

2021 Regular Session

# ACT No. 18

HOUSE BILL NO. 227

BY REPRESENTATIVE WHEAT AND SENATORS BARROW, CARTER, AND MIZELL

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

Provides relative to subpoena duces tecum when investigating sex offenses involving human trafficking

## AN ACT

To enact Code of Criminal Procedure Article 732.2, relative to subpoenas; to authorize the use of administrative subpoenas for the production of information in investigations of human trafficking offenses; to provide for the types of information which may be disclosed pursuant to an administrative subpoena; to provide for information which may not be disclosed pursuant to an administrative subpoena; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 732.2 is hereby enacted to read as follows:

Art. 732.2. Subpoena duces tecum regarding human trafficking offenses

A. The Department of Public Safety and Corrections, office of state police, the office of the attorney general, the police department, or the sheriff's office investigating any offense or attempt to commit any offense described in Subparagraphs (1) and (2) of this Paragraph shall have the administrative authority to issue in writing and cause to be served a subpoena requiring the production and testimony described in Paragraph B of this Article upon reasonable cause to believe that an internet service account, or online identifier as defined in R.S. 15:541, has been used in the commission or attempted commission of the following:

(1) A person is a victim of human trafficking pursuant to R.S. 14:46.2, or the offender reasonably believes that the person is a victim of human trafficking.

(2) A person is a victim of trafficking of children for sexual purposes pursuant to R.S. 14:46.3, or the offender reasonably believes that the person is a minor.

B. Except as provided in Paragraph C of this Article, a subpoena issued under this Article may require the production of the following records or other documentation relevant to the investigation:

(1) Electronic mail address.

(2) Internet username.

(3) Internet protocol address.

(4) Name of account holder.

(5) Billing and service address.

(6) Telephone number.

(7) Account status.

(8) Method of access to the internet.

(9) Automatic number identification records if access is by modem.

C. The following information shall not be subject to disclosure pursuant to an administrative subpoena issued pursuant to the provisions of this Article but shall be subject to disclosure pursuant to other lawful process:

(1) In-transit electronic communications.

(2) Account memberships related to internet groups, newsgroups, mailing lists, or specific areas of interest.

(3) Account passwords.

(4) Account content, including electronic mail in any form, address books, contacts, financial records, web surfing history, internet proxy content, or files or other digital documents stored with the account or pursuant to use of the account.

D. A subpoena issued pursuant to this Article shall describe the objects required to be produced and shall prescribe a return date with a reasonable period of time within which the objects can be assembled and made available.

E. If no case or proceeding arises from the production of records or other documentation pursuant to this Section and the time limitation for initiation of prosecution has expired, the Department of Public Safety and Corrections, office of state police, the office of the attorney general, or the sheriff's office shall destroy the records and documentation.

F. Except as provided in this Article, any information, records, or data reported or obtained pursuant to a subpoena authorized by the provisions of this Article shall remain confidential and shall not be disclosed unless in connection with a criminal case related to the subpoenaed materials.

G. Any administrative subpoena issued pursuant to this Article shall comply with the provisions of 18 U.S.C. 2703(c)(2).

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

2021 Regular Session

# ACT No. 61

HOUSE BILL NO. 77

BY REPRESENTATIVES MARINO, JONES, LANDRY, AND MARCELLE

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 893(B), relative to suspension of  
3 sentences in felony cases; to provide relative to fourth or subsequent convictions;  
4 to provide relative to the consent of the district attorney; and to provide for related  
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 893(B) is hereby amended and  
8 reenacted to read as follows:

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

10 \* \* \*

11 B.(1) Notwithstanding any other provision of law to the contrary, when it  
12 appears that the best interest of the public and of the defendant will be served, the  
13 court, after a fourth or subsequent conviction of a noncapital felony may suspend,  
14 in whole or in part, the imposition or execution of the sentence upon consent of the  
15 district attorney.

16 ~~(2) or after~~ After a third or fourth conviction of operating a vehicle while  
17 intoxicated pursuant to R.S. 14:98, the court may suspend, in whole or in part, the  
18 imposition or execution of the sentence when the defendant was not offered such  
19 alternatives prior to his fourth conviction of operating a vehicle while intoxicated  
20 and the following conditions exist:

- 21 (a) The district attorney consents to the suspension of the sentence.
- 22 (b) The court orders the defendant to do any of the following:
  - 23 (i) Enter and complete a program provided by the drug division of the district
  - 24 court pursuant to R.S. 13:5301 et seq.

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

3 (iii) Enter and complete a mental health court program established pursuant  
4 to R.S. 13:5351 et seq.

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

7 (v) Enter and complete a reentry court program established pursuant to R.S.  
8 13:5401.

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

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

14 ~~(2)~~(3) When suspension is allowed under this Paragraph, the defendant shall  
15 be placed on probation under the supervision of the division of probation and parole.  
16 The period of probation shall be specified and shall not be more than three years,  
17 except as provided in Paragraph G of this Article. The suspended sentence shall be  
18 regarded as a sentence for the purpose of granting or denying a new trial or appeal.

19 \* \* \*

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

2021 Regular Session  
HOUSE BILL NO. 251

# ACT No. 72

BY REPRESENTATIVE JONES AND SENATORS BARROW, BERNARD, FIELDS,  
JACKSON, FRED MILLS, TALBOT, AND WOMACK

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 573.1, relative to time limitations  
3 for instituting prosecutions; to provide relative to time limitations in which to  
4 institute prosecution for crimes related to victims with infirmities; to provide for  
5 definitions; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 573.1 is hereby amended and  
8 reenacted to read as follows:

9 Art. 573.1. Running of time limitations; exception; ~~exploitation of persons with~~  
10 infirmities

11 A. The time limitations established by Article 572 of this Code shall not  
12 commence to run as to ~~the any crime of exploitation of persons wherein the victim~~  
13 is a person with infirmities (R.S. 14:93.4) until the crime is discovered by a  
14 competent victim, or in the case of an incompetent victim, by a ~~competent third~~  
15 ~~person~~ law enforcement officer. This shall include but is not limited to the crimes  
16 of simple battery of persons with infirmities (R.S. 14:35.2), cruelty to persons with  
17 infirmities (R.S. 14:93.3), exploitation of persons with infirmities (R.S. 14:93.4),  
18 sexual battery of persons with infirmities (R.S. 14:93.5), and abuse of persons with  
19 infirmities through electronic means (R.S. 14:283.3).

20 B.(1) "Person with infirmities" shall mean a person who suffers from a  
21 mental or physical disability, including those associated with advanced age, which  
22 renders the person incapable of adequately providing for his personal care. The term  
23 "person with infirmities" may include but is not limited to any individual who is an

1            outpatient or resident of a nursing home, facility for persons with intellectual  
 2            disabilities, mental health facility, hospital, or other residential facility, or a recipient  
 3            of home or community-based care or services.

4            (2) "Law enforcement officer" shall mean any employee of the state, a  
 5            political subdivision, a municipality, a sheriff, or other public agency whose  
 6            permanent duties include the making of arrests, the performing of searches and  
 7            seizures, or the execution of criminal warrants, and who is responsible for the  
 8            prevention or detection of crime or for the enforcement of the penal, traffic, or  
 9            highway laws of this state.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

SENATE BILL NO. 57

BY SENATOR WOMACK

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

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AN ACT

To amend and reenact Code of Criminal Procedure Art. 404(H), relative to jury commissions; to provide that the clerk of court for Franklin Parish or the clerk's designated deputy clerk shall serve as the jury commission; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 404(H) is hereby amended and reenacted to read as follows:

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

\* \* \*

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

1 venires, shall coordinate the jury venire process, and shall receive the compensation  
2 generally authorized for a jury commissioner.

3 \* \* \*

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

SENATE BILL NO. 186

BY SENATOR SMITH AND REPRESENTATIVES BRYANT, GOUDEAU, MARCELLE  
AND MARINO

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

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 930.3 and 930.8(A)(1) and to  
3 enact Code of Criminal Procedure Articles 926.2, 926.3, 930.4(G), 930.8(A)(5) and  
4 (6) and (D), and 930.10, relative to post conviction relief; to provide for a petitioner's  
5 claim of factual innocence; to provide for exceptions; to provide for evidence; to  
6 provide for appointment of judges; to provide for motions of testing evidence; to  
7 provide for grounds for relief; to provide for burden of proof; to provide for joint  
8 motions; to provide for waiver; to provide for time limitations; and to provide for  
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Code of Criminal Procedure Article 930.3 and 930.8(A)(1) are hereby  
12 amended and reenacted and Code of Criminal Procedure Articles 926.2, 926.3, 930.4(G),  
13 930.8(A)(5) and (6) and (D), and 930.10 are hereby enacted to read as follows:

14 **Art. 926.2. Factual innocence**

15 **A. A petitioner, who has been convicted of an offense, may seek post**  
16 **conviction relief on the grounds that he is factually innocent of the offense for**  
17 **which he was convicted. A petitioner's first claim of factual innocence pursuant**  
18 **to this Article that would otherwise be barred from review on the merits by the**  
19 **time limitation provided in Article 930.8 or the procedural objections provided**  
20 **in Article 930.4 shall not be barred if the claim is contained in an application for**  
21 **post conviction relief filed on or before December 31, 2022, and if the petitioner**  
22 **was convicted after a trial completed to verdict. This exception to Articles 930.4**  
23 **and 930.8 shall apply only to the claim of factual innocence brought under this**

1 Article and shall not apply to any other claims raised by the petitioner. An  
2 application for post conviction relief filed pursuant to this Article by a  
3 petitioner who pled guilty or nolo contendere to the offense of conviction or filed  
4 by any petitioner after December 31, 2022, shall be subject to Articles 930.4 and  
5 930.8.

6 B.(1)(a) To assert a claim of factual innocence under this Article, a  
7 petitioner shall present new, reliable, and noncumulative evidence that would  
8 be legally admissible at trial and that was not known or discoverable at or prior  
9 to trial and that is either:

10 (i) Scientific, forensic, physical, or nontestimonial documentary evidence.

11 (ii) Testimonial evidence that is corroborated by evidence of the type  
12 described in Item (i) of this Subsubparagraph.

13 (b) To prove entitlement to relief under this Article, the petitioner shall  
14 present evidence that satisfies all of the criteria in Subsubparagraph (a) of this  
15 Subparagraph and that, when viewed in light of all of the relevant evidence,  
16 including the evidence that was admitted at trial and any evidence that may be  
17 introduced by the state in any response that it files or at any evidentiary  
18 hearing, proves by clear and convincing evidence that, had the new evidence  
19 been presented at trial, no rational juror would have found the petitioner guilty  
20 beyond a reasonable doubt of either the offense of conviction or of any felony  
21 offense that was a responsive verdict to the offense of conviction at the time of  
22 the conviction.

23 (2) A recantation of prior sworn testimony may be considered if  
24 corroborated by the evidence required by Subsubparagraph (1)(a) of this  
25 Paragraph. However, a recantation of prior sworn testimony cannot form the  
26 sole basis for relief pursuant to this Article.

27 (3) If the petitioner pled guilty or nolo contendere to the offense of  
28 conviction, in addition to satisfying all of the criteria in this Paragraph and in  
29 any other applicable provision of law, the petitioner shall show both of the  
30 following to prove entitlement to relief:

1           (a) That, by reliable evidence, he consistently maintained his innocence  
2           until his plea of guilty or nolo contendere.

3           (b) That he could not have known of or discovered his evidence of factual  
4           innocence prior to pleading guilty or nolo contendere.

5           C.(1) A grant of post conviction relief pursuant to this Article shall not  
6           prevent the petitioner from being retried for the offense of conviction, for a  
7           lesser offense based on the same facts, or for any other offense.

8           (2) If the petitioner waives his right to a jury trial and elects to be tried  
9           by a judge, the district judge who granted post conviction relief pursuant to this  
10          Article shall be recused and the case shall be allotted to a different judge in  
11          accordance with applicable law and rules of court.

12          (3) If the district judge denied post conviction relief pursuant to this  
13          Article and an appellate court later reversed the ruling of the district judge and  
14          granted post conviction relief pursuant to this Article, and if the petitioner  
15          waives his right to a jury trial and elects to be tried by a judge, upon the  
16          petitioner's motion the district judge who denied post conviction relief shall be  
17          recused and the case shall be allotted to a different judge in accordance with  
18          applicable law and rules of court.

19          Art. 926.3. Motion for testing of evidence

20          A. Upon motion of the state or the petitioner, the district court may  
21          order the testing or examination of any evidence relevant to the offense of  
22          conviction in the custody and control of the clerk of court, the state, or the  
23          investigating law enforcement agency.

24          B. If the motion is made by the petitioner and the state does not expressly  
25          consent to the testing or examination, a motion made under this Article shall be  
26          granted only following a contradictory hearing at which the petitioner shall  
27          establish that good cause exists for the testing or examination. If the state does  
28          not expressly consent to the testing or examination and the motion made under  
29          this Article is granted following the contradictory hearing, the district attorney  
30          and investigating law enforcement agency shall not be ordered to bear any of

1 the costs associated with the testing or examination.

2 \* \* \*

3 Art. 930.3. Grounds

4 If the petitioner is in custody after sentence for conviction for an offense,  
5 relief shall be granted only on the following grounds:

6 (1) The conviction was obtained in violation of the constitution of the United  
7 States or the state of Louisiana;

8 (2) The court exceeded its jurisdiction;

9 (3) The conviction or sentence subjected him to double jeopardy;

10 (4) The limitations on the institution of prosecution had expired;

11 (5) The statute creating the offense for which he was convicted and sentenced  
12 is unconstitutional;

13 (6) The conviction or sentence constitute the ex post facto application of law  
14 in violation of the constitution of the United States or the state of Louisiana.

15 (7) The results of DNA testing performed pursuant to an application granted  
16 under Article 926.1 proves by clear and convincing evidence that the petitioner is  
17 factually innocent of the crime for which he was convicted.

18 **(8) The petitioner is determined by clear and convincing evidence to be**  
19 **factually innocent under Article 926.2.**

20 Art. 930.4. Repetitive applications

21 \* \* \*

22 **G. Notwithstanding any provision of this Title to the contrary, the state**  
23 **may affirmatively waive any procedural objection pursuant to this Article. Such**  
24 **waiver shall be express and in writing and filed by the state into the district**  
25 **court record.**

26 \* \* \*

27 Art. 930.8. Time limitations; exceptions; prejudicial delay

28 A. No application for post conviction relief, including applications which  
29 seek an out-of-time appeal, shall be considered if it is filed more than two years after  
30 the judgment of conviction and sentence has become final under the provisions of

1 Article 914 or 922, unless any of the following apply:

2 (1) The application alleges, and the petitioner proves or the state admits, that  
3 the facts upon which the claim is predicated were not known to the petitioner or his  
4 prior attorneys. Further, the petitioner shall prove that he exercised diligence in  
5 attempting to discover any post-conviction claims that may exist. "Diligence" for the  
6 purposes of this Article is a subjective inquiry that **must shall** take into account the  
7 circumstances of the petitioner. Those circumstances shall include but are not limited  
8 to the educational background of the petitioner, the petitioner's access to formally  
9 trained inmate counsel, the financial resources of the petitioner, the age of the  
10 petitioner, the mental abilities of the petitioner, or whether the interests of justice will  
11 be served by the consideration of new evidence. New facts discovered pursuant to  
12 this exception shall be submitted to the court within two years of discovery. **If the**  
13 **petitioner pled guilty or nolo contendere to the offense of conviction and is**  
14 **seeking relief pursuant to Code of Criminal Procedure Article 926.2 and five**  
15 **years or more have elapsed since the petitioner pled guilty or nolo contendere**  
16 **to the offense of conviction, he shall not be eligible for the exception provided**  
17 **for by this Subparagraph.**

18 \* \* \*

19 **(5) The petitioner qualifies for the exception to timeliness in Article**  
20 **926.1.**

21 **(6) The petitioner qualifies for the exception to timeliness in Article**  
22 **926.2.**

23 \* \* \*

24 **D. Notwithstanding any provision of this Title to the contrary, the state**  
25 **may affirmatively waive any objection to the timeliness under Paragraph A of**  
26 **this Article of the application for post conviction relief filed by the petitioner.**  
27 **Such waiver shall be express and in writing and filed by the state into the**  
28 **district court record.**

29 \* \* \*

30 **Art. 930.10. Departure from this Title; post conviction plea agreements**

1           A. Upon joint motion of the petitioner and the district attorney, the  
2           district court may deviate from any of the provisions of this Title.

3           B. Notwithstanding the provisions of Code of Criminal Procedure Article  
4           930.3 or any provision of law to the contrary, the district attorney and the  
5           petitioner may, with the approval of the district court, jointly enter into any  
6           post conviction plea agreement for the purpose of amending the petitioner's  
7           conviction, sentence, or habitual offender status. The terms of any post  
8           conviction plea agreement pursuant to this Paragraph shall be in writing, shall  
9           be filed into the district court record, and shall be agreed to by the district  
10          attorney and the petitioner in open court. The court shall, prior to accepting the  
11          post conviction plea agreement, address the petitioner personally in open court,  
12          inform him of and determine that he understands the rights that he is waiving  
13          by entering into the post conviction plea agreement, and determine that the plea  
14          is voluntary and is not the result of force or threats, or of promises apart from  
15          the post conviction plea agreement.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

2021 Regular Session

# ACT No. 121

HOUSE BILL NO. 84

BY REPRESENTATIVES MARCELLE, BRASS, BRYANT, CARPENTER, GARY CARTER, WILFORD CARTER, DUPLESSIS, FREEMAN, GAINES, GLOVER, GREEN, HUGHES, JAMES, JEFFERSON, JENKINS, JONES, JORDAN, LANDRY, LARVADAIN, LYONS, NEWELL, PIERRE, SELDERS, AND WILLARD

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 401(A)(introductory paragraph)  
3 and (5), relative to qualifications of jurors; to provide relative to the authority of  
4 certain persons under indictment or order of imprisonment or on probation or parole  
5 to serve on a jury; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 401(A)(introductory paragraph) and  
8 (5) are hereby amended and reenacted to read as follows:

9 Art. 401. General qualifications of jurors

10 A. In order to qualify to serve as a juror, a person ~~must~~ shall meet all of the  
11 following requirements:

12 \* \* \*

13 (5) Not be under indictment, incarcerated under an order of imprisonment,  
14 or on probation or parole for a felony ~~nor have been convicted of a felony for which~~  
15 ~~he has not been pardoned by the governor~~ offense within the five-year period  
16 immediately preceding the person's jury service.

17 \* \* \*

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

2021 Regular Session  
HOUSE BILL NO. 232

# ACT No. 124

BY REPRESENTATIVES MARINO AND JAMES

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AN ACT

To amend and reenact Code of Criminal Procedure Article 894(B)(2), relative to suspension and deferral of sentence and probation in misdemeanor cases; to provide relative to discharge and dismissal of prosecutions; to remove the restriction that discharge and dismissal may occur only once during a five-year period; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 894(B)(2) is hereby amended and reenacted to read as follows:

Art. 894. Suspension and deferral of sentence; probation in misdemeanor cases

\* \* \*

B.

\* \* \*

(2) The dismissal of the prosecution shall have the same effect as an acquittal, except that the conviction may be considered as a prior offense and provide the basis for subsequent prosecution of the party as a multiple offender. ~~Discharge and dismissal under this provision may occur only once with respect to any person during a five-year period. Except as provided in Subparagraph (3) of this Paragraph,~~ discharge Discharge and dismissal under this provision for the offense of operating

1 a vehicle while intoxicated may occur only once with respect to any person during  
2 a ten-year period.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

2021 Regular Session  
HOUSE BILL NO. 248  
BY REPRESENTATIVE JAMES

# ACT No. 125

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AN ACT

To amend and reenact Code of Criminal Procedure Article 895.1(C) and R.S. 15:574.4.2(A)(2)(e), relative to fees for probation and parole supervision; to provide for a decrease in the fees for defendants on unsupervised probation and parolees on inactive status; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 895.1(C) is hereby amended and reenacted to read as follows:

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

\* \* \*

C.(1) 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.

(2) When the court places the defendant on unsupervised probation, it shall order as a condition of probation a monthly fee of not more than one dollar payable to the Department of Public Safety and Corrections or such other probation office, agency, or officer as designated by the court.

\* \* \*

1 Section 2. R.S. 15:574.4.2(A)(2)(e) is hereby amended and reenacted to read as  
2 follows:

3 §574.4.2. Decisions of committee on parole; nature, order, and conditions of parole;  
4 rules of conduct; infectious disease testing

5 A.

6 \* \* \*

7 (2) The committee may also require, either at the time of his release on  
8 parole or at any time while he remains on parole, that he conform to any of the  
9 following conditions of parole which are deemed appropriate to the circumstances  
10 of the particular case:

11 \* \* \*

12 (e) Pay supervision fees to the Department of Public Safety and Corrections  
13 in an amount not to exceed sixty-three dollars based upon his ability to pay as  
14 determined by the committee on parole. A parolee placed on inactive status, as  
15 provided for in R.S. 15:574.7(E)(2), shall only be required to pay a supervision fee  
16 in an amount not to exceed one dollar. Supervision fee payments are due on the first  
17 day of each month and may be used to defray the cost of supervision which includes  
18 salaries for probation and parole officers.

19 \* \* \*

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

2021 Regular Session  
HOUSE BILL NO. 325

# ACT No. 126

BY REPRESENTATIVE LARVADAIN

1 AN ACT

2 To enact R.S. 40:2405.9 and Code of Criminal Procedure Article 223, relative to the arrest  
3 of persons with minor or dependent children; to provide for the establishment of  
4 guidelines and training for law enforcement officers regarding the arrest of persons  
5 with minor or dependent children; to require the Council on Peace Officer Standards  
6 and Training to develop the guidelines and training in conjunction with certain  
7 organizations; to provide for certain requirements of law enforcement officers upon  
8 arrest of a person; to provide for exceptions; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:2405.9 is hereby enacted to read as follows:

11 §2405.9. Identification of minor or dependent children of an arrested person;  
12 guidelines and training

13 A. The Council on Peace Officer Standards and Training shall develop  
14 guidelines and provide training for law enforcement agencies on identifying and  
15 ensuring the safety of minor or dependent children upon the arrest of the child's  
16 parent or guardian.

17 B. The guidelines and training shall include all of the following:

18 (1) Procedures to ensure that law enforcement officers inquire or otherwise  
19 ascertain whether an arrested person has a minor or dependent under his care,  
20 custody, or control at the time of the arrest.

21 (2) Procedures for the proper arrangement of temporary care for children to  
22 ensure their safety and well-being with a priority on placing children with supportive  
23 family members and trusted adults.

1                   (3) Education on how witnessing a violent crime or other event causes  
2                   emotional harm to children and how law enforcement can assist in mitigating the  
3                   long-term effects of the trauma.

4                   (4) Procedures for reporting on the number of instances requiring a referral  
5                   to a partner organization or transportation of the child to a child advocacy center  
6                   when the child is unable to be placed with a family member.

7                   (5) Procedures to ensure law enforcement officers receive annual training as  
8                   mandatory reporters of child abuse or neglect in accordance with Children's Code  
9                   Article 609.

10                  C. The council shall work in conjunction with and receive input from  
11                  appropriate non-governmental organizations and other relevant organizations that are  
12                  invested in the rights of children with incarcerated parents to develop and establish  
13                  the guidelines and training program required by this Section.

14                  D. Nothing in this Section shall preclude a law enforcement officer's  
15                  responsibility as a mandatory reporter to report suspected child abuse or neglect in  
16                  accordance with Children's Code Article 603.

17                  Section 2. Code of Criminal Procedure Article 223 is hereby enacted to read as  
18 follows:

19                  Art. 223. Identification of minor or dependent children upon arrest; required  
20                  inquiry; guidelines

21                  A. A state or local law enforcement officer who arrests a person shall, at the  
22                  time of the arrest, do all of the following if practicable:

23                   (1) Inquire whether the person is a parent or guardian of a minor or  
24                   dependent child under the care, custody, or control of the arrested person at the time  
25                   of the arrest, who may be at risk as a result of the arrest.

26                   (2) Ascertain whether a child is present, relying on all available information  
27                   including any information received from emergency call operators and any  
28                   indications at the scene of arrest that a child may be present or at another location.

29                   (3) Permit an arrested person a reasonable opportunity, including providing  
30                   access to telephone numbers stored in a mobile telephone or other location, to make

1 alternate arrangements for the care of a child under his care, custody, or control,  
2 including a child who is not present at the scene of the arrest, and to provide a  
3 partner organization with contact information of a preferred alternate caregiver.

4 (4) Provide an arrested person the opportunity to speak with a child who is  
5 present, prior to such caregiver being transported to a police facility. If such an  
6 opportunity is not practicable, having a police officer explain to such child, using age  
7 appropriate language, that such child did nothing wrong and that the child will be  
8 safe and cared for.

9 (5) Make reasonable efforts to ensure the safety of minor or dependent  
10 children at risk as a result of an arrest in accordance with guidelines established  
11 pursuant to R.S. 40:2405.9.

12 B. Law enforcement officers are not required to adhere to the guidelines of  
13 Subsection A of this Section if any of the following circumstances are present:

14 (1) The arrested caregiver presents a threat of serious bodily injury or death  
15 to himself, others, or the law enforcement officer.

16 (2) The arrested caregiver is in the act of committing a crime of violence as  
17 defined in R.S. 14:2(B).

18 (3) The law enforcement officer has exercised due diligence, based on all  
19 available information, and ascertains that no minor children are under the arrested  
20 person's care, custody, or control.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

2021 Regular Session  
HOUSE BILL NO. 33

# ACT No. 142

BY REPRESENTATIVE STAGNI

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 573(4), relative to time  
3 limitations for prosecution of certain offenses; to provide relative to offenses against  
4 juveniles; to provide relative to felony crimes of violence against juveniles; to  
5 provide relative to cruelty to juveniles; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 573(4) is hereby amended and  
8 reenacted to read as follows:

9 Art. 573. Running of time limitations; exception

10 The time limitations established by Article 572 shall not commence to run  
11 as to the following offenses until the relationship or status involved has ceased to  
12 exist when:

13 \* \* \*

14 (4) The offense charged is ~~aggravated battery (R.S. 14:34)~~ a felony crime of  
15 violence as defined in R.S. 14:2(B) or cruelty to juveniles as defined in R.S. 14:93  
16 and the victim is under ~~seventeen~~ eighteen years of age, unless a longer period of  
17 limitation is established by Article 571.1 or any other provision of law.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

2021 Regular Session  
HOUSE BILL NO. 303  
BY REPRESENTATIVE LYONS

# ACT No. 197

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 311(4) through (7) and to enact  
3 Code of Criminal Procedure Article 311(8), relative to bail; to provide relative to the  
4 detention of the defendant; to provide relative to constrictive surrender; to provide  
5 for surety's motion and affidavit for issuance of warrant; and to provide for related  
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 311(4) through (7) is hereby amended  
9 and reenacted and Code of Criminal Procedure Article 311(8) is hereby enacted to read as  
10 follows:

11 Art. 311. Definitions

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

13 \* \* \*

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

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

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

4 (c) The surety has paid ~~to the officer the reasonable costs of returning the~~  
 5 ~~defendant to the jurisdiction where the warrant for arrest was issued.~~ reasonable or  
 6 actual costs of returning the defendant to the jurisdiction where the warrant for arrest  
 7 was issued by one of the following methods:

8 (i) Upon presentation of proof of the defendant's current incarceration in a  
 9 foreign jurisdiction to the officer originally charged with the defendant's detention,  
 10 the officer shall provide the surety with the reasonable or actual costs of returning  
 11 the defendant to the jurisdiction where the warrant for arrest was issued when the  
 12 costs are immediately known or can be estimated.

13 (ii) The surety tenders to the officer originally charged with the defendant's  
 14 detention the reasonable or actual costs of returning the defendant to the jurisdiction  
 15 where the warrant for arrest was issued.

16 (iii) The surety provides proof of payment to the court and to the prosecuting  
 17 attorney.

18 (iv)(aa) In cases where the reasonable or actual costs of returning the  
 19 defendant to the jurisdiction where the warrant for arrest was issued are not  
 20 immediately known, the officer originally charged with the defendant's detention  
 21 shall accept the surety's tender of reasonable costs as provided in R.S. 13:5535 for  
 22 in-state transfers or for estimated costs for out-of-state transfers.

23 (bb) The surety shall provide proof of payment to the court and the  
 24 prosecuting attorney.

25 (cc) If the actual costs of returning the defendant to the jurisdiction where  
 26 the warrant for arrest was issued is more than the estimated costs tendered by the  
 27 surety, the officer originally charged with the defendant's detention may file a rule  
 28 to show cause with the court to recover the difference.

1                   (5) A surety's motion and affidavit for issuance of warrant may be filed when  
 2                   the defendant is found incarcerated in a foreign jurisdiction and a warrant has not  
 3                   been issued by the court or in which the bail obligation is in place. In such instances,  
 4                   the surety may file a motion with the court requesting a warrant be issued when the  
 5                   following conditions have been met:

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

7                   (b) The surety provides proof of the defendant's current incarceration outside  
 8                   of the state of Louisiana. The defendant's incarceration may be used as evidence of  
 9                   a breach of the bail undertaking.

10                  (c) The defendant did not have written permission from the court to leave the  
 11                  state of Louisiana.

12                  (d) Upon presentation of evidence of the breach of the bail undertaking, the  
 13                  court may issue a warrant for the defendant's violation of the conditions of the bail  
 14                  undertaking.

15                  (e) The surety may then file the constructive surrender in accordance with  
 16                  this Article and Article 331.

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

27                  ~~(6)~~(7) Bail enforcement is the apprehension or surrender by a natural person  
 28                  of a principal who is released on bail or who has failed to appear at any stage of the  
 29                  proceedings to answer the charge before the court in which the principal may be  
 30                  prosecuted.

1                    (~~7~~8) A bail enforcement agent is a licensed bail agent who engages in the  
2                    apprehension or surrender by a natural person of a principal who is released on bail  
3                    or who has failed to appear at any stage of the proceedings to answer the charge  
4                    before the court in which the principal may be prosecuted.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

2021 Regular Session  
HOUSE BILL NO. 406  
BY REPRESENTATIVES BISHOP AND MAGEE

# ACT No. 235

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AN ACT

To amend and reenact Code of Criminal Procedure Article 833, relative to the presence of the defendant; to provide relative to the presence of the defendant in misdemeanor prosecutions; to require the court to permit such defendants to be arraigned, enter pleas, or be tried in the absence of the defendant; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 833 is hereby amended and reenacted to read as follows:

Art. 833. Presence of defendant; misdemeanor prosecution

A. The court may permit a an unrepresented or pro se defendant charged with a misdemeanor to be arraigned, enter his plea of guilty, or be tried, in his absence.

B. A plea of not guilty of a misdemeanor ~~may always~~ shall be allowed to be entered through counsel and in the absence of the defendant of record and in the absence of the defendant by the filing of a sworn affidavit in advance of the scheduled arraignment date.

C. The sworn affidavit referenced in Paragraph B of this Article shall include the caption of the case and summons number, citation number or docket number as applicable, and state as follows:

**AFFIDAVIT ACCEPTING SERVICE AND  
WAIVER OF PRESENCE**

BEFORE ME, the undersigned authority, did personally come and appear,  
\_\_\_\_\_ (CLIENT'S NAME), who after being duly sworn did depose and say:

1.  
Affiant acknowledges that he is the defendant in the above captioned criminal matter; that he is aware of all charges pending against him in this matter and that he

1 has retained the services of \_\_\_\_\_ (ATTORNEY(S) or LAW FIRM) to  
2 represent him in these proceedings;

3 2.

4 Affiant is aware that he is scheduled to be in court on the \_\_\_\_\_ day of  
5 \_\_\_\_\_, 20\_\_ at \_\_\_ o'clock and that he has the right to be present on that day but  
6 expressly wishes to waive this right and to have his legal counsel appear on his  
7 behalf;

8 3.

9 Affiant is aware that in his absence, additional court dates could be scheduled  
10 in these proceedings and he hereby appoints his above named legal counsel as his  
11 agent(s) to accept service of notice to appear for those dates on his behalf, that he  
12 accepts service of those dates through his counsel and that he expressly waives his  
13 appearance for those dates and authorizes his counsel to appear on his behalf;

14 4.

15 Affiant understands that the court, in its sole discretion, may revoke its  
16 acceptance of this waiver and require that affiant personally appear in open court on  
17 subsequent court dates; that his counsel will also be notified; that a notice of  
18 appearance will be mailed to affiant at his address of record and that affiant's failure  
19 to appear at the subsequent court date could result in the issuance of an arrest  
20 warrant, a revocation of appearance bond and/or is punishable as contempt of court;

21 5.

22 Finally, Affiant acknowledges that his current address is:  
23 \_\_\_\_\_ (Street, Apt/Lot No, City, State and Zip Code); and authorizes  
24 the court to use this address for all notices, unless changed in writing by affiant.

25 \_\_\_\_\_  
26 Affiant

27 SWORN TO AND SUBSCRIBED BEFORE ME, notary, this \_\_\_\_\_ day of  
28 \_\_\_\_\_, 20\_\_ .

29 \_\_\_\_\_  
30 NOTARY PUBLIC

31 P

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

2021 Regular Session  
HOUSE BILL NO. 560  
BY REPRESENTATIVE EMERSON

# ACT No. 240

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 211(A)(1) and (B)(1), relative to  
3 arrest; to provide for summons in lieu of arrest for certain offenses; to provide  
4 relative to officer discretion to make an arrest under certain circumstances; and to  
5 provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Article 211(A)(1) and (B)(1) are hereby  
8 amended and reenacted to read as follows:

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

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

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

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

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



2021 Regular Session

# ACT No. 243

HOUSE BILL NO. 708 (Substitute for House Bill No. 83 by Representative Fontenot)

BY REPRESENTATIVE FONTENOT

1 AN ACT

2 To enact Code of Criminal Procedure Articles 311(8) and (9) and 330.1, relative to bail; to  
3 provide definitions; to provide relative to the posting and payment of bail  
4 obligations; to provide relative to the transportation of persons in custody; to provide  
5 relative to applicability; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. Code of Criminal Procedure Articles 311(8) and (9) and 330.1 are hereby  
8 enacted to read as follows:

9 Art. 311. Definitions

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

11 \* \* \*

12 (8) The originating jurisdiction is the jurisdiction where the warrant for the  
13 arrest was issued and where the charges are pending.

14 (9) The executing jurisdiction is the jurisdiction where the defendant is  
15 arrested and incarcerated on a warrant for arrest.

16 \* \* \*

17 Art. 330.1. Posting bail when arrested outside of originating jurisdiction

18 A. Notwithstanding any provisions of law to the contrary, a person who is  
19 arrested and booked in an executing jurisdiction pursuant to a warrant for arrest  
20 issued by the originating jurisdiction may be released from custody when bail is  
21 posted under the following conditions:

22 (1) The amount of the bail obligation is included on the warrant for arrest.  
23 If the warrant for arrest does not include the amount of the bail obligation, the  
24 amount may be set within forty-eight hours by anyone in the originating jurisdiction  
25 who is authorized to set bail pursuant to Article 314. If a personal surety undertaking

1 is authorized, the personal surety undertaking shall be in accordance with either  
2 Article 323 or Article 324.

3 (2) There are no holds, court orders, or other legal impediments that would  
4 prohibit the release of the arrested person from custody.

5 (3) The executing jurisdiction does not object. If the executing jurisdiction  
6 objects, the originating jurisdiction shall comply with existing provisions of law  
7 relative to bail. The originating jurisdiction shall retain the right to transport or to  
8 have the person in custody transported to the originating jurisdiction for the purpose  
9 of posting bail in the originating jurisdiction.

10 (4) Written notice shall be provided to the executing jurisdiction when bail  
11 is posted in the originating jurisdiction and release from custody is authorized. When  
12 released, the executing jurisdiction shall provide notice in accordance with Article  
13 330 to the arrested person. The originating jurisdiction shall deliver to the executing  
14 jurisdiction the information necessary to provide such notice to the arrested person.  
15 The notice shall include the date, time, and location of any required court  
16 appearances as well as any conditions of bail. Notwithstanding any provisions of  
17 law to the contrary, an electronic copy, digital copy, or photocopy of the arrested  
18 person's signature on the notice shall be the equivalent of an original signature.

19 B. The provisions of this Article shall not apply to warrants for sex offenses,  
20 homicides and crimes resulting in a death or deaths, felony domestic violence  
21 offenses, and aggravated offenses.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

2021 Regular Session

# ACT No. 252

HOUSE BILL NO. 46

BY REPRESENTATIVES JAMES, GREEN, AND JORDAN AND SENATOR BARROW

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 701(B)(1)(a), relative to pretrial  
3 motions for speedy trial; to provide relative to a defendant in continued custody; to  
4 provide an effective date; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. Code of Criminal Procedure Article 701(B)(1)(a) is hereby amended and  
7 reenacted to read as follows:

8 Art. 701. Right to a speedy trial

9 \* \* \*

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

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

16 \* \* \*

17 Section 2. This Act shall become effective January 1, 2022.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

2021 Regular Session  
HOUSE BILL NO. 106

# ACT No. 271

BY REPRESENTATIVE CARPENTER

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AN ACT

To enact Code of Criminal Procedure Article 556.1(A)(5), relative to pleas in criminal cases; to provide relative to pleas of guilty or nolo contendere in felony cases; to provide relative to duties of the court or defense counsel; to require the court or defense counsel to inform a defendant of additional consequences as a result of a guilty plea or nolo contendere; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 556.1(A)(5) is hereby enacted to read as follows:

Art. 556.1. Plea of guilty or nolo contendere in felony cases; ~~duty~~ duties of the court and defense counsel

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:

\* \* \*

(5) That if he pleads guilty or nolo contendere, he may be subject to additional consequences or waivers of constitutional rights in the following areas as a result of his plea to be informed as follows:

- (a) Defense counsel or the court shall inform him regarding:
  - (i) Potential deportation, for a person who is not a United States citizen.
  - (ii) The right to vote.
  - (iii) The right to bear arms.
  - (iv) The right to due process.



2021 Regular Session  
HOUSE BILL NO. 288  
BY REPRESENTATIVE MAGEE

# ACT No. 313

1 AN ACT

2 To enact Code of Criminal Procedure Article 875.2 and to repeal Code of Criminal  
3 Procedure Article 875.1, relative to the financial obligations for criminal offenders;  
4 to provide relative to the payment of fines, fees, costs, restitution, and other  
5 monetary obligations related to an offender's conviction; to require the court to  
6 determine the offender's ability to pay the financial obligations imposed; to authorize  
7 the court to waive, modify, or create a payment plan for the offender's financial  
8 obligations; to provide relative to the recovery of uncollected monetary obligations  
9 at the end of a probation period; to provide for effective dates; to provide for  
10 legislative intent; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Code of Criminal Procedure Article 875.2 is hereby enacted to read as  
13 follows:

14 Art. 875.2. Determination of substantial financial hardship to the defendant

15 A. The purpose of imposing financial obligations on an offender who is  
16 convicted of a criminal offense is to hold the offender accountable for his action, to  
17 compensate victims for any actual pecuniary loss or costs incurred in connection  
18 with a criminal prosecution, to defray the cost of court operations, and to provide  
19 services to offenders and victims. These financial obligations should not create a  
20 barrier to the offender's successful rehabilitation and reentry into society. Financial  
21 obligations in excess of what an offender can reasonably pay undermine the primary  
22 purpose of the justice system which is to deter criminal behavior and encourage  
23 compliance with the law. Financial obligations that cause undue hardship on the  
24 offender should be waived, modified, or forgiven. Creating a payment plan for the

1 offender that is based upon the ability to pay results in financial obligations that the  
2 offender is able to comply with and often results in more money collected. Offenders  
3 who are consistent in their payments and in good faith try to fulfill their financial  
4 obligations should be rewarded for their efforts.

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

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

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

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

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

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

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

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

29 (c) During any periods of unemployment, homelessness, or other  
30 circumstances in which the defendant is unable to make the monthly payment, the

1 court or the defendant's probation and parole officer is authorized to impose a  
2 payment alternative, including but not limited to any of the following: substance  
3 abuse treatment, education, job training, or community service.

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

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

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

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

3                    Section 2. Code of Criminal Procedure Article 875.1 is hereby repealed in its  
4                    entirety.

5                    Section 3.(A) Notwithstanding Section 3 of Act No. 260 of the 2017 Regular Session  
6                    or any other Act to the contrary, the provisions of Act No. 260 of the 2017 Regular Session  
7                    shall become effective on August 1, 2022, except as provided by Subsection B of this  
8                    Section.

9                    (B) It is the intent of the legislature that the provisions of Act No. 260 of the 2017  
10                    Regular Session that enacted Code of Criminal Procedure Article 875.1 and that amended  
11                    and reenacted Code of Criminal Procedure Article 885.1(A), (C), and (D) and 894.4 shall  
12                    never become effective.

13                    Section 4. The legislature recognizes that the provisions of Act No. 668 of the 2018  
14                    Regular Session which amended and reenacted Code of Criminal Procedure Article 894.4  
15                    and which became effective on August 1, 2019, are in effect, and that the provisions of Act  
16                    No. 253 of the 2019 Regular Session amending and reenacting Code of Criminal Procedure  
17                    Article 885.1 and which became effective on August 1, 2019, are in effect.

18                    Section 5.(A) The provisions of Sections 1 and 2 of this Act shall become effective  
19                    on August 1, 2022.

20                    (B) The provisions of Sections 3, 4, and this Section of this Act shall become  
21                    effective on August 1, 2021.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

# ACT No. 341

HOUSE BILL NO. 507

BY REPRESENTATIVES CREWS, ADAMS, ROBBY CARTER, WILFORD CARTER, CORMIER, DUPLESSIS, ECHOLS, EDMONDS, GAROFALO, GLOVER, GREEN, HORTON, JAMES, JONES, JORDAN, LACOMBE, LANDRY, NEWELL, CHARLES OWEN, SCHLEGEL, SEABAUGH, SELDERS, THOMPSON, AND VILLIO

1 AN ACT

2 To enact Code of Criminal Procedure Article 14.1(F), relative to electronic filing in criminal  
3 cases; to authorize clerks of court to accept electronic filings; to provide for the  
4 adoption and implementation of procedures for electronic filing; to provide for  
5 public access to electronically filed pleadings and documents; and to provide for  
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 14.1(F) is hereby enacted to read as  
9 follows:

10 Art. 14.1. Filing of pleadings and documents by facsimile or electronic transmission

11 \* \* \*

12 F. The filings as provided in this Article and all other provisions of this Code  
13 may be transmitted electronically in accordance with a system established by a clerk  
14 of court or by the Louisiana Clerks' Remote Access Authority. When such a system  
15 is established, the clerk of court shall adopt and implement procedures for the  
16 electronic filing and storage of any pleading, document, or exhibit. Furthermore, in  
17 a parish that accepts electronic filings covered under this Paragraph, the official  
18 record shall be the electronic record. A pleading or document filed electronically is  
19 deemed filed on the date and time stated on the confirmation of electronic filing sent  
20 from the system, if the clerk of court accepts the electronic filing. Public access to

1           electronically filed pleadings and documents shall be in accordance with the rules  
2           governing access to written filings.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

SENATE BILL NO. 139

BY SENATOR HARRIS

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

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AN ACT

To amend and reenact Code of Criminal Procedure Art. 893.2, relative to the sentence imposed when a firearm is discharged, used, or actually possessed during the commission of certain offenses; to provide relative to the procedure for such determinations; to provide relative to the court's authority to consider certain evidence and hold a contradictory hearing in this regard; to provide that the determination of whether a firearm was discharged, used, or actually possessed during the commission of an offense is a specific finding of fact to be submitted to the jury; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Art. 893.2 is hereby amended and reenacted to read as follows:

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, **simple burglary, simple burglary of an inhabited dwelling, unauthorized entry of an inhabited dwelling,** 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

1           893.3 have been shown to be applicable. Such determination is a specific finding of  
2           fact to be submitted to the jury and proven by the state beyond a reasonable doubt.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

SENATE BILL NO. 245 (Substitute of Senate Bill No. 71 by Senator Bernard)

BY SENATOR BERNARD

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AN ACT

To amend and reenact Code of Civil Procedure Arts. 1734(A) and 1734.1, relative to civil jury trials; to provide for the costs and expenses related to jury trials; to provide for the payment of jurors; to provide for certain deposits and amounts; to provide for certain actions by the court and clerk; to provide certain terms, conditions, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Articles 1734(A) and 1734.1 are hereby amended and reenacted to read as follows:

Art. 1734. Fixing the bond; calling the jury venire

A. Except as otherwise provided by R.S. 13:3105 et seq., when the case has been set for trial, the court shall fix the amount of the bond to cover all costs **estimated by the court** related to the trial by jury and shall fix the time for filing the bond, which shall be no later than sixty days prior to trial. Notice of the fixing of the bond shall be served on all parties. If the bond is not filed timely, any other party shall have an additional ten days to file the bond.

\* \* \*

Art. 1734.1. Cash deposit; procedure

A. When the case has been set for trial, the court may order, in lieu of the bond required in Article 1734, a deposit for costs, which shall be a specific ~~cash~~ amount **estimated by the court**, and the court shall fix the time for making the deposit, which shall be no later than thirty days prior to trial. The deposit shall include sufficient funds for payment of all costs associated with a jury trial, including juror fees and expenses and charges of the jury commission, clerk of court, and sheriff. The required deposit shall not exceed ~~two~~ **five** thousand dollars for the

1 first day, and ~~four hundred~~ **one thousand** dollars per day for each additional day the  
 2 court estimates the trial will last. Notice of the fixing of the deposit shall be served  
 3 on all parties. If the deposit is not timely made, any other party shall have an  
 4 additional ten days to make the required deposit. Failure to post the ~~cash~~ deposit  
 5 shall constitute a waiver of a trial by jury. However, no ~~cash~~ deposit shall be required  
 6 of an applicant for a jury trial under the provisions of this Article if waived or an  
 7 order is rendered, pursuant to Chapter 5 of Title I of Book IX of the Code of Civil  
 8 Procedure, permitting the applicant to litigate or continue to litigate without payment  
 9 of costs in advance or furnishing security therefor.

10 **B. When the deposit has been filed, the clerk of court shall order the jury**  
 11 **commission to draw a sufficient number of jurors to try and determine the**  
 12 **cause, such drawing to be made in accordance with R.S. 13:3044.**

13 **C.** The clerk of court may disburse funds from the cash deposit for payment  
 14 of all or a part of the jury costs as such costs accrue. The clerk shall keep a record of  
 15 funds disbursed ~~by him~~ from the ~~cash~~ deposit.

16 ~~**D.**~~ The court may require an additional **amount deposit** to be filed during  
 17 the trial if the original amount of the ~~cash~~ deposit is insufficient to pay jury costs.

18 ~~**E.**~~ The funds disbursed from the cash deposit for payment of jury costs  
 19 shall be assessed as costs of court.

20 ~~**F.**~~ After payment of all jury costs, any unexpended amounts remaining ~~in~~  
 21 ~~the cash~~ **on** deposit shall be refunded by the clerk of court to the party **or attorney**  
 22 filing the ~~cash~~ deposit.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

SENATE BILL NO. 34

BY SENATORS FIELDS AND CARTER

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

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AN ACT

To enact Chapter 25-A of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:2551 through 2553, and Code of Criminal Procedure Article 162.3, relative to law enforcement; to provide for body-worn cameras; to provide for motor vehicle dash cameras; to restrict use of neck restraints; to restrict the use of no-knock warrants; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 25-A of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:2551 through 2553, is hereby enacted to read as follows:

**CHAPTER 25-A. RESPONSIBILITIES OF LAW ENFORCEMENT**

**OFFICERS WHILE INTERACTING WITH THE PUBLIC**

**§2551. Use of body-worn cameras**

**No later than January 1, 2022, any law enforcement agency that utilizes body-worn cameras shall adopt a policy regarding the activation and deactivation of such cameras by the officer.**

**§2552. Use of motor vehicle dash cameras**

**No later than January 1, 2022, any law enforcement motor vehicle that is equipped with a dash camera that has the technology to automatically record upon the activation of the motor vehicle's police emergency lights shall utilize that technology.**

**§2553. Neck restraint prohibition**

**The use of choke holds and carotid holds are prohibited, except when the officer reasonably believes he or another person is at risk of great bodily harm or when deadly force is authorized.**

Section 2. Code of Criminal Procedure Article 162.3 is hereby enacted to read as

1 follows:

2 Art. 162.3. No-knock warrant

3 A. No law enforcement officer shall seek, execute, or participate in the  
4 execution of a no-knock warrant, except in cases where both of the following  
5 apply:

6 (1) The affidavit supporting the request for the warrant establishes  
7 probable cause that exigent circumstances exist requiring the warrant to be  
8 executed in a no-knock manner. For purposes of this Subparagraph, exigent  
9 circumstances shall include circumstances where the surprise of a no-knock  
10 entry is necessary to protect life and limb of the law enforcement officers and  
11 the occupants.

12 (2) The copy of the warrant being executed that is in the possession of  
13 law enforcement officers to be delivered as provided in Paragraph C of this  
14 Article includes the judge's signature.

15 B. A search warrant authorized under this Article shall require that a  
16 law enforcement officer be recognizable and identifiable as a uniformed law  
17 enforcement officer and provide audible notice of his authority and purpose  
18 reasonably expected to be heard by occupants of such place to be searched prior  
19 to the execution of such search warrant.

20 C. After entering and securing the place to be searched and prior to  
21 undertaking any search or seizure pursuant to the search warrant, the  
22 executing law enforcement officer shall read and give a copy of the search  
23 warrant to the person to be searched or the owner of the place to be searched  
24 or, if the owner is not present, to any occupant of the place to be searched. If the  
25 place to be searched is unoccupied, the executing law enforcement officer shall  
26 leave a copy of the search warrant suitably affixed to the place to be searched.

27 D. Search warrants authorized under this Article shall be executed only  
28 from sunrise to sunset except in either of the following instances:

29 (1) A judge authorizes the execution of such search warrant at another  
30 time for good cause shown.

1                    (2) The search warrant is for the withdrawal of blood. A search warrant  
2                    for the withdrawal of blood may be executed at any time of day.

3                    E. Any evidence obtained from a search warrant in violation of this  
4                    Article shall not be admitted into evidence for prosecution.

5                    F. For purposes of this Article, "no-knock warrant" means a warrant  
6                    issued by a judge that allows law enforcement to enter a property without  
7                    immediate prior notification of the residents, such as by knocking or ringing a  
8                    doorbell.

9                    G. For the purposes of this Article, only a district court judge may issue  
10                   a no-knock warrant.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_