Art. 215. Detention and arrest of shoplifters

A.(1) A peace officer, merchant, or a specifically authorized employee or agent of a merchant, may use reasonable force to detain a person for questioning on the merchant's premises, for a length of time, not to exceed sixty minutes, unless it is reasonable under the circumstances that the person be detained longer, when he has reasonable cause to believe that the person has committed a theft of goods held for sale by the merchant, regardless of the actual value of the goods. The merchant or his employee or agent may also detain such a person for arrest by a peace officer. The detention shall not constitute an arrest.

(2) A peace officer may, without a warrant, arrest a person when he has reasonable grounds to believe the person has committed a theft of goods held for sale by a merchant, regardless of the actual value of the goods. A complaint made to a peace officer by a merchant or a merchant's employee or agent shall constitute reasonable cause for the officer making the arrest.

(3)(a) A merchant or a specifically authorized employee or agent of a merchant who has reasonable cause to believe that a person has committed a theft of goods held for sale by the merchant, is not precluded from offering such person the opportunity to complete a theft prevention program in lieu of reporting the suspected theft to law enforcement. The provisions of this Subparagraph apply only to those merchants who employ at least twenty-five persons.

(b)(i) A provider of a theft prevention program may charge a fee of not more than five hundred dollars for participation in the program and may not exclude a person otherwise eligible to participate in the program on the basis of the person's race, national origin, religion, sex, or the ability to pay the fee.

(ii) A provider of a theft prevention program that charges a fee to participate in the program may reduce or waive the fee based upon the inability of a participant to pay.

(iii) A provider of a theft prevention program shall maintain records of the criteria described in Item (i) of this Subsubparagraph for a period of not less than three years without including personal identifying information. This report shall be made available to the district attorney upon request.

(iv) A provider of a theft prevention program shall provide to the district attorney, upon request, its criteria for a person's participation in its theft prevention program.

(v) A merchant or a specifically authorized employee or agent of a merchant that offers a person the opportunity to complete a theft prevention program shall provide a copy of the written offer to the district attorney upon request.

(vi) Nothing in this Subparagraph shall preclude a district attorney or court from offering a theft prevention program in compliance with the provisions of this Subparagraph.

(c) The participant shall not be required to sign an admission of guilt nor sign any binding agreement in connection with participation in the theft prevention program.

(d) Any person who successfully completes a theft prevention program pursuant to this Subparagraph shall not be subject to any additional civil penalties under any other provision of law.

B. If a merchant utilizes electronic devices which are designed to detect the unauthorized removal of marked merchandise from the store, and if sufficient notice has been posted to advise the patrons that such a device is being utilized, a signal from the device to the merchant or his employee or agent indicating the removal of specially marked merchandise shall constitute a sufficient basis for reasonable cause to detain the person.

C. As used in this Article, the following definitions apply:

(1) "Reasonable under the circumstances" shall be construed in such a manner so as to include the value of the merchandise in question, the location of the store, the length of time taken for law enforcement personnel to respond, the cooperation of the person detained, and any other relevant circumstances to be considered with respect to the length of time a person is detained.

(2) "Theft prevention program" is a pre-arrest program designed to address the underlying causes of theft, reduce the occurrences of theft, and promote accountability and reconciliation between the person suspected of theft and the merchant, and may be provided by the merchant or an independent third-party provider.

Acts 1983, No. 187, §1; Acts 1987, No. 632, §1; Acts 2018, No. 61, §1.

Art. 222. Blood and saliva testing; expedited, nonincriminating procedure

A. Any person who commits any act which exposes a law enforcement officer to a serious infectious disease by any means resulting in contact with the officer during the course and scope of an arrest or through the investigation and handling of evidence related to the arrest for any offense shall be required to submit within seventy-two hours of the exposure to a test designed to determine whether he is infected with a sexually transmitted disease, acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, any other probable causative agent of AIDS, viral hepatitis, or any other serious infectious disease.

B. Any law enforcement officer who believes he has been the victim of an act which has exposed him to a serious infectious disease as provided in Paragraph A of this Article shall notify by affidavit, subject to penalty for false swearing, the criminal district court that the exposure has occurred. The court may order the testing, as provided in this Article.

C. The court shall include in its order the designation of an appropriate facility for the procedure and shall require that the result be reported to the court. The court shall provide the results to the law enforcement officer and the alleged offender and shall provide them to health authorities in accordance with law.

D. The state shall not use the fact that the medical procedure or test was performed on the alleged offender under this Article, or the results thereof, in any criminal proceeding arising out of the alleged offense.

E. For purposes of this Article:

(1) "Act" means spitting, biting, or scratching; the throwing of blood or other bodily substances by any means; and any other method of intentional or non-intentional exposure to blood or other bodily substances.

(2) "Law enforcement officer" means a commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife enforcement agent, probation and parole officer, or any officer of the court. "Law enforcement officer" includes a civilian employee of the Louisiana State Police Crime Laboratory or any other forensic laboratory while engaged in the performance of the employee's lawful duties. "Law enforcement officer" also includes any licensed emergency medical services practitioner as defined by R.S. 40:1131 and any firefighter regularly employed by a fire department of any municipality, parish, or fire protection district of the state or any volunteer firefighter of the state.

F. The costs associated with testing as authorized by this Article shall be paid by the offender.

G. If the person tested under the provisions of this Article tests positive for a sexually transmitted disease, AIDS, HIV, HIV-1 antibodies, any other probable causative agent of AIDS,

viral hepatitis, or any other serious infectious disease, the court shall inform that person of available counseling, healthcare, and support services.

Acts 1999, No. 1247, §1; Acts 2018, No. 118, §1.

Art. 230.1. Maximum time for appearance before judge for the purpose of appointment of counsel; court discretion to fix bail at the appearance; extension of time limit for cause; effect of failure of appearance

A. The sheriff or law enforcement officer having custody of an arrested person shall bring him promptly, and in any case within seventy-two hours from the time of the arrest, before a judge for the purpose of appointment of counsel. Saturdays, Sundays, and legal holidays shall be excluded in computing the seventy-two-hour period referred to herein. The defendant shall appear in person unless the court by local rule provides for such appearance by telephone or audio-video electronic equipment. However, upon a showing that the defendant is incapacitated, unconscious, or otherwise physically or mentally unable to appear in court within seventy-two hours, then the defendant's presence is waived by law, and a judge shall appoint counsel to represent the defendant within seventy-two hours from the time of arrest.

B. At this appearance, if a defendant has the right to have the court appoint counsel to defend him, the court shall assign counsel to the defendant. The court may also, in its discretion, determine or review a prior determination of the amount of bail.

C. If the arrested person is not brought before a judge in accordance with the provisions of Paragraph A of this Article, he shall be released on his own recognizance.

D. The failure of the sheriff or law enforcement officer to comply with the requirements herein shall have no effect whatsoever upon the validity of the proceedings thereafter against the defendant.

Added by Acts 1972, No. 700, §1. Amended by Acts 1977, No. 395, §1; Acts 1984, No. 206, §1; Acts 1985, No. 955, §1; Acts 2006, No. 811, §1; Acts 2018, No. 129, §1.

TITLE V-A. EYEWITNESS IDENTIFICATION PROCEDURES

Art. 251. Legislative intent

A. The legislature finds that police investigations are strengthened by the use of best practices for investigative procedures, which increase the ability of law enforcement to keep communities safe and apprehend those suspected of criminal activity, reduce erroneous eyewitness identifications, and enhance the reliability and objectivity of eyewitness identification.

B. The legislature further finds that policies and procedures to improve the accuracy of eyewitness identifications, such as those recommended by the Louisiana Sheriff's Executive Management Institute (LSEMI) and the Federal Bureau of Investigation, would help to ensure that the integrity of Louisiana criminal justice investigations is strengthened and enhanced so as to convict the guilty and protect the innocent.

Acts 2018, No. 466, §1, eff. May 23, 2018.

Art. 252. Definitions

For purposes of this Title:

(1) "Administrator" means the person conducting the photo or live lineup.

(2) "Blind" means conducted in such a way that the administrator does not know the identity of the suspect.

(3) "Blinded" means conducted in such a way that the administrator may know who the suspect is, but does not know which lineup member is being viewed by the eyewitness.

(4) "Criminal justice entity" means any government agency or subunit thereof, or private agency that, through statutory authorization or a legal formal agreement with a governmental unit or agency, has the power of investigation, arrest, detention, prosecution, adjudication, treatment, supervision, rehabilitation, or release of persons suspected, charged, or convicted of a crime.

(5) "Eyewitness" means a person who observes another person at or near the scene of an offense.

(6) "Filler" means either a person or a photograph of a person who is not suspected of an offense but is included in an identification procedure.

(7) "Folder shuffle method" means a blinded procedure in which the suspect photos and nonsuspect or filler photos are each placed in separate folders for a total of six photographs and shuffled together along with four blank folders and handed to the eyewitness one at a time so that the administrator cannot see which photograph the eyewitness is viewing.

(8) "Live lineup" means an identification procedure in which a group of persons, including the suspected perpetrator of an offense and other persons not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator.

(9) "Photo lineup" means an identification procedure in which an array of photographs, including a photograph of the suspected perpetrator of an offense and additional photographs of other persons not suspected of the offense, is displayed to an eyewitness either in hard copy form or via computer or similar device for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator.

(10) "Suspect" means a person believed by law enforcement to be the possible perpetrator of an offense.

Acts 2018, No. 466, §1, eff. May 23, 2018.

Art. 253. Eyewitness identification procedures

A.(1) No later than January 30, 2019, any criminal justice entity conducting eyewitness identifications shall either adopt the LSEMI model policy or draft its own policy that minimally comports to key best practices as outlined in this Article.

(2) Each criminal justice entity that administers eyewitness identification procedures shall provide a copy of its written policies to the Louisiana Commission on Law Enforcement and Administration of Criminal Justice no later than March 1, 2019.

B. For any criminal justice entity that elects to draft its own policy on eyewitness identification procedures, these policies shall:

(1) Be based on all of the following:

(a) Credible field, academic, or laboratory research on eyewitness memory.

(b) Relevant policies, guidelines, and best practices designed to reduce erroneous eyewitness identifications and to enhance the reliability and objectivity of eyewitness identifications.

(c) Other relevant information as appropriate.

(2) Include the following information regarding evidence-based practices:

(a) Procedures for selecting photograph and live lineup filler photographs or participants to ensure that the photographs or participants:

(i) Are consistent in appearance with the description of the alleged perpetrator.

(ii) Do not make the suspect noticeably stand out.

(b) Instructions given to a witness before conducting a photograph or live lineup identification procedure shall include a statement that the person who committed the offense may or may not be present in the procedure.

(c) Procedures for documenting and preserving the results of a photograph or live lineup identification procedure, including the documentation of witness statements, regardless of the outcome of the procedure.

(d) Procedures for administering a photograph or live lineup identification procedure to an illiterate person or a person with limited English language proficiency.

(e) For a live lineup identification procedure, if practicable, procedures for assigning an administrator who is unaware of which member of the live lineup is the suspect in the case or alternative procedures designed to prevent opportunities to influence the witness.

(f) For a photograph identification procedure, procedures for assigning an administrator who is capable of administering a photograph array in a blind manner or in a blinded manner consistent with other proven or supported best practices designed to prevent opportunities to influence the witness.

(g) Any other procedures or best practices supported by credible research or commonly accepted as a means to reduce erroneous eyewitness identifications and to enhance the objectivity and reliability of eyewitness identifications.

(3) Provide that a witness who makes an identification based on a photograph or live lineup identification procedure be asked immediately after the procedure to state, in the witness's own words, how confident the witness is in making the identification. A law enforcement agency shall document in accordance with Subsubparagraph (2)(c) of this Paragraph any statement made under this Subparagraph.

C. Not later than December thirty-first of each odd-numbered year, the institute shall review the model policy and training materials adopted under this Article and shall modify the policy and materials as appropriate while maintaining the requirements outlined in Paragraph B of this Article.

D. Not later than December thirty-first of each even-numbered year, each law enforcement agency shall review its policy adopted under this Article and shall modify that policy as appropriate while maintaining the requirements outlined in Paragraph B of this Article.

E. Failure to conduct a photograph or live lineup identification procedure in substantial compliance with the model policy or any other policy adopted under this Article shall not bar the admission of eyewitness identification testimony.

F. A video record of identification procedures shall be made or, if a video record is not practicable, an audio record shall be made. If neither a video nor audio record are practicable, the reasons shall be documented in writing, and the lineup administrator shall make a full and complete written record of the lineup in accordance with Subsubparagraph (B)(2)(c) of this Article.

G. The written eyewitness identification procedures of a criminal justice entity shall be made available, in writing, to the public upon request.

H. Evidence of failure to comply with any of the provisions of this Article:

(1) May be considered by the district court in adjudicating motions to suppress an eyewitness identification.

(2) May be admissible in support of any claim of eyewitness misidentification, as long as the evidence is otherwise admissible.

Acts 2018, No. 466, §1, eff. May 23, 2018.

Art. 312. Right to bail before and after conviction

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

B. A person released on a previously posted bail undertaking for (1) a crime of violence as defined by R.S. 14:2(B) which carries a minimum mandatory sentence of imprisonment upon conviction or (2) the production, manufacture, distribution, or dispensing or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance as defined by the Louisiana Uniform Controlled Dangerous Substances Law, shall not be readmitted to bail when the person previously failed to appear and a warrant for arrest was issued and not recalled or the previous bail undertaking has been revoked or forfeited. If a person voluntarily appears without confinement by a law enforcement officer or bail recovery agent following a motion to revoke bail or issuance of an arrest warrant for failure to appear but prior to revocation or forfeiture, then he may be released only under one of the following circumstances:

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

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

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

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

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

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

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

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

G.(1) After conviction of a capital offense, a defendant shall not be allowed bail.

(2)(a) After conviction of any crime punishable by imprisonment for twenty-five years or more that is both a sex offense and a crime of violence, there shall be a rebuttable presumption that the release of the person convicted will pose a danger to another person or the community and that there is a substantial risk that the person convicted might flee.

(b) For purposes of this Paragraph:

(i) "Crime of violence" means any offense defined or enumerated as a crime of violence in R.S. 14:2(B).

(ii) "Sex offense" means any offense that requires registration and notification pursuant to R.S. 15:540 et seq.

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

Acts 1993, No. 834, §1, eff. June 22, 1993; Acts 1994, 3rd Ex. Sess., No. 52, §1, eff. Sept. 1, 1994; Acts 2010, No. 914, §1; Acts 2016, No. 613, §1, eff. Jan. 1, 2017; Acts 2018, No. 484, §1, eff. May 25, 2018.

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 Caldwell, Claiborne, DeSoto, Union, and Webster, the function of the jury commission shall be performed by the clerks of court of Caldwell Parish, 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 Caldwell Parish, 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; Acts 2018, No. 417, §1.

CHAPTER 3. TRIAL BY JURY

SECTION 1. GENERAL PROVISIONS

Art. 782. Number of jurors composing jury; number which must concur; waiver

NOTE: Paragraph A eff. until Jan. 1, 2019, if the const. amend. proposed by Acts 2018, No. 722 is ratified. See Acts 2018, No. 493, §1.

A. Cases in which punishment may be capital shall be tried by a jury of twelve jurors, all of whom must concur to render a verdict. Cases in which punishment is necessarily confinement at hard labor shall be tried by a jury composed of twelve jurors, ten of whom must concur to render a verdict. Cases in which the punishment may be confinement at hard labor shall be tried by a jury composed of six jurors, all of whom must concur to render a verdict.

NOTE: Paragraph A as amended by Acts 2018, No. 493, §1, eff. Jan. 1, 2019, , if the const. amend. proposed by Acts 2018, No. 722 is ratified.

A. A case in which punishment may be capital shall be tried by a jury of twelve jurors, all of whom must concur to render a verdict. A case for an offense committed prior to January 1, 2019, in which punishment is necessarily confinement at hard labor shall be tried by a jury composed of twelve jurors, ten of whom must concur to render a verdict. A case for an offense committed on or after January 1, 2019, in which the punishment is necessarily confinement at hard labor shall be tried before a jury of twelve persons, all of whom must concur to render a verdict. A case in which the punishment may be confinement at hard labor shall be tried by a jury composed of six jurors, all of whom must concur to render a verdict.

B. Trial by jury may be knowingly and intelligently waived by the defendant except in capital cases.

Amended by Acts 1974, Ex.Sess., No. 25, §1, eff. Jan. 1, 1975; Acts 1975, 1st Ex.Sess., No. 16, §1, eff. Jan. 28, 1975; Acts 1979, No. 56, §2; Acts 2018, No. 493, §1, eff. Jan. 1, 2019, if const. amend. is ratified.

Art. 573.3. Running of time limitations; exception; crimes against the Firefighters' Retirement System

The time limitations established by this Chapter shall not commence to run as to a crime described in R.S. 11:2261.1(C) and committed against the Firefighters' Retirement System until the crime is discovered by the Firefighters' Retirement System.

Acts 2018, No. 115, §2.

Art. 575.1. Suspension of time limitations; crimes against the Firefighters' Retirement System

The periods of limitation established by this Chapter shall be suspended when a civil suit is filed as provided in R.S. 11:2261.1(C).

Acts 2018, No. 115, §2.

TITLE XIX
JURISDICTION AND VENUE

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 any criminal homicide enumerated in R.S. 14:29 or any other crime involving the death of a human being 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.

D.(1) If the offender is charged with the crime of accessory after the fact, the offense is deemed to have been committed either in the parish where the principal felony was committed or in the parish where any act or element constituting the basis for the accessory after the fact prosecution occurred.

(2) If the offender is charged with the crime of obstruction of justice, the offense is deemed to have been committed either in the parish of the underlying actual or potential present, past, or future criminal proceeding or investigation or in the parish where any act or element constituting the basis for the obstruction of justice prosecution occurred.

Acts 2004, No. 379, §1; Acts 2006, No. 158, §1; Acts 2017, No. 164, §1, eff. June 12, 2017; Acts 2018, No. 125, §1.

Art. 655. Application for discharge or release on probation; review panel

A.(1) When the superintendent of a mental institution is of the opinion that a person committed pursuant to Article 654 can be discharged or can be released on probation, without danger to others or to himself, he shall recommend the discharge or release of the person in a report to a review panel comprised of the person's treating physician, the clinical director of the facility to which the person is committed, and a physician, medical psychologist, or psychologist who served on the sanity commission which recommended commitment of the person. If any member of the panel is unable to serve, a physician, medical psychologist, or a psychologist engaged in the practice of clinical or counseling psychology with at least three years' experience in the field of mental health shall be appointed by the remaining members.

(2) The panel shall review all reports received promptly. After review, the panel shall make a recommendation to the court by which the person was committed as to the person's mental condition and whether he can be discharged, conditionally or unconditionally, or placed on probation, without being a danger to others or himself. If the review panel recommends to the court that the person be discharged, conditionally or unconditionally, or placed on probation, the court shall conduct a contradictory hearing following notice to the district attorney.

(3) A recommendation that the person be discharged or released on probation shall require a unanimous vote of the panel.

(4) The panel shall render specific findings of fact in support of its recommendation.

B. A person committed pursuant to Article 654 may make application to the review panel for discharge or for release on probation. Such application by a committed person may not be filed until the committed person has been confined for a period of at least six months after the original commitment. If the review panel recommends to the court that the person be discharged, conditionally or unconditionally, or placed on probation, the court shall conduct a hearing

following notice to the district attorney. If the recommendation of the review panel or the court is adverse, the applicant shall not be permitted to file another application until one year has elapsed from the date of determination.

C. The superintendent of the mental institution shall, under both Paragraphs A and B of this Article, transmit a copy of this report and recommendation to the person committed or his attorney and to the district attorney of the parish from which the person was committed.

Acts 1985, No. 925, §1; Acts 1987, No. 928, §1, eff. July 20, 1987; Acts 2018, No. 532, §1.

TITLE XXIV. PROCEDURES PRIOR TO TRIAL
CHAPTER 1. SETTING CASES FOR TRIAL

Art. 701. Right to a speedy trial

A. The state and the defendant have the right to a speedy trial.

B. The time period for filing a bill of information or indictment after arrest shall be as follows:

(1)(a) When the defendant is continued in custody subsequent to an arrest, an indictment or information shall be filed within forty-five days of the arrest if the defendant is being held for a misdemeanor and within sixty days of the arrest if the defendant is being held for a felony.

(b) When the defendant is continued in custody subsequent to an arrest, an indictment shall be filed within one hundred twenty days of the arrest if the defendant is being held for a felony for which the punishment may be death or life imprisonment.

(2)(a) When the defendant is not continued in custody subsequent to arrest, an indictment or information shall be filed within ninety days of the arrest if the defendant is booked with a misdemeanor and one hundred fifty days of the arrest if the defendant is booked with a felony.

(b) Failure to institute prosecution as provided in Subparagraph (1) of this Paragraph shall result in release of the defendant if, after contradictory hearing with the district attorney, just cause for the failure is not shown. If just cause is shown, the court shall reconsider bail for the defendant. Failure to institute prosecution as provided in this Subparagraph shall result in the release of the bail obligation if, after contradictory hearing with the district attorney, just cause for the delay is not shown.

C. Upon filing of a bill of information or indictment, the district attorney shall set the matter for arraignment within thirty days unless just cause for a longer delay is shown.

D.(1) A motion by the defendant for a speedy trial, in order to be valid, must be accompanied by an affidavit by defendant's counsel certifying that the defendant and his counsel are prepared to proceed to trial within the delays set forth in this Article. Except as provided in Subparagraph (3) of this Paragraph, after the filing of a motion for a speedy trial by the defendant and his counsel, the time period for commencement of trial shall be as follows:

(a) The trial of a defendant charged with a felony shall commence within one hundred twenty days if he is continued in custody and within one hundred eighty days if he is not continued in custody.

(b) The trial of a defendant charged with a misdemeanor shall commence within thirty days if he is continued in custody and within sixty days if he is not continued in custody.

(2) Failure to commence trial within the time periods provided above shall result in the release of the defendant without bail or in the discharge of the bail obligation, if after contradictory hearing with the district attorney, just cause for the delay is not shown.

(3) After a motion for a speedy trial has been filed by the defendant, if the defendant files any subsequent motion which requires a contradictory hearing, the court may suspend, in accordance with Article 580, or dismiss upon a finding of bad faith the pending speedy trial motion. In addition, the period of time within which the trial is required to commence, as set forth by Article 578, may be suspended, in accordance with Article 580, from the time that the subsequent motion is filed by the defendant until the court rules upon such motion.

E. "Just cause" as used in this Article shall include any grounds beyond the control of the State or the Court.

F. A motion for a speedy trial filed by the defendant, but not verified by the affidavit of his counsel, shall be set for contradictory hearing within thirty days.

Amended by Acts 1981, No. 181, §1; Acts 1982, No. 462, §1; Acts 1993, No. 682, §1; Acts 2007, No. 295, §1; Acts 2018, No. 259, §1.

Art. 812. Same; polling and disposition of jury

A. The court shall order the clerk to poll the jury if requested by the state or the defendant. The poll shall be conducted in writing by applying the procedures of this Article, and shall be done in open court.

B.(1) The procedure for the written polling of the jury shall require that the clerk hand to each juror a separate piece of paper containing the name of the juror and the words "Is this your verdict?" Each juror shall write on the slip of paper the words "Yes" or "No" along with his signature. The clerk shall collect the slips of paper, make them available for inspection by the court and counsel, and record the results.

(2) If a sufficient number of jurors as required by law to reach a verdict answer "yes" the clerk shall so inform the court. Upon verification of the results, the court shall order the clerk to record the verdict and order the jury discharged. If an insufficient number required to find a verdict answer "Yes," the court may remand the jury for further deliberation, or the court may declare a mistrial in accordance with Article 775. The polling slips may be placed under seal upon order of the court, which shall state the specific reasons for placing the polling slips under seal. If so ordered the polling slips shall not be released to the public without a subsequent order of the court authorizing their release. If the court orders the release of the polling slips, the names of the jurors shall be redacted.

Amended by Acts 1975, No. 475, §1; Acts 2018, No. 335, §1.

Art. 814. Responsive verdicts; in particular

A. The only responsive verdicts which may be rendered when the indictment charges the following offenses are:

1. First Degree Murder:

Guilty.

Guilty of second degree murder.

Guilty of manslaughter.

Not guilty.

2. Attempted First Degree Murder:

Guilty.

Guilty of attempted second degree murder.

Guilty of attempted manslaughter.

Guilty of aggravated battery.
Guilty of aggravated assault with a firearm.
Not guilty.
3. Second Degree Murder:
Guilty.
Guilty of manslaughter.
Guilty of negligent homicide.
Not guilty.
4. Attempted Second Degree Murder:
Guilty.
Guilty of attempted manslaughter.
Guilty of aggravated battery.
Guilty of aggravated assault with a firearm.
Not guilty.
5. Manslaughter:
Guilty.
Guilty of negligent homicide.
Not guilty.
6. Attempted Manslaughter:
Guilty.
Guilty of aggravated battery.
Not guilty.
7. Negligent Homicide:
Guilty.
Not guilty.
8. Vehicular homicide:
Guilty.
Guilty of negligent homicide.
Not guilty.
9. Vehicular negligent injuring:
Guilty.
Guilty of negligent injuring.
Guilty of operating a vehicle while intoxicated.
Not guilty.
10. First degree vehicular negligent injuring:
Guilty.
Guilty of vehicular negligent injuring.
Guilty of negligent injuring.
Guilty of operating a vehicle while intoxicated.
Not guilty.
11. First degree rape (formerly titled aggravated rape):
Guilty.
Guilty of attempted first degree rape.
Guilty of second degree rape.

Guilty of attempted second degree rape.
Guilty of sexual battery.
Guilty of third degree rape.
Guilty of attempted third degree rape.
Guilty of oral sexual battery.
Not guilty.
12. First degree rape (formerly titled aggravated rape) of a child under the age of thirteen:
Guilty.
Guilty of attempted first degree rape.
Guilty of second degree rape.
Guilty of attempted second degree rape.
Guilty of third degree rape.
Guilty of attempted third degree rape.
Guilty of sexual battery.
Guilty of molestation of a juvenile or a person with a physical or mental disability.
Guilty of attempted molestation of a juvenile or a person with a physical or mental disability.
Guilty of indecent behavior with a juvenile.
Guilty of attempted indecent behavior with a juvenile.
Not guilty.
13. Attempted first degree rape (formerly titled aggravated rape):
Guilty.
Guilty of attempted second degree rape.
Guilty of attempted third degree rape.
Not guilty.
14. Second degree rape (formerly titled forcible rape):
Guilty.
Guilty of attempted second degree rape.
Guilty of third degree rape.
Guilty of attempted third degree rape.
Guilty of sexual battery.
Not guilty.
15. Attempted second degree rape (formerly titled forcible rape):
Guilty.
Guilty of attempted third degree rape.
Not guilty.
16. Third degree rape (formerly titled simple rape):
Guilty.
Guilty of attempted third degree rape.
Guilty of sexual battery.
Not guilty.
17. Attempted third degree rape (formerly titled simple rape):
Guilty.
Not guilty.

18. Aggravated Battery:
Guilty.
Guilty of second degree battery.
Guilty of simple battery.
Not guilty.
19. Disarming of a Peace Officer:
Guilty.
Guilty of attempted disarming of a peace officer.
Guilty of battery of a police officer.
Guilty of aggravated assault.
Not guilty.
20. Aggravated Second Degree Battery:
Guilty.
Guilty of aggravated battery.
Guilty of second degree battery.
Guilty of simple battery.
Not guilty.
21. Second Degree Battery:
Guilty.
Guilty of simple battery.
Not guilty.
22. Vehicular negligent injuring:
Guilty.
Not guilty.
23. Aggravated Assault:
Guilty.
Guilty of simple assault.
Not guilty.
24. Simple Battery:
Guilty.
Not guilty.
25. Aggravated Kidnapping:
Guilty.
Guilty of attempted aggravated kidnapping.
Guilty of second degree kidnapping.
Guilty of attempted second degree kidnapping.
Guilty of simple kidnapping.
Guilty of attempted simple kidnapping.
Not guilty.
26. Attempted Aggravated Kidnapping:
Guilty.
Guilty of attempted second degree kidnapping.
Guilty of attempted simple kidnapping.
Not guilty.

27. Simple Kidnapping:
Guilty.
Guilty of attempted simple kidnapping.
Not guilty.
28. Attempted Simple Kidnapping:
Guilty.
Not guilty.
29. Armed Robbery:
Guilty.
Guilty of attempted armed robbery.
Guilty of first degree robbery.
Guilty of attempted first degree robbery.
Guilty of simple robbery.
Guilty of attempted simple robbery.
Not guilty.
30. Attempted Armed Robbery:
Guilty.
Guilty of attempted first degree robbery.
Guilty of attempted simple robbery.
Not guilty.
31. First Degree Robbery:
Guilty.
Guilty of attempted first degree robbery.
Guilty of simple robbery.
Guilty of attempted simple robbery.
Not guilty.
32. Simple Robbery:
Guilty.
Guilty of attempted simple robbery.
Not guilty.
33. Attempted Simple Robbery:
Guilty.
Not guilty.
34. Theft:
Guilty of theft of property having a value of twenty-five thousand dollars or more.
Guilty of theft of property having a value of five thousand dollars or more, but less than twenty-five thousand dollars.
Guilty of theft of property having a value of one thousand dollars or more, but less than five thousand dollars.
Guilty of theft of property having a value of less than one thousand dollars.
Guilty of attempted theft of property having a value of twenty-five thousand dollars or more.
Guilty of attempted theft of property having a value of five thousand dollars or more, but less than twenty-five thousand dollars.

Guilty of attempted theft of property having a value of one thousand dollars or more, but less than five thousand dollars.

Guilty of attempted theft of property having a value of less than one thousand dollars.

Guilty of unauthorized use of movables having a value in excess of one thousand dollars.

Guilty of unauthorized use of movables having a value of one thousand dollars or less.

Not guilty.

35. Attempted Theft:

Guilty of attempted theft of property having a value of twenty-five thousand dollars or more.

Guilty of attempted theft of property having a value of five thousand dollars or more, but less than twenty-five thousand dollars.

Guilty of attempted theft of property having a value of one thousand dollars or more, but less than five thousand dollars.

Guilty of attempted theft of property having a value of less than one thousand dollars.

Guilty of attempted unauthorized use of movables having a value in excess of one thousand dollars.

Guilty of attempted unauthorized use of movables having a value of one thousand dollars or less.

Not guilty.

36. Aggravated Arson:

Guilty.

Guilty of simple arson where the damage amounted to five hundred dollars or more.

Guilty of simple arson where the damage amounted to less than five hundred dollars.

The simple arson verdicts are responsive only if the words "belonging to another and with damage amounting to _____ dollars" are included in the indictment.

Not guilty.

37. Attempted Aggravated Arson:

Guilty.

Guilty of attempted simple arson where the damage would have amounted to five hundred dollars or more.

Guilty of attempted simple arson where the damage would have amounted to less than five hundred dollars.

The attempted simple arson verdicts are responsive only if the words "belonging to another and with damage that would have amounted to _____ dollars" are included in the indictment.

Not guilty.

38. Simple Arson:

Guilty of simple arson where the damage done amounted to five hundred dollars or more.

Guilty of simple arson where the damage done amounted to less than five hundred dollars.

Not guilty.

39. Attempted Simple Arson:

Guilty of attempted arson where the damage would have amounted to five hundred dollars or more.

Guilty of attempted simple arson where the damage would have amounted to less than five hundred dollars.

Not guilty.

40. Arson With Intent to Defraud:

Guilty.

Not guilty.

41. Attempted Arson With Intent to Defraud:

Guilty.

Not guilty.

42. Aggravated Criminal Damage to Property:

Guilty.

Guilty of simple criminal damage to property where the damage amounted to fifty thousand dollars or more.

Guilty of simple criminal damage to property where the damage amounted to one thousand dollars or more, but less than fifty thousand dollars.

Guilty of simple criminal damage to property where the damage amounted to less than one thousand dollars.

The simple criminal damage to property verdicts are responsive only if the words "belonging to another and with damage amounting to _____ dollars" are included in the indictment.

Not guilty.

43. Attempted Aggravated Criminal Damage to Property:

Guilty.

Guilty of attempted simple criminal damage to property where the damage would have amounted to fifty thousand dollars or more.

Guilty of attempted simple criminal damage to property where the damage would have amounted to one thousand dollars or more, but less than fifty thousand dollars.

Guilty of attempted simple criminal damage to property where the damage would have amounted to less than one thousand dollars.

The attempted simple criminal damage to property verdicts are responsive only if the words "belonging to another and with damage that would have amounted to _____ dollars" are included in the indictment.

Not guilty.

44. Simple Criminal Damage to Property:

Guilty of simple criminal damage to property where the damage done amounted to fifty thousand dollars or more.

Guilty of simple criminal damage to property where the damage done amounted to one thousand dollars or more, but less than fifty thousand dollars.

Guilty of simple criminal damage to property where the damage done amounted to less than one thousand dollars.

Not guilty.

45. Attempted Simple Criminal Damage to Property:

Guilty of attempted simple criminal damage to property where the damage would have amounted to fifty thousand dollars or more.

Guilty of attempted simple criminal damage to property where the damage would have amounted to one thousand dollars or more, but less than fifty thousand dollars.

Guilty of attempted simple criminal damage to property where the damage would have amounted to less than one thousand dollars.

Not guilty.

46. Damage to Property With Intent to Defraud:

Guilty.

Not guilty.

47. Attempted Damage to Property With Intent to Defraud:

Guilty.

Not guilty.

48. Aggravated Burglary:

Guilty.

Guilty of attempted aggravated burglary.

Guilty of simple burglary.

Guilty of attempted simple burglary.

Guilty of simple burglary of an inhabited dwelling.

Guilty of attempted simple burglary of an inhabited dwelling.

Guilty of unauthorized entry of an inhabited dwelling.

Guilty of attempted unauthorized entry of an inhabited dwelling.

Not guilty.

49. Attempted Aggravated Burglary:

Guilty.

Guilty of attempted simple burglary.

Guilty of attempted simple burglary of an inhabited dwelling.

Guilty of attempted unauthorized entry of an inhabited dwelling.

Not guilty.

50. Simple Burglary:

Guilty.

Guilty of attempted simple burglary.

Guilty of unauthorized entry of a place of business.

Guilty of attempted unauthorized entry of a place of business.

Not guilty.

51. Simple Burglary of an Inhabited Dwelling:

Guilty.

Guilty of attempted simple burglary of an inhabited dwelling.

Guilty of unauthorized entry of an inhabited dwelling.

Guilty of attempted unauthorized entry of an inhabited dwelling.

Not guilty.

52. Attempted Simple Burglary:

Guilty.

Not guilty.

53. Aggravated Flight from an Officer:

Guilty.

Guilty of flight from an officer.

Not guilty.

54. Contamination of Water Supplies:

Guilty of contaminating water supplies when the act foreseeably endangered the life or health of human beings.

Guilty of contaminating water supplies when the act did not foreseeably endanger the life or health of human beings.

Not guilty.

55. Attempted Contamination of Water Supplies:

Guilty of attempted contamination of water supplies when the act would foreseeably endanger the life or health of human beings.

Guilty of attempted contamination of water supplies when the act would not foreseeably endanger the life or health of human beings.

Not guilty.

56. Production, Manufacture, Distribution or Dispensation of Controlled Dangerous Substances:

Guilty.

Guilty of attempted production, manufacture, distribution or dispensation of controlled dangerous substances.

Guilty of possession of controlled dangerous substances.

Guilty of attempted possession of controlled dangerous substances.

Not guilty.

57. Possession of Controlled Dangerous Substances With Intent to Produce, Manufacture, Distribute, or Dispense:

Guilty.

Guilty of attempted possession of controlled dangerous substances with intent to produce, manufacture, distribute, or dispense.

Guilty of possession of controlled dangerous substances.

Guilty of attempted possession of controlled dangerous substances.

Not guilty.

58. Possession of Controlled Dangerous Substances:

Guilty.

Guilty of attempted possession of controlled dangerous substances.

Not guilty.

59. Possession of Cocaine:

Guilty.

Guilty of attempted possession of cocaine.

Guilty of possession of drug paraphernalia.

Not guilty.

The possession of drug paraphernalia verdict is responsive only if there is evidence of drug paraphernalia, as defined in R.S. 40:1021, in the charged offense of possession of cocaine.

60. Attempted Production or Manufacture of Controlled Dangerous Substances:

Guilty.

Guilty of attempted possession of controlled dangerous substances.

Not guilty.

61. Attempted Distribution or Dispensation of Controlled Dangerous Substances:

Guilty.

Guilty of possession of controlled dangerous substances.

Guilty of attempted possession of controlled dangerous substances.

Not guilty.

62. Attempted Possession of Controlled Dangerous Substances With Intent to Produce, Manufacture, Distribute or Dispense:

Guilty.

Guilty of attempted possession of controlled dangerous substances.

Not guilty.

63. Creation or Distribution of Counterfeit Controlled Dangerous Substances:

Guilty.

Guilty of attempted creation or distribution of counterfeit controlled dangerous substances.

Not guilty.

64. Possession of Counterfeit Controlled Dangerous Substances With Intent to Distribute:

Guilty.

Guilty of attempted possession of counterfeit controlled dangerous substances with intent to distribute.

Not guilty.

65. Attempted Creation, Distribution, or Possession of Counterfeit Controlled Dangerous Substances With Intent to Distribute:

Guilty.

Not guilty.

66. Conspiracy to Violate any Provision of the Uniform Controlled Dangerous Substances Law:

Guilty.

Not guilty.

67. Cruelty to Persons with Infirmities:

Guilty.

Guilty of attempted cruelty to persons with infirmities.

Guilty of simple battery.

Guilty of assault.

Guilty of negligent injuring.

Not guilty.

68. Solicitation of Crime Against Nature:

Guilty.

Guilty of attempted solicitation of crime against nature.

Guilty of prostitution.

Not guilty.

B.(1) Except as provided in Paragraph A of this Article, responsive verdicts in any other cases arising under the Uniform Controlled Dangerous Substances Law shall be governed by Article 815 of this Code.

(2) For purposes of this Article and Article 815, for any offense arising under the Uniform Controlled Dangerous Substances Law that is graded according to the weight of the

substance, the responsive verdicts shall include grades of the offense that are based upon lesser weights than the weight of the substance that is charged in the indictment.

C. Upon motion of the state or the defendant, or on its own motion, the court shall exclude a responsive verdict listed in Paragraph A if, after all the evidence has been submitted, the evidence, viewed in a light most favorable to the state, is not sufficient reasonably to permit a finding of guilty of the responsive offense.

D. Where an offense is graded according to property value or amount of damage, the responsive verdicts shall not include a grade of the offense that is greater than the property value or amount of damage charged in the indictment.

Amended by Acts 1973, No. 126, §1; Acts 1975, No. 334, §1; Acts 1975, No. 335, §1; Acts 1975, No. 336, §§1, 2; Acts 1976, No. 85, §1; Acts 1978, No. 247, §1; Acts 1982, No. 763, §1. Amended by Acts 1983, 1st Ex. Sess., No. 28, §1; Acts 1983, No. 633, §1; Acts 1983, No. 635, §1; Acts 1985, No. 791, §1; Acts 1985, No. 799, §1; Acts 1986, No. 646, §1; Acts 1988, No. 926, §1; Acts. 1988, No. 927, §1; Acts 1988, No. 928, §1; Acts 1991, No. 465, §1; Acts 1992, No. 307, §1; Acts 1995, No. 403, §2, eff. June 17, 1995; Acts 1997, No. 400, §1; Acts 1997, No. 558, §1; Acts 1997, No. 865, §1; Acts 2001, No. 321, §1; Acts 2001, No. 1093, §1; Acts 2003, No. 164, §1; Acts 2003, No. 623, §1; Acts 2003, No. 720, §1; Acts 2004, No. 739, §1; Acts 2006, No. 52, §1; Acts 2006, No. 235, §1; Acts 2010, No. 396, §2; Acts 2014, No. 61, §1; Acts 2014, No. 255, §§2, 4, and 5; Acts 2014, No. 811, §31, eff. June 23, 2014; Acts 2015, No. 184, §6; Acts 2018, No. 680, §1.

NOTE: Art. 875.1 as enacted by Acts 2017, No. 260, §1 and as amended by Acts 2018, No. 668, eff. Aug. 1, 2019. See Acts 2018, No. 137, §1 and No. 668, §§4 and 6.

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. If, at the termination or end of the defendant's term of supervision, any restitution ordered by the court remains outstanding, the balance of the unpaid restitution shall be reduced to a civil money judgment in favor of the person to whom restitution is owed, which may be enforced in the same manner as provided for the execution of judgments pursuant to the Code of Civil Procedure. For any civil money judgment ordered under this Article, the clerk shall send notice of the judgment to the last known address of the person to whom the restitution is ordered to be paid.

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

Repealed by Acts 1995, No. 942, §3; Acts 2017, No. 260, §1, eff. Aug. 1, 2019; Acts 2018, No. 137, §1, eff. Aug. 1, 2018; Acts 2018, No. 668, §1, eff. Aug. 1, 2019, §4, eff. Aug. 1, 2018.

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 eff. until Aug. 1, 2019. See Acts 2017, No. 260, §1 and Acts 2018, No. 137, §1 and No. 668, §4.

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, eff. Aug. 1, 2019. See Acts 2018, No. 137, §1 and No. 668, §4.

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. Aug. 1, 2019; Acts 2018, No. 137, §1, eff. Aug. 1, 2018; Acts 2018, No. 668, §4, eff. Aug. 1, 2018.

Art. 884. Sentence of fine with imprisonment for default

NOTE: Art. 884 eff. until Aug. 1, 2019. See Acts 2017, No. 260, §1 and Acts 2018, No. 137, §1 and No. 668, §4.

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, eff. Aug. 1, 2019. See Acts 2018, No. 137, §1 and No. 668, §4.

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. Aug. 1, 2019; Acts 2018, No. 137, §1, eff. Aug. 1, 2018; Acts 2018, No. 668, §4, eff. Aug. 1, 2018.

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

NOTE: Paragraph A eff. until Aug. 1, 2019. See Acts 2017, No. 260,§1 and Acts 2018, No. 137, §1 and No. 668, §4.

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, eff. Aug. 1, 2019. See Acts 2018, No. 137, §1 and No. 668, §4.

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 eff. until Aug. 1, 2019. See Acts 2017, No. 260,§1 and Acts 2018, No. 137, §1 and No. 668, §4.

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, eff. Aug. 1, 2019. See Acts 2018, No. 137, §1 and No. 668, §4.

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 eff. until Aug. 1, 2019. See Acts 2017, No. 260,§1 and Acts 2018, No. 137, §1 and No. 668, §4.

D. The department shall not reinstate, return, reissue, or renew a driver's license in its possession pursuant to this Article 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, eff. Aug. 1, 2019. See Acts 2018, No. 137, §1 and No. 668, §4.

D. The department shall reinstate, return, reissue, or renew a driver's license in its possession pursuant to this Article 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. Aug. 1, 2019; Acts 2018, No. 137, §1, eff. Aug. 1, 2018; Acts 2018, No. 668, §4, eff. Aug. 1, 2018.

Art. 887. Defendant's liability for costs; suspension of costs; no advance costs

A. A defendant who is convicted of an offense or is the person owing a duty of support in a support proceeding shall be liable for all costs of the prosecution or proceeding, whether or not costs are assessed by the court, and such costs are recoverable by the party or parties who incurred the expense. However, such defendant or person shall not be liable for costs if acquitted or if the prosecution or proceeding is dismissed. In addition, any judge of a district court, parish court, city court, traffic court, juvenile court, family court, or magistrate of a mayor's court within the state shall be authorized to suspend court costs.

B. All processes of the court shall issue without the payment of advance costs.

C. In addition to the costs provided in Paragraph A of this Article, a person convicted of a violation of R.S. 14:98 or 98.6, or any municipal or parochial ordinance defining the offense of operating a motor vehicle, aircraft, watercraft, vessel, or other motorized means of conveyance under the influence of alcohol or drugs, who was subjected to a blood, breath, or urine analysis for alcohol or any controlled dangerous substance listed in R.S. 40:964, Schedule I, II, III, IV, or V, shall be assessed an additional one hundred twenty-five dollars as special costs. Such costs shall be paid in the following manner: seventy-five dollars to the governing authority owning the instrument used to perform the analysis, and fifty dollars to the governing authority whose agency performed the analysis. If the office of state police performed or participated in a blood, breath, or urine analysis for which these costs are assessed, that portion of the costs applicable to the office of state police shall be forwarded to the applied technology unit within the office of state police and forwarded for disposition in accordance with R.S. 40:1379.7. In the event the

person is unable to pay the fine when assessed, the court may allow payment within certain time limits, based on the person's ability to pay such costs.

D. In addition to the costs provided in Paragraphs A and C, a person convicted of a violation of R.S. 14:98, R.S. 14:98.1, or of any municipal or parochial ordinance defining the offense of operating a motor vehicle while under the influence of alcohol or drugs, shall be assessed an additional fifty dollars as special costs to be used to defray expenses of administering conditions of probation or of incarceration. If the offender is incarcerated, such costs shall be paid to the sheriff or other custodian of the facility in which the offender is incarcerated. If the offender is placed on probation as provided in R.S. 14:98(B) or (C) or R.S. 14:98.1(D) or (E), the court may order the apportionment and payment of all or a part of such costs to the agencies or persons responsible for administering the prescribed substance abuse program, driver improvement program, or community service activities. In addition, the person convicted of a violation of R.S. 14:98, R.S. 14:98.1, or of any such municipal or parochial ordinance shall be assessed costs of the witness fee provided by R.S. 15:255.

E. Repealed by Acts 2009, No. 440, §2.

F.(1) In addition to the costs provided in Paragraphs A, C, D, and E of this Article, a person convicted of a felony, a misdemeanor, or ordinance of any local government, including a traffic felony, a traffic misdemeanor, or a local traffic violation, shall be assessed an additional three dollars as a special court cost, provided that such additional cost shall be one dollar in mayor's courts in municipalities with a population of two thousand or less. Such special costs shall be imposed by all courts, including mayor's courts and magistrate courts, and shall be used for implementation of the master plan for the development of a trial court case management information system and for the fast-tracked prototype development of the criminal disposition component thereof in order to define and meet the needs of clerks of court, trial court judges, law enforcement and corrections officials, the supreme court, the legislature, and the general public, and for the implementation of an integrated juvenile justice information system for use in all courts exercising juvenile court jurisdiction. The proceeds of the special cost shall be deposited in the state treasury monthly on or before the tenth day of each calendar month. 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 in the state treasury, as required above, shall be credited to the special fund hereby created in the state treasury to be known as the Trial Court Case Management Information Fund. The disbursement of the proceeds from the fund shall be made on the warrant of the judicial administrator of the supreme court drawn on the state treasury. The monies in this fund shall be used solely for the purposes identified in this Paragraph, including necessary and associated administrative expenses. All unexpended and unencumbered monies in this fund at the end of the fiscal year shall remain in such fund. All monies in this fund shall be invested by the state treasurer in the same manner as monies in the general fund with interest earned on the investment of these monies credited to this fund following compliance with the requirements of Article VII, Section 9(B), relative to the Bond Security and Redemption Fund.

(2) In Jefferson Parish, in addition to the costs in Paragraphs A, C, D, and E, a person convicted of an offense against the state of Louisiana shall be assessed a special court cost in the following amounts: in the case of a misdemeanor, an additional twenty-five dollars, and in the case of a felony, an additional fifty dollars. The amount so assessed shall be collected on behalf of the clerk of court's office, in the manner that fines are collected in criminal cases. The funds

shall be transmitted to the clerk of court's office to be used by the clerk in his discretion to defray the expenses of his office.

(3) In Natchitoches Parish, in addition to the costs in Paragraphs A, C, D, E, G, and H and Subparagraph (1) of this Paragraph, a person convicted of an offense against the state of Louisiana, including a plea of guilty or nolo contendere, shall be assessed a special court cost in the amount of ten dollars in any prosecution initiated by the district attorney. Such special costs shall be imposed by the Tenth Judicial District Court and the City Court of Natchitoches. The amount so assessed shall be collected on behalf of the parish sheriff's office, in the manner that fines are collected in criminal cases. The funds shall be paid into the treasury of the parish and deposited into the Criminal Court Fund pursuant to R.S. 15:571.11, which statute shall govern the disposition of the additional court costs.

G. In addition to the costs provided in Paragraphs A, C, D, E, and F, a person convicted of a violation of the Uniform Controlled Dangerous Substances Law may be assessed an additional one hundred dollars as special costs of court. Such special costs shall be imposed by all courts and shall be used for the development or maintenance of Drug Abuse Resistance Education (D.A.R.E.) programs. The amount so assessed shall be collected on behalf of the parish sheriff's office, to be distributed among agencies providing the D.A.R.E. programs based upon the number of programs each agency offers within the public and private educational systems of the parish.

H. In addition to the costs provided in Paragraphs A, C, D, E, F, and G, a person convicted of a felony, a misdemeanor, or ordinance of any local government may be assessed additional reasonable costs to cover the costs expended by the sheriff, marshal, constable, or municipal police in the execution of a bench warrant, or a fugitive warrant, or both. An itemized statement of expenses shall be prepared and submitted for review and assessment by the court at the time of sentencing. Such costs shall be paid to the sheriff, marshal, constable, or municipal police as reimbursement of expenses incurred in the execution of such warrant.

Amended by Acts 1994, 3rd Ex. Sess., No. 109, §1; Acts 1995, No. 1064, §1; Acts 1995, No. 1276, §1; Acts 1997, No. 1296, §1, eff. July 15, 1997; Acts 1999, No. 705, §1; Acts 1999, No. 1255, §1; Acts 2001, No. 1200, §1; Acts 2009, No. 440, §2; Acts 2011, No. 23, §1; Acts 2018, No. 198, §1.

Art. 888. Costs and fines; payment

NOTE: Art. 888 eff. until Aug. 1, 2019. See Acts 2017, No. 260,§1 and Acts 2018, No. 137, §1 and No. 668, §4.

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, eff. Aug. 1, 2019. See Acts 2018, No. 137, §1 and No. 668, §4.

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. Aug. 1, 2019; Acts 2018, No. 137, §1, eff. Aug. 1, 2018; Acts 2018, No. 668, §4, eff. Aug. 1, 2018.

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, except as provided by Paragraph H of this Article.

(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.

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 a noncapital felony or after a third or 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) Enter and complete a mental health court program established pursuant to R.S. 13:5351 et seq.

(iv) Enter and complete a Veterans Court program established pursuant to R.S. 13:5361 et seq.

(v) Enter and complete a reentry court program established pursuant to R.S. 13:5401.

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

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

(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.

G. If the court, with the consent of the district attorney, orders a defendant to enter and complete a program provided by the drug division of the district court pursuant to R.S. 13:5301, an established driving while intoxicated court or sobriety court program, a mental health court program established pursuant to R.S. 13:5351 et seq., a Veterans Court program established pursuant to R.S. 13:5361 et seq., a reentry court established pursuant to R.S. 13:5401, or the Swift and Certain Probation Pilot Program established pursuant to R.S. 13:5371, the court may place the defendant on probation for a period of not more than eight years if the court determines that successful completion of the program may require that period of probation to exceed the 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.

H.(1) If a defendant is placed on supervised probation, the division of probation and parole shall submit to the court a compliance report when requested by the court, or when the division of probation and parole deems it necessary to have the court make a determination with respect to "earned compliance credits", modification of terms or conditions of probation, termination of probation, revocation of probation, or other purpose proper under any provision of law.

(2) For purposes of this Paragraph:

(a) "Compliance" means the full completion of the terms and conditions of probation as imposed by the sentencing judge, except for inability to pay fines, fees, or restitution.

(b) "Compliance report" means a report generated and signed by the division of probation and parole that contains clear and concise information relating to the defendant's performance relative to "earned compliance credits", and may contain a recommendation as to early termination.

(3) After a review of the compliance report, if it is the recommendation of the division of probation and parole that the defendant is in compliance with the conditions of probation, in accordance with the compliance report, the court shall grant "earned compliance credit" for the time, absent a showing of cause for a denial.

(4) The court may terminate probation at any time as "satisfactorily completed" upon the final determination that the defendant is in compliance with the terms and conditions of probation.

(5) If the court determines that the defendant has failed to successfully complete the terms and conditions of probation, the court may extend the probation for a period not to exceed two years, for the purpose of allowing the defendant additional time to complete the terms of probation, additional conditions, the extension of probation, or the revocation of probation.

(6) Absent extenuating circumstances, the court shall, within ten days of receipt of the compliance report, make an initial determination as to the issues presented and shall transmit the decision to the probation officer. The court shall disseminate the decision to the defendant, the division of probation and parole, and the prosecuting agency within ten days of receipt. The parties

shall have ten days from receipt of the initial determination of the court to seek an expedited contradictory hearing for the purpose of challenging the court's determination. If no challenge is made within ten days, the court's initial determination shall become final and shall constitute a valid order of the court.

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. Nov. 1, 2017; Acts 2018, No. 508, §1; Acts 2018, No. 668, §2.

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 eff. until Aug. 1, 2019. See Acts 2017, No. 260,§1 and Acts 2018, No. 137, §1 and No. 668, §4.

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: Paragraph D as amended by Acts 2017, No. 260, §1, eff. Aug. 1, 2019. See Acts 2018, No. 137, §1 and No. 668, §4.

Probation shall neither be revoked nor extended based solely upon the defendant's inability to pay fines, fees, or restitution to the victim.

Acts 2006, No. 823, §1; Acts 2010, No. 808, §1; Acts 2017, No. 260, §1, eff. Aug. 1, 2019; Acts 2018, No. 137, §1, eff. Aug. 1, 2018; Acts 2018, No. 668, §1, eff. Aug. 1, 2019, §4 eff. Aug. 1, 2018.

Art. 895. Conditions of probation

A. When the court places a defendant on probation, it shall require the defendant to refrain from criminal conduct and to pay a supervision fee to defray the costs of probation supervision, and it may impose any specific conditions reasonably related to his rehabilitation, including any of the following. That the defendant shall:

(1) Make a full and truthful report at the end of each month;

(2) Meet his specified family responsibilities, including any obligations imposed in a court order of child support;

(3) Report to the probation officer as directed;

(4) Permit the probation officer to visit him at his home or elsewhere;

(5) Devote himself to an approved employment or occupation;

(6) Refrain from owning or possessing firearms or other dangerous weapons;

(7) Make reasonable reparation or restitution to the aggrieved party for damage or loss caused by his offense in an amount to be determined by the court;

(8) Refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;

(9) Remain within the jurisdiction of the court and get the permission of the probation officer before making any change in his address or his employment; and

(10) Devote himself to an approved reading program at his cost if he is unable to read the English language.

(11) Perform community service work.

(12) Submit himself to available medical, psychiatric, mental health, or substance abuse examination or treatment or both when deemed appropriate and ordered to do so by the probation and parole officer.

(13)(a) Agree to searches of his person, his property, his place of residence, his vehicle, or his personal effects, or any or all of them, at any time, by the probation or parole officer assigned to him or by any probation or parole officer who is subsequently assigned or directed by the Department of Public Safety and Corrections to supervise the person, whether the assignment or directive is temporary or permanent, with or without a warrant of arrest or with or without a search warrant, when the probation officer or the parole officer has reasonable suspicion to believe that the person who is on probation is engaged in or has been engaged in criminal activity.

(b) For those persons who have been convicted of a "sex offense" as defined in R.S. 15:541, agree to searches of his person, his property, his place of residence, his vehicle, or his personal effects, or any or all of them, at any time, by a law enforcement officer, duly commissioned in the parish or municipality where the sex offender resides or is domiciled, designated by his agency to supervise sex offenders, with or without a warrant of arrest or with or without a search warrant, when the officer has reasonable suspicion to believe that the person who is on probation is engaged in or has been engaged in criminal activity for which the person has not been charged or arrested while on probation.

B.(1) In felony cases, an additional condition of the probation may be that the defendant shall serve a term of imprisonment without hard labor for a period not to exceed two years.

(2) In felony cases assigned to the drug division probation program pursuant to the provisions of R.S. 13:5304, the court may impose as a condition of probation that the defendant successfully complete the intensive incarceration program established pursuant to R.S. 15:574.4.4. If the defendant is not accepted into the intensive incarceration program or fails to successfully complete the intensive incarceration program, the court shall reconsider the sentence imposed as provided in Article 881.1.

(3) In felony cases, an additional condition of the probation may be that the defendant be ordered to be committed to the custody of the Department of Public Safety and Corrections and be required to serve a sentence of not more than twelve months without diminution of sentence in the intensive incarceration program pursuant to the provisions of R.S. 15:574.4.4. Upon successful completion of the program, the defendant shall return to supervised probation for a period of time as ordered by the court, subject to any additional conditions imposed by the court and under the same provisions of law under which the defendant was originally sentenced. If an offender is denied entry into the intensive incarceration program for physical or mental health reasons or for failure to meet the department's suitability criteria, the department shall notify the sentencing court, and the offender shall be resentenced in accordance with the provisions of Article 881.1.

C. In cases of violations of the Uniform Controlled Dangerous Substances Law, the court may order the suspension or restriction of the defendant's driving privileges, if any, for all or part of the period of probation. In such cases, a copy of the order shall be forwarded to the Department of Public Safety and Corrections, which shall suspend the defendant's driver's license or issue a restricted license in accordance with the orders of the court. Additionally, the court may order the defendant to:

(1) Submit to and pay all costs for drug testing by an approved laboratory at the direction of his probation officer.

(2) Perform not less than one hundred sixty hours nor more than nine hundred sixty hours of community service work.

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

E. Before the court places a sexual offender on probation, it shall order the offender who has not previously been tested to submit to a blood and saliva test in accordance with R.S. 15:535. All costs shall be paid by the offender. Serial sexual offenders sentenced pursuant to R.S. 15:537(B) shall not be eligible for parole or probation.

F. In cases of any violation of Subpart (A)(1) of Part V of Chapter 1 of Title 14 of the Louisiana Revised Statutes of 1950 or R.S. 14:92(7), the court may order the defendant to submit to psychological evaluation and, if indicated, order him to obtain psychiatric or psychological counseling for all or part of the period of probation. All costs shall be paid by the defendant.

G. Before the court places the defendant on probation, it shall determine if the defendant has a high school degree or its equivalent and, if the defendant does not, it shall order the defendant to take a reading proficiency test. If the defendant scores below a sixth grade level on the reading proficiency test, the court shall condition probation upon the defendant's enrolling in and attending an adult education or reading program until he attains a sixth grade reading level or until his term of probation expires, whichever occurs first. All costs shall be paid by the defendant. If the court finds that there are no adult education or reading programs in the parish in which the defendant is domiciled, the defendant is unable to afford such a program, or attendance would create an undue hardship on the defendant, the court may suspend this condition of probation. The provisions of this Paragraph shall not apply to those defendants who are mentally, physically, or by reason of age, infirmity, dyslexia or other such learning disorders unable to participate.

H.(1) In cases where the defendant has been convicted of or adjudication has been deferred or withheld for the perpetration or attempted perpetration of a sex offense as defined in R.S. 15:541, and probation is permitted by law and when the court places a defendant on probation, the court shall order the offender to register as a sex offender and to provide notification in accordance with the provisions of R.S. 15:540 et seq.

(2) The defendant must state under oath where he will reside after sentencing and that he will advise the court of any subsequent change of address during the probationary period.

(3) No offender who is the parent, stepparent, or has legal custody and physical custody of the child who is the victim shall be released on probation unless the victim has received psychological counseling prior to the offender's release if the offender is returning to the residence or community in which the child resides. Such psychological counseling shall include an attempt by the health care provider to ease the psychological impact upon the child of the notice required under Subparagraph (1) of this Paragraph, including assisting the child in coping

with potential insensitive comments and actions by the child's neighbors and peers. The cost of such counseling shall be paid by the offender.

(4) Repealed by Acts 2007, No. 460, §3, eff. Jan. 1, 2008.

(5) The court may order that the conditions of probation as provided for in Subparagraph (1) of this Paragraph shall apply for each subsequent change of address made by the defendant during the probationary period.

I.(1) In cases where the defendant has been convicted of or where adjudication has been deferred or withheld for the perpetration or attempted perpetration of a sex offense as defined in R.S. 15:541 and the victim of that offense is a minor, the court may, if the department has the equipment and appropriately trained personnel, as an additional condition of probation, authorize the use of truth verification examinations to determine if the defendant has violated a condition of probation. If ordered by the court as a condition of probation, the Department of Public Safety and Corrections, division of probation and parole, is hereby authorized to administer a truth verification examination pursuant to the court order and the provisions of this Paragraph.

(2) Any examination conducted pursuant to the provisions of this Paragraph shall be subsequent to an allegation that the defendant has violated a condition of probation or at the discretion of the probation officer who has reason to believe that the defendant has violated a condition of probation.

(3) The truth verification examination shall be conducted by a trained and certified polygraphist or voice stress examiner.

(4) The results of the truth verification examination may be considered in determining the level of supervision and treatment needed by the defendant and in the determination of the probation officer as to whether the defendant has violated a condition of probation; however, such results shall not be used as evidence in court to prove that a violation of a condition of probation has occurred.

(5) The sexual offender may request a second truth verification examination to be conducted by a trained and certified polygraphist or voice stress examiner of his choice. The cost of the second examination shall be borne by the offender.

(6) For purposes of this Article:

(a) "Polygraph examination" shall mean an examination conducted with the use of an instrument or apparatus for simultaneously recording cardiovascular pressure, pulse and respiration, and variations in electrical resistance of the skin.

(b) "Truth verification examination" shall include a polygraph examination or a voice stress analysis.

(c) "Voice stress analysis" shall mean an examination conducted with the use of an instrument or apparatus which records psychophysiological stress responses that are present in a human voice when a person suffers psychological stress in response to a stimulus.

J. The defendant shall be given a certificate setting forth the conditions of his probation and shall be required to agree in writing to the conditions.

K. In cases where the defendant has been convicted of an offense involving criminal sexual activity, the court shall order as a condition of probation that the defendant successfully complete a sex offender treatment program. As part of the sex offender treatment program, the offender shall participate with a victim impact panel or program providing a forum for victims of criminal sexual activity and sex offenders to share experiences on the impact of the criminal sexual activity in their lives. The Department of Public Safety and Corrections shall establish guidelines to implement victim impact panels where, in the judgment of the licensed professional

responsible for the sexual treatment program, appropriate victims are available, and shall establish guidelines for other programs where such victims are not available. All costs for the sex offender treatment program shall be paid by the offender.

L. A conviction for any offense involving criminal sexual activity as provided for in Paragraph H of this Article, includes a conviction for an equivalent offense under the laws of another state. Criminal sexual offenders under the supervision and legal authority of the Department of Public Safety and Corrections pursuant to the terms and conditions of the interstate compact agreement provided for in R.S. 15:574.31 et seq. shall be notified of the registration requirements provided for in this Article at the time the department accepts supervision and has legal authority of the individual.

M.(1) In all cases where the defendant has been convicted of an offense of domestic abuse as provided in R.S. 46:2132(3) to a family or household member as provided in R.S. 46:2132(4), or of an offense of dating violence as provided in R.S. 46:2151(C) to a dating partner as provided in R.S. 46:2151(B), the court shall order that the defendant submit to and successfully complete a court-approved course of counseling or therapy related to family or dating violence, for all or part of the period of probation. If the defendant has already completed such a counseling program, said counseling requirement shall be required only upon a finding by the court that such counseling or therapy would be effective in preventing future domestic abuse or dating violence.

(2) All costs for the counseling or therapy shall be paid by the offender. In addition, the court may order that the defendant pay an amount not to exceed one thousand dollars to a family violence program located in the parish where the offense of domestic abuse occurred.

N. If a defendant is injured or suffers other loss in the performance of community service work required as a condition of probation, neither the state nor any political subdivision, nor any officer, agent, or employee of the state or political subdivision shall be liable for any such injury or loss, unless the injury or loss was caused by the gross negligence or intentional acts of the officer, agent, or employee of the state or political subdivision. No provision of this Paragraph shall negate any requirement that an officer, agent, or employee secure proper and appropriate medical assistance for a defendant who is injured while performing community service work and in need of immediate medical attention.

O.(1) Any mentor of an offender on probation under the supervision of any court division created pursuant to R.S. 13:5304, 5354, 5366, or 5401 shall not be liable for any injury or loss caused or suffered by an offender that arises out of the performance of duties as a mentor, unless the injury or loss was caused by the gross negligence or intentional acts of the mentor.

(2) Neither the court nor any officer, agent, or employee of the court shall be liable for any injury or loss to the offender, the mentor, or any third party for the actions of the mentor or the offender.

(3) As provided in this Subsection, "mentor" means a person approved by the court who volunteers to provide support and personal, educational, rehabilitation, and career guidance to the offender during probation and who has either completed a court-approved mentor training program or who has successfully completed his sentence pursuant to R.S. 13:5304, 5354, 5366, or 5401.

(4) Nothing in this Subparagraph shall affect the vicarious liability of the employer pursuant to Civil Code Article 2320 or the ability of an employee to file a claim for workers' compensation.

Amended by Acts 1994, 3rd Ex. Sess., No. 57, §1, eff. July 7, 1994; Acts 1994, 3rd Ex. Sess., No. 58, §2, eff. July 7, 1994; Acts 1994, 3rd Ex. Sess., No. 70, §2; Acts 1995, No. 605, §1, eff. June 18, 1995; Acts 1995, No. 906, §1; Acts 1995, No. 928, §2; Acts 1995, No. 1266, §1, eff. June 29, 1995; Acts 1995, No. 1290, §3; Acts 1995, No. 1291, §1; Acts 1995, No. 1303, §2; Acts 1997, No. 134, §1; Acts 1997, No.137, §1; Acts 1997, No. 520, §1; Acts 1997, No. 602, §1; Acts 1997, No. 1148, §1, eff. July 14, 1997; Acts 1999, No. 1150, §2; Acts 1999, No. 1157, §1; Acts 1999, No. 1209, §2; Acts 2001, No. 1206, §3; Acts 2003, No. 750, §2; Acts 2007, No. 460, §3, eff. Jan. 1, 2008; Acts 2008, No. 655; Acts 2008, No. 451, §1, eff. June 25, 2008; Acts 2009, No. 168, §1; Acts 2009, No. 362, §1; Acts 2012, No. 705, §2; Acts 2014, No. 271, §1; Acts 2016, No. 655, §1; Acts 2018, No. 351, §1.

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

NOTE: Subparagraph (A)(1) eff. until Aug. 1, 2019. See Acts 2017, No. 260,§1 and Acts 2018, No. 137, §1 and No. 668, §4.

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, eff. Aug. 1, 2019. See Acts 2018, No. 137, §1 and No. 668, §4.

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: Subsubparagraph (A)(2)(a) eff. until Aug. 1, 2019. See Acts 2017, No. 260,§1 and Acts 2018, No. 137, §1 and No. 668, §4.

(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 (A)(2)(a) as amended by Acts 2017, No. 260, §1, eff. Aug. 1, 2019. See Acts 2018, No. 137, §1 and No. 668, §4.

(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 which includes salaries for probation and parole officers. 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 eff. until Aug. 1, 2019. See Acts 2017, No. 260,§1 and Acts 2018, No. 137, §1 and No. 668, §4.

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, eff. Aug. 1, 2019. See Acts 2018, No. 137, §1 and No. 668, §4.

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.

NOTE: Subparagraph (F)(2) eff. until July 1, 2020. See Acts 2018, No. 612, §19.

(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.

NOTE: Subparagraph (F)(2) as amended by Acts 2018, No. 612, §19, eff. July 1, 2020.

(2) After compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, the treasurer shall classify and consider as fees and self-generated revenues available for appropriation as recognized by the Revenue Estimating Conference, an amount equal to that deposited as required by Subparagraph (1) of this Paragraph shall be credited to a special agency account to be retained for future appropriation as provided in this Article which is hereby created in the state treasury to be known as the "Sex Offender Registry Technology Account". The monies in this account shall be used solely as provided in Subparagraph (3) of this Paragraph and only in the amounts appropriated by the legislature.

NOTE: Paragraph (F)(3)(intro. para.) eff. until July 1, 2020. See Acts 2018, No. 612, §19.

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

NOTE: Paragraph (F)(3)(intro. para.) as amended by Acts 2018, No. 612, §19, eff. July 1, 2020.

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

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

NOTE: Subsubparagraph (F)(3)(b) eff. until July 1, 2020. See Acts 2018, No. 612, §19.

(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.

NOTE: Subsubparagraph (F)(3)(b) as amended by Acts 2018, No. 612, §19, eff. July 1, 2020.

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

(c) For Fiscal Year 2010-2011 through Fiscal Year 2013-2014, residual monies available for appropriation after satisfying the requirements of Subsubparagraphs (a) and (b) of this Subparagraph shall be appropriated to the Department of Justice, office of the attorney general. Of that residual amount, one hundred fifty thousand dollars shall be allocated to the office of the attorney general of which fifty thousand dollars shall be allocated for personnel and other costs to

assist and monitor sheriff participation in utilization of the computer system, and one hundred thousand dollars of which shall be allocated to the cost of maintenance of the computer system which shall interface with the computer systems of the sheriffs of the parishes for registration of sex offenders and child predators.

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

NOTE: Subsubparagraph (F)(3)(e) eff. until July 1, 2020. See Acts 2018, No. 612, §19.

(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.

NOTE: Subsubparagraph (F)(3)(e) as amended by Acts 2018, No. 612, §19, eff. July 1, 2020.

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

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. Aug. 1, 2019; Acts 2018, No. 137, §1, eff. Aug. 1, 2018; Acts 2018, No. 267, §2; Acts 2018, No. 612, §19, eff. July 1, 2020; Acts 2018, No. 668, §4, eff. Aug. 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 eff. until Aug. 1, 2019. See Acts 2017, No. 260,§1 and Acts 2018, No. 137, §1 and No. 668, §4.

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, eff. Aug. 1, 2019. See Acts 2018, No. 137, §1 and No. 668, §4.

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. Aug. 1, 2019; Acts 2018, No. 137, §1, eff. Aug 1, 2018; Acts 2018, No. 668, §4, eff. Aug. 1, 2018.

Art. 895.6. Compliance credits; probation

A.(1) Except as provided in Subparagraph (2) of this Paragraph, 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 be eligible to earn a diminution of probation term, to be known as "earned compliance credits", by good behavior, in accordance with the procedure provided in Article 893. 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.

(2) A defendant who is ordered by the court to enter and complete a specialty court program is not eligible to receive earned compliance credits pursuant to the provisions of this Article. For purposes of this Article, "specialty court program" includes any of the following: 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.

B.(1) 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.

(2) Notwithstanding any other provision of law to the contrary, the provisions of Article 899.2(A)(3) requiring consent of the defendant shall not apply to the rescinding of earned compliance credits as an administrative sanction under Article 899.2.

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; Acts 2018, No. 508, §1; Acts 2018, No. 668, §2.

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 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 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; Acts 2018, No. 668, §2, eff. Aug. 1, 2018.

Art. 900. Violation hearing; sanctions

A. After an arrest pursuant to Article 899, the court shall cause a defendant who continues to be held in custody to be brought before it within thirty days for a hearing. If a summons is issued pursuant to Article 899, or if the defendant has been admitted to bail, the court shall set the matter for a violation hearing within a reasonable time. The hearing may be informal or summary. The defendant may choose, with the court's consent, to appear at the violation hearing and stipulate the revocation by simultaneous audio-visual transmission in accordance with the provisions of Article 562. If the court decides that the defendant has violated, or was about to violate, a condition of his probation it may:

(1) Reprimand and warn the defendant.

(2) Order that supervision be intensified.

(3) Add additional conditions to the probation.

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

(a) There is bed space available.

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

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

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

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

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

(6)(a) Notwithstanding the provisions of Subparagraph (5) of this Paragraph, any defendant who has been placed on probation by the drug division probation program pursuant to R.S. 13:5304, and who has had his probation revoked under the provisions of this Article for a technical

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

(b) Notwithstanding the provisions of Subparagraph (5) of this Paragraph, any defendant who has been placed on probation by the court for the conviction of an offense other than a crime of violence as defined in R.S. 14:2(B) or of a sex offense as defined by R.S. 15:541, and who has been determined by the court to have committed a technical violation of his probation, shall be required to serve, 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 a fourth or subsequent violation, the court may order that the probation be revoked, in accordance with Subparagraph (5) of this Paragraph.

(v) 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.

(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; Acts 2018, No. 668, §2.

Art. 903. Substance abuse probation program; authorization

A. The secretary of the Department of Public Safety and Corrections is authorized to establish a substance abuse probation program within the department.

B. The program shall provide counseling and treatment for defendants with substance abuse disorders, or defendants with co-occurring mental illness and substance abuse disorders, who are sentenced to substance abuse probation pursuant to the provisions of Article 903.2.

C. The department may enter into cooperative endeavors or contracts with local governmental entities or the office of behavioral health, training facilities, and service providers to provide for substance abuse treatment and counseling and mental health treatment for defendants participating in the program.

D. The department shall adopt rules and guidelines as it deems necessary for the administration and implementation of this program.

E. The provisions of this Article shall be implemented only to the extent that funds are available within the department for this purpose and to the extent that is consistent with available resources and appropriate classification criteria.

Acts 2013, No. 389, §1; Acts 2015, No. 199, §2; Acts 2018, No. 431, §1.

NOTE: Pursuant to the Section 2 of Act No. 199 of the 2015 R.S., the provisions of Articles 903 through 903.3 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.

Art. 903.2. Substance abuse probation; sentencing

A. Notwithstanding any other provision of law to the contrary, a court shall suspend a sentence and order an eligible defendant to participate in a substance abuse probation program provided by the department pursuant to Article 903 if the district attorney agrees that the defendant should be sentenced to a substance abuse probation and the court finds all of the following:

(1) The court has reason to believe that the defendant suffers from an addiction to a controlled dangerous substance or any other mental health disorder.

(2) The defendant is likely to respond to the substance abuse probation program.

(3) The available substance abuse probation program is appropriate to meet the needs of the defendant.

(4) The defendant does not pose a threat to the community, and it is in the best interest of justice to provide the defendant with treatment as opposed to incarceration or other sanctions.

B.(1) The court shall order the department to assign an authorized evaluator to prepare a suitability report. The suitability report shall delineate the nature and degree of the treatment necessary to address the defendant's drug or alcohol dependency or addiction or mental health disorder, the reasonable availability of such treatment, and the defendant's appropriateness for the program. The district attorney and the defendant's attorney shall have an opportunity to provide relevant information to the evaluator to be included in the report.

(2) The authorized evaluator shall examine the defendant, using standardized testing and evaluation procedures, and shall provide to the court and the district attorney the results of the examination and evaluation along with its recommendation as to whether the defendant is a suitable candidate for the substance abuse probation program.

(3) If the court determines that the defendant should be enrolled in the substance abuse probation program, the court shall suspend the execution of the sentence and place the defendant on supervised probation under the terms and conditions of the substance abuse probation program.

(4) The defendant shall be required to participate in alcohol and drug testing at his own expense, unless the court determines that he is indigent. If the court determines that the defendant is indigent, it may order the defendant to perform supervised work for the benefit of the community in lieu of paying all or a part of the costs related to the drug and alcohol testing. The work shall be performed for and under the supervising authority of a parish, municipality, or other political subdivision or agency of the state or a charitable organization that renders service to the community or its residents.

C. If the judge fails to make all of the determinations provided for in Paragraph A of this Article, or if the district attorney does not agree that the defendant should be sentenced to substance abuse probation, the court shall impose the appropriate sentence provided by law.

D.(1) If the defendant violates any condition of his probation or if the defendant would benefit from an adjustment to the probation or treatment program, the defendant, the treatment supervisor, the probation officer, the district attorney, or the court, on its own motion, may file a motion to modify the terms and conditions of the probation or file a motion to revoke the defendant's probation. After a contradictory hearing on the motion, the court may do either of the following:

(a) Modify the conditions of probation, including ordering the defendant to participate in a drug division probation program pursuant to R.S. 13:5301 et seq.

(b) Revoke the defendant's probation and execute the sentence.

(2) A defendant placed on probation pursuant to the provisions of this Article shall be subject to the administrative sanctions provided for in Article 899.1.

(3) If the defendant's probation is revoked, the defendant shall be required to serve the suspended sentence and shall receive credit for time served in any correctional facility for commission of the crime as otherwise allowable by law.

E. The provisions of Article 893(A) and (E)(1)(b) which prohibit the court from suspending or deferring the imposition of sentences for violations of the Uniform Controlled Dangerous

Substances Law or for violations of R.S. 40:966(A), 967(A), 968(A), 969(A), or 970(A) shall not apply to defendants who otherwise meet the eligibility criteria for substance abuse probation programs as authorized by this Article.

F. The provisions of this Article shall not be construed to limit the authority of the court to defer a sentence for a violation of the Uniform Controlled Dangerous Substances Law as otherwise provided by law.

NOTE: Pursuant to the Section 2 of Act No. 199 of the 2015 R.S., the provisions of Articles 903 through 903.3 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.

Acts 2013, No. 389, §1; Acts 2018, No. 431, §1.

Art. 973. Effect of expunged record of arrest or conviction

A. An expunged record of arrest or conviction shall be confidential and no longer considered to be a public record and shall not be made available to any person or other entity except for the following:

(1) To a member of a law enforcement or criminal justice agency or prosecutor who shall request that information in writing, certifying that the request is for the purpose of investigating, prosecuting, or enforcing criminal law, for the purpose of any other statutorily defined law enforcement or administrative duties, or for the purposes of the requirements of sex offender registration and notification pursuant to the provisions of R.S. 15:540 et seq.

(2) On order of a court of competent jurisdiction and after a contradictory hearing for good cause shown.

(3) To the person whose record has been expunged or his counsel.

(4) To a member of a law enforcement or criminal justice agency, prosecutor, or judge, who requests that information in writing, certifying that the request is for the purpose of defending a law enforcement, criminal justice agency, or prosecutor in a civil suit for damages resulting from wrongful arrest or other civil litigation and the expunged record is necessary to provide a proper defense.

B. Upon written request therefor and on a confidential basis, the information contained in an expunged record may be released to the following entities that shall maintain the confidentiality of such record: the Office of Financial Institutions, the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of Psychologists, the Louisiana Board of Pharmacy, the Louisiana State Board of Social Work Examiners, the Emergency Medical Services Certification Commission, Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, the Louisiana Supreme Court Committee on Bar Admissions, the Louisiana Department of Insurance, the Louisiana Licensed Professional Counselors Board of Examiners, the Louisiana State Board of Chiropractic Examiners, or any person or entity requesting a record of all criminal arrests and convictions pursuant to R.S. 15:587.1, or as otherwise provided by law.

C. Except as to those persons and other entities set forth in Paragraph A of this Article, no person whose record of arrest or conviction has been expunged shall be required to disclose to any person that he was arrested or convicted of the subject offense, or that the record of the arrest or conviction has been expunged.

D. Any person who fails to maintain the confidentiality of records as required by the provisions of this Article shall be subject to contempt proceedings.

E. Nothing in this Article shall be construed to limit or impair in any way the subsequent use of any expunged record of any arrests or convictions by a law enforcement agency, criminal justice agency, or prosecutor including its use as a predicate offense, for the purposes of the Habitual Offender Law, or as otherwise authorized by law.

F. Nothing in this Article shall be construed to limit or impair the authority of a law enforcement official to use an expunged record of any arrests or convictions in conducting an investigation to ascertain or confirm the qualifications of any person for any privilege or license as required or authorized by law.

G. Nothing in this Article shall be construed to limit or impair in any way the subsequent use of any expunged record of any arrests or convictions by a "news-gathering organization". For the purposes of this Title, "news-gathering organization" means all of the following:

(1) A newspaper, or news publication, printed or electronic, of current news and intelligence of varied, broad, and general public interest, having been published for a minimum of one year and that can provide documentation of membership in a statewide or national press association, as represented by an employee thereof who can provide documentation of his employment with the newspaper, wire service, or news publication.

(2) A radio broadcast station, television broadcast station, cable television operator, or wire service as represented by an employee thereof who can provide documentation of his employment.

H. Nothing in this Article shall be construed to relieve a person who is required to register and provide notice as a child predator or sex offender of any obligations and responsibilities provided in R.S. 15:541 et seq.

Acts 2014, No. 145, §1; Acts 2018, No. 141, §1.

Art. 978. Motion to expunge record of arrest and conviction of a felony offense

A. Except as provided in Paragraph B of this Article, a person may file a motion to expunge his record of arrest and conviction of a felony offense if either of the following apply:

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

(2) More than ten years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole based on the felony conviction, and the person has not been convicted of any other criminal offense during the ten-year period, and has no criminal charge pending against him. The motion filed pursuant to this Subparagraph shall include a certification obtained from the district attorney which verifies that, to his knowledge, the applicant has no convictions during the ten-year period and no pending charges under a bill of information or indictment.

B. No expungement shall be granted nor shall a person be permitted to file a motion to expunge the record of arrest and conviction of a felony offense if the person was convicted of the commission or attempted commission of any of the following offenses:

(1) A crime of violence as defined by or enumerated in R.S. 14:2(B), unless otherwise authorized in Paragraph E of this Article.

(2)(a) Notwithstanding any provision of Article 893, a sex offense or a criminal offense against a victim who is a minor as each term is defined by R.S. 15:541, or any offense which occurred prior to June 18, 1992, that would be defined as a sex offense or a criminal offense against a victim who is a minor had it occurred on or after June 18, 1992.

(b) Any person who was convicted of carnal knowledge of a juvenile (R.S. 14:80) prior to August 15, 2001, is eligible for an expungement pursuant to the provisions of this Title if the offense for which the offender was convicted would be defined as misdemeanor carnal knowledge

of a juvenile (R.S. 14:80.1) had the offender been convicted on or after August 15, 2001. The burden is on the mover to establish that the elements of the offense of conviction are equivalent to the current definition of misdemeanor carnal knowledge of a juvenile as defined by R.S. 14:80.1. A copy of the order waiving the sex offender registration and notification requirements issued pursuant to the provisions of R.S. 15:542(F) shall be sufficient to meet this burden.

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

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

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

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

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

(4) The conviction was for domestic abuse battery.

C. The motion to expunge a record of arrest and conviction of a felony offense shall be served pursuant to the provisions of Article 979.

D. Expungement of a record of arrest and conviction of a felony offense shall occur only once with respect to any person during a fifteen-year period. The limitation provided in this Paragraph shall not apply to a person who is seeking the expungement of his record of arrest and conviction for a conviction that was set aside and the prosecution dismissed pursuant to Article 893(E).

E.(1) Notwithstanding any other provision of law to the contrary, after a contradictory hearing, the court may order the expungement of the arrest and conviction records of a person pertaining to a conviction of aggravated battery, second degree battery, aggravated criminal damage to property, simple robbery, purse snatching, or illegal use of weapons or dangerous instrumentalities if all of the following conditions are proven by the petitioner:

(a) More than ten years have elapsed since the person completed any sentence, deferred adjudication, or period of probation or parole based on the felony conviction.

(b) The person has not been convicted of any other criminal offense during the ten-year period.

(c) The person has no criminal charge pending against him.

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

(2) The motion filed pursuant to this Paragraph shall include a certification from the district attorney which verifies that, to his knowledge, the applicant has no convictions during the ten-year period and no pending charges under a bill of information or indictment. The motion shall be heard by contradictory hearing as provided by Article 980.

Acts 2014, No. 145, §1; Acts 2015, No. 151, §1, eff. June 23, 2015; Acts 2015, No. 200, §1; Acts 2016, No. 125, §1, eff. May 19, 2016; Acts 2018, No. 678, §1.

Art. 983. Costs of expungement of a record; fees; collection; exemptions; disbursements

A. Except as provided for in Articles 894 and 984, the total cost to obtain a court order expunging a record shall not exceed five hundred fifty dollars.

B. The nonrefundable processing fees for a court order expunging a record shall be as follows:

(1) The Louisiana Bureau of Criminal Identification and Information may charge a processing fee of two hundred fifty dollars for the expungement of any record of arrest when ordered to do so by the court in compliance with the provisions of this Title.

(2) The sheriff may charge a processing fee of fifty dollars for the expungement of any record of arrest when ordered to do so by the court in compliance with the provisions of this Title.

(3) The district attorney may charge a processing fee of fifty dollars for the expungement of any record of arrest when ordered to do so by the court in compliance with the provisions of this Title.

(4) The clerk of court may charge a processing fee not to exceed two hundred dollars to cover the clerk's costs of the expungement.

C. The clerk of court shall collect all processing fees at the time the motion for expungement is filed.

D.(1) The clerk shall immediately direct the collected processing fee provided for in Subparagraph (B)(1) of this Article to the Louisiana Bureau of Criminal Identification and Information, and the processing fee amount shall be deposited immediately upon receipt into the Criminal Identification and Information Fund.

(2) The clerk shall immediately direct the collected processing fees provided for in Subparagraphs (B)(2) and (3) of this Article to the sheriff and the district attorney, and the processing fee amount shall be remitted immediately upon receipt in equal proportions to the office of the district attorney and the sheriff's general fund.

E. The processing fees provided for by this Article are nonrefundable and shall not be returned even if the court does not grant the motion for expungement.

F. An applicant for the expungement of a record shall not be required to pay any fee to the clerk of court, the Louisiana Bureau of Criminal Identification and Information, sheriff, the district attorney, or any other agency to obtain or execute an order of a court of competent jurisdiction to expunge the arrest from the individual's arrest record if a certification obtained from the district attorney is presented to the clerk of court which verifies that the applicant has no felony convictions and no pending felony charges under a bill of information or indictment and at least one of the following applies:

(1) The applicant was acquitted, after trial, of all charges derived from the arrest, including any lesser and included offense.

(2) The district attorney consents, and the case against the applicant was dismissed or the district attorney declined to prosecute the case prior to the time limitations prescribed in Chapter 1 of Title XVII of the Code of Criminal Procedure, and the applicant did not participate in a pretrial diversion program.

(3) The applicant was arrested and was not prosecuted within the time limitations prescribed in Chapter 1 of Title XVII of the Code of Criminal Procedure and did not participate in a pretrial diversion program.

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

(5) Concerning the arrest record which the applicant seeks to expunge, the applicant was determined by the district attorney to be a victim of a violation of R.S. 14:67.3 (unauthorized use of "access card"), a violation of R.S. 14:67.16 (identity theft), a violation of R.S. 14:70.4 (access

device fraud), or a violation of any other crime which involves the unlawful use of the identity or personal information of the applicant.

G. Notwithstanding any other provision of law to the contrary, a juvenile who has successfully completed any juvenile drug court program operated by a court of this state shall be exempt from payment of the processing fees otherwise authorized by this Article.

H. Notwithstanding any provision of law to the contrary, an applicant for the expungement of a record, other than as provided in Paragraphs F and G of this Article, may proceed in forma pauperis in accordance with the provisions of Code of Civil Procedure Article 5181 et seq.

Acts 2014, No. 145, §1; Acts 2016, No. 8, §1; Acts 2018, No. 404, §1.

Art. 989. Motion for expungement forms to be used

STATE OF LOUISIANA
JUDICIAL DISTRICT FOR THE PARISH OF

_____

No.: _____Division: "_____"

State of Louisiana

vs.

_____

MOTION FOR EXPUNGEMENT

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

I.DEFENDANT INFORMATION

NAME: _____
(Last, First, MI)

DOB: _____/_____/_____ (MM/DD/YYYY)
GENDER _____ Female _____Male
SSN (last 4 digits): XXX-XX-_____
RACE: _____
DRIVER LIC.# _____
ARRESTING AGENCY: _____
SID# (if available): _____
ARREST NUMBER (ATN): _____
AGENCY ITEM NO. _____

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

II.ARREST INFORMATION

1. Mover was arrested on _____/_____/_____ (MM/DD/YYYY)
2. _____ YES _____ NO A supplemental sheet with arrests and/or convictions is attached after page 2 of this Motion.
3. Mover was:
   _____ YES _____ NO Arrested, but it did not result in conviction
   _____ YES _____ NO Convicted of and seeks to expunge a misdemeanor
   _____ YES _____ NO Convicted of and seeks to expunge a felony

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

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

____ Yes ____ No ARRESTS THAT DID NOT RESULT IN CONVICTION

NO. 1 La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____
( ) Time expired for prosecution_____
(MM/DD/YYYY)
( ) Not prosecuted for any offense arising out of this charge.
( ) Pre-trial Diversion Program.
( ) DWI Pre-Trial Diversion Program and 5 years have elapsed since the date of arrest.
( ) Charge dismissed
( ) Found not guilty/judgment of acquittal

NO. 2 La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____
( ) Time expired for prosecution_____
(MM/DD/YYYY)
( ) Not prosecuted for any offense arising out of this charge.
( ) Pre-trial Diversion Program.
( ) Charge dismissed
( ) Found not guilty/judgment of acquittal

NO. 3 La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____
( ) Time expired for prosecution_____
(MM/DD/YYYY)
( ) Not prosecuted for any offense arising out of this charge.
( ) Pre-trial Diversion Program.
( ) Charge dismissed
( ) Found not guilty/judgment of acquittal

____ Yes ____ No MISDEMEANOR CONVICTIONS

NO. 1 La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____
( ) Conviction set aside/dismissed _____/____/_____
pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
( ) More than 5 years have passed since completion of sentence.

NO. 2 La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____
( ) Conviction set aside/dismissed _____/____/_____
pursuant to C.Cr.P. Art. 894(B) (MM/DD/YYYY)
( ) More than 5 years have passed
since completion of sentence.

____ Yes ____ No FELONY CONVICTIONS

NO. 1 La. Rev. Stat. Ann. § _____ : _____
( ) Conviction set aside/dismissed _____/____/_____
pursuant to C.Cr.P. Art. 893(E)(MM/DD/YYYY)
( ) More than 10 years have passed
since completion of sentence

NO. 2 La. Rev. Stat. Ann. § _____ : _____
( ) Conviction set aside/dismissed _____/____/_____
pursuant to C.Cr.P. Art. 893(E)(MM/DD/YYYY)
( ) More than 10 years have passed
since completion of sentence

____ Yes ____ No OPERATING A MOTOR VEHICLE WHILE INTOXICATED CONVICTIONS

Mover has attached the following:

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

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

□ Criminal Background Check from the La. State Police/Parish Sheriff dated within the past 60 days (required).

□ Bill(s) of Information (if any).

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

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

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

□ Certification Letter from the District Attorney verifying that the charges were refused.

□ Certification Letter from the District Attorney verifying that the applicant did not participate in a pretrial diversion program.

□ A copy of the order waiving the sex offender registration and notification requirements.

□ Documentation verifying that the mover has been employed for ten consecutive years.

□ A copy of the court order determination of factual innocence and order of compensation for a wrongful conviction pursuant to the provisions of R.S. 15:572.8 if applicable.

The Mover prays that if there is no objection timely filed by the arresting law enforcement agency, the district attorney's office, or the Louisiana Bureau of Criminal Identification and Information, that an order be issued herein ordering the expungement of the record of arrest and/or conviction set forth above, including all photographs, fingerprints, disposition, or any other such information, which record shall be confidential and no longer considered a public record, nor be made available to other persons, except a prosecutor, member of a law enforcement agency, or a judge who may request such information in writing, certifying that such request is for the purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose of any other statutorily defined law enforcement or administrative duties, or for the purpose of the requirements of sex offender registration and notification pursuant to the provisions of R.S. 15:541 et seq. or as an order of this Court to any other person for good cause shown, or as otherwise authorized by law.

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

Respectfully submitted,

_____

Signature of Attorney for Mover/Defendant

_____

Attorney for Mover/Defendant Name

_____

Attorney's Bar Roll No.

_____

Address

_____

City, State, ZIP Code

_____

Telephone Number

If not represented by counsel:

_____
Signature of Mover/Defendant

_____
Mover/Defendant Name

_____
Address

_____
City, State, ZIP Code

_____
Telephone Number

Acts 2014, No. 145, §1; Acts 2015, No. 200, §1; Acts 2016, No. 125, §1, eff. May 19, 2016; Acts 2018, No. 711, §1.

Art. 992. Order of expungement form to be used

STATE OF LOUISIANA
JUDICIAL DISTRICT FOR THE PARISH OF
_____

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

State of Louisiana
vs.

_____

ORDER OF EXPUNGEMENT OF ARREST/CONVICTION RECORD

Considering the Motion for Expungement

□ The hearing conducted and evidence adduced herein, OR

□ Affidavits of No Opposition filed,

IT IS ORDERED, ADJUDGED AND DECREED

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

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

- □ More than ten years have not elapsed since Mover completed the felony conviction sentence.
- □ Mover was convicted of one of the following ineligible felony offenses:
- □ A violation of the Uniform Controlled Dangerous Substances Law which is ineligible to be expunged.
- □ An offense currently listed as a sex offense that requires registration pursuant to R.S. 15:540 et seq., at the time the Motion was filed, regardless of whether the duty to register was ever imposed.
- □ An offense defined or enumerated as a "crime of violence" pursuant to R.S. 14:2(B) at the time the Motion was filed.
- □ The arrest and conviction being sought to have expunged is for operating a motor vehicle while intoxicated and a copy of the proof from the Department of Public Safety and Corrections, office of motor vehicles, is not attached as required by C.Cr.P. Art. 984(A).
- □ Mover has had another record of misdemeanor conviction expunged during the previous five-year period.
- □ The record of arrest and conviction which Mover seeks to have expunged is for operating a motor vehicle while intoxicated and Mover has had another record of arrest and misdemeanor conviction expunged during the previous ten-year period.
- □ Mover has had another record of felony conviction expunged during the previous fifteen-year period.
- □ Mover was convicted of a misdemeanor which arose from circumstances involving a sex offense as defined in R.S. 15:541.
- □ Mover was convicted of misdemeanor offense of domestic abuse battery which was not dismissed pursuant to C.Cr.P. Art. 894(B).
- □ Mover did not complete pretrial diversion.
- □ The charges against the mover were not dismissed or refused.
- □ Mover's felony conviction was not set aside and dismissed pursuant to C.Cr.P. Art. 893(E).
- □ Mover's felony conviction was not set aside and dismissed pursuant to C.Cr.P. Art. 894(B).
- □ Mover completed a DWI pretrial diversion program, but five years have not elapsed since the mover's date of arrest.
- □ Mover's conviction for felony carnal knowledge of a juvenile is not defined as misdemeanor carnal knowledge of a juvenile had the mover been convicted on or after August 15, 2001.
- □ Mover has not been employed for ten consecutive years as required by C.Cr.P. Art. 978(E)(1)(d).
- □ Mover was not convicted of a crime that would be eligible for expungement as required by C.Cr.P. Art. 978(E)(1).
- □ Mover has criminal charges pending against him.
- □ Mover was convicted of a criminal offense during the ten-year period.
- □ Denial for any other reason provided by law with attached reasons for denial.

□**THE MOTION IS HEREBY GRANTED** for No(s). _____ and all agencies are ordered to expunge the record of arrest/conviction and any photographs, fingerprints, or any other such information of any kind maintained in connection with the Arrest(s)/Conviction(s) in the above-captioned matter, which record shall be confidential and no longer considered a public record, nor be available to other persons except a prosecutor, member of a law enforcement agency, or a judge who may request such information in writing certifying that such request is for the purpose of prosecuting, investigating, or enforcing the criminal law, for the purpose of any other statutorily defined law enforcement or administrative duties, or for the purpose of the requirements of sex offender registration and notification pursuant to the provisions of R.S. 15:541 et seq. or upon an order of this Court to any other person for good cause shown, or as otherwise authorized by law.

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

NAME: _____
(Last, First, MI)

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

GENDER: _____ Female _____Male

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

RACE: _____

DRIVER LIC.# _____

ARRESTING AGENCY: _____

SID# (if available): _____

ARREST NUMBER (ATN): _____

AGENCY ITEM NUMBER: _____

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

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

at _____, Louisiana.

_____
JUDGE

PLEASE SERVE:

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

Acts 2014, No. 145, §1; Acts 2015, No. 200, §1; Acts 2016, No. 125, §1, eff. May 19, 2016; Acts 2018, No. 711, §1.

Art. 993. Supplemental forms to be used

SUPPLEMENTAL SHEET

____ Yes ____ No ARRESTS THAT DID NOT RESULT IN CONVICTION

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense __________________
( ) Time expired for prosecution _____/____/_______
(MM/DD/YYYY)
( ) Charge refused by DA - not prosecuted.
( ) Pre-trial Diversion Program.
( ) Charge dismissed
( ) Found not guilty/judgment of acquittal

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense __________________
( ) Time expired for prosecution _____/____/_______
(MM/DD/YYYY)
( ) Charge refused by DA - not prosecuted.
( ) Pre-trial Diversion Program.
( ) Charge dismissed
( ) Found not guilty/judgment of acquittal

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense __________________
( ) Time expired for prosecution _____/____/_______
(MM/DD/YYYY)
( ) Charge refused by DA - not prosecuted.
( ) Pre-trial Diversion Program.
( ) Charge dismissed
( ) Found not guilty/judgment of acquittal

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense __________________
( ) Time expired for prosecution _____/____/_______
(MM/DD/YYYY)
( ) Charge refused by DA - not prosecuted.
( ) Pre-trial Diversion Program.
( ) Charge dismissed
( ) Found not guilty/judgment of acquittal

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense __________________
( ) Time expired for prosecution _____/____/_______
(MM/DD/YYYY)
( ) Charge refused by DA - not prosecuted.
( ) Pre-trial Diversion Program.
( ) Charge dismissed
( ) Found not guilty/judgment of acquittal

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense __________________
( ) Time expired for prosecution _____/____/_______
(MM/DD/YYYY)

( ) Charge refused by DA - not prosecuted.
( ) Pre-trial Diversion Program.
( ) Charge dismissed
( ) Found not guilty/judgment of acquittal

SUPPLEMENTAL SHEET

____ Yes ____ No MISDEMEANOR CONVICTIONS

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense __________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 894(B)
( ) More than 5 years have passed since completion of sentence.

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense __________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 894(B)
( ) More than 5 years have passed since completion of sentence.

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense __________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 894(B)
( ) More than 5 years have passed since completion of sentence.

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense __________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 894(B)
( ) More than 5 years have passed since completion of sentence.

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense __________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 894(B)
( ) More than 5 years have passed since completion of sentence.

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense __________________
( ) Conviction set aside/dismissed _____/____/_______

(MM/DD/YYYY)
pursuant to C.Cr.P. Art. 894(B)
( ) More than 5 years have passed since completion of sentence.

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense ________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 894(B)
( ) More than 5 years have passed since completion of sentence.

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense ________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 894(B)
( ) More than 5 years have passed since completion of sentence.

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense ________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 894(B)
( ) More than 5 years have passed since completion of sentence.

SUPPLEMENTAL SHEET

____ Yes ____ No FELONY CONVICTIONS

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense ________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 893(E)
( ) More than 10 years have passed since completion of sentence

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense ________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 893(E)

( ) More than 10 years have passed since completion of sentence

NO. ___ La. Rev. Stat. Ann. § _______ : ________

Name of the offense ___________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 893(E)
( ) More than 10 years have passed
since completion of sentence

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense ___________________

( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 893(E)
( ) More than 10 years have passed
since completion of sentence

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense ___________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 893(E)
( ) More than 10 years have passed
since completion of sentence

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense ___________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 893(E)
( ) More than 10 years have passed
since completion of sentence

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense ___________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 893(E)
( ) More than 10 years have passed
since completion of sentence

NO. ___ La. Rev. Stat. Ann. § _______ : ________
Name of the offense ___________________
( ) Conviction set aside/dismissed _____/____/_______ (MM/DD/YYYY)
pursuant to C.Cr.P. Art. 893(E)
( ) More than 10 years have passed
since completion of sentence

NO. ___ La. Rev. Stat. Ann. § _______ : ________

Name of the offense _____
( ) Conviction set aside/dismissed _____/____/_____
(MM/DD/YYYY)
pursuant to C.Cr.P. Art. 893(E)
( ) More than 10 years have passed
since completion of sentence

Acts 2014, No. 145, §1; Acts 2018, No. 711, §1.

Art. 994. Motion for interim expungement form to be used

STATE OF LOUISIANA
JUDICIAL DISTRICT FOR THE PARISH OF
_____

No.: _____Division: "_____"

State of Louisiana
vs.

_____

MOTION FOR INTERIM EXPUNGEMENT

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

I.DEFENDANT INFORMATION

NAME: _____
(Last, First, MI)
DOB: _____/_____/_____ (MM/DD/YYYY)
GENDER _____ Female _____Male
SSN (last 4 digits): XXX-XX-_____
RACE: _____
DRIVER LIC.# _____
ARRESTING AGENCY: _____
SID# (if available): _____
ARREST NUMBER (ATN): _____
AGENCY ITEM NO. _____

Mover is entitled to an interim expungement of the entry of the felony charge(s) of his arrest pursuant to Louisiana Code of Criminal Procedure Article 985.1 and states the following in support:

II.ARREST INFORMATION

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

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

3.Mover was:

_____ YES _____ NO Arrested for a felony offense.

_____ YES _____ NO Convicted of a misdemeanor arising out of that felony offense.

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

____ Yes ____ No FELONY ARREST THAT RESULTED IN A MISDEMEANOR CONVICTION

NO. 1 La. Rev. Stat. Ann. § _____ : _____
Name of the offense _____

_____
(MM/DD/YYYY)

( ) Felony charge dismissed.
( ) Convicted of misdemeanor offense arising out of felony arrest.

5. Mover has attached to his Motion a criminal background check from the Louisiana State Police/Parish Sheriff dated within the past sixty days (required).

The mover prays that if there is no objection timely filed by the arresting law enforcement agency, the District Attorney's Office, or the Louisiana Bureau of Criminal Identification and Information, that an order be issued herein ordering the Louisiana Bureau of Criminal Identification and Information to expunge the entry of the felony charge(s) listed contained in the criminal history; and further that the Clerk of Court, District Attorney, and arresting law enforcement agency expunge the entry of those felony charge(s) from any public indices.

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

Respectfully submitted,

_____
Signature of Attorney for Mover/Defendant

_____

Attorney for Mover/Defendant Name

_____

Attorney's Bar Roll No.

_____

Address

_____

City, State, ZIP Code

_____

Telephone Number

If not represented by counsel:

_____

Signature of Mover/Defendant

_____

Mover/Defendant Name

_____

Address

_____

City, State, ZIP Code

_____

Telephone Number

PLEASE SERVE:

1. District Attorney_____

2. Louisiana Bureau of Criminal Identification and Information_____

3. Arresting Agency _____

Acts 2014, No. 145, §1; Acts 2018, No. 711, §1.

TITLE XXXV. DOMESTIC VIOLENCE PREVENTION FIREARM TRANSFER

Art. 1001. Definitions

As used in this Title:

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

(2) "Sheriff" means the sheriff of the jurisdiction in which the order was issued, unless the person resides outside of the jurisdiction in which the order is issued. If the person resides outside of the jurisdiction in which the order is issued, "sheriff" means the sheriff of the parish in which the person resides.

Acts 2018, No. 367, §3, eff. Oct. 1, 2018.

Art. 1002. Transfer of firearms

A.(1) When a person is convicted of any of the following, the judge shall order the transfer of all firearms and the suspension of a concealed handgun permit of the person:

(a) A conviction of domestic abuse battery (R.S. 14:35.3).

(b) A second or subsequent conviction of battery of a dating partner (R.S. 14:34.9).

(c) A conviction of battery of a dating partner that involves strangulation (R.S. 14:34.9(K)).

(d) A conviction of battery of a dating partner when the offense involves burning (R.S. 14:34.9(L)).

(e) A conviction of possession of a firearm or carrying a concealed weapon by a person convicted of domestic abuse battery and certain offenses of battery of a dating partner (R.S. 14:95.10).

(2) Upon issuance of an injunction or order under any of the following circumstances, the judge shall order the transfer of all firearms and the suspension of a concealed handgun permit of the person who is subject to the injunction or order:

(a) The issuance of a permanent injunction or a protective order pursuant to a court-approved consent agreement or pursuant to the provisions of R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2136, 2151, or 2173, Children's Code Article 1570, Code of Civil Procedure Article 3607.1, or Articles 30, 320, or 871.1 of this Code.

(b) The issuance of a Uniform Abuse Prevention Order that includes terms that prohibit the person from possessing a firearm or carrying a concealed weapon.

B.(1) The order to transfer firearms and suspend a concealed handgun permit shall be issued by the court at the time of conviction for any of the offenses listed in Subparagraph (A)(1) of this Article or at the time the court issues an injunction or order under any of the circumstances listed in Subparagraph (A)(2) of this Article.

(2) In the order to transfer firearms and suspend a concealed handgun permit the court shall inform the person subject to the order that he is prohibited from possessing a firearm and carrying a concealed weapon pursuant to the provisions of 18 U.S.C. 922(g)(8) and Louisiana law.

C. At the same time an order to prohibit a person from possessing a firearm or carrying a concealed weapon is issued, the court shall also cause all of the following to occur:

(1) Require the person to state in open court or complete an affidavit stating the number of firearms in his possession and the location of all firearms in his possession.

(2) Require the person to complete a firearm information form that states the number of firearms in the person's possession, the serial number of each firearm, and the location of each firearm.

(3) Transmit a copy of the order to transfer firearms and a copy of the firearm information form to the sheriff of the parish or the sheriff of the parish of the person's residence.

D.(1) The court shall, on the record and in open court, order the person to transfer all firearms in his possession to the sheriff no later than forty-eight hours, exclusive of legal holidays, after the order is issued and a copy of the order and firearm information form required by Paragraph C of this Article is sent to the sheriff. If the person is incarcerated at the time the order is issued, he shall transfer his firearms no later than forty-eight hours after his release from incarceration, exclusive of legal holidays. At the time of transfer, the sheriff and the person shall complete a proof of transfer form. The proof of transfer form shall not contain the quantity of firearms transferred or any identifying information about any firearm transferred. The sheriff shall retain a copy of the form and provide the person with a copy.

(2) Within five days of transferring his firearms, exclusive of legal holidays, the person shall file the proof of transfer form with the clerk of court of the parish in which the order was issued.

E.(1) If the person subject to the order to transfer firearms and suspend a concealed handgun permit issued pursuant to Paragraph A of this Article does not possess or own firearms, at the time the order is issued, the person shall complete a declaration of nonpossession form which shall be filed in the court record and a copy shall be provided to the sheriff.

(2) Within five days of the issuance of the order pursuant to Paragraph A of this Article, exclusive of legal holidays, the person shall file the declaration of nonpossession with the clerk of court of the parish in which the order was issued.

F. The failure to provide the information required by this Title may be punished by contempt of court. Information required to be provided in order to comply with the provisions of this Title cannot be used as evidence against that person in a future criminal proceeding, except as provided by the laws on perjury or false swearing.

Acts 2018, No. 367, §3, eff. Oct. 1, 2018.

Art. 1003. Transfer or storage of transferred firearms

A.(1) The sheriff of each parish shall be responsible for oversight of firearm transfers in his parish. For each firearm transferred pursuant to this Title, the sheriff shall offer all of the following options to the transferor:

(a)(i) Allow a third party to receive and hold the transferred firearms. The third party shall complete a firearms acknowledgment form that, at a minimum, informs the third party of the relevant state and federal laws, lists the consequences for noncompliance, and asks if the third party is able to lawfully possess a firearm. No firearm shall be transferred to a third party living in the same residence as the transferor at the time of transfer. The sheriff shall prescribe the manner in which firearms are transferred to a third party.

(ii) If a firearm is transferred to a third party pursuant to the provisions of this Subparagraph, the sheriff shall advise the third party that return of the firearm to the person before the person is able to lawfully possess the firearms pursuant to state or federal law may result in the third party being charged with a crime.

(b) Store the transferred firearms in a storage facility with which the sheriff has contracted for the storage of transferred firearms. The sheriff may charge a reasonable fee for the storage of such firearms.

(c) Oversee the legal sale of the transferred firearms to a third party. The sheriff may contract with a licensed firearms dealer for such purpose. The sheriff may charge a reasonable fee to oversee the sale of firearms.

(2) The sheriff may also accept and store the transferred firearms. The sheriff may charge a reasonable fee for the storage of such firearms.

B. The sheriff shall prepare a receipt for each firearm transferred and provide a copy to the person transferring the firearms. The receipt shall include the date the firearm was transferred, the firearm manufacturer, and firearm serial number. The receipt shall be signed by the officer accepting the firearms and the person transferring the firearms. The sheriff may require the receipt to be presented before returning a transferred firearm.

C. The sheriff shall keep a record of all transferred firearms including but not limited to the name of the person transferring the firearm, date of the transfer, the manufacturer, model, serial number, and the manner in which the firearm is stored.

D.(1) When the person is no longer prohibited from possessing a firearm under state or federal law, the person whose firearms were transferred pursuant to the provisions of this Title may file a motion with the court seeking an order for the return of the transferred firearms.

(2) Upon reviewing the motion, if the court determines that the person is no longer prohibited from possessing a firearm under state or federal law, the court shall issue an order stating that the firearms transferred pursuant to the provisions of this Title shall be returned to the person. The order shall include the date on which the person is no longer prohibited from possessing a firearm and a copy of the order shall be sent to the sheriff.

(3) No sheriff or third party to whom the firearms were transferred pursuant to the provisions of this Title, shall return a transferred firearm prior to receiving the order issued by the court pursuant to the provisions of this Paragraph.

(4) After a firearm is returned pursuant to the provisions of this Paragraph, the sheriff shall destroy the records pertaining to the returned firearms and instruct the clerk of court of that parish to destroy the pertinent records.

E. The sheriff shall exercise due care to preserve the quality and function of all firearms transferred under the provisions of this Title. However, the sheriff shall not be liable for damage to firearms except for cases of willful or wanton misconduct or gross negligence. In addition, the

sheriff shall not be liable for damage caused by the third party to whom the firearms were transferred pursuant to the provisions of this Title.

Acts 2018, No. 367, §3, eff. Oct. 1, 2018.

Art. 1004. Implementation

The sheriff, clerk of court, and district attorney of each parish shall develop forms, policies, and procedures no later than January 1, 2019, regarding the communication of convictions and orders issued between agencies, procedures for the acceptance of transferred firearms, procedures for the storage of transferred firearms, return of transferred firearms, the proof of transfer form, the declaration of nonpossession form, and any other form, policy, or procedure necessary to effectuate the provisions of this Title.

Acts 2018, No. 367, §3, eff. Oct. 1, 2018.