Art. 163. Officer to whom directed; time for execution; electronic devices

A. A search warrant shall be directed to any peace officer, who shall execute it and bring any property seized into the court issuing the warrant.

B. A search or seizure shall not be made during the nighttime or on Sunday, unless the warrant expressly so directs.

C. Except as authorized by Article 163.1 or as otherwise provided in this Article, or as otherwise provided by law, a search warrant cannot be lawfully executed after the expiration of the tenth day after its issuance.

D.(1) Any examination or testing of any property seized pursuant to the provisions of this Article shall be at the direction of the attorney general, the district attorney, or the investigating agency.

(2) Notwithstanding any other provision of law to the contrary, any examination or testing of the seized property may be conducted at any time before or during the pendency of any criminal proceeding in which the property may be used as evidence.

E.(1) Notwithstanding any other provision of law to the contrary, if a warrant is issued to search for and seize data or information contained in or on a computer, disk drive, flash drive, cellular telephone, or other electronic communication, or data storage device, the warrant is considered to have been executed within the time allowed in Paragraph C of this Article if the device was seized before the expiration of the time allowed, or if the device was in law enforcement custody at the time of the issuance of the warrant.

(2) Notwithstanding any other provision of law to the contrary, if a device described in Subparagraph (1) of this Paragraph was seized before the expiration of the time allowed in Paragraph C of this Article, or if the device was in law enforcement custody at the time of the issuance of the warrant, any data or information contained in or on the device may be recovered or extracted pursuant to the warrant at any time, and such recovery or extraction shall not be subject to the time limitation in Paragraph C of this Article.

Acts 2005, No. 38, §1; Acts 2012, No. 44, §1; Acts 2019, No. 341, §1.

Art. 211. Summons by officer instead of arrest and booking

A.(1) When it is lawful for a peace officer to arrest a person without a warrant for a misdemeanor, or for a felony charge of theft or illegal possession of stolen things when the thing of value is five hundred dollars or more but less than one thousand dollars, he may issue a written summons instead of making an arrest if all of the following exist:

(a) The officer has reasonable grounds to believe that the person will appear upon summons.

(b) The officer has no reasonable grounds to believe that the person will cause injury to himself or another or damage to property or will continue in the same or a similar offense unless immediately arrested and booked.

(c) There is no necessity to book the person to comply with routine identification procedures.

(d) If an officer issues a summons for a felony described in this Paragraph, the officer issuing the summons has ascertained that the person has no prior criminal convictions.

(2) In any case in which a summons has been issued, a warrant of arrest may later be issued in its place.

B.(1) When a peace officer has reasonable grounds to believe a person has committed the offense of issuing worthless checks as defined by R.S. 14:71, he may issue a written summons instead of making an arrest if all of the following exist:

(a) He has reasonable grounds to believe that the person will appear upon summons.

(b) He has no reasonable grounds to believe that the person will cause injury to himself or another or damage to property unless immediately arrested.

(2) In any case in which a summons has been issued, a warrant of arrest may later be issued in its place.

C.(1) When a peace officer has reasonable grounds to believe a person has committed an offense of driving without a valid driver's license, whether physical or electronic, in his possession, the officer shall make every practical attempt based on identifying information provided by the person to confirm that the person has been issued a valid driver's license. If the officer determines that the person has been issued a valid driver's license which is not under revocation, suspension, or cancellation, but that the physical or electronic license is not in his possession, the officer shall issue a written summons to the offender in accordance with law, commanding him to appear and answer the charge.

(2) The provisions of this Article shall in no way limit a peace officer from issuing a citation for operating a motor vehicle without possession of a valid driver's license.

D. When a peace officer has reasonable grounds to believe a person has committed an offense of driving with a driver's license that is under revocation, suspension, or cancellation, the officer may use his discretion to make a custodial arrest or issue a written summons to the offender, in accordance with law, commanding him to appear and answer the charge.

Amended by Acts 1982, No. 180, §1; Acts 1995, No. 769, §1; Acts 2006, No. 143, §2; Acts 2011, No. 403, §1; Acts 2019, No. 154, §1.

Art. 211.3. Summons by officer instead of arrest and booking; improper supervision of a minor by parent or legal guardian

A. When a peace officer has reasonable grounds to believe that a person has committed the offense of improper supervision of a minor by parent or legal custodian as defined in R.S. 14:92.2, he may issue a written summons instead of making an arrest unless any of the following conditions exist:

(1) The officer has reasonable grounds to believe that the person will not appear upon summons.

(2) The officer has reasonable grounds to believe that the person will cause injury to himself or another, will cause damage to property, or will continue in the same or a similar offense unless immediately arrested and booked.

(3) It is necessary to book the person to comply with routine identification procedures.

B. In any case in which a summons has been issued, a warrant of arrest may later be issued in its place. If the offender fails to appear pursuant to the summons, the court shall immediately issue a warrant for the arrest of the offender.

Acts 2019, No. 290, §2.

Art. 556.1. Plea of guilty or nolo contendere in felony cases; duty of court

A. In a felony case, the court shall not accept a plea of guilty or nolo contendere without first addressing the defendant personally in open court and informing him of, and determining that he understands, all of the following:

(1) The nature of the charge to which the plea is offered, the mandatory minimum penalty provided by law, if any, and the maximum possible penalty provided by law.

(2) If the defendant is not represented by an attorney, that he has the right to be represented by an attorney at every stage of the proceeding against him and, if financially unable to employ counsel, one will be appointed to represent him.

(3) That he has the right to plead not guilty or to persist in that plea if it has already been made, and that he has the right to be tried by a jury and at that trial has the right to the assistance of counsel, the right to confront and cross-examine witnesses against him, and the right not to be compelled to incriminate himself.

(4) That if he pleads guilty or nolo contendere there will not be a further trial of any kind, so that by pleading guilty or nolo contendere he waives the right to a trial.

B. In a felony case, the court shall not accept a plea of guilty or nolo contendere without first addressing the defendant personally in open court and determining that the plea is voluntary and not the result of force or threats or of promises apart from a plea agreement.

C.(1) The court shall also inquire as to whether the defendant's willingness to plead guilty or nolo contendere results from prior discussions between the district attorney and the defendant or his attorney. If a plea agreement has been reached by the parties, the court, on the record, shall require the disclosure of the agreement in open court or, on a showing of good cause, in camera, at the time the plea is offered.

(2) The court shall further inquire of the defendant and his attorney whether the defendant has been informed of all plea offers made by the state.

D. In a felony case a verbatim record shall be made of the proceedings at which the defendant enters a plea of guilty or nolo contendere.

E. Any variance from the procedures required by this Article which does not affect substantial rights of the accused shall not invalidate the plea.

F. Nothing in this Article prohibits the court, by local rule, from providing for a defendant's appearance at the entry of his plea of guilty or nolo contendere by simultaneous audio-visual transmission in accordance with the provisions of Articles 551 and 562.

Acts 1997, No. 1061, §1; Acts 2001, No. 243, §1; Acts 2017, No. 406, §1; Acts 2019, No. 158, §1.

Art. 795. Time for challenges; method; peremptory challenges based on race or gender; restrictions

A. A juror shall not be challenged for cause after having been temporarily accepted pursuant to Article 788(A) unless the challenging party shows that the cause was not known to him prior to that time.

B.(1) Peremptory challenges shall be exercised prior to the swearing of the jury panel.

(2) Peremptory challenges of jurors shall be made and communicated to the court in a side bar conference of the judge, the attorneys conducting the examination and selection of jurors, and the defendant in a case in which the defendant chooses to represent himself. The conference shall be conducted in a manner that only the court, the attorneys, and the defendant in a case in which the defendant chooses to represent himself, are aware of the challenges made until the court announces the challenges without reference to any party or attorney in the case.

C. No peremptory challenge made by the state or the defendant shall be motivated in substantial part on the basis of the race or gender of the juror. If an objection is made that a challenge was motivated in substantial part on the basis of race or gender, and a prima facie case supporting that objection is made by the objecting party, the court shall demand a satisfactory race or gender neutral reason for the exercise of the challenge. Such demand and disclosure shall be made outside of the hearing of any juror or prospective juror. The court shall then determine whether the challenge was motivated in substantial part on the basis of race or gender.

D. The court shall allow to stand each peremptory challenge exercised for a race or gender neutral reason either apparent from the examination or disclosed by counsel when required by the court. The provisions of Paragraph C of this Article and this Paragraph shall not apply when both the state and the defense have exercised a challenge against the same juror.

E. The court shall allow to stand each peremptory challenge for which a satisfactory racially neutral or gender neutral reason is given. Those jurors who have been peremptorily challenged and for whom no satisfactory racially neutral or gender neutral reason is apparent or given may be ordered returned to the panel, or the court may take such other corrective action as it deems appropriate under the circumstances. The court shall make specific findings regarding each such challenge.

Amended by Acts 1986, No. 323, §1; Acts 1990, No. 547, §1; Acts 1990, No. 713, §1; Acts 1993, No. 1019, §1; Acts 2008, No. 669, §1; Acts 2019, No. 235, §1.

Art. 817. Qualifying verdicts

A. Except as provided in Paragraph B of this Article, any qualification of or addition to a verdict of guilty, beyond a specification of the offense as to which the verdict is found, is without effect upon the finding.

B. Notwithstanding any other provision of law to the contrary, in addition to a specification of the offense as to which the verdict is found pursuant to Paragraph A of this Article, any fact that increases the maximum or mandatory minimum penalty for a crime, other than the fact of a prior conviction, may be submitted to the jury, and the verdict may include a specific finding of fact as to that issue.

Amended by Acts 1972, No. 502, §1; Acts 1973, No. 125, §1; Acts 2019, No. 326, §1, eff. June 11, 2019.

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

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, and the court grants the defendant an extension of time to pay the fine, if at the expiration of the extended period granted by the court, the defendant shows that he is financially unable to pay the fine, the judge of the court having jurisdiction shall grant the person an extension of time, not to exceed one hundred eighty days, in which to pay the fine, or offer the person, in lieu of paying the fine, the alternative of performing community service as set by the judge.

B. If, at the expiration of the one-hundred-eighty-day period granted by the judge pursuant to Paragraph A of this Article, the judge determines that the defendant has either willfully not paid the fine or has not performed the community service, the judge may do either of the following:

(1) For any offense that involves the operation of any motor vehicle, aircraft, watercraft, or other means of conveyance as a necessary element of proof in the commission of the offense, order the person's driver's license to be surrendered to the sheriff or official of the court collecting

fines, and the sheriff or official of the court designated to collect fines shall forward the license to the Department of Public Safety and Corrections.

(2) Grant the person an extension of time to either pay the fine or perform the community service.

C. If the person's license is surrendered pursuant to Subparagraph (B)(1) of this Article, upon receipt of the defendant's surrendered driver's license, the department shall suspend the driver's license of the defendant. The suspension shall begin when the department receives written notification from the court, and the department shall send immediate written notification to the defendant informing him of the suspension of driving privileges.

D. The department shall 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.

E. Notwithstanding any provision of law to the contrary, if the person against whom the fine is levied is financially unable to pay the fine, the provisions of this Article shall not apply and the judge of the court shall not order that the person's driver's license be surrendered for failure to pay such fine, unless the court determines that the defendant is financially able but has willfully refused to pay the fine, or to perform the community service ordered as an alternative to the fine pursuant to the provisions of this Article.*

Acts 2003, No. 364, §1; Acts 2017, No. 260, §1, eff. Aug. 1, 2018; Acts 2018, No. 137, §1, eff. Aug. 1, 2018; Acts 2018, No. 668, §4, eff. Aug. 1, 2018; Acts 2019, No. 111, §1; Acts 2019, No. 253, §1; Acts 2019, No. 253, §1.

*Act 253 further reads “The provisions of this Act shall become effective on August 1, 2021.” *Id* at §3.

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 habitual offender except as provided in R.S. 15:529.1(C)(3). The conviction may be considered as a prior offense for purposes of any other law or laws relating to cumulation of offenses. Dismissal under this Paragraph shall occur only 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 habitual offender except as provided in R.S. 15:529.1(C)(3). The conviction may be considered as a prior offense for purposes of any other law or laws relating to cumulation of offenses.

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

(c) Dismissal under this Paragraph shall have the same effect as an acquittal for purposes of expungement under the provisions of Title XXXIV of this Code and may occur only 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 habitual offender except as provided in R.S. 15:529.1(C)(3). The conviction may be considered as a prior offense for purposes of any other law or laws relating to cumulation of offenses. Dismissal under this Subparagraph shall have the same effect as an acquittal for purposes of expungement under the provisions of Title XXXIV of this Code and may occur only 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; Acts 2019, No. 386, §2.

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

Art. 893.2. Discharge, use, or possession of firearm in commission of a felony or a specifically enumerated misdemeanor; submission to jury

If a motion was filed by the state in compliance with Article 893.1, a determination shall be made as to whether a firearm was discharged, or used during the commission of the felony or specifically enumerated misdemeanor, or actually possessed during the commission of a felony

which is a crime of violence as defined by R.S. 14:2(B), felony theft, production, manufacturing, distribution, dispensing, or possession with intent to produce, manufacture, distribute, or dispense a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Law, or specifically enumerated misdemeanor and whether the mandatory minimum sentencing provisions of Article 893.3 have been shown to be applicable. Such determination is a specific finding of fact to be submitted to the jury and proven by the state beyond a reasonable doubt.

Acts 1988, No. 319, §1; Acts 1999, No. 575, §1; Acts 2019, No. 326, §1, eff. June 11, 2019.

Art. 893.3. Sentence imposed on felony or specifically enumerated misdemeanor in which firearm was possessed, used, or discharged

A. If the finder of fact finds beyond a reasonable doubt that the offender actually possessed a firearm during the commission of the felony or specifically enumerated misdemeanor for which he was convicted, the court shall impose a term of imprisonment of not less than two years nor more than the maximum term of imprisonment provided for the underlying offense; however, if the maximum sentence for the underlying offense is less than two years, the court shall impose the maximum sentence.

B. If the finder of fact finds beyond a reasonable doubt that the offender actually used a firearm in the commission of the felony or specifically enumerated misdemeanor for which he was convicted, the court shall impose a term of imprisonment of not less than five years nor more than the maximum term of imprisonment provided for the underlying offense; however, if the maximum sentence for the underlying offense is less than five years, the court shall impose the maximum sentence.

C. If the finder of fact finds beyond a reasonable doubt that the offender actually discharged a firearm in the commission of the felony or specifically enumerated misdemeanor for which he was convicted, the court shall impose a term of imprisonment of not less than ten years nor more than the maximum term of imprisonment provided for the underlying offense; however, if the maximum sentence for the underlying offense is less than ten years, the court shall impose the maximum sentence.

D. If the finder of fact finds beyond a reasonable doubt that a firearm was actually used or discharged by the defendant during the commission of the felony for which he was convicted, and thereby caused bodily injury, the court shall impose a term of imprisonment of not less than fifteen years nor more than the maximum term of imprisonment provided for the underlying offense; however, if the maximum sentence for the underlying felony is less than fifteen years, the court shall impose the maximum sentence.

E.(1)(a) Notwithstanding any other provision of law to the contrary, if the finder of fact has determined that the defendant committed a felony with a firearm as provided for in this Article, and the crime is considered a violent felony as defined in this Paragraph, the court shall impose a minimum term of imprisonment of not less than ten years nor more than the maximum term of imprisonment provided for the underlying offense. In addition, if the firearm is discharged during the commission of such a violent felony, the court shall impose a minimum term of imprisonment of not less than twenty years nor more than the maximum term of imprisonment provided for the underlying offense.

(b) A "violent felony" for the purposes of this Paragraph is: second degree sexual battery, aggravated burglary, carjacking, armed robbery, second degree kidnapping, manslaughter, or forcible or second degree rape.

(2) A sentence imposed under this Paragraph shall be without benefit of parole, probation or suspension of sentence.

F. A sentence imposed under the provisions of this Article shall not be suspended and shall be imposed in the same manner as provided in the felony for which the defendant was convicted.

G. A defendant sentenced under the provisions of this Article shall not be eligible for parole during the period of the mandatory minimum sentence.

H. If the court finds that a sentence imposed under provisions of this Article would be excessive, the court shall state for the record the reasons for such finding and shall impose the most severe sentence which is not excessive.

I. For the purpose of this Article, "firearm" is defined as an instrument used in the propulsion of shot, shell, or bullets by the action of gunpowder exploded within.

J. For purposes of this Article, the specifically enumerated misdemeanors to which these sentencing provisions are applicable shall be:

(1) R.S. 14:79, violation of a protective order, involving an assault or battery of the person protected.

(2) R.S. 14:67, theft.

(3) R.S. 14:35, simple battery.

(4) R.S. 14:37, aggravated assault.

(5) R.S. 14:40.2, stalking.

(6) R.S. 14:35.3, domestic abuse battery.

Acts 1988, No. 319, §1; Acts 1994, 3rd Ex. Sess., No. 41, §1; Acts 1999, No. 575, §1; Acts 2004, No. 676, §3; Acts 2007, No. 41, §1; Acts 2015, No. 184, §6; Acts 2019, No. 326, §1, eff. June 11, 2019.

Art. 894.4. Probation; extension

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

NOTE: This article was amended and reenacted by Acts 2017, No. 260 with an effective date of Aug. 1, 2018. Subsequent Acts delayed the effective date of Act 260 to Aug. 1, 2021. (See Acts 2018, No. 137 and 668 and Acts 2019, No. 253). Acts 2018, No. 668 amended the substance of this Article with an effective date of Aug. 1, 2019 which was not amended by the 2019 Act which delayed the effective date of Acts 2017, No. 260 to Aug. 1, 2021.

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

NOTE: Subparagraph (A)(1) eff. until Aug. 1, 2021. See Acts 2017, No. 260; Acts 2018, No. 137 and No. 668; and Acts 2019, No. 253.

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, eff. Aug. 1, 2021. See Acts 2018, No. 137 and No. 668 and Acts 2019, No. 253.

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, 2021. See Acts 2017, No. 260; Acts 2018, No. 137 and No. 668; and Acts 2019, No. 253.

(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, eff. Aug. 1, 2021. See Acts 2018, No. 137 and No. 668 and Acts 2019, No. 253.

(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 July 1, 2020. See Acts 2019, No. 404.

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 2019, No. 404, eff. July 1, 2020.

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 Dedicated Fund Account 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 2019, No. 404.

(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 2019, No. 404, 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 credit an amount equal to that deposited as required by Subparagraph (1) of this Paragraph 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 Dedicated Fund 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. Monies deposited into this account shall be categorized as fees and self-generated revenue for the sole purpose of reporting related to the executive budget, supporting documents, and general appropriations bills and shall be available for annual appropriations by the legislature.

NOTE: Paragraph (F)(3)(intro. para.) eff. until July 1, 2020. See Acts 2019, No. 404.

(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 2019, No. 404, eff. July 1, 2020.

(3) The monies in the Sex Offender Registry Technology Dedicated Fund 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.

(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, 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.

(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, and Acts 2019, No. 404, 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 Dedicated Fund 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, 2018; 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; Acts 2019, No. 404, §§1, 14,15, and 19 eff. July 1, 2020; Acts 2019, No. 253, §2.

Art. 901.1. Additional sanctions for probation revocation

A. Notwithstanding any other provision of law, when a defendant, who is a first offender on probation with a suspended sentence for a term of seven years or less at hard labor, or a second offender on probation and having never served time in a state prison, has his probation revoked

for any reason other than a subsequent felony conviction, the court, upon the recommendation of the division of probation and parole, may order that the offender be committed to the Department of Public Safety and Corrections and be considered for participation in the intensive incarceration program as provided for in R.S. 15:574.4.4 or 574.5. If the offender committed to the custody of the department participates in an intensive incarceration program of an eligible parish, the department shall reimburse the sheriff's office of the parish conducting the program in the amount appropriated by the legislature.

B. If the imposition of the sentence was suspended, the defendant shall serve the sentence imposed by the court at the revocation hearing. If the defendant is a first offender and receives a sentence of seven years or less at hard labor, or a second offender on probation and having never served time in a state prison, the court, upon recommendation of the division of probation and parole, may order that the offender be committed to the department and be considered for participation in the intensive incarceration program as provided for in R.S. 15:574.4.4 or 574.5. If the offender committed to the custody of the department participates in an intensive incarceration program as provided for in R.S. 15:574.5, the department shall reimburse the sheriff's office of the parish conducting the program in the amount appropriated by the legislature.

Acts 1990, No. 83, §1; Acts 2019, No. 369, §3.

Art. 926.1. Application for DNA testing

A.(1) Prior to August 31, 2024, a person convicted of a felony may file an application under the provisions of this Article for post-conviction relief requesting DNA testing of an unknown sample secured in relation to the offense for which he was convicted. On or after August 31, 2024, a petitioner may request DNA testing under the rules for filing an application for post-conviction relief as provided in Article 930.4 or 930.8.

(2) Notwithstanding the provisions of Subparagraph (1) of this Paragraph, in cases in which the defendant has been sentenced to death prior to August 15, 2001, the application for DNA testing under the provisions of this Article may be filed at any time.

B. An application filed under the provisions of this Article shall comply with the provisions of Article 926 and shall allege all of the following:

(1) A factual explanation of why there is an articulable doubt, based on competent evidence whether or not introduced at trial, as to the guilt of the petitioner in that DNA testing will resolve the doubt and establish the innocence of the petitioner.

(2) The factual circumstances establishing the timeliness of the application.

(3) The identification of the particular evidence for which DNA testing is sought.

(4) That the applicant is factually innocent of the crime for which he was convicted, in the form of an affidavit signed by the petitioner under penalty of perjury.

C. In addition to any other reason established by legislation or jurisprudence, and whether based on the petition and answer or after contradictory hearing, the court shall dismiss any application filed pursuant to this Article unless it finds all of the following:

(1) There is an articulable doubt based on competent evidence, whether or not introduced at trial, as to the guilt of the petitioner and there is a reasonable likelihood that the requested DNA testing will resolve the doubt and establish the innocence of the petitioner. In making this finding the court shall evaluate and consider the evidentiary importance of the DNA sample to be tested.

(2) The application has been timely filed.

(3) The evidence to be tested is available and in a condition that would permit DNA testing.

D. Relief under this Article shall not be granted when the court finds that there is a substantial question as to the integrity of the evidence to be tested.

E. Relief under this Article shall not be granted solely because there is evidence currently available for DNA testing but the testing was not available or was not done at the time of the conviction.

F. Once an application has been filed and the court determines the location of the evidence sought to be tested, the court shall serve a copy of the application on the district attorney and the law enforcement agency which has possession of the evidence to be tested, including but not limited to sheriffs, the office of state police, local police agencies, and crime laboratories. If the court grants relief under this Article and orders DNA testing the court shall also issue such orders as are appropriate to obtain the necessary samples to be tested and to protect their integrity. The testing shall be conducted by a laboratory mutually agreed upon by the district attorney and the petitioner. If the parties cannot agree, the court shall designate a laboratory to perform the tests that is accredited in forensic DNA analysis by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangements for Testing Laboratories (ILAC MRA) and requires conformance to an accreditation program based on the international standard ISO/IEC 17025 with an accreditation scope in the field of forensic science testing in the discipline of biology, and that is compliant with the current version of the Federal Bureau of Investigations Quality Assurance Standards for Forensic DNA Testing Laboratories.

G. If the court orders the testing performed at a private laboratory, the district attorney shall have the right to withhold a sufficient portion of any unknown sample for purposes of his independent testing. Under such circumstances, the petitioner shall submit DNA samples to the district attorney for purposes of comparison with the unknown sample retained by the district attorney. A laboratory selected to perform the analysis shall, if possible, retain and maintain the integrity of a sufficient portion of the unknown sample for replicate testing. If after initial examination of the evidence, but before actual testing, the laboratory decides that there is insufficient evidentially significant material for replicate tests, then it shall notify the district attorney in writing of its finding. If the petitioner and district attorney cannot agree, the court shall determine which laboratory as required by Paragraph F of this Article is best suited to conduct the testing and shall fashion its order to allow the laboratory conducting the tests to consume the entirety of the unknown sample for testing purposes if necessary.

H.(1) The results of the DNA testing ordered under this Article shall be filed by the laboratory with the court and served upon the petitioner and the district attorney. The court may, in its discretion, order production of the underlying facts or data and laboratory notes.

(2) After service of the application on the district attorney and the law enforcement agency in possession of the evidence, no evidence shall be destroyed that is relevant to a case in which an application for DNA testing has been filed until the case has been finally resolved by the court.

(3) After service of the application on the district attorney and the law enforcement agency in possession of the evidence, the clerks of court of each parish and all law enforcement agencies, including but not limited to district attorneys, sheriffs, the office of state police, local police agencies, and crime laboratories shall preserve until August 31, 2024, all items of evidence in their possession which are known to contain biological material that can be subjected to DNA testing, in all cases that, as of August 15, 2001, have been concluded by a verdict of guilty or a plea of guilty.

(4) In all cases in which the defendant has been sentenced to death prior to August 15, 2001, the clerks of court of each parish and all law enforcement agencies, including but not limited to district attorneys, sheriffs, the office of state police, local police agencies, and crime laboratories shall preserve, until the execution of sentence is completed, all items of evidence in their possession which are known to contain biological material that can be subjected to DNA testing.

(5) Notwithstanding the provisions of Subparagraphs (3) and (4) of this Paragraph, after service of the application on the district attorney and the law enforcement agency in possession of the evidence, the clerks of court of each parish and all law enforcement agencies, including but not limited to district attorneys, sheriffs, the office of state police, local police agencies, and crime laboratories may forward for proper storage and preservation all items of evidence described in Subparagraph (3) of this Paragraph to a laboratory that is accredited by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangements for Testing Laboratories (ILAC MRA) and requires conformance to an accreditation program based on the international standard ISO/IEC 17025 with an accreditation scope in the field of forensic science testing in the discipline of biology, and that is compliant with the current version of the Federal Bureau of Investigations Quality Assurance Standards for Forensic DNA Testing Laboratories.

(6) Except in the case of willful or wanton misconduct or gross negligence, no clerk of court or law enforcement officer or law enforcement agency, including but not limited to any district attorney, sheriff, the office of state police, local police agency, or crime laboratory which is responsible for the storage or preservation of any item of evidence in compliance with either the requirements of Subparagraph (3) of this Paragraph or R.S. 15:621 shall be held civilly or criminally liable for the unavailability or deterioration of any such evidence to the extent that adequate or proper testing cannot be performed on the evidence.

I. The DNA profile of the petitioner obtained under this Article shall be sent by the district attorney to the state police for inclusion in the state DNA data base established pursuant to R.S. 15:605. The petitioner may seek removal of his DNA record pursuant to R.S. 15:614.

J. The petitioner, in addition to other service requirements, shall mail a copy of the application requesting DNA testing to the Department of Public Safety and Corrections, Corrections Services, office of adult services. If the court grants relief under this Article, the court shall mail a copy of the order to the Department of Public Safety and Corrections, Corrections Services, office of adult services. The Department of Public Safety and Corrections, Corrections Services, office of adult services, shall keep a copy of all records sent to them pursuant to this Subsection and report to the legislature before January 1, 2003, on the number of petitions filed and the number of orders granting relief.

K. There is hereby created in the state treasury a special fund designated as the DNA Testing Post-Conviction Relief for Indigents Fund. The fund shall consist of money specially appropriated by the legislature. No other public money may be used to pay for the DNA testing authorized under the provisions of this Article. The fund shall be administered by the Louisiana Public Defender Board. The fund shall be segregated from all other funds and shall be used exclusively for the purposes established under the provisions of this Article. If the court finds that a petitioner under this Article is indigent, the fund shall pay for the testing as authorized in the court order.

Acts 2001, No. 1020, §1; Acts 2003, No. 823, §1; Acts 2006, No. 120, §1; Acts 2008, No. 297, §1; Acts 2011, No. 250, §2, eff. July 1, 2011; Acts 2014, No. 266, §1; Acts 2019, No. 156, §1.

Art. 972. Definitions

As used in this Title:

(1) "Expunge a record" means to remove a record of arrest or conviction, photographs, fingerprints, disposition, or any other information of any kind from public access pursuant to the provisions of this Title. "Expunge a record" does not mean destruction of the record.

(2) "Expungement by redaction" provides for the expungement of records of a person who is arrested or convicted with other persons who are not entitled to expungement and involves the removal of the name or any other identifying information of the person entitled to the expungement and otherwise retains the records of the incident as they relate to the other persons.

(3) "Interim expungement" means to expunge a felony arrest from the criminal history of a person who was convicted of a misdemeanor offense arising out of the original felony arrest. Only the original felony arrest may be expunged in an interim expungement.

(4) "Records" includes any incident reports, photographs, fingerprints, disposition, or any other such information of any kind in relation to a single arrest event in the possession of the clerk of court, any criminal justice agency, and local and state law enforcement agencies but shall not include DNA records. Records shall also include records of an arrest based on a warrant or attachment for failure to appear in court for the same offense or offenses for which the person is seeking an expungement.

Acts 2014, No. 145, §1; Acts 2019, No. 1, §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 any 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.

(3) The person is entitled to a first offender pardon for the offense pursuant to Article IV, Section 5(E)(1) of the Constitution of Louisiana, provided that the offense is not defined as a crime of violence pursuant to R.S. 14:2(B) or a sex offense pursuant to R.S. 15:541.

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

(1) A crime of violence as defined by or enumerated in R.S. 14:2(B), 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).

(e) A conviction for a violation of the Uniform Controlled Dangerous Substances Law for which the person is entitled to a first offender pardon pursuant to Article IV, Section 5(E)(1) of the Constitution of Louisiana.

(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; Acts 2019, No. 268, §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 this Code, 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 this Code 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. If an application for an expungement of a record includes two or more offenses arising out of the same arrest, including misdemeanors, felonies, or both, the applicant shall be required to pay only one fee as provided for by this Article.

I. 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; Acts 2019, No. 1, §1.

Art. 1001. Definitions

As used in this Title:

(1) "Dating partner" shall have the same meaning as provided in R.S. 46:2151 or R.S. 14:34.9.

(2) "Family member" shall have the same meaning as provided in R.S. 46:2132 or R.S. 14:35.3.

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

(4) "Household member" shall have the same meaning as provided in R.S. 46:2132 or R.S. 14:35.3.

(5) "Other law enforcement agency" shall include any local or municipal police force, the constable, and state police.

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

Acts 2018, No. 367, §3, eff. Oct. 1, 2018; Acts 2019, No. 427, §3.

Art. 1001.1. Duties of the sheriff; other law enforcement agencies

Notwithstanding any provision of law to the contrary, the sheriff may enter into an agreement with any other law enforcement agency to have that law enforcement agency assume the duties of the sheriff under this Title.

Acts 2019, No. 427, §3.

Art. 1002. Transfer of firearms

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

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

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

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

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

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

(f) A conviction of domestic abuse aggravated assault (R.S. 14:37.7).

(g) A conviction of aggravated assault upon a dating partner (R.S. 14:34.9.1).

(h) A conviction of any felony crime of violence enumerated or defined in R.S. 14:2(B), for which a person would be prohibited from possessing a firearm pursuant to R.S. 14:95.1, and which has as an element of the crime that the victim was a family member, household member, or dating partner.

(i) A conviction of any felony crime of violence enumerated or defined in R.S. 14:2(B), for which a person would be prohibited from possessing a firearm pursuant to R.S. 14:95.1, and in which the victim of the crime was determined to be a family member, household member, or dating partner.

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

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

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

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

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

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

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

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

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

D.(1) The court shall, on the record and in open court, order the person to transfer all firearms in his possession to the sheriff no later than forty-eight hours, exclusive of legal holidays, after the order is issued and a copy of the order and firearm information form required by Paragraph C of this Article is sent to the sheriff. If the person is incarcerated at the time the order is issued, he shall transfer his firearms no later than forty-eight hours after his release from incarceration,

exclusive of legal holidays. At the time of transfer, the sheriff and the person shall complete a proof of transfer form. The proof of transfer form shall contain the quantity of firearms transferred. The sheriff shall retain a copy of the form and provide the person with a copy. The proof of transfer form shall attest that the person is not currently in possession of firearms in accordance with the provisions of this Title and is currently compliant with state and federal law, but shall not include the date on which the transfer occurred.

(2) Within ten days of transferring his firearms, exclusive of legal holidays, the person shall file the proof of transfer form with the clerk of court of the parish in which the order was issued. The proof of transfer form shall be maintained by the clerk of court under seal.

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

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

F. Notwithstanding the provisions of Paragraph E of this Article or any other provision of law to the contrary, if the person subject to the order to transfer firearms and suspend a concealed handgun permit issued pursuant to Paragraph A of this Article possessed firearms at the time of the qualifying incident giving rise to the duty to transfer his firearms pursuant to this Title, but transferred or sold his firearms to a third party prior to the court's issuance of the order, that third-party transfer shall be declared in open court. The person subject to the order to transfer firearms and suspend a concealed handgun permit shall within ten days after issuance of the order, exclusive of legal holidays, execute along with the third party and a witness a proof of transfer form that complies with the provisions of Paragraph D of this Article and with Article 1003(A)(1)(a). The proof of transfer form need not be signed by the sheriff and shall be filed, within ten days after the date on which the proof of transfer form is executed, by the person subject to the order with the clerk of court of the parish in which the order was issued. The proof of transfer form shall be maintained by the clerk of court under seal.

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

H. On motion of the district attorney or of the person transferring his firearms, and for good cause shown, the court shall conduct a contradictory hearing with the district attorney to ensure that the person has complied with the provisions of this Title.

I. For the purposes of this Title, a person shall be deemed to be in possession of a firearm if that firearm is subject to his dominion and control.

Acts 2018, No. 367, §3, eff. Oct. 1, 2018; Acts 2019, No. 427, §3.

Art. 1002.1. Designation of crime of violence against family member, household member, or dating partner

Notwithstanding the provisions of Articles 814 and 817 and any other provision of law to the contrary, when a person is charged with any felony crime of violence enumerated or defined in R.S. 14:2(B), for which the person would be prohibited from possessing a firearm pursuant to

R.S. 14:95.1 if convicted, the district attorney may allege in the indictment or bill of information that the victim of the crime was a family member, household member, or dating partner for the purpose of invoking the provisions of this Title, including Article 1002(A)(1)(i). If the person pleads guilty to the indictment or bill of information, the fact that the victim was a family member, household member, or dating partner shall be deemed admitted. If the matter proceeds to trial, the issue of whether the victim was a family member, household member, or dating partner shall be submitted to the jury and the verdict shall include a specific finding of fact as to that issue in addition to a specification of the offense as to which the verdict is found.

Acts 2019, No. 427, §3.

Art. 1003. Transfer or storage of transferred firearms

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

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

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

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

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

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

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

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

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

possessing a firearm and a copy of the order shall be sent to the sheriff. However, all outstanding fees shall be paid to the sheriff prior to the firearms being returned.

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

(4) If the person refuses to pay outstanding fees to the sheriff or fails to file a motion with the court seeking an order for the return of the transferred firearms within one year of the expiration of the prohibition on possessing firearms under state or federal law, the sheriff may send, by United States mail to the person's last known address, a notice informing the person that if he does not pay the outstanding fees to the sheriff or file a motion with the court seeking an order for the return of the transferred firearms within ninety days, the firearms shall be forfeited to the sheriff. If, after ninety days from the mailing of the notice, the person does not pay the outstanding fees to the sheriff or file a motion with the court seeking an order for the return of the transferred firearms, the sheriff may file a motion seeking a court order declaring that the firearms are forfeited to the sheriff, who may thereafter dispose of the firearms at his discretion.

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

F. Nothing in this Title shall be construed to prohibit the sheriff, consistent with constitutional requirements, from obtaining a search warrant to authorize testing or examination upon any firearm so as to facilitate any criminal investigation or prosecution. Notwithstanding Article 163(C) or any other provision of law to the contrary, the testing or examination of the firearms pursuant to the search warrant may be conducted at any time before or during the pendency of any criminal proceeding in which the firearms, or the testing or examination of the firearms, may be used as evidence, and shall not be subject to the ten-day period in Article 163(C).

G. Not sooner than three years after the date on which a firearm or firearms are returned pursuant to the provisions of this Article, the person may file a motion with the court requesting that the records relative to the firearm or firearms held by the clerk of court and by the sheriff be destroyed. After a contradictory hearing with the sheriff and the district attorney, which may be waived by the sheriff or the district attorney, the court, if the person is no longer prohibited from possessing firearms under state or federal law and if the firearm or firearms have actually been returned, shall order that the records held by the clerk of court and by the sheriff relative to the returned firearm or firearms be destroyed.

Acts 2018, No. 367, §3, eff. Oct. 1, 2018; Acts 2019, No. 427, §3.

Art. 1003.1. Public records; exception

Notwithstanding any provision of law to the contrary, any records held by the sheriff or any other law enforcement agency pursuant to this Title shall be confidential and shall not be considered a public record pursuant to the Public Records Law.

Acts 2019, No. 427, §3.