Art. 320. Conditions of bail undertaking

A. Definitions. For the purpose of this Article:

(1) "Firearm" means any pistol, revolver, rifle, shotgun, machine gun, submachine gun, black powder weapon, or assault rifle that is designed to fire or is capable of firing fixed cartridge ammunition or from which a shot or projectile is discharged by an explosive.

(2) "Global positioning monitoring system" means a system that electronically determines and reports the location of an individual by means of an ankle bracelet transmitter or similar device worn by the individual that transmits latitude and longitude data to monitoring authorities through global positioning satellite technology but does not contain or operate any global positioning system technology or radio frequency identification technology or similar technology that is implanted in or otherwise invades or violates the corporeal body of the individual.

(3) "Immediate family member" means the spouse, mother, father, aunt, uncle, sibling, or child of the victim, whether related by blood, marriage, or adoption.

(4) "Informed consent" means that the victim was given information concerning all of the following before consenting to participate in global positioning system monitoring:

(a) The victim's right to refuse to participate in global positioning system monitoring and the process for requesting the court to determine the victim's participation after it has been ordered.

(b) The manner in which the global positioning monitoring system technology functions and the risks and limitations of that technology, and the extent to which the system will track and record the victim's location and movements.

(c) The boundaries imposed on the defendant during the global positioning system monitoring.

(d) Sanctions that the court may impose on the defendant for violating an order issued under this Article.

(e) The procedure that the victim is to follow if the defendant violates an order issued under this Article or if global positioning monitoring system equipment fails.

(f) Identification of support services available to assist the victim to develop a safety plan to use if the court's order issued under this Article is violated or if the global positioning monitoring system equipment fails.

(g) Identification of community services available to assist the victim in obtaining shelter, counseling, education, child care, legal representation, and other help in addressing the consequences and effects of domestic violence or stalking.

(h) The nonconfidential nature of the victim's communications with the court concerning global positioning system monitoring and the restrictions to be imposed upon the defendant's movements.

B. Conditions of bail generally. The condition of the bail undertaking in district, juvenile, parish, and city courts shall be that the defendant will appear at all stages of the proceedings to answer the charge before the court in which he may be prosecuted, will submit himself to the orders and process of the court, and will not leave the state without written permission of the court. The court may impose any additional conditions of release that are reasonably related to assuring the appearance of the defendant before the court and guarding the safety of any other individual or the community.

C. Operating a vehicle while intoxicated. The court shall require as a condition of release on bail that any person who is charged with a second or subsequent violation of R.S. 14:32.1, 39.1, 39.2, 98, 98.6, or a parish or municipal ordinance that prohibits the operation of a motor vehicle while under the influence of alcohol or drugs to install an ignition interlock device on any vehicle

which he operates. The defendant shall have fifteen days from the date that he is released on bail to comply with this requirement, and the ignition interlock device shall remain on the vehicle or vehicles during the pendency of the criminal proceedings. Under exceptional circumstances, the court may waive the provisions of this Article but shall indicate the reasons therefor to the law enforcement agency who has custody of the alleged offender documentation.

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

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

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

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

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

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

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

G. Domestic offenses, stalking, and sex offenses. (1) In determining conditions of release of a defendant who is alleged to have committed an offense against the defendant's family or household member, as defined in R.S. 46:2132, or against the defendant's dating partner, as defined

in R.S. 46:2151, or who is alleged to have committed the offense of domestic abuse battery under the provisions of R.S. 14:35.3, or who is alleged to have committed the offense of stalking under the provisions of R.S. 14:40.2, or who is alleged to have committed a sexual assault as defined in R.S. 46:2184, or who is alleged to have committed the offense of first degree rape under the provisions of R.S. 14:42, the court shall consider the previous criminal history of the defendant and whether the defendant poses a threat or danger to the victim. If the court determines that the defendant poses such a threat or danger, it shall require as a condition of bail that the defendant refrain from going to the residence or household of the victim, the victim's school, and the victim's place of employment or otherwise contacting the victim in any manner whatsoever, and shall refrain from having any further contact with the victim. The court shall also consider any statistical evidence prepared by the United States Department of Justice relative to the likelihood of such defendant or any person in general who has raped or molested victims under the age of thirteen years to commit sexual offenses against a victim under the age of thirteen in the future.

(2) If the defendant is alleged to have committed any of the offenses included in Paragraph (1) of this Subsection, the court may require as a condition of bail that the defendant be prohibited from communicating, by electronic communication, in writing, or orally, with a victim of the offense, or with any of the victim's immediate family members, while the case is pending. This condition does not apply if the victim consents in person or through a communication through the local prosecuting agency.

H. Uniform Abuse Prevention Order. (1) If, as part of a bail restriction, an order is issued for purposes of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person for the purpose of preventing domestic abuse, stalking, dating violence, or sexual assault, the judge shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), shall sign such order, and shall immediately forward it to the clerk of court for filing, on the next business day after the order is issued. The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.

(2) If, as part of a bail restriction, an order is issued pursuant to the provisions of this Paragraph, the court shall also order that the defendant be prohibited from possessing a firearm for the duration of the Uniform Abuse Prevention Order.

I. Global positioning monitoring. (1)(a) In addition, the court shall order a defendant who is alleged to have committed the offense of first degree rape under the provisions of R.S. 14:42 and may order a defendant who is alleged to have committed an offense against the defendant's family or household member, as defined in R.S. 46:2132, or against the defendant's dating partner, as defined in R.S. 46:2151, or who is alleged to have committed the offense of domestic abuse battery under the provisions of R.S. 14:35.3, or who is alleged to have committed the offense of stalking under the provisions of R.S. 14:40.2, or who is alleged to have committed a sexual assault as defined in R.S. 46:2184 to be equipped with a global positioning monitoring system as a condition of release on bail.

(b) In determining whether to order a defendant, as a condition of release on bail, to participate in global positioning system monitoring, the court shall consider the likelihood that the defendant's participation in global positioning system monitoring will deter the defendant from seeking to harm, injure, or otherwise threaten the victim prior to trial.

(c) The defendant shall be released on bail pursuant to the provisions of this Article only if he agrees to pay the cost of the global positioning monitoring system and monitoring fees associated with the device, or agrees to perform community service in lieu of paying such costs.

(2) If the court orders the defendant to be equipped with a global positioning monitoring system as a condition of release on bail, the court may order the defendant, with the informed consent of the victim, to provide the victim of the charged crime with an electronic receptor device which is capable of receiving the global positioning system information and which notifies the victim if the defendant is located within an established proximity to the victim. The court, in consultation with the victim, shall determine which areas the defendant shall be prohibited from accessing and shall establish the proximity to the victim within which a defendant shall be excluded. In making this determination, the court shall consider a list, provided by the victim, which includes those areas from which the victim desires the defendant to be excluded.

(3) The victim shall be furnished with telephone contact information for the local law enforcement agency in order to request immediate assistance if the defendant is located within that proximity to the victim. The court shall order the global positioning monitoring system provider to program the system to notify local law enforcement if the defendant violates the order. The victim, at any time, may request that the court terminate the victim's participation in the global positioning monitoring system of the defendant. The court shall not impose sanctions on the victim for refusing to participate in global positioning system monitoring provided for in this Paragraph.

(4) In addition to electronic monitoring, the court shall consider house arrest. The conditions of the electronic monitoring and house arrest shall be determined by the court, and may include but are not be limited to limitation of the defendant's activities outside of the home and a curfew.

J. Crimes of violence. If the defendant has been charged with a crime of violence as defined in R.S. 14:2(B), the court shall require as a condition of bail that the defendant be prohibited from communicating, by electronic communication, in writing, or orally, with a victim of the offense, or with any of the victim's immediate family members while the case is pending. This condition does not apply if the victim consents in person or through a communication through the local prosecuting agency. If an immediate family member of the victim consents in person or through a communication through the local prosecuting agency, then the defendant may contact that person.

K. Violations. Violation of any condition by the defendant shall be considered as a constructive contempt of court, and shall result in the revocation of bail and issuance of a bench warrant for the defendant's arrest or remanding the defendant to custody. The court may also modify bail by either increasing the amount of bail or adding additional conditions of bail.

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017; Acts 2017, No. 90, §2.

Art. 323. Secured personal surety

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

B. Bail without surety may be secured by a mortgage on the 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.

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

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

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

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

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

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

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

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

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

Acts 1988, No. 579, §1; Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017; Acts 2017, No. 172, §1, eff. June 12, 2017.

Art. 331. Discharge of bail obligation

A.(1) Upon conviction in any case, the bail undertaking shall cease and the surety shall be relieved of all obligations under the bail undertaking.

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

(3) Repealed by Acts 2017, No. 205, §2.

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

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

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

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

E. At any time prior to the defendant's failure to appear or within one hundred eighty days after the notice of warrant for arrest is sent, the surety may file with the clerk of court and present to the court a certificate of death naming the defendant as the deceased party. The certificate shall be under seal of the authority confirming the defendant's death. Upon proof that the surety is unable to obtain a certificate of death, the surety or the court may invoke a contradictory hearing in order to establish proof of death by clear and convincing evidence. If the court determines that the defendant is deceased thereafter, the surety shall be fully and finally discharged and relieved of any and all obligations under the bail undertaking.

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

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

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

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

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

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 2016, No. 613, §1, eff. Jan. 1, 2017; Acts 2017, No. 205, §§1, 2.

Art. 387. Additional information required when prosecuting certain offenses

A. When instituting the prosecution of an offense involving a violation of any state law or local ordinance that prohibits the use of force or a deadly weapon against any family member or household member as those terms are defined by R.S. 14:35.3 or that prohibits the use of force or violence against a dating partner as defined by R.S. 14:34.9, the district attorney, or city prosecutor for criminal prosecutions in city court, shall include the following information in the indictment, information, or affidavit:

(1) Date of the offense.

(2) The state identification number of the defendant, if one has been assigned to the defendant for this offense or for any prior offenses.

B. Failure to comply with the provisions of this Article shall not constitute grounds for a motion to quash.

Acts 2015, No. 440, §4; Acts 2017, No. 84, §5.

Art. 401.1. Court instructions for interpreter

A. When a person with a hearing loss is among the petit jury venire, the court shall:

(1) Provide an interpreter for the deaf prospective juror. The interpreter shall be sworn in as an officer of the court.

(2) Permit the interpreter to be present and assist a deaf prospective juror during voir dire.

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

(1) Provide an interpreter for the deaf juror. The interpreter shall be sworn in as an officer of the court.

(2) Instruct the interpreter, in the presence of the jury, to:

(a) Make true, literal, and complete translations of all testimony and other relevant colloquy to the deaf juror during the deliberations of the jury.

(b) Refrain from participating in any manner in the deliberations of the jury.

(c) Refrain from having any communications, oral or visual, with any member of the jury regarding the deliberations of the jury except for literal translations of jurors' remarks made during deliberations.

(3) Permit the interpreter to be present and assist a deaf juror during the deliberations of the jury.

(4) Give a special instruction to the interpreter not to disclose any portion of the deliberations with any person following a verdict.

(5) Direct all costs relating to the interpreting services provided, including summoning, voir dire process, and empaneling of a juror in all trials, to be paid by the clerk of court's office through the juror and witness fee account.

C. The verdict of the jury shall be valid notwithstanding the presence of the interpreter during deliberations.

D. All costs relating to the interpreting services provided in this Article shall be paid by the clerk of court's office through the juror and witness fee account.

Added by Acts 1984, No. 655, §1. Acts 1988, No. 446, §1; Acts 1988, No. 775, §1; Acts 2017, No. 146, §14.

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

A. Except as otherwise provided in this Article:

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

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

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

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

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

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

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

E. In the parish of Terrebonne, the function of the jury commission shall be performed by the clerk of court of Terrebonne Parish or by a deputy clerk of court designated by him in writing

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

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

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

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

Amended by Acts 1975, No. 259, §1; Acts 1993, No. 632, §1; Acts 2007, No. 94, §1; Acts 2013, No. 100, §1; Acts 2013, No. 156, §1; Acts 2016, No. 232, §1; Acts 2017, No. 104, §1.

Art. 611. Venue; trial where offense committed

A. All trials shall take place in the parish where the offense has been committed, unless the venue is changed. If acts constituting an offense or if the elements of an offense occurred in more than one place, in or out of the parish or state, the offense is deemed to have been committed in any parish in this state in which any such act or element occurred.

B. If the offender is charged with the crime of first or second degree murder and it cannot be determined where the offense or the elements of the offense occurred, the offense is deemed to have been committed in the parish where the body of the victim was found.

C. If the offender is charged with any of the following offenses, the offense is deemed to have been committed either in the parish where the 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.

Acts 2004, No. 379, §1; Acts 2006, No. 158, §1; Acts 2017, No. 164, §1, eff. June 12, 2017.

Art. 648. Procedure after determination of mental capacity or incapacity

A. The criminal prosecution shall be resumed unless the court determines by a preponderance of the evidence that the defendant does not have the mental capacity to proceed. If the court determines that the defendant lacks mental capacity to proceed, the proceedings shall be suspended and one of the following dispositions made:

(1) If the court determines that the defendant's mental capacity is likely to be restored within ninety days by outpatient care and treatment at a treatment facility as defined by R.S. 28:2 while remaining in the custody of the criminal authorities, and if the person is not charged with a felony or a misdemeanor classified as an offense against the person and is considered by the court to be unlikely to commit crimes of violence, then the court may order outpatient care and treatment at any institution as defined by R.S. 28:2.

(2)(a) Except as otherwise provided for in Subsubparagraph (b) of this Subparagraph, if the person is charged with a felony, or with a misdemeanor violation of R.S. 14:35.3, and is considered by the court to be likely to commit crimes of violence, and the court determines that his mental capacity is likely to be restored within ninety days as a result of treatment, the court may order immediate jail-based treatment by the Louisiana Department of Health not to exceed ninety days. Otherwise, if his capacity cannot be restored within ninety days and inpatient treatment is recommended, the court shall commit the defendant to the Feliciana Forensic Facility.

(b) If a person is charged with a felony violation of the Uniform Controlled Dangerous Substances Law, except for violations punishable under the provisions of R.S. 40:966(D) and (F) and 967(F)(1)(b) and (c), (2), and (3), and the court determines that his mental capacity cannot be restored within ninety days, the court shall release the person for outpatient competency restoration or other appropriate treatment.

(c) If a person is charged with a misdemeanor classified as an offense against a person, except for a misdemeanor violation of R.S. 14:35.3, and the court determines that his mental capacity cannot be restored within ninety days, the court shall release the person for outpatient competency restoration or other appropriate treatment.

(d) If a defendant committed to the Feliciana Forensic Facility is held in a parish jail for one hundred eighty days after the court's determination that he lacks the mental capacity to proceed, the court shall order a status conference to be held with the defense and the district attorney present, and for good cause shown and on motion of the defendant or the district attorney or on the court's own motion, the court shall order a contradictory hearing to determine whether

there has been a change in the defendant's condition or other circumstances sufficient to warrant a modification of the previous order.

(e) If a defendant committed to the Feliciana Forensic Facility is held in a parish jail for one hundred eighty days after the initial status conference provided in Item (d) of this Subparagraph, the court shall order a contradictory hearing to determine whether to release the defendant or to order the appropriate authorities to institute civil commitment proceedings pursuant to R.S. 28:54. The defendant shall remain in custody pending such civil commitment proceedings. If the defendant is civilly committed to a treatment facility pursuant to Title 28 of the Louisiana Revised Statutes of 1950, the director of the institution designated for the patient's treatment shall, in writing, notify the court and the district attorney when the patient is to be discharged or conditionally discharged, as long as the charges are pending.

B.(1) In no instance shall such custody, care, and treatment exceed the time of the maximum sentence the defendant could receive if convicted of the crime with which he is charged. At any time after commitment and on the recommendation of the director or administrator of the treatment facility that the defendant will not attain the capacity to proceed with his trial in the foreseeable future, the court shall, within sixty days and after at least ten days notice to the district attorney, defendant's counsel, and the bureau of legal services of the Louisiana Department of Health, conduct a contradictory hearing to determine whether the defendant is, and will in the foreseeable future be, incapable of standing trial and whether he is a danger to himself or others.

(2) Repealed by Acts 2008, No. 861, §2, eff. July 9, 2008.

(3) If, after the hearing, the court determines that the incompetent defendant is unlikely in the foreseeable future to be capable of standing trial, the court shall order the defendant released or remanded to the custody of the Louisiana Department of Health which, within ten days exclusive of weekends and holidays, may institute civil commitment proceedings pursuant to Title 28 of the Louisiana Revised Statutes of 1950, or release the defendant. The defendant shall remain in custody pending such civil commitment proceedings. If the defendant is committed to a treatment facility pursuant to Title 28 of the Louisiana Revised Statutes of 1950, the director of the institution designated for the patient's treatment shall, in writing, notify the court and the district attorney when the patient is to be discharged or conditionally discharged, as long as the charges are pending. If not dismissed without prejudice at an earlier trial, charges against an unrestorable incompetent defendant shall be dismissed on the date upon which his sentence would have expired had he been convicted and received the maximum sentence for the crime charged, or on the date five years from the date of his arrest for such charges, whichever is sooner, except for the following charges:

(a) Charges of a crime of violence as defined in R.S. 14:2(B).

(b) R.S. 14:46 (false imprisonment).

(c) R.S. 14:46.1 (false imprisonment; offender armed with dangerous weapon).

(d) R.S. 14:52 (simple arson).

(e) R.S. 14:62 (simple burglary).

(f) R.S. 14:62.3 (unauthorized entry of an inhabited dwelling).

(g) R.S. 14:89(A)(2) (crime against nature).

(h) R.S. 14:89.1(A)(2) (aggravated crime against nature).

(i) R.S. 14:80[1] (carnal knowledge of a juvenile).

(j) R.S. 14:81 (indecent behavior with juveniles).

(k) R.S. 14:81.1 (pornography involving juveniles).

(l) R.S. 14:81.2 (molestation of a juvenile or a person with a physical or mental disability).

(m) R.S. 14:92 (contributing to the delinquency of juveniles).

(n) R.S. 14:92.1 (encouraging or contributing to child delinquency, dependency, or neglect).

(o) R.S. 14:93 (cruelty to juveniles).

(p) R.S. 14:93.2.3 (second degree cruelty to juveniles).

(q) R.S. 14:93.3 (cruelty to persons with infirmities).

(r) R.S. 14:93.4 (exploitation of persons with infirmities).

(s) R.S. 14:93.5 (sexual battery of persons with infirmities).

(t) R.S. 14:102 (cruelty to animals).

(u) R.S. 14:106 (obscenity).

(v) R.S. 14:283 (video voyeurism).

(w) R.S. 14:284 (Peeping Tom).

(x) Charges against a defendant who has been convicted of a felony offense within ten years prior to the date on which he was charged for the current offense.

C. The superintendent of the forensic unit of the Feliciana Forensic Facility shall admit only those persons specified in R.S. 28:25.1 and those persons found not guilty by reason of insanity on conditional release who have a physician's emergency certificate or who seek voluntary admission pursuant to Article 658(B)(4) of this Code.

Acts 1975, No. 325, §1; Acts 1979, No. 318, §1; Acts 1980, No. 612, §1; Acts 1982, No. 495, §1; Acts 1983, No. 399, §1; Acts 1987, No. 928, §1, eff. July 20, 1987; Acts 1988, No. 383, §1; Acts 1990, No. 755, §1; Acts 1992, No. 400, §1; Acts 1995, No. 800, §1; Acts 1997, No. 723, §1; Acts 2001, No. 472, §1; Acts 2008, No. 861, §§1, 2, eff. July 9, 2008; Acts 2010, No. 419, §1, eff. June 21, 2010; Acts 2014, No. 602, §2, eff. June 12, 2014; Acts 2014, No. 811, §31, eff. June 23, 2014; Acts 2017, No. 369, §5.

[1]R.S. 14:80 changed to felony carnal knowledge of a juvenile by Acts 2001, No. 796, §1.

Art. 657. Discharge or release; hearing

After considering the report or reports filed pursuant to Articles 655 and 656, the court may either continue the commitment or hold a contradictory hearing to determine whether the committed person no longer has a mental illness as defined by R.S. 28:2 and can be discharged, or can be released on probation, without danger to others or to himself as defined by R.S. 28:2. At the hearing the burden shall be upon the state to seek continuance of the confinement by proving by clear and convincing evidence that the committed person currently has a mental illness and is dangerous. After the hearing, and upon filing written findings of fact and conclusions of law, the court may order the committed person discharged, released on probation subject to specified conditions for a fixed or an indeterminate period, or recommitted to the state mental institution. A copy of the judgment and order containing the written findings of fact and conclusions of law shall be forwarded to the administrator of the forensic facility. Notice to the counsel for the committed person and the district attorney of the contradictory hearing shall be given at least thirty days prior to the hearing.

Acts 1992, No. 398, §1; Acts 1993, No. 700, §1; Acts 2017, No. 369, §5.

Art. 657.1. Conditional release; criteria

A. At any time the court considers a recommendation from the hospital-based review panel that the person may be discharged or released on probation, it may place the insanity acquittee on conditional release if it finds the following:

(1) Based on the factors which the court shall consider pursuant to Article 657, he does not need inpatient hospitalization but needs outpatient treatment, supervision, and monitoring to prevent his condition from deteriorating to a degree that he would likely become dangerous to self and others.

(2) Appropriate outpatient treatment, supervision, and monitoring are reasonably available.

(3) There is significant reason to believe that the insanity acquittee, if conditionally released, would comply with the conditions specified.

(4) Conditional release will not present an undue risk of danger to others or self, as defined in R.S. 28:2.

B. The court shall subject a conditionally released insanity acquittee to such orders and conditions it deems will best meet the acquittee's need for treatment, supervision, and monitoring and will best serve the interests of justice and society.

C. These provisions for conditional release may also be applied to discharges of pretrial defendants found unrestorably incompetent to proceed pursuant to Article 648(B).

Acts 1995, No. 800, §1; Acts 2017, No. 369, §5.

Art. 657.2. Conditional release; additional requirements

A. Upon an application for conditional release of a person, who has been committed to a state hospital or other treatment facility pursuant to this Chapter upon the grounds that the adverse effects of a mental illness are in remission, and if after a hearing the court determines that the applicant will not likely be a danger to others or himself, as defined in R.S. 28:2, if he is under supervision and his treatment is monitored in the community, the court shall not consider the applicant to be in stable remission from the adverse effects of a mental illness until the applicant is placed with an appropriate forensic conditional release program for at least one year but not more than five years.

B. For good cause shown, placement in a conditional release program may be extended after five years in one-year increments at a yearly contradictory hearing with the state.

C. All or a substantial portion of the program shall include outpatient treatment, supervision, and monitoring.

D. At the termination of conditional release, the person may continue to receive appropriate treatment services, if recommended by the treating psychiatrist, from public or private mental health agencies, with inactive supervision provided by the division of probation and parole of the Department of Public Safety and Corrections.

Acts 1995, No. 800, §1; Acts 2017, No. 369, §5.

NOTE: Art. 875.1 as enacted by Acts 2017, No. 260, §1, effective August 1, 2018.

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

A. The purpose of imposing financial obligations on an offender who is convicted of a criminal offense is to hold the offender accountable for his action, to compensate victims for any actual pecuniary loss or costs incurred in connection with a criminal prosecution, to defray the cost

of court operations, and to provide services to offenders and victims. These financial obligations should not create a barrier to the offender's successful rehabilitation and reentry into society. Financial obligations in excess of what an offender can reasonably pay undermine the primary purpose of the justice system which is to deter criminal behavior and encourage compliance with the law. Financial obligations that cause undue hardship on the offender should be waived, modified, or forgiven. Creating a payment plan for the offender that is based upon the ability to pay, results in financial obligations that the offender is able to comply with and often results in more money collected. Offenders who are consistent in their payments and in good faith try to fulfill their financial obligations should be rewarded for their efforts.

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

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

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

D.(1) If the court determines that payment in full of the aggregate amount of all financial obligations imposed upon the defendant would cause substantial financial hardship to the defendant or his dependents, the court shall do either of the following:

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

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

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

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

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

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

E. If a defendant is ordered to make monthly payments under a payment plan established pursuant to the provisions of Subsubparagraph (D)(1)(b) of this Article, the defendant's outstanding financial obligations resulting from his criminal conviction are forgiven and considered paid-in-full if the defendant makes consistent monthly payments for either twelve consecutive months or consistent monthly payments for half of the defendant's term of supervision, whichever is longer.

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

Repealed by Acts 1995, No. 942, §3; Acts 2017, No. 260, §1, eff. August 1, 2018.

Art. 878.1. Hearing to determine parole eligibility for certain juvenile offenders

A. If an offender is indicted on or after August 1, 2017, for the crime of first degree murder (R.S. 14:30) where the offender was under the age of eighteen years at the time of the commission of the offense, the district attorney may file a notice of intent to seek a sentence of life imprisonment without possibility of parole within one hundred eighty days after the indictment. If the district attorney timely files the notice of intent, a hearing shall be conducted after conviction and prior to sentencing to determine whether the sentence shall be imposed with or without parole eligibility. If the court determines that the sentence shall be imposed with parole eligibility, the offender shall be eligible for parole pursuant to the provisions of R.S. 15:574.4(E). If the district attorney fails to timely file the notice of intent, the sentence shall be imposed with parole eligibility and the offender shall be eligible for parole pursuant to the provisions of R.S. 15:574.4(E) without the need of a judicial determination pursuant to the provisions of this Article. If the court determines that the sentence shall be imposed without parole eligibility, the offender shall not be eligible for parole.

B.(1) If an offender was indicted prior to August 1, 2017, for the crime of first degree murder (R.S. 14:30) or second degree murder (R.S. 14:30.1) where the offender was under the age of eighteen years at the time of the commission of the offense and a hearing was not held pursuant to this Article prior to August 1, 2017, to determine whether the offender's sentence should be imposed with or without parole eligibility, the district attorney may file a notice of intent to seek a sentence of life imprisonment without the possibility of parole within ninety days of August 1, 2017. If the district attorney timely files the notice of intent, a hearing shall be conducted to determine whether the sentence shall be imposed with or without parole eligibility. If the court determines that the sentence shall be imposed with parole eligibility, the offender shall be eligible for parole pursuant to R.S. 15:574.4(G). If the district attorney fails to timely file the notice of intent, the offender shall be eligible for parole pursuant to R.S. 15:574.4(E) without the need of a judicial determination pursuant to the provisions of this Article. If the court determines that the sentence shall be imposed without parole eligibility, the offender shall not be eligible for parole.

(2) If an offender was indicted prior to August 1, 2017, for the crime of first degree murder (R.S. 14:30) or second degree murder (R.S. 14:30.1) where the offender was under the age of eighteen years at the time of the commission of the offense and a hearing was held pursuant to this Article prior to August 1, 2017, the following shall apply:

(a) If the court determined at the hearing that was held prior to August 1, 2017, that the offender's sentence shall be imposed with parole eligibility, the offender shall be eligible for parole pursuant to R.S. 15:574.4(G).

(b) If the court determined at the hearing that was held prior to August 1, 2017, that the offender's sentence shall be imposed without parole eligibility, the offender shall not be eligible for parole.

C. At the hearing, the prosecution and defense shall be allowed to introduce any aggravating and mitigating evidence that is relevant to the charged offense or the character of the offender, including but not limited to the facts and circumstances of the crime, the criminal history of the offender, the offender's level of family support, social history, and such other factors as the court may deem relevant. The admissibility of expert witness testimony in these matters shall be governed by Chapter 7 of the Code of Evidence.

D. The sole purpose of the hearing is to determine whether the sentence shall be imposed with or without parole eligibility. The court shall state for the record the considerations taken into account and the factual basis for its determination. Sentences imposed without parole eligibility and determinations that an offender is not entitled to parole eligibility should normally be reserved for the worst offenders and the worst cases.

Acts 2013, No. 239, §2; Acts 2017, No. 277, §2.

Art. 883.1. Sentences concurrent with sentences of other jurisdictions

NOTE: Art. 883.1 effective until December 1, 2017. See Acts 2017, No. 98, §1.

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

B. Whenever sentence is imposed under the provisions of this Article, the court shall order that the defendant be remanded to the custody of the sheriff of the parish in which the conviction was had in the event that the terms of imprisonment to which the defendant is sentenced in the foreign jurisdiction terminates prior to the date on which the sentence imposed in this state is to terminate.

C. In every case where a sentence at hard labor is imposed under the provisions of this Article, the court shall order that a certified copy of the court minutes and court order be forwarded to the Louisiana Department of Corrections. Should the defendant complete his term of imprisonment during his incarceration in the other jurisdiction, the department shall forward a copy of the discharge papers to the sheriff in the parish of conviction and to the appropriate authorities having physical custody of the defendant.

NOTE: Art. 883.1 as amended by Acts 2017, No. 260, §1, effective December 1, 2017.

A. The sentencing court may specify that the sentence imposed be served concurrently with a sentence imposed by a federal court or a court of any other state and that service of the concurrent terms of imprisonment in a federal correctional institution or a correctional institution of another state shall be in satisfaction of the sentence imposed in this state in the manner and to

the same extent as if the defendant had been committed to the Department of Public Safety and Corrections for the term of years served in a federal correctional institution or a correctional institution of another state. When serving a concurrent sentence in a federal correctional institution or a correctional institution of another state, the defendant shall receive credit for time served as allowed under the laws of this state.

B. Whenever sentence is imposed under the provisions of this Article, the court shall order that the defendant be remanded to the custody of the sheriff of the parish in which the defendant was convicted in the event that the terms of imprisonment to which the defendant is sentenced in the foreign jurisdiction terminates prior to the date on which the sentence imposed in this state is to terminate. If the defendant completes the term of imprisonment during his incarceration in the other jurisdiction, the department shall forward a copy of the discharge papers to the sheriff in the parish of conviction and to the appropriate authorities having physical custody of the defendant.

C. In every case where a sentence at hard labor is imposed under the provisions of this Article, the court shall order that a certified copy of the Uniform Sentencing Commitment Order in the format authorized by the Louisiana Supreme Court be forwarded to the Department of Public Safety and Corrections. If the department needs information relating to the sentence not provided in the Uniform Sentencing Commitment Order, it may request that information from the court.

Added by Acts 1976, No. 490, §1; Acts 1991, No. 138, §2; Acts 2017, No. 98, §1, eff. December 1, 2017.

{{NOTE: SEE ACTS 1991, NO. 138, §§4 AND 5, FOR SPECIAL EFFECTIVE DATE AND APPLICABILITY PROVISIONS.}}

Art. 883.2. Restitution to victim

A. In all cases in which the court finds an actual pecuniary loss to a victim, or in any case where the court finds that costs have been incurred by the victim in connection with a criminal prosecution, the trial court shall order the defendant to provide restitution to the victim as a part of any sentence that the court shall impose.

B. Additionally, if the defendant agrees as a term of a plea agreement, the court shall order the defendant to provide restitution to other victims of the defendant's criminal conduct, although those persons are not the victim of the criminal charge to which the defendant pleads. Such restitution to other persons may be ordered pursuant to Article 895 or 895.1 of this Code or any other provision of law permitting or requiring restitution to victims.

C. The court shall order that all restitution payments be made by the defendant to the victim through the court's designated intermediary, and in no case shall the court order the defendant to deliver or send a restitution payment directly to a victim, unless the victim consents.

NOTE: Paragraph D effective until August 1, 2018. See Acts 2017, No. 260, §1.

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

NOTE: Paragraph D as amended by Acts 2017, No. 260, §1, effective August 1, 2018.

D. Notwithstanding any other provision of law to the contrary, if the defendant is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court may order a periodic payment plan pursuant to the provisions of Article 875.1.

Acts 1999, No. 783, §3, eff. Jan. 1, 2000; Acts 1999, No. 988, §1; Acts 2007, No. 22, §1; Acts 2010, No. 160, §1; Acts 2014, No. 180, §1; Acts 2017, No. 260, §1, eff. August 1, 2018.

Art. 884. Sentence of fine with imprisonment for default

NOTE: Art. 884 effective August 1, 2018. See Acts 2017, No. 260, §1

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

NOTE: Art. 884 as amended by Acts 2017, No. 260, §1, effective August 1, 2018.

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

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

Amended by Acts 1968, Ex.Sess., No. 12, §1, emerg. eff. Dec. 27, 1968 at 11:00 A.M; Acts 2017, No. 260, §1, eff. August 1, 2018.

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

NOTE: Paragraph A effective until August 1, 2018. See Acts 2017, No. 260,§1.

A. When a fine is levied against a person convicted of any criminal offense, including any violation of the Louisiana Highway Regulatory Act or any municipal or parish ordinance regulating traffic in any municipality or in any parish and the defendant is granted an extension of time to pay the fine, the judge of the court having jurisdiction may order the driver's license to be surrendered to the sheriff or official of the court collecting fines for a period of time not to exceed one hundred eighty days. If, after expiration of one hundred eighty days, the defendant has not paid the fine, the sheriff or official of the court designated to collect fines shall forward the license to the Department of Public Safety and Corrections.

NOTE: Paragraph A as amended by Acts 2017, No. 260, §1, effective August 1, 2018.

A. When a fine is levied against a person convicted of any felony criminal offense and the defendant is able but has willfully refused to pay the fine, the judge of the court having jurisdiction

may order the driver's license to be surrendered to the sheriff or official of the court collecting fines for a period of time not to exceed one hundred eighty days.

B. Upon receipt of a surrendered driver's license, the sheriff or court official responsible for collection of such fines shall issue a temporary permit for a period not to exceed one hundred eighty days or for a period of time set forth by the judge having jurisdiction. The temporary permits, the procedure for distributing such permits, and the rules and regulations associated with such permits shall be the same as devised by the Department of Public Safety and Corrections as required by R.S. 32:411.1.

NOTE: Paragraph C effective until August 1, 2018. See Acts 2017, No. 260,§1.

C. If, after expiration of one hundred eighty days, the defendant has not paid the fine, the sheriff or official of the court designated to collect fines shall forward the license to the Department of Public Safety and Corrections. Upon receipt of the defendant's surrendered driver's license, the department shall suspend the driver's license of the defendant. The suspension shall begin when the department receives written notification from the court, and the department shall send immediate written notification to the defendant informing him of the suspension of driving privileges.

NOTE: Paragraph C as amended by Acts 2017, No. 260, §1, effective August 1, 2018.

C. If, after expiration of one hundred eighty days, the court finds that the defendant remains able but has willfully refused to pay the fine, the sheriff or official of the court designated to collect fines shall forward the license to the Department of Public Safety and Corrections. Upon receipt of the defendant's surrendered driver's license, the department shall suspend the driver's license of the defendant. The suspension shall begin when the department receives written notification from the court, and the department shall send immediate written notification to the defendant informing him of the suspension of driving privileges.

NOTE: Paragraph D effective until August 1, 2018. See Acts 2017, No. 260,§1.

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

NOTE: Paragraph D as amended by Acts 2017, No. 260, §1, effective August 1, 2018.

D. The department shall reinstate, return, reissue, or renew a driver's license in its possession pursuant to this Section upon payment of the fine and any additional administrative cost, fee, or penalty required by the judge having the jurisdiction and any other cost, fee, or penalty required by the department in accordance with R.S. 32:414(H) or other applicable cost, fee, or penalty provision.

Acts 2003, No. 364, §1; Acts 2017, No. 260, §1, eff. August 1, 2018.

Art. 888. Costs and fines; payment

NOTE: Art. 888 effective until August 1, 2018. See Acts 2017, No. 260, §1.

Costs and any fine imposed shall be payable immediately; provided, however, that in cases involving the violation of any traffic law or ordinance, the court having jurisdiction may grant the defendant five judicial days after rendition of judgment to pay any costs and any fine imposed.

NOTE: Art. 888 as amended by Acts 2017, No. 260, §1, effective August 1, 2018.

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

Amended by Acts 1968, No. 368, §1; Acts 2017, No. 260, §1, eff. August 1, 2018.

Art. 890.3. Sentencing for crimes of violence

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

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

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

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

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

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

(23) Second degree cruelty to juveniles.
(24) Aggravated crime against nature.
(25) Trafficking of children for sexual purposes.
(26) Human trafficking.
(27) Home invasion.
Acts 2016, No. 509, §1; Acts 2017, No. 196, §1.

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

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

NOTE: Paragraph B effective until December 1, 2017. See Acts 2017, No. 98,§1.

B.(1) When a sheriff's statement is required pursuant to Paragraph A of this Article, the clerk of court shall also prepare the following documents:

(a) A copy of the indictment under which the defendant was convicted.

(b) A copy of the sentence as recorded in the minutes of the court.

(c) A copy of the Uniform Sentencing Commitment Order in the format authorized by the Louisiana Supreme Court which shall include the name and address of the judge, the district attorney, and the defense attorney who participated in the sentencing trial.

NOTE: Paragraph B as amended by Acts 2017, No. 98, §1, effective, December 1, 2017.

B.(1) When a sheriff's statement is required pursuant to Paragraph A of this Article, the clerk of court shall also prepare the following documents:

(a) A copy of the indictment under which the defendant was convicted.

(b) A copy of the Uniform Sentencing Commitment Order in the format authorized by the Louisiana Supreme Court which shall include the name and address of the judge, the district attorney, and the defense attorney who participated in the sentencing trial. If the department needs information relating to the sentence not provided in the Uniform Sentencing Commitment Order, it may request that information from the court.

(2) The clerk shall retain a copy of the statement and documents and send the original to the sheriff of the parish to which the defendant has been sentenced, where they shall be preserved. The documents, or copies thereof, shall be made available to the governor, the pardon board, and the parole committee.

C. All statements and documents required by this Article shall physically accompany any defendant when said defendant is transferred to a penal institution or a mental institution or mental hospital. Said documents and statements shall be tendered to the officer in charge of the institution at the time that the defendant is presented for admittance thereto.

D. Failure to comply with the provisions of this Article shall not affect the validity of a prosecution, conviction, or sentence.

Amended by Acts 1975, No. 731, §1; Acts 1977, No. 608, §1; Acts 1978, No. 179, §1; Acts 1982, No. 543, §1; Acts 1987, No. 98, §1; Acts 2011, No. 186, §1; Acts 2017, No. 36, §1; Acts 2017, No. 98, §1, eff. December 1, 2017.

CHAPTER 2. SUSPENDED SENTENCE AND PROBATION

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

A.(1)(a) When it appears that the best interest of the public and of the defendant will be served, the court, after a first, second, or third conviction of a noncapital felony, may suspend, in whole or in part, the imposition or execution of either or both sentences, where suspension is allowed under the law, and in either or both cases place the defendant on probation under the supervision of the division of probation and parole. The court shall not suspend the sentence of a second or third conviction of R.S. 14:73.5. Except as provided in Paragraph G of this Article, the period of probation shall be specified and shall not be more than three years.

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

(2) The court shall not suspend the sentence of a conviction for an offense that is designated in the court minutes as a crime of violence pursuant to Article 890.3, except a first conviction for an offense with a maximum prison sentence of ten years or less that was not committed against a family member or household member as defined by R.S. 14:35.3, or dating partner as defined by R.S. 46:2151. The period of probation shall be specified and shall not be more than five years.

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

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

NOTE: Paragraph B effective until November 1, 2017. See Acts 2017, No. 280, §1.

B.(1)(a) The court may suspend, in whole or in part, the imposition or execution of the sentence when the following conditions exist:

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

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

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

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

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

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

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

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

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

established driving while intoxicated court or sobriety court program, with the consent of the district attorney, the court may place the defendant on probation for a period of not more than eight years if the court determines that successful completion of the program may require that period of probation to exceed the five-year limit. If necessary to assure successful completion of the drug division probation program, the court may extend the duration of the probation period. The period of probation as initially fixed or as extended shall not exceed eight years.

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

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

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

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

NOTE: Paragraph B as amended by Acts 2017, No. 280, §1, effective November 1, 2017.

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

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

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

(i) Enter and complete a program provided by the drug division of the district court pursuant to R.S. 13:5301 et seq.

(ii) Enter and complete an established driving while intoxicated court or sobriety court program.

(iii) Reside for a minimum period of one year in a facility which conforms to the Judicial Agency Referral Residential Facility Regulatory Act, R.S. 40:2851 et seq.

(iv) Enter and complete the Swift and Certain Probation Pilot Program established pursuant to R.S. 13:5371 et seq.

(2)When suspension is allowed under this Paragraph, the defendant shall be placed on probation under the supervision of the division of probation and parole. The period of probation shall be specified and shall not be more than three years, except as provided in Paragraph G of

this Article. The suspended sentence shall be regarded as a sentence for the purpose of granting or denying a new trial or appeal.

C. If the sentence consists of both a fine and imprisonment, the court may impose the fine and suspend the sentence or place the defendant on probation as to the imprisonment.

D. Except as otherwise provided by law, the court shall not suspend a felony sentence after the defendant has begun to serve the sentence.

E.(1)(a) When it appears that the best interest of the public and of the defendant will be served, the court may defer, in whole or in part, the imposition of a sentence after conviction of a first offense noncapital felony under the conditions set forth in this Paragraph. When a conviction is entered under this Paragraph, the court may defer the imposition of sentence and place the defendant on probation under the supervision of the division of probation and parole.

(b) The court shall not defer a sentence under this provision for an offense or an attempted offense that is designated in the court minutes as a crime of violence pursuant to Article 890.3 or that is defined as a sex offense by R.S. 15:541, involving a child under the age of seventeen years or for a violation of the Uniform Controlled Dangerous Substances Law that is punishable by a term of imprisonment of more than five years or for a violation of R.S. 40:966(A), 967(A), 968(A), 969(A), or 970(A).

(2) Upon motion of the defendant, if the court finds at the conclusion of the probationary period that the probation of the defendant has been satisfactory, the court may set the conviction aside and dismiss the prosecution. The dismissal of the prosecution shall have the same effect as acquittal, except that the conviction may be considered as a first offense and provide the basis for subsequent prosecution of the party as a multiple offender, and further shall be considered as a first offense for purposes of any other law or laws relating to cumulation of offenses. Dismissal under this Paragraph shall occur only once with respect to any person.

(3)(a) When a case is accepted into a drug court division probation program pursuant to the provisions of R.S. 13:5304 and at the conclusion of the probationary period the court finds that the defendant has successfully completed all conditions of probation, the court with the concurrence of the district attorney may set aside the conviction and dismiss prosecution, whether the defendant's sentence was suspended under Paragraph A of this Article or deferred under Subparagraph (1) of this Paragraph. The dismissal of prosecution shall have the same effect as an acquittal, except that the conviction may be considered as a first offense and provide the basis for subsequent prosecution of the party as a multiple offender, and shall be considered as a first offense for purposes of any other law or laws relating to cumulation of offenses.

(b) The court may extend the provisions of this Paragraph to any person who has previously successfully completed a drug court program and satisfactorily completed all other conditions of probation.

(c) Dismissal under this Paragraph shall have the same effect as an acquittal for purposes of expungement under the provisions of R.S. 44:9 and may occur only once with respect to any person.

(4) When a defendant, who has been committed to the custody of the Department of Public Safety and Corrections to serve a sentence in the intensive incarceration program pursuant to the provisions of Article 895(B)(3), has successfully completed the intensive incarceration program as well as successfully completed all other conditions of parole or probation, and if the defendant is otherwise eligible, the court with the concurrence of the district attorney may set aside the conviction and dismiss prosecution, whether the defendant's sentence was suspended under Paragraph A of this Article or deferred under Subparagraph (1) of this Paragraph. The dismissal

of prosecution shall have the same effect as an acquittal, except that the conviction may be considered as a first offense and provide the basis for subsequent prosecution of the party as a multiple offender, and shall be considered as a first offense for purposes of any other law or laws relating to cumulation of offenses. Dismissal under this Subparagraph shall have the same effect as an acquittal for purposes of expungement under the provisions of R.S. 44:9 and may occur only once with respect to any person.

F. Nothing contained herein shall be construed as being a basis for destruction of records of the arrest and prosecution of any person convicted of a felony.

NOTE: Paragraph G as enacted by Acts 2017, No. 260, §1, effective November 1, 2017.

G. If the court, with the consent of the district attorney, orders a defendant, upon a third conviction or fourth felony conviction, to enter and complete a program provided by the drug division of the district court pursuant to R.S. 13:5301, an established driving while intoxicated court or sobriety court program, a mental health court program established pursuant to R.S. 13:5351 et seq., a Veterans Court program established pursuant to R.S. 13:5361 et seq., a reentry court established pursuant to R.S. 13:5401, or the Swift and Certain Probation Pilot Program established pursuant to R.S. 13:5371, the court may place the defendant on probation for a period of not more than eight years if the court determines that successful completion of the program may require that period of probation to exceed the three-year limit. The court may not extend the duration of the probation period solely due to unpaid fees and fines. The period of probation as initially fixed or as extended shall not exceed eight years.

Amended by Acts 1994, 3rd Ex. Sess., No. 100, §1; Acts 1994, 3rd Ex. Sess., No. 123, §1; Acts 1995, No. 990, §1; Acts 1995, No. 1251, §4; Acts 1996, 1st Ex. Sess., No. 5, §1, eff. April 23, 1996; Acts 1997, No. 696, §1; Acts 2001, No. 403, §5 eff. June 15, 2001; Acts 2001, No. 1206, §3; Acts 2006, No. 242, §2; Acts 2006, No. 581, §1; Acts 2008, No. 104, §1; Acts 2009, No. 168, §1; Acts 2010, No. 801, §2, eff. June 30, 2010; Acts 2015, No. 199, §1; Acts 2016, No. 509, §1; Acts 2016, No. 676, §2, eff. June 17, 2016; Acts 2017, No. 280, §1, eff. November 1, 2017.

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

Art. 894.4. Probation; extension

NOTE: Art. 894.4 effective until August 1, 2018. See Acts 2017, No. 260, §1

When a defendant has been sentenced to probation and has a monetary obligation, including but not limited to court costs, fines, costs of prosecution, and any other monetary costs associated with probation, the judge may extend the period of probation until the monetary obligation is extinguished.

NOTE: Art. 894.4 as amended by Acts 2017, No. 260, §1, effective August 1, 2018.

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

B. The judge may extend probation only one time and only by a period of six months for the purpose of monitoring collection of unpaid victim restitution if the court finds on the record by

clear and convincing evidence that the court's temporary ongoing monitoring would ensure collection of unpaid restitution more effectively than any of the following:

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

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

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

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

Acts 2006, No. 823, §1; Acts 2010, No. 808, §1; Acts 2017, No. 260, §1, eff. August 1, 2018.

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

NOTE: Subparagraph (A)(1) effective until August 1, 2018. See Acts 2017, No. 260, §1.

A.(1) When a court places the defendant on probation, it shall, as a condition of probation, order the payment of restitution in cases where the victim or his family has suffered any direct loss of actual cash, any monetary loss pursuant to damage to or loss of property, or medical expense. The court shall order restitution in a reasonable sum not to exceed the actual pecuniary loss to the victim in an amount certain. However, any additional or other damages sought by the victim and available under the law shall be pursued in an action separate from the establishment of the restitution order as a civil money judgment provided for in Subparagraph (2) of this Paragraph. The restitution payment shall be made, in discretion of the court, either in a lump sum or in monthly installments based on the earning capacity and assets of the defendant.

NOTE: Subparagraph (A)(1) as amended by Acts 2017, No. 260, §1, effective August 1, 2018.

A.(1) When a court places the defendant on probation, it shall, as a condition of probation, order the payment of restitution in cases where the victim or his family has suffered any direct loss of actual cash, any monetary loss pursuant to damage to or loss of property, or medical expense. The court shall order restitution in a reasonable sum not to exceed the actual pecuniary loss to the victim in an amount certain. However, any additional or other damages sought by the victim and available under the law shall be pursued in an action separate from the establishment of the restitution order as a civil money judgment provided for in Subparagraph (2) of this Paragraph. If the court has determined, pursuant to the provisions of Article 875.1, that payment in full of the aggregate amount of all financial obligations imposed upon the defendant would cause substantial financial hardship to the defendant or his dependents, restitution payments shall be made pursuant to the provisions of Article 875.1.

NOTE: Subparagraph (2)(a) effective until August 1, 2018. See Acts 2017, No. 260, §1.

(2)(a) The order to pay restitution together with any order to pay costs or fines, as provided in this Article, is deemed a civil money judgment in favor of the person to whom restitution, costs, or fines is owed, if the defendant is informed of his right to have a judicial determination of the amount and is provided with a hearing, waived a hearing, or stipulated to the amount of the restitution, cost, or fine ordered. In addition to proceedings had by the court which orders the

restitution, cost, or fine, the judgment may be enforced in the same manner as a money judgment in a civil case. Likewise, the judgment may be filed as a lien as provided by law for judgment creditors. Prior to the enforcement of the restitution order, or order for costs or fines, the defendant shall be notified of his right to have a judicial determination of the amount of restitution, cost, or fine. Such notice shall be served personally by the district attorney's office of the respective judicial district in which the restitution, cost, or fine is ordered.

NOTE: Subsubparagraph (2)(a) as amended by Acts 2017, No. 260, §1, effective August 1, 2018.

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

(b) In addition to the powers under R.S. 13:1336, the Criminal District Court for the Parish of Orleans shall have the authority to order the payment of restitution as provided in this Paragraph. The enforcement of the judgment for restitution shall be filed in the Civil District Court for the Parish of Orleans.

(3) The court which orders the restitution shall provide written evidence of the order which constitutes the judgment.

(4) The court may suspend payment of any amount awarded hereunder and may suspend recordation of any judgment hereunder during the pendency of any civil suit instituted to recover damages, from said defendant brought by the victim or victims which arises out of the same act or acts which are the subject of the criminal offense contemplated hereunder.

(5) The amount of any judgment by the court hereunder, shall be credited against the amount of any subsequent civil judgment against the defendant and in favor of the victim or victims, which arises out of the same act or acts which are the subject of the criminal offense contemplated hereunder.

B. When a court suspends the imposition or the execution of a sentence and places the defendant on probation, it may in its discretion, order placed, as a condition of probation, an amount of money to be paid by the defendant to any or all of the following:

(1) To the indigent defender program for that court.

(2) To the criminal court fund to defray the costs of operation of that court.

(3) To the sheriff and clerk of court for costs incurred.

(4) To a law enforcement agency for the reasonable costs incurred in arresting the defendant, in felony cases involving the distribution of or intent to distribute controlled dangerous substances.

(5) To the victim to compensate him for his loss and inconvenience. Such an amount may be in addition to any amounts ordered to be paid by the defendant under Paragraph A herein.

(6) To a duly incorporated crime stoppers organization for the reasonable costs incurred in obtaining information which leads to the arrest of the defendant.

(7) To a local public or private nonprofit agency involved in drug abuse prevention and treatment for supervising a treatment program ordered by the court for a particular defendant, provided that such agency is qualified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code of the United States. Any nonprofit agency receiving money under the provisions of this Paragraph must be licensed by the Louisiana Department of Health in the supervision of drug abuse prevention and treatment.

C. When the court places the defendant on supervised probation, it shall order as a condition of probation a monthly fee of not less than sixty nor more than one hundred ten dollars payable to the Department of Public Safety and Corrections or such other probation office, agency, or officer as designated by the court, to defray the cost of supervision. If the probation supervision services are rendered by an agency other than the department, the fee may be ordered payable to that agency. These fees are only to supplement the level of funds that would ordinarily be available from regular state appropriations or any other source of funding.

D. The court may, in lieu of the monthly supervision fee provided for in Paragraph C of this Article, require the defendant to perform a specified amount of community service work each month if the court finds the defendant is unable to pay the minimum supervision fee provided for in Paragraph C of this Article.

NOTE: Paragraph E effective until August 1, 2018. See Acts 2017, No. 260, §1.

E. When the court places any defendant convicted of a violation of the controlled dangerous substances law, R.S. 40:966 through 1034, on any type of probation, it shall order as a condition of probation a fee of not less than fifty nor more than one hundred dollars, payable to the Louisiana Commission on Law Enforcement to be credited to the Drug Abuse Education and Treatment Fund and used for the purposes provided in R.S. 15:1224.

NOTE: Paragraph E as amended by Acts 2017, No. 260, §1, effective August 1, 2018.

E. When the court places any defendant convicted of a violation of the Uniform Controlled Dangerous Substances Law, R.S. 40:966 through 1034, on any type of probation, it shall order as a condition of probation a fee of not less than fifty nor more than one hundred dollars, payable to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice to be credited to the Drug Abuse Education and Treatment Fund and used for the purposes provided in R.S. 15:1224.

F. When the court places the defendant on supervised probation, it shall order as a condition of probation the payment of a monthly fee of eleven dollars. The monthly fee established in this Paragraph shall be in addition to the fee established in Paragraph C of this Article and shall be collected by the Department of Public Safety and Corrections and shall be transmitted, deposited, appropriated, and used in accordance with the following provisions:

(1) The monthly fee established in this Paragraph shall be deposited immediately upon receipt in the state treasury.

(2) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required by Subparagraph (1) of this Paragraph shall be credited to a special fund which is hereby created in the state treasury to be known as the "Sex Offender Registry Technology Fund". The monies in this fund shall be used solely as provided in Subparagraph (3) of this Paragraph and only in the amounts appropriated by the legislature.

(3) The monies in the Sex Offender Registry Technology Fund shall be appropriated as follows:

(a) For Fiscal Year 2006-2007, the amount of one hundred ninety thousand dollars to the Department of Public Safety and Corrections, office of state police, to be used in the administration of programs for the registration of sex offenders in compliance with federal and state laws, and support of community notification efforts by local law enforcement agencies. For Fiscal Years 2007-2008 through 2009-2010, the amount to be appropriated under this Subparagraph shall be twenty-five thousand dollars. For Fiscal Years 2010-2011, and thereafter, the amount to be appropriated to the Department of Public Safety and Corrections, office of state police, shall be twenty-five thousand dollars for the purposes of maintaining and administering the programs for the registration of sex offenders pursuant to this Subparagraph and special law enforcement initiatives.

(b) For Fiscal Year 2010-2011 and each year thereafter, an amount equal to fifteen percent of the total residual monies available for appropriation from the fund shall be appropriated to the Department of Public Safety and Corrections, office of adult services, division of probation and parole.

(c) For Fiscal Year 2010-2011 through Fiscal Year 2013-2014, residual monies available for appropriation after satisfying the requirements of Subsubparagraphs (a) and (b) of this Subparagraph shall be appropriated to the Department of Justice, office of the attorney general. Of that residual amount, one hundred fifty thousand dollars shall be allocated to the office of the attorney general of which fifty thousand dollars shall be allocated for personnel and other costs to assist and monitor sheriff participation in utilization of the computer system, and one hundred thousand dollars of which shall be allocated to the cost of maintenance of the computer system which shall interface with the computer systems of the sheriffs of the parishes for registration of sex offenders and child predators.

(d) For Fiscal Year 2014-2015, and thereafter, residual monies available for appropriation after satisfying the requirements of Subsubparagraphs (a) and (b) of this Subparagraph shall be appropriated to the Department of Justice, office of the attorney general. Of that residual amount, two hundred and fifty thousand dollars shall be allocated to the office of the attorney general of which one hundred and fifty thousand dollars shall be allocated for personnel and other costs to assist and monitor sheriff participation in utilization of the computer system and the administration of the sex offender and child predator registration and notification laws as set forth in R.S. 15:540 et seq., and one hundred thousand dollars of which shall be allocated to the cost of maintenance of the computer system of the sheriffs of the parishes for registration of sex offenders and child predators.

(e) After providing for the allocations in Subsubparagraphs (a), (b), (c), and (d) of this Subparagraph, the remainder of the residual monies in the Sex Offender Registry Technology Fund shall, pursuant to an appropriation to the office of the attorney general, be distributed to the sheriff of each parish, based on the population of convicted sex offenders, sexually violent predators, and child predators who are residing in the parish and who are active sex offender registrants or active child predator registrants in the respective parishes according to the State Sex Offender and Child Predator Registry. These funds shall be used to cover the costs associated with sex offender registration and compliance. Population data necessary to implement the provisions of this Subparagraph shall be as compiled and certified by the undersecretary of the Department of Public Safety and Corrections on the first day of June of each year. No later than thirty days after the Revenue Estimating Conference recognizes the prior year fund balance, the office of the attorney

general shall make these distributions, which are based on the data certified by the undersecretary of the Department of Public Safety and Corrections, to the recipient sheriffs who are actively registering offenders pursuant to this Paragraph.

Acts 1983, No. 13, §1; Acts 1984, No. 940, §1; Acts 1984, No. 136, §1; Acts 1985, No. 863, §1, eff. July 23, 1985; Acts 1986, No. 745, §1; Acts 1987, No. 59, §1; Acts 1988, No. 208, §1; Acts 1989, No. 832, §1; Acts 1990, No. 53, §1; Acts 1990, No. 89, §1; Acts 1990, No. 188, §1; Acts 1994, 3rd Ex. Sess., No. 60, §1; Acts 1998, 1st Ex. Sess., No. 138, §1; Acts 1999, No. 587, §1; Acts 2000, 1st Ex. Sess., No. 84, §1; Acts 2001, No. 964, §1; Acts 2006, No. 502, §1; Acts 2006, No. 663, §4, eff. June 29, 2006; Acts 2007, No. 460, §1, eff. July 11, 2007; Acts 2010, No. 760, §1; Acts 2011, No. 218, §1; Acts 2011, No. 219, §1; Acts 2014, No. 524, §5; Acts 2014, No. 631, §1; Acts 2016, No. 601, §5, eff. June 17, 2016; Acts 2017, No. 260, §1, eff. August 1, 2018.

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

A. Restitution recovery division. Notwithstanding any other provision of law to the contrary, each district attorney may establish a special division in the office designated as the "restitution recovery division" for the administration, collection, and enforcement of victim restitution, victim compensation assessments, probation fees, and payments in civil or criminal proceedings ordered by the court and payable to the state or to crime victims, judgments entered which have not been otherwise vacated, or judicial relief given from the operation of the order or judgment.

B. Notification to district attorneys of nonpayment of restitution. The Department of Public Safety and Corrections, division of probation and parole, may notify the district attorney in writing when any probation fees, victim's restitution, victim's compensation, or like payments to any civil or criminal proceeding ordered by the court to be paid to the division have not been paid or are in default for a period of ninety days or more, and the default has not been vacated. Upon written notification to the district attorney, the restitution recovery division of the office of the district attorney may collect or enforce the collection of any funds that have not been paid or that are in default which, at the discretion of the district attorney, are appropriate to be processed.

NOTE: Paragraph C effective until August 1, 2018. See Acts 2017, No. 260, §1.

C. Compliance enforcement. The district attorney may take all lawful action necessary to require compliance with court-ordered payments, including filing a petition for revocation of probation, filing a petition to show cause for contempt of court, or institution of any other civil or criminal proceedings which may be authorized by law or by rule of court. In addition, the district attorney may issue appropriate notices to inform the defendant of his noncompliance and of the penalty for noncompliance. In the event that the district attorney institutes any other civil or criminal proceedings pursuant to this Paragraph, the defendant shall be charged costs of court and such costs shall be added to the amount due.

NOTE: Paragraph C as amended by Acts 2017, No. 260, §1, effective August 1, 2018.

C. Compliance enforcement. (1) Except as provided in Subparagraph (2) of this Paragraph, the district attorney may take all lawful action necessary to require compliance with court-ordered payments, including filing a petition for revocation of probation, filing a petition to show cause for contempt of court, or institution of any other civil or criminal proceedings which may be authorized by law or by rule of court. In addition, the district attorney may issue

appropriate notices to inform the defendant of his noncompliance and of the penalty for noncompliance. In the event that the district attorney institutes any other civil or criminal proceedings pursuant to this Paragraph, the defendant shall be charged costs of court and such costs shall be added to the amount due.

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

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

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

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

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

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

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

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

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

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

D. Collection fee. As provided for in Paragraph A of this Article, when an amount payable to the state or to a crime victim has not been satisfied in accordance with Article 888, or when a matter has been transferred to the district attorney as provided in Paragraph B of this Article, the district attorney may assess a collection fee of twenty percent of the funds due, which shall be added to the amount of funds due. Any fees collected pursuant to this Paragraph shall be distributed to the district attorney's restitution recovery division to be expended for lawful purposes for the operation of the office of the district attorney. Funds provided to the district attorney by this provision shall not reduce the amount payable to the district attorney under any other provision of law or reduce or affect the amounts of funding allocated by law to the budget of the district attorney. The funds shall be audited as other state funds are audited. This provision shall not affect the right of the office of the district attorney to proceed with the prosecution of any violation as currently provided by law.

E. Intent. The provisions of this Article are supplemental to any procedures for the enforcement and collection of any sums or forfeitures ordered by the court and shall not be construed to repeal any law not in direct conflict with this provision.

Acts 2009, No. 164, §1; Acts 2012, No. 531, §1, eff. June 5, 2012; Acts 2017, No. 260, §1, eff. August 1, 2018.

Art. 895.6. Compliance credits; probation

A. Every defendant on felony probation pursuant to Article 893 for an offense 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 shall earn a diminution of probation term, to be known as "earned compliance credits", by good behavior. The amount of diminution of probation term allowed under this Article shall be at the rate of thirty days for every full calendar month on probation.

B. If the defendant's probation and parole officer has reasonable cause to believe that a defendant on felony probation has not been compliant with the conditions of his probation in a given calendar month, he may rescind thirty days of earned compliance credits as an administrative sanction pursuant to Article 899.2. Credits may be rescinded only for a month in which the defendant 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 defendants on felony probation supervision provided for by the provisions of this Article. The policies and procedures shall include but not be limited to written guidelines regarding the process to rescind earned compliance credits, and the placement of these credits in the administrative sanctions grid. The Department of Public Safety and Corrections shall also collect data on the implementation of earned compliance credits, including the names of defendants that earned credits, how many credits are applied to each defendant, and reductions to supervision periods at the time of discharge.

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

Acts 2017, No. 280, §1, eff. November 1, 2017.

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

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

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

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

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

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

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

(a) The severity of the violation behavior.

(b) The prior violation history.

(c) The severity of the underlying criminal conviction.

(d) The criminal history of the probationer.

(e) Any special circumstances, characteristics, or resources of the probationer.

(f) Protection of the community.

(g) Deterrence.

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

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

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

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

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

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

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

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

D. For purposes of this Article, "technical violation" means any violation of a condition of probation, except for an allegation of a subsequent criminal act. Notwithstanding any provision of law to the contrary, if the subsequent alleged criminal act is misdemeanor possession of marijuana or tetrahydrocannabinol, or chemical derivatives thereof, as provided in R.S. 40:966(E)(1), it shall be considered a "technical violation".

Acts 2011, No. 104, §2; Acts 2014, No. 633, §1; Acts 2017, No. 280, §1, eff. November 1, 2017.

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

A. Each time a defendant on probation for a crime 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 violates a condition of his probation, a probation agency is authorized to use administrative sanctions to address a technical violation committed by a defendant when all of the following occur:

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

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

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

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

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

(i) The severity of the violation behavior.

(ii) The prior violation history.

(iii) The severity of the underlying criminal conviction.

(iv) The criminal history of the probationer.

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

(vi) Protection of the community.

(vii) Deterrence.

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

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

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

(ii) Changing residence without permission.

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

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

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

(vi) Traveling without permission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Acts 2017, No. 280, §1, eff. November 1, 2017.

Art. 900. Violation hearing; sanctions

A. After an arrest pursuant to Article 899, the court shall cause a defendant who continues to be held in custody to be brought before it within thirty days for a hearing. If a summons is issued pursuant to Article 899, or if the defendant has been admitted to bail, the court shall set the matter for a violation hearing within a reasonable time. The hearing may be informal or summary. The defendant may choose, with the court's consent, to appear at the violation hearing and stipulate the revocation by simultaneous audio-visual transmission in accordance with the provisions of Article

562. If the court decides that the defendant has violated, or was about to violate, a condition of his probation it may:

(1) Reprimand and warn the defendant.

(2) Order that supervision be intensified.

(3) Add additional conditions to the probation.

(4) Order the defendant, as an additional condition of probation, to be committed to a community rehabilitation center operated by, or under contract with, the Department of Public Safety and Corrections for a period of time not to exceed six months, without benefit of parole or good time, if:

(a) There is bed space available.

(b) The offender has been sentenced to the department, and the sentence has been suspended pursuant to Article 893.

(c) Such commitment does not extend the period of probation beyond the maximum period of probation provided by law.

(d) The violation of probation did not involve the commission of another felony.

(e) The placement in a community rehabilitation center is recommended by the division of probation and parole.

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

(b) Notwithstanding the provisions of Subsubparagraph (a) of this Subparagraph, in the event of revocation for a defendant placed on probation for the conviction of an offense 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, the defendant shall serve the sentence suspended with credit for time served on probation.

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

(b) Notwithstanding the provisions of Subparagraph (A)(5) of this Article, any defendant who has been placed on probation by the court for the conviction of an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex offense as defined by R.S. 15:541, and who has had his probation revoked under the provisions of this Article for a technical violation of his probation as determined by the court, shall be required to serve, without diminution of sentence, as follows:

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

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

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

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

(c) The defendant shall be given credit for time served prior to the revocation hearing for time served in actual custody while being held for a technical violation in a local detention facility, state institution, or out-of-state institution pursuant to Article 880. The term of the revocation for a technical violation shall begin on the date the court orders the revocation. Upon completion of the imposed sentence for the technical revocation, the defendant shall return to active and supervised probation for a period equal to the remainder of the original period of probation subject to any additional conditions imposed by the court.

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

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

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

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

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

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

(7) Extend the period of probation, provided the total amount of time served by the defendant on probation for any one offense shall not exceed the maximum period of probation provided by law.

B. When a defendant has been committed to a community rehabilitation center pursuant to Subparagraph (A)(4) of this Article, upon written request of the department that an offender be removed for violating the rules or regulations of the community rehabilitation center, the court shall cause the defendant to be brought before it and order that probation be revoked with credit for the time served in the community rehabilitation center.

C. The department may pay a per diem for offenders placed in a community rehabilitation center pursuant to the provisions of Subparagraph (A)(4) of this Article.

D. When a court considers the revocation of probation, the court shall consider aggravating and mitigating circumstances in the case, including but not limited to the circumstances stated in Article 894.1. If the court revokes the probation of the defendant, the court shall issue oral or written reasons for revocation which shall be entered into the record. The oral or written reasons for revocation shall state the allegations made by the probation officer concerning a violation or threatened violation of the conditions of probation, the findings of the court concerning those allegations, the factual basis or bases for those findings, and the aggravating circumstances, or mitigating circumstances, or both, considered by the court.

Amended by Acts 1979, No. 90, §1; Acts 1991, No. 96, §1; Acts 1995, No. 335, §1; Acts 1997, No. 1323, §1; Acts 2006, No. 113, §1; Acts 2007, No. 402, §1; Acts 2009, No. 182, §1; Acts 2010, No. 352, §1; Acts 2011, No. 33, §1; Acts 2014, No. 271, §1; Acts 2014, No. 633, §1; Acts 2016, No. 213, §1; Acts 2017, No. 280, §1, eff. November 1, 2017; Acts 2017, No. 406, §1.

Art. 903.1. Substance abuse probation program; eligibility

A. In order to be eligible for the substance abuse probation program, the defendant must be charged with a violation of a statute of this state relating to the use and possession of or possession with intent to distribute any narcotic drugs, coca leaves, marijuana, stimulants, depressants, or hallucinogenic drugs, or where there is a significant relationship between the use of alcohol or drugs and the crime before the court.

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

NOTE: The provisions of Articles 903 and 903.1 enacted by Section 4 of Act No. 389 of the 2013 R.S. shall become null, void, and have no effect on August 1, 2020, and thereafter pursuant to the Section 2 of Act No. 199 of the 2015 R.S.

NOTE: Acts 2013, No. 389, §4 provides that the provisions of the Act shall become null, void, and have no effect on Aug. 1, 2016, and thereafter.

Acts 2013, No. 389, §1; Acts 2015, No. 199, §2; Acts 2017, No. 280, §1, eff. November 1, 2017.