or undue influence. Individuals specified in
 29 R.S. 28:234 may not act as witnesses.

1 health treatment and to receive, review, and consent to disclosure or use of medical
2 records relating to that treatment. This representative's right of access to the
3 principal's ~~mental~~ behavioral health treatment information shall not waive any
4 evidentiary privilege.

5 * * *

6 E. A representative shall not be subject to criminal prosecution, civil
7 liability, or professional disciplinary action for any action taken in good faith
8 pursuant to an advance directive for ~~mental~~ behavioral health treatment.

9 §228. Prohibitions against requiring an individual to execute or refrain from
10 executing an advance directive

11 An individual shall not be required to execute or to refrain from executing an
12 advance directive for ~~mental~~ behavioral health treatment as a criterion for insurance,
13 as a condition for receiving ~~mental~~ behavioral or physical health services, or as a
14 condition of discharge from a treatment facility.

15 §229. Advance directive for ~~mental~~ behavioral health treatment; part of medical
16 record; physician or provider compliance; withdrawal of physician or
17 provider

18 A. Upon being presented with an advance directive for ~~mental~~ behavioral
19 health treatment, a physician or other provider shall make the advance directive a
20 part of the principal's medical record. When acting under authority of an advance
21 directive, a physician or provider shall comply with it to the fullest extent possible,
22 consistent with the appropriate standard of care, reasonable medical practice, the
23 availability of treatments requested, and applicable law. If the physician or other
24 provider is unable or unwilling at any time to carry out preferences or instructions
25 contained in an advance directive for ~~mental~~ behavioral health treatment or the
26 decisions of the representative, the physician or provider may withdraw from
27 providing treatment to the principal.

28 * * *

1 C. For the purposes of this Section, "physician" means the treating physician
2 or any other physician proposing or administering ~~mental~~ behavioral health treatment
3 to the principal.

4 §230. Disregarding advance directives; circumstances

5 A. The physician or provider may subject a principal determined to be
6 incapable pursuant to R.S. 28:226 to ~~mental~~ behavioral health treatment in a manner
7 contrary to the principal's wishes as expressed in an advance directive for ~~mental~~
8 behavioral health treatment only:

9 * * *

10 (2) When the treating physician determines that psychotropic medication is
11 essential and after compliance with the following procedures:

12 (a) When a principal's advance directive for behavioral health treatment or
13 his representative refuses medication that the treating physician believes is essential,
14 the director or administrator of the treatment facility shall conduct an administrative
15 review to determine whether the principal should be forcibly medicated contrary to
16 his wishes.

17 * * *

18 (d) A principal may be medicated contrary to the wishes expressed in his
19 advance directive if, based on a review of the advance directive and the reasons
20 stated therein, the patient's medical chart, a personal examination of the patient, the
21 wishes of the principal's representative, if any, and the recommendations of the
22 treating physician, the director determines that the medication is medically essential.
23 The director shall consider the following criteria in making that decision:

24 (i) The patient ~~is mentally ill~~ has a mental illness and is dangerous to himself
25 or others or gravely disabled without the medication.

26 * * *

27 B. An advance directive shall not limit the authority provided in ~~R.S. 28:2~~
28 ~~et seq.~~, this Chapter to take a principal into protective custody or to involuntarily
29 admit or commit a principal to a treatment facility.

1 C. An advance directive shall not authorize admission to or retention in a
2 ~~mental health~~ treatment facility for a period in excess of fifteen days.

3 * * *

4 §232. Limitations on liability of physician or provider

5 A physician or provider who administers or does not administer ~~mental~~
6 behavioral health treatment according to and in good faith reliance upon the validity
7 of an advance directive for ~~mental~~ behavioral health treatment shall not be subject
8 to criminal prosecution, civil liability, or professional disciplinary action resulting
9 from a subsequent finding of an advance directive's invalidity.

10 §233. Individuals prohibited from serving as representative

11 The following individuals shall be prohibited from serving as a
12 representative:

13 * * *

14 (2) An owner, operator, or employee of a ~~health care~~ treatment facility in
15 which the principal is a patient, client, or resident if the owner, operator, or employee
16 is unrelated to the principal by blood, marriage, or adoption.

17 §234. Individuals prohibited from serving as witnesses to advance directive for
18 ~~mental~~ behavioral health treatment

19 The following individuals shall be prohibited from serving as a witness to the
20 signing of an advance directive for ~~mental~~ behavioral health treatment:

21 * * *

22 (2) An owner, operator, or relative of an owner or operator of a ~~mental~~
23 behavioral health treatment facility in which the principal is a patient or resident.

24 * * *

25 CHAPTER 5. GROUP HOME FOR PERSONS

26 ~~WITH~~ WHO HAVE MENTAL ILLNESS OR

27 DEVELOPMENTAL DISABILITIES ACT

28 §475. Short title

29 This Chapter shall be known and may be cited as the "Group Home for
30 Persons with who have Mental Illness or Developmental Disabilities Act".

1 §476. Declaration of policy

2 The legislature hereby declares that it is the policy of this state as declared
 3 and established in this Title, particularly in the Developmental Disability Law and
 4 the ~~Mental~~ Behavioral Health Law, that persons with mental or physical disabilities
 5 are entitled to live in the least restrictive environment in their own community and
 6 in normal residential surroundings and should not be excluded therefrom because of
 7 their disabilities. The legislature further declares that the provisions of this Chapter
 8 are intended to secure to all of the citizens of this state the right to individual dignity
 9 as provided in Article I, Section 3 of the Constitution of Louisiana and to protect the
 10 rights and promote the happiness and general welfare of the people of this state. To
 11 that end, the legislature hereby declares that the provisions of this Chapter are an
 12 exercise of the police power reserved to the state by Article I, Section 4 and Article
 13 VI, Section 9(B) of the Constitution of Louisiana.

14 §477. Definitions

15 As used in this Chapter, unless otherwise clearly indicated, these words and
 16 phrases have the following meanings:

17 (1) "Community home" means a facility certified, licensed, or monitored by
 18 the Louisiana Department of Health to provide resident services and supervision to
 19 six or fewer persons ~~with~~ who have mental illness or developmental disabilities.
 20 Such facility shall provide supervisory personnel in order to function as a single
 21 family unit but not to exceed two live-in persons.

22 * * *

23 (3)(a) "Person ~~with~~ who has a mental illness or a developmental disability"
 24 means any person who has a physical or mental impairment which substantially
 25 limits one or more of the following major life activities:

26 * * *

27 (b) This definition shall not include persons with ~~substance-use~~ substance-
 28 related or addictive disorders, nor shall it apply to persons ~~with~~ who have mental
 29 illness or developmental disabilities and are currently under sentence or on parole

1 from any criminal violation or who have been found not guilty of a criminal charge
2 by reason of insanity.

3 §478. Promotion of community based homes

4 A. In order to achieve uniform statewide implementation of the policies of
5 this Title and of those of the Developmental Disabilities Law and of the ~~Mental~~
6 Behavioral Health Law, it is necessary to establish the statewide policy that
7 community homes are permitted by right in all residential districts zoned for
8 multiple-family dwellings.

9 * * *

10 CHAPTER 11. SUBSTANCE-RELATED AND ADDICTIVE DISORDERS

11 §771. Office of behavioral health; functions ~~related to~~ regarding substance-related
12 and addictive disorders

13 A. The office of behavioral health of the Louisiana Department of Health,
14 hereinafter referred to as the "office", shall perform the functions of the state relating
15 to the care, training, treatment, and education of persons suffering from substance-
16 related and addictive disorders and the prevention of ~~addictive those~~ disorders. It
17 shall administer residential and outpatient care facilities of the state for substance-
18 related and addictive disorder patients and administer the substance-related and
19 addictive disorders programs in the state.

20 B. The office shall additionally ~~perform~~ have the following duties and
21 responsibilities:

22 (1) Formulation and implementation of policies relating to the treatment and
23 prevention of substance-related and addictive disorders in accordance with
24 applicable state law; however, the provisions of this Section shall not apply to the
25 Substance Abuse Prevention Program of the Department of Education and the
26 Highway Safety Act of 1966 (P.L. 89-564) administered by the Highway Safety
27 Commission of the Department of Public Safety and Corrections.

28 (2) Provision of all services to persons suffering from substance-related and
29 addictive disorders which were formerly provided by the office of prevention and
30 recovery from alcohol and drug abuse of the Louisiana Department of Health and

1 such services otherwise required by law. The office may provide such services
 2 directly or through contracts with local, state, or federal agencies or private care
 3 providers.

4 (3) Administration of all programs relating to substance-related and
 5 addictive disorders listed in this Title.

6 (4) Coordination of all programs of all state departments relating to
 7 substance-related and addictive disorders, including assisting such agencies in the
 8 assessment and referral of persons subject to their jurisdiction. The office shall also
 9 establish and implement an employee assistance program on substance-related and
 10 addictive disorders for state employees.

11 (5)(a) Provision of assessment, referral, and treatment services for substance-
 12 related and addictive disorders to persons subject to the custody of state, municipal,
 13 or parish correctional institutions pursuant to agreements with such institutions and
 14 to persons subject to driving while intoxicated programs. In addition to any charges
 15 established by the department for treatment services by the office provided to
 16 persons subject to driving while intoxicated programs, the department may assess
 17 every patient in such program to whom the office provides treatment services a
 18 standard copayment fee of ten dollars per session subject to applicable federal
 19 regulations. A patient whose treatment is provided by the office through a private
 20 contractor shall not be assessed a copayment fee as provided above. Nothing in this
 21 Paragraph shall be construed to prohibit such a private provider from assessing fees
 22 otherwise allowable under applicable federal and state laws. ~~The department shall~~
 23 ~~provide by rule for the implementation of such copayment not later than March 15,~~
 24 ~~1987.~~

25 ~~(b) Notwithstanding the provisions of Subparagraph (a) and otherwise~~
 26 ~~subject to its provisions, not later than September 1, 1987, the department, by rule,~~
 27 ~~shall increase the amount of the standard copayment fee to twenty dollars per~~
 28 ~~session.~~

29 ~~(c)~~ (b) The copayment provided for in this Paragraph shall be deposited in
 30 the state treasury pursuant to R.S. 39:82 and shall be accounted for by the

1 commissioner of administration through appropriations control pursuant to R.S.
 2 39:334(B)(6). The commissioner of administration shall establish a separate cost
 3 center in the office of behavioral health and the office for citizens with
 4 developmental disabilities for revenue generated pursuant to this Paragraph. All
 5 funds not obligated shall revert to the state general fund at the end of the fiscal year.

6 (6) Maintenance of complete statistics and other relevant information on
 7 substance-related and addictive disorders within the state of Louisiana and provision
 8 of such information to interested agencies, groups, and individuals upon request.

9 (7) Receive any federal funds available under ~~Title 18, Title 19, and Title 20~~
 10 Title XVIII, Title XIX, and Title XX of the Social Security Act and any other funds
 11 specifically allocated for the prevention or treatment of substance-related and
 12 addictive disorders and to use any such funds received.

13 (8) Development of procedures and criteria for determining, and, in
 14 accordance with such procedures and criteria, determination of the ability of a patient
 15 or person receiving services, or his ~~legally responsible relative~~ legal guardian, to pay
 16 all or a part of the costs of the care or treatment of the patient or recipient. The
 17 department shall promulgate rules and regulations to provide for such determination
 18 and for the assessment of charges for care or treatment based on such determination.

19 (9) Provide a twenty-four-hour, toll-free telephone service to provide
 20 information regarding available services to assist with ~~compulsive or problem~~
 21 gambling ~~behavior~~ disorders.

22 (10) Require any patient who is given a urine drug screen in a state-operated
 23 outpatient or inpatient ~~alcohol or drug abuse~~ facility as part of his treatment by the
 24 office of behavioral health to pay a copayment of not more than twelve dollars per
 25 screen to the provider of the screen if he is able to pay such copayment based on a
 26 sliding fee scale. Such copayments shall be charged and collected by the provider.
 27 ~~The office of behavioral health~~ department shall promulgate rules and regulations to
 28 establish a sliding fee scale and criteria for determining a patient's ability to pay.
 29 Any patient eligible to receive Medicaid shall be exempt from the provisions of the
 30 copayment requirements. The copayments shall be exempt from the provisions of

1 R.S. 49:971(A)(3) which provide that no state agency shall increase any existing fee
 2 or impose any new fee unless the fee increase or fee adoption is expressly authorized
 3 pursuant to a fee schedule established by statute or specifically authorized by federal
 4 law, rules, or regulations for the purpose of satisfying an express mandate of such
 5 federal law, rule, or regulation.

6 C. The services and programs as described in Subsections A and B of this
 7 Section shall be the responsibility of and shall be performed by the Jefferson Parish
 8 Human Services Authority for Jefferson Parish only. The department shall not be
 9 responsible for and shall not perform these services and programs in Jefferson
 10 Parish.

11 D. The services and programs as described in Subsections A and B of this
 12 Section, excluding the operation and management of any ~~in-patient~~ inpatient facility
 13 under the jurisdiction of the department, shall be the responsibility of and shall be
 14 performed by the Capital Area Human Services District for the parishes of
 15 Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton
 16 Rouge, and West Feliciana only. The department shall not be responsible for and
 17 shall not perform these services and programs in ~~said~~ such parishes provided that if
 18 funds are not appropriated by the legislature for the district to provide these services
 19 and programs in ~~said~~ those parishes, the department shall continue to be responsible
 20 for and shall perform these services and programs in ~~said~~ those parishes.

21 E. The services and programs as described in Subsections A and B of this
 22 Section, excluding the operation and management of any inpatient facility for
 23 developmental disabilities and mental health under the jurisdiction of the department,
 24 shall be the responsibility of and shall be performed by the Florida Parishes Human
 25 Services Authority for the parishes of Livingston, St. Helena, St. Tammany,
 26 Tangipahoa, and Washington only. The department shall not be responsible for and
 27 shall not perform these services and programs in ~~said~~ such parishes provided that if
 28 funds are not appropriated by the legislature for the authority to provide these
 29 services and programs in ~~said~~ those parishes, the department shall continue to be
 30 responsible for and shall perform these services and programs in ~~said~~ those parishes.

1 F. The services and programs as described in Subsections A and B of this
 2 Section, excluding the operation and management of any inpatient facility under the
 3 jurisdiction of the department, shall be the responsibility of and shall be performed
 4 by the Metropolitan Human Services District for the parishes of Orleans, St. Bernard,
 5 and Plaquemines only. The department shall not be responsible for and shall not
 6 perform these services and programs in ~~said~~ such parishes provided that if funds are
 7 not appropriated by the legislature for the district to provide these services and
 8 programs in ~~said~~ those parishes, the department shall continue to be responsible for
 9 and shall perform these services and programs in ~~said~~ those parishes.

10 G. The services and programs as described in Subsections A and B of this
 11 Section, excluding the operation and management of any inpatient facility under the
 12 jurisdiction of the department, shall be the responsibility of and shall be performed
 13 by the South Central Louisiana Human Services District for the parishes of
 14 Assumption, Lafourche, St. Charles, St. James, St. John the Baptist, St. Mary, and
 15 Terrebonne only. The department shall not be responsible for and shall not perform
 16 these services and programs in ~~said~~ such parishes provided that if funds are not
 17 appropriated by the legislature for the district to provide these services and programs
 18 in ~~said~~ those parishes, the department shall continue to be responsible for and shall
 19 perform these services and programs in ~~said~~ those parishes.

20 H. The services and programs as described in Subsections A and B of this
 21 Section, excluding the operation and management of any inpatient facility under the
 22 jurisdiction of the department, shall be the responsibility of and shall be performed
 23 by the Northeast Delta Human Services Authority for the parishes of Caldwell, East
 24 Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland,
 25 Tensas, Union, and West Carroll only. The department shall not be responsible for
 26 and shall not perform these services and programs in ~~said~~ such parishes provided that
 27 if funds are not appropriated by the legislature for the district to provide these
 28 services and programs in ~~said~~ those parishes, the department shall continue to be
 29 responsible for and shall perform these services and programs in ~~said~~ those parishes.

1 §772. Funding of regional addictive disorder services

2 A.(1) Funding for regional substance-related and addictive disorder services
3 as defined in Subsection B of this Section shall be allocated to each region according
4 to a formula developed by the assistant secretary of the office of behavioral health,
5 promulgated in accordance with the Administrative Procedure Act, and evaluated
6 each year to determine necessary changes.

7 (2) The formula developed by the office shall weigh certain elements in
8 determining the formula. The elements and their assigned weights are as follows:

9 * * *

10 (c) The estimated number of adults in a region needing treatment for
11 substance-related and addictive disorders shall be assigned a weight of twenty
12 percent.

13 * * *

14 B. "Regional substance-related and addictive disorder services" shall include
15 all treatment and ~~prevention/education~~ prevention or education services provided in
16 each region.

17 * * *

18 CHAPTER 15. ~~COMPULSIVE AND PROBLEM GAMBLING~~ DISORDERS

19 §841. Office of behavioral health; functions related to ~~compulsive and problem~~
20 gambling disorders

21 A. The office of behavioral health of the Louisiana Department of Health
22 shall establish a program to provide information and referral services related to
23 ~~compulsive or problem~~ gambling disorders. The program may include treatment
24 services and shall include provision of a twenty-four hour, toll-free telephone
25 service, operated by persons with knowledge of programs and services available to
26 assist persons suffering from ~~compulsive or problem gambling behavior~~ gambling
27 disorders.

28 * * *

29 §911. Definitions

30 As used in this Chapter and unless the context clearly requires otherwise:

1 (1) "Behavioral health services" means community-based mental health and
2 substance-related and addictive disorders services.

3 * * *

4 §913. Governing board; membership; appointment; terms; compensation

5 A.

6 * * *

7 (2) The parish appointees shall be persons with professional experience or
8 parents, consumers, or advocates in the fields of substance-related and addictive
9 disorders, developmental disabilities, mental health, or public health.

10 (3)(a) The governor's three appointees shall be one member with experience
11 in the financial operation of a business enterprise, one member who is a parent,
12 consumer, or caregiver of a consumer of services, and one member who represents
13 one of the following fields: substance-related and addictive disorders,
14 developmental disabilities, mental health, or public health.

15 (b) The governing authority of each parish may submit three names to the
16 governor for consideration as one of the governor's three appointees.

17 * * *

18 §915. Districts; functions, powers, and duties

19 A. Pursuant to a contract with the department, all human services districts
20 shall:

21 * * *

22 (3) Perform community-based functions for the care, diagnosis, training,
23 treatment, and education related to substance-related and addictive disorders,
24 including but not limited to alcohol, drug abuse, or gambling.

25 * * *

26 §931. Definitions; purposes

27 * * *

28 B. The purposes of an intervention and stabilization unit include, without
29 limitation, all of the following:

30 * * *

1 (2) To diminish the need in a community for recurrent crisis services for
2 persons suffering from mental illness, ~~substance abuse~~ a substance-related or
3 addictive disorder, or both conditions.

4 * * *

5 Section 3. R.S. 36:258(C) and 259(C)(10) and (16) are hereby amended and
6 reenacted to read as follows:

7 §258. Offices; purposes and functions

8 * * *

9 C. The consolidation of the administration of the offices for mental ~~illness~~
10 health and of addictive disorders into the office of behavioral health will offer less
11 redundancy and greater benefits to Louisiana citizens in need of these services. The
12 office of behavioral health shall perform the functions of the state which ~~provide~~
13 oversee services and continuity of care for the prevention, detection, treatment,
14 rehabilitation, and follow-up care of mental and emotional illness in Louisiana and
15 shall perform functions related to mental health. It shall also perform the functions
16 of the state relating to the care, training, treatment, and education of those suffering
17 from substance-related or addictive disorders and the prevention of substance-related
18 and addictive disorders and administer the substance-related and addictive disorders
19 programs in the state. It shall ~~administer~~ monitor residential and outpatient care
20 facilities ~~of the state~~ for persons ~~who are mentally ill~~ with mental illness, persons
21 suffering from substance-related or addictive disorders, and persons suffering from
22 co-occurring mental illness and substance-related or addictive disorders.

23 * * *

24 §259. Transfer of agencies and functions to Louisiana Department of Health

25 C. The following agencies, as defined by R.S. 36:3, are transferred to and
26 hereafter shall be within the Louisiana Department of Health, as provided in Part II
27 of Chapter 22 of this Title:

28 * * *

1 social worker, hospital administrator, or licensed professional counselor, who is
2 either:

3 * * *

4 §2142. Geriatric hospitals and units

5 A. The department may establish and administer geriatric hospitals or units
6 to receive and care for persons who are elderly or infirm who have been discharged
7 by a hospital for persons with mental illness and for other persons who are elderly
8 or infirm who are in need of nursing and medical care. Such hospitals or units may
9 be established on sites designated by the department in quarters constructed or
10 designated by the department, provided that no such geriatric hospital or unit may
11 be established on any site located more than five air miles from the administrative
12 office of ~~East Louisiana State Hospital~~ Eastern Louisiana Mental Health System or
13 more than one air mile from the administrative office of Central Louisiana State
14 Hospital.

15 * * *

16 Section 5. Code of Criminal Procedure Articles 648(A)(1) and (B)(1), 657,
17 657.1(A)(4), and 657.2(A) are hereby amended and reenacted to read as follows:

18 Art. 648. Procedure after determination of mental capacity or incapacity

19 A. The criminal prosecution shall be resumed unless the court determines by
20 a preponderance of the evidence that the defendant does not have the mental capacity
21 to proceed. If the court determines that the defendant lacks mental capacity to
22 proceed, the proceedings shall be suspended and one of the following dispositions
23 made:

24 (1) If the court determines that the defendant's mental capacity is likely to
25 be restored within ninety days by outpatient care and treatment at ~~an institution~~ a
26 treatment facility as defined by ~~R.S. 28:2(29)~~ R.S. 28:2 while remaining in the
27 custody of the criminal authorities, and if the person is not charged with a felony or
28 a misdemeanor classified as an offense against the person and is considered by the

1 court to be unlikely to commit crimes of violence, then the court may order
 2 outpatient care and treatment at any institution as defined by ~~R.S. 28:2(29)~~ R.S. 28:2.

3 * * *

4 B.(1) In no instance shall such custody, care, and treatment exceed the time
 5 of the maximum sentence the defendant could receive if convicted of the crime with
 6 which he is charged. At any time after commitment and on the recommendation of
 7 the ~~superintendent of the institution~~ director or administrator of the treatment facility
 8 that the defendant will not attain the capacity to proceed with his trial in the
 9 foreseeable future, the court shall, within sixty days and after at least ten days notice
 10 to the district attorney, defendant's counsel, and the ~~Bureau of Legal Services~~ bureau
 11 of legal services of the Louisiana Department of Health, conduct a contradictory
 12 hearing to determine whether the ~~mentally defective~~ defendant is, and will in the
 13 foreseeable future be, incapable of standing trial and whether he is a danger to
 14 himself or others.

15 * * *

16 Art. 657. Discharge or release; hearing

17 After considering the report or reports filed pursuant to Articles 655 and 656,
 18 the court may either continue the commitment or hold a contradictory hearing to
 19 determine whether the committed person is no longer ~~mentally ill~~ has a mental
 20 illness as defined by ~~R.S. 28:2(14)~~ R.S. 28:2 and can be discharged, or can be
 21 released on probation, without danger to others or to himself as defined by ~~R.S.~~
 22 ~~28:2(3) and (4)~~ R.S. 28:2. At the hearing the burden shall be upon the state to seek
 23 continuance of the confinement by proving by clear and convincing evidence that the
 24 committed person is currently ~~both mentally ill~~ has a mental illness and is dangerous.
 25 After the hearing, and upon filing written findings of fact and conclusions of law, the
 26 court may order the committed person discharged, released on probation subject to
 27 specified conditions for a fixed or an indeterminate period, or recommitted to the
 28 state mental institution. A copy of the judgment and order containing the written
 29 findings of fact and conclusions of law shall be forwarded to the administrator of the
 30 forensic facility. Notice to the counsel for the committed person and the district

1 attorney of the contradictory hearing shall be given at least thirty days prior to the
2 hearing.

3 Art. 657.1. Conditional release; criteria

4 A. At any time the court considers a recommendation from the hospital-
5 based review panel that the person may be discharged or released on probation, it
6 may place the insanity acquittee on conditional release if it finds the following:

7 * * *

8 (4) Conditional release will not present an undue risk of danger to others or
9 self, as defined in ~~R.S. 28:2(3) and (4)~~ R.S. 28:2.

10 * * *

11 Art. 657.2. Conditional release; additional requirements

12 A. Upon an application for conditional release of a person, who has been
13 committed to a state hospital or other treatment facility pursuant to this Chapter upon
14 the grounds that the adverse effects of a mental illness are in remission, and if after
15 a hearing the court determines that the applicant will not likely be a danger to others
16 or himself, as defined in ~~R.S. 28:2(3) and (4)~~ R.S. 28:2, if he is under supervision
17 and his treatment is monitored in the community, the court shall not consider the
18 applicant to be in stable remission from the adverse effects of a mental illness until
19 the applicant is placed with an appropriate forensic conditional release program for
20 at least one year but not more than five years.

21 * * *

22 Section 6. Children's Code Article 1404(9) is hereby amended and reenacted to read
23 as follows:

24 Art. 1404. Definitions

25 As used in this Title:

26 * * *

27 (9) "Family psychiatric mental health nurse practitioner" means an individual
28 who maintains the credentials as such and meets the requirements of a "psychiatric
29 mental health nurse practitioner" as provided in ~~R.S. 28:2(21.2)~~ R.S. 28:2. Further,

1 a family psychiatric mental health nurse practitioner shall have been engaged in
2 clinical practice for not less than three years.

3 * * *

4 Section 7. R.S. 28:2(11), 22.4, 22.10, 52.1, 95, 100.1, 182, Chapter 6 of Title 28 of
5 the Louisiana Revised Statutes of 1950, comprised of R.S. 28:501 through 506, and Chapter
6 7 of Title 28 of the Louisiana Revised Statutes of 1950, comprised of R.S. 28:561, are
7 hereby repealed in their entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____