

**Introduction of an ordinance to amend the Hammond Criminal Code is set for public hearing May 19, 2015 at 5:30 at the Hammond City Council Chambers 312 E. Charles St.**

**An Ordinance to Amend and Update the Hammond Criminal Code (Chapter 21) of the Code of Ordinances Regarding Offenses and Miscellaneous Provisions**

**BE IT ORDAINED** by the City Council of Hammond, Louisiana, that:

1. The Hammond Criminal Code (Chapter 21) of the Code of Ordinances is amended and to read as follows (changes are underscored):

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**SECTION 21-34.2 – Battery of a Police Officer**

(a) Definition

(1) Battery of a police officer is a battery committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a police officer acting in the performance of his duty.

(2) For purposes of this Section, “police officer” shall include commissioned police officers, sheriffs, deputy sheriffs, marshals, deputy marshals, correctional officers and constables.

(3) For purposes of this Section, “battery of a police officer” includes the use of force or violence upon the person of the police officer by throwing feces, urine, blood, saliva, or any form of human waste by an offender while the offender is incarcerated by a court of law and is being detained in any jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility.

(b)Penalty. Whoever commits the crime of battery of a police officer shall be fined not more than five hundred dollars (\$500.00) and imprisoned not less than fifteen (15) days nor more than sixty (60) days without benefit of suspension of sentence.

**SECTION 21-35.1 – Simple Battery of a Child Welfare Worker**

(a)(1) Simple battery of a child welfare worker is a battery, other than a second degree battery or an aggravated battery, committed without the consent of the victim when the offender has reasonable grounds to believe the victim is a child welfare worker working in the performance of employment duties who has presented proper identification.

(2) For purposes of this Section, “child welfare worker” shall include any child protection investigator, family services worker, foster care worker, adoption worker, any supervisor of the above, or any person authorized to transport clients for the agency.

(3) For purposes of this Section, “adult protective service worker” shall include any adult protection specialist or adult protection specialist supervisor employed by the Department of Health and Hospitals or the Governor's Office of Elderly Affairs.

(b) Whoever commits the crime of simple battery of a child welfare worker shall be fined not more than five hundred dollars (\$500.00) and shall be imprisoned not less than fifteen (15) days nor more than six (6) months without benefit of suspension of sentence.

**SECTION 21-37 – Aggravated Assault**

Aggravated assault is an assault committed with a dangerous weapon.

Whoever commits an aggravated assault shall be punished as provided by section 1-8 of this Code.

If the offense is committed upon a store's or merchant's employee while the offender is engaged in the perpetration or attempted perpetration of theft of goods, the offender shall be imprisoned for not less than one hundred twenty days without benefit of suspension of sentence nor more than six months and may be fined not more than one thousand dollars.

### **SECTION 21-38.3 – Assault on a Child Welfare Worker**

(a)(1) Assault on a child welfare worker is an assault committed when the offender has reasonable grounds to believe the victim is a child welfare worker acting in the performance of his duties.

(2) For purposes of this Section, “child welfare worker” shall include any child protection investigator, family services worker, foster care worker, adoption worker, any supervisor of the above, any person authorized to transport clients for the agency, or court appointed special advocate (CASA) program representative.

(b) Whoever commits the crime of assault on a child welfare worker shall be fined not more than five hundred dollars or imprisoned not less than fifteen days nor more than ninety days, or both.

### **SECTION 21-39 – Negligent Injuring**

(a) Negligent injuring is either of the following:

(1) The inflicting of any injury upon the person of another by criminal negligence.

(2) The inflicting of any injury upon the person of another by a dog or other animal when the owner of the dog or other animal is reckless and criminally negligent in confining or restraining the dog or other animal.

(b) The violation of an ordinance shall be considered only as presumptive evidence of such negligence.

(c) Whoever commits the crime of negligent injuring shall be punished as provided by section 1-8 of this Code.

### **SECTION 21-39.1 – Vehicular Negligent Injuring**

(a) Vehicular negligent injuring is the inflicting of any injury upon the person of a human being when caused proximately or caused directly by an offender engaged in the operation of, or in actual physical control of, any motor vehicle, aircraft, watercraft, or other means of conveyance whenever any of the following conditions exists:

(1) The offender is under the influence of alcoholic beverages.

(2) The offender's blood alcohol concentration is 0.08 per cent or more by weight based upon grams of alcohol per one hundred (100) cubic centimeters of blood.

(3) The offender is under the influence of any controlled dangerous substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964.

(4)(A) The operator is under the influence of a combination of alcohol and one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without a prescription.

(B) It shall be an affirmative defense to any charge under this Paragraph pursuant to this Section that the label on the container of the prescription drug or the manufacturer's package of the drug does not contain a warning against combining the medication with alcohol.

(5) The operator is under the influence of one or more drugs which are not controlled dangerous substances and which are legally obtainable with or without a prescription and the influence is caused by the operator knowingly consuming quantities of the drug or drugs which substantially exceed the dosage prescribed by the physician or the dosage recommended by the manufacturer of the drug.

(b) The violation of a statute or ordinance shall be considered only as presumptive evidence of negligence as set forth in Subsection (a).

(c) Whoever commits the crime of vehicular negligent injuring shall be punished as provided by section 1-8 of this Code.

## **SECTION 21-40.2 – Stalking**

(a) Stalking is the intentional and repeated following or harassing of another person that would cause a reasonable person to feel alarmed or to suffer emotional distress. Stalking shall include but not be limited to the intentional and repeated uninvited presence of the perpetrator at another person's home, workplace, school, or any place which would cause a reasonable person to be alarmed, or to suffer emotional distress as a result of verbal or behaviorally implied threats of death, bodily injury, sexual assault, kidnaping, or any other statutory criminal act to himself or any member of his family or any person with whom he is acquainted.

(b) Notwithstanding any law to the contrary, on first conviction, whoever commits the crime of stalking shall be fined not less than five hundred dollars nor more than one thousand dollars and shall be imprisoned for not less than thirty days nor more than one year. Notwithstanding any other sentencing provisions, any person convicted of stalking shall undergo a psychiatric evaluation. Imposition of the sentence shall not be suspended unless the offender is placed on probation and participates in a court-approved counseling which could include but shall not be limited to anger management, abusive behavior intervention groups, or any other type of counseling deemed appropriate by the courts.

(c) For the purposes of this Section, the following words shall have the following meanings:

(1) "Harassing" means the repeated pattern of verbal communications or nonverbal behavior without invitation which includes but is not limited to making telephone calls, transmitting electronic mail, sending messages via a third party, or sending letters or pictures.

(2) "Pattern of conduct" means a series of acts over a period of time, however short, evidencing an intent to inflict a continuity of emotional distress upon the person. Constitutionally protected activity is not included within the meaning of pattern of conduct.

(d) Whenever it is deemed appropriate for the protection of the victim, the court may send written notice to any employer of a person convicted for a violation of the provisions of this Section describing the conduct on which the conviction was based.

(1) Upon motion of the district attorney or on the court's own motion, whenever it is deemed appropriate for the protection of the victim, the court may, in addition to any penalties imposed pursuant to the provisions of this Section, grant a protective order which directs the defendant to refrain from abusing, harassing, interfering with the victim or the employment of the victim, or being physically present within a certain distance of the victim.

(2) Any protective order granted pursuant to the provisions of this Subsection shall be served on the defendant at the time of sentencing.

(3)(A) The court shall order that the protective order be effective either for an indefinite period of time or for a fixed term which shall not exceed eighteen months.

(B) If the court grants the protective order for an indefinite period of time pursuant to Subparagraph (a) of this Paragraph, after a hearing, on the motion of any party and for good cause shown, the court may modify the indefinite effective period of the protective order to be effective for a fixed term, not to exceed eighteen months, or to terminate the effectiveness of the protective order. A

motion to modify or terminate the effectiveness of the protective order may be granted only after a good faith effort has been made to provide reasonable notice of the hearing to the victim, the victim's designated agent, or the victim's counsel, and either of the following occur:

(e) The victim, the victim's designated agent, or the victim's counsel is present at the hearing or provides written waiver of such appearance.

(f) After a good faith effort has been made to provide reasonable notice of the hearing, the victim could not be located.

(1)(A) Immediately upon granting a protective order, the court shall cause to have prepared a Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2, shall sign such order, and shall forward it to the clerk of court for filing, without delay.

(B) The clerk of the issuing court shall send a copy of the Uniform Abuse Prevention Order or any modification thereof to the chief law enforcement official of the parish where the victim resides. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer as provided in this Subparagraph until otherwise directed by the court.

(C) The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order, or any modification thereof, to the Louisiana Protective Order Registry pursuant to R.S. 46:2136.2, by facsimile transmission, mail, or direct electronic input, where available, as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court.

(C)(1) The provisions of this Section shall not apply to a private investigator licensed pursuant to the provisions of Chapter 56 of Title 37 of the Louisiana Revised Statutes of 1950, acting during the course and scope of his employment and performing his duties relative to the conducting of an investigation.

(g) The provisions of this Section shall not apply to an investigator employed by an authorized insurer regulated pursuant to the provisions of Title 22 of the Louisiana Revised Statutes of 1950, acting during the course and scope of his employment and performing his duties relative to the conducting of an insurance investigation.

(h) The provisions of this Section shall not apply to an investigator employed by an authorized self-insurance group or entity regulated pursuant to the provisions of Chapter 10 of Title 23 of the Louisiana Revised Statutes of 1950, acting during the course and scope of his employment and performing his duties relative to the conducting of an insurance investigation.

## **SECTION 21-47 – Defamation**

Defamation is the malicious publication or expression in any manner, to anyone other than the party defamed, of anything which tends:

(1) To expose any person to hatred, contempt, or ridicule, or to deprive him of the benefit of public confidence or social intercourse; or

(2) To expose the memory of one deceased to hatred, contempt, or ridicule; or

(3) To injure any person, corporation, or association of persons in his or their business or occupation.

Whoever commits the crime of defamation shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

## **SECTION 21-48 – Presumption of Malice**

Where a non-privileged defamatory publication or expression is false it is presumed to be malicious unless a justifiable motive for making it is shown.

Where such a publication or expression is true, actual malice must be proved in order to convict the offender.

#### **SECTION 21-49 – Qualified Privilege**

A qualified privilege exists and actual malice must be proved, regardless of whether the publication is true or false, in the following situations:

(1) Where the publication or expression is a fair and true report of any judicial, legislative, or other public or official proceeding, or of any statement, speech, argument, or debate in the course of the same.

(2) Where the publication or expression is a comment made in the reasonable belief of its truth, upon,

(2)(A) The conduct of a person in respect to public affairs; or

(B) A thing which the proprietor thereof offers or explains to the public.

(3) Where the publication or expression is made to a person interested in the communication, by one who is also interested or who stands in such a relation to the former as to afford a reasonable ground for supposing his motive innocent.

(4) Where the publication or expression is made by an attorney or party in a judicial proceeding.

#### **SECTION 21-50 – Absolute Privilege**

There shall be no prosecution for defamation in the following situations:

(1) When a statement is made by a legislator or judge in the course of his official duties.

(2) When a statement is made by a witness in a judicial proceeding, or in any other legal proceeding where testimony may be required by law, and such statement is reasonably believed by the witness to be relevant to the matter in controversy.

(3) Against the owner, licensee or operator of a visual or sound broadcasting station or network of stations or the agents or employees thereof, when a statement is made or uttered over such station or network of stations by one other than such owner, licensee, operator, agents or employees.

#### **SECTION 21-56.4 – Criminal Damage to Property by Defacing with Graffiti**

(a) It shall be unlawful for any person to intentionally deface with graffiti immovable or movable property, whether publicly or privately owned, without the consent of the owner.

(b) As used in this Section, the following terms mean:

(1) “Deface” or “defacing” is the damaging of immovable or movable property by means of painting, marking, scratching, drawing, or etching with graffiti.

(2) “Graffiti” includes but is not limited to any sign, inscription, design, drawing, diagram, etching, sketch, symbol, lettering, name, or marking placed upon immovable or movable property in such a manner and in such a location as to deface the property and be visible to the general public.

(c) Whoever commits the crime of criminal damage to property by defacing with graffiti, where the damage is less than five hundred dollars, shall be fined not more than five hundred dollars or imprisoned for not more than six months in the parish jail, or both.

(d) Where the damage is more than five hundred dollars but less than fifty thousand dollars, the offender shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than two years, or both.

(e) Where the damage amounts to fifty thousand dollars or more, the offender shall be fined not more than ten thousand dollars or imprisoned with or without hard labor for not less than one nor more than ten years, or both.

(f)(1) The court, in addition to any punishment imposed under the provisions of this Section, may order the offender to clean up, repair, or replace any property damaged by the act or to pay restitution to the owner of the damaged property.

(2) The court may also order the offender to perform the following hours of community service:

(A) For a first conviction, not to exceed thirty-two hours over a period not to exceed one hundred eighty days.

(B) For a second or subsequent conviction, sixty-four hours over a period not to exceed one hundred eighty days.

(g) If a minor is personally unable to pay a fine levied for acts prohibited by this Section or make restitution as may be ordered by the court, the parent or guardian of the minor shall be liable for payment of the fine or restitution. A court may waive payment of the fine or restitution, or any part thereof, by the parent or guardian of the minor upon a finding of good cause.

### **SECTION 21-63 – Criminal Trespass**

(a) No person shall enter any structure, watercraft, or movable owned by another without express, legal, or implied authorization.

(b) No person shall enter upon immovable property owned by another without express, legal, or implied authorization.

(c) No person shall remain in or upon property, movable or immovable, owned by another without express, legal, or implied authorization.

(d) It shall be an affirmative defense to a prosecution for a violation of Subsection A, B, or C of this Section, that the accused had express, legal, or implied authority to be in the movable or on the immovable property.

(e) The following persons may enter or remain upon the structure, watercraft, movable or immovable property, of another:

(1) A duly commissioned law enforcement officer in the performance of his duties.

(2) Any firefighter, whether or not a member of a volunteer or other fire department, and any employee or agent of the Louisiana Department of Agriculture and Forestry engaged in locating and suppressing a fire.

(3) Emergency medical personnel engaged in the rendering of medical assistance to an individual.

(4) Any federal, state or local government employee, public utility employee or agent engaged in suppressing or dealing with an emergency that presents an imminent danger to human safety or health or to the environment.

(5) Any federal, state or local government employee, public utility employee or agent in the performance of his duties when otherwise authorized by law to enter or remain on immovable or movable property.

(6) Any person authorized by a court of law to enter or remain on immovable property.

(7) Any person exercising the mere right of passage to an enclosed estate, as otherwise provided by law.

(f) The following persons may enter or remain upon immovable property of another, unless specifically forbidden to do so by the owner or other person with authority, either orally or in writing:

(1) A professional land surveyor or his authorized personnel, engaged in the "Practice of Land Surveying", as defined in R.S. 37:682.

(2) A person, affiliate, employee, agent or contractor of any business which is regulated by the Louisiana Public Service Commission or by a local franchising authority or the Federal Communication Commission under the Cable Reregulation Act of 1992 or of a municipal or public utility, while acting in the course and scope of his employment or agency relating to the operation, repair, or maintenance of a facility, servitude or any property located on the immovable property which belongs to such a business.

(3) Any person making a delivery, soliciting, selling any product or service, conducting a survey or poll, a real estate licensee or other person who has a legitimate reason for making a delivery, conducting business or communicating with the owner, lessee, custodian or a resident of the immovable property, and who, immediately upon entry, seeks to make the delivery, to conduct business or to conduct the communication.

(4) An employee of the owner, lessee or custodian of the immovable property while performing his duties, functions and responsibilities in the course and scope of his employment.

(5) The owner of domestic livestock or his employees or agents while in the process of retrieving his domestic livestock that have escaped from an area fenced to retain such domestic livestock.

(6) The owner of a domestic animal while in the sole process of merely retrieving his domestic animal from immovable property and not having a firearm or other weapon on his person.

(7) Any candidate for political office or any person working on behalf of a candidate for a political office.

(8) The owner or occupant of a watercraft or vessel traveling in salt water engaged in any lawful purpose for the purpose of retrieval of his property or for obtaining assistance in an emergency situation.

(g) The following penalties shall be imposed for a violation of this Section:

(1) For the first offense, the fine shall be not less than one hundred dollars and not more than five hundred dollars, or imprisonment for not more than thirty days, or both.

(2) For the second offense, the fine shall be not less than three hundred dollars and not more than seven hundred fifty dollars, or imprisonment for not more than ninety days, or both.

(3) For the third offense and all subsequent offenses, the fine shall be not less than five hundred dollars and not more than one thousand dollars, or imprisonment for not less than sixty days and not more than six months, or both, and forfeiture to the law enforcement authority of any property seized in connection with the violation.

(4) A person may be convicted of a second offense and any subsequent offenses regardless of whether any prior conviction involved the same structure, watercraft, movable or immovable property and regardless of the time sequence of the occurrence of the offenses.

(5) In addition to the foregoing penalties, and notwithstanding any other law to the contrary, a person convicted under this Section who has killed or otherwise misappropriated any wildlife, as defined by R.S. 56:8, in the course of commission of the offense shall forfeit the misappropriated wildlife to the law enforcement authority, and shall be ordered to pay the value of the misappropriated wildlife into the Conservation Fund of the Department of Wildlife and Fisheries in accordance with R.S. 56:40.1 et seq. The value of the wildlife that was misappropriated shall be

determined by the guidelines adopted by the Wildlife and Fisheries Commission pursuant to R.S. 56:40.2.

(h) The provisions of any other law notwithstanding, owners, lessees, and custodians of structures, watercraft, movable or immovable property shall not be answerable for damages sustained by any person who enters upon the structure, watercraft, movable or immovable property without express, legal or implied authorization, or who without legal authorization, remains upon the structure, watercraft, movable or immovable property after being forbidden by the owner, or other person with authority to do so; however, the owner, lessee or custodian of the property may be answerable for damages only upon a showing that the damages sustained were the result of the intentional acts or gross negligence of the owner, lessee or custodian.

(i) A minor ten years old or younger shall not be arrested, detained or apprehended for the crime of trespass.

### **SECTION 21-67 – Theft**

(a) Theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. An intent to deprive the other permanently of whatever may be the subject of the misappropriation or taking is essential.

(1) Whoever commits the crime of theft when the misappropriation or taking amounts to less than a value of five hundred dollars (\$500.00), the offender shall be imprisoned for not more than sixty (60) days, or may be fined not more than five hundred dollars (\$500.00), or both.

### **SECTION 21-67.2 – Theft of Animals**

(a) Theft of animals is the misappropriation or taking of any animal which belongs to another, either without consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices or representations. An intent to deprive the other permanently of whatever may be the subject of the misappropriation or taking is essential.

(b) Whoever commits the crime of theft of animals shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or be imprisoned for sixty (60) days, or both.

### **SECTION 21-67.3 – Unauthorized Use of “Access Card” as Theft; Definitions**

(a) Definitions.

(1) Access card shall mean and include any card plate, account number, paper, book, or any other device, issued to a person which authorizes such person to obtain credit, money, goods, services, or anything of value, whether contemporaneously or not, by use of any credit or deferred payment plan with the issuer or by use of debiting or charging such person's demand deposit or savings or time account with the issuer or by debiting or charging any other funds such person has on deposit with the issuer.

(2) Revoked access card as used herein shall mean an access card which has been canceled or terminated by the issuer of said access card.

(3) Person as used herein shall mean and include natural persons, or any organization, or other entity.

(4) Issuer as used herein shall be the depository and/or creditor issuing the access card directly or through another entity.

(5) The aggregate amount of value of credit, money, goods, services or anything of value obtained shall determine the value of misappropriation or taking in determining the penalty under Hammond Criminal Code section 21-67 when the offender has obtained the credit, money goods services or

anything else of value from any one issuer or the offender has used an access card or referred to a nonexistent access card on two (2) or more occasions within any consecutive ninety-day period.

(b) Whoever, directly or indirectly, by agent or otherwise, with intent to defraud, (1) uses a forged access card, (2) makes reference by number or other description to a nonexistent access card, (3) steals or wrongfully appropriates an access card, or (4) uses an access card belonging to another person without authority of said person; thereby obtaining, whether contemporaneously or not, credit, money, goods, services or anything of value of less than five hundred dollars (\$500.00) shall be guilty of theft and shall be subject to the penalties provided for the crime of the theft in Hammond Criminal Code section 21-67

(c) Whoever, directly or indirectly, by agent or otherwise with intent to defraud uses a revoked access card thereby obtaining, whether contemporaneously or not, credit, money, goods, services or anything of value of less than five hundred dollars (\$500.00) shall be guilty of theft and shall be subject to the penalties provided for the crime of theft in Hammond Criminal Code section 21-67. For purpose of this subsection, it shall be presumptive evidence that a person used a revoked access card with intent to defraud if the said person, directly or indirectly, by agent or otherwise, used the said access card after actually receiving oral or written notice that the access card has been canceled or terminated, or if said person, directly or indirectly, by agent or otherwise used the said access card at a time period more than five (5) days after written notice of the termination or cancellation of said access card has been deposited by registered or certified mail in the United States mail system. Said notice shall be addressed to the person to whom such access card has been issued at the last known address for such person as shown on the records of the issuer.

(d) Whoever, directly or indirectly, by agent or otherwise, with the intent to defraud, uses an access card to obtain, whether contemporaneously or not, money, goods, services or anything of value of less than five hundred dollars (\$500.00) and the final payment for said items is to be made by debiting or charging said person's demand deposit or savings or time account with issuer, or by debiting or charging any other funds said person has on deposit with issuer, and there are not sufficient funds on deposit to the credit of said person with the issuer to make payment in full of said items obtained, said person shall have committed the crime of theft in Hammond Criminal Code section 21-67. Said person's failure to pay the amount due on said items obtained:

(1) Within ten (10) days after written notice of said amount due has been deposited by certified or registered mail in the United States mail system addressed to the person to whom such access card has been issued at the last known address for such person as shown on the records of issuer; or

(2) Within ten (10) days of delivery or personal tender of said written notice shall be presumptive evidence of said person's intent to defraud.

(e) As used herein and in Hammond Criminal code section 21-67, the access card itself shall be a thing of value, with a value less than five hundred dollars (\$500.00).

(f) In addition to any other fine or penalty imposed under this section or under Hammond Criminal Code section 21-67, the court may, at its discretion, order as a part of the sentence restitution.

**SECTION 21-68.2 – Unauthorized Use of Supplemental Nutrition Assistance Program Benefits or Supplemental Nutrition Assistance Program Benefit Access Devices**

(a) As used in this Section and in R.S. 14:68.2.1, the following terms have the following meanings:

(1) “SNAP benefits” means any supplemental nutrition assistance program benefits issued pursuant to the provisions of the Federal Food Stamp Act, 7 USC § 2011 et seq.

(2) “SNAP benefit access device” means any card, plate, code account access number, or other means of access that can be used, alone or in conjunction with another access device, to obtain payment, allotments, benefits, money, goods, or other things of value or that can be used to initiate a transfer of funds pursuant to the provisions of the Federal Food Stamp Act.

(b) The unauthorized use of SNAP benefits or a SNAP benefit access device is:

(1) To knowingly use, transfer, acquire, alter, or possess SNAP benefits or a SNAP benefit access device contrary to the provisions of the Federal Food Stamp Act or the federal or state regulations issued pursuant thereto.

(2) To knowingly counterfeit, alter, transfer, acquire, or possess a counterfeited or altered SNAP benefit access device.

(3) To present or cause to be presented a SNAP benefit access device for payment or redemption, knowing it to have been counterfeited, altered, received, transferred, or used in any manner contrary to the provisions of the Federal Food Stamp Act or the federal or state regulations issued pursuant thereto.

(4) To knowingly appropriate SNAP benefits or a SNAP benefit access device with which a person has been entrusted or of which a person has gained possession by virtue of his position as a public employee.

(c) Whoever commits the crime of unauthorized use of SNAP benefits or a SNAP benefit access device shall be fined not less than five thousand dollars nor more than one million dollars or imprisoned, with or without hard labor, for not less than six months nor more than ten years, or both.

(d) In addition to the foregoing penalties, a person convicted under this Section shall be ordered to make restitution in the total amount found to be the value of the SNAP benefits that form the basis for the conviction. If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

#### **SECTION 21-69 – Illegal Possession of Stolen Things**

Receiving stolen things is the intentional procuring, receiving, or concealing of anything of value less than seven hundred fifty dollars (\$750.00) which has been the subject of any robbery or theft, under circumstances which indicate that the offender knew or had good reason to believe that the thing was the subject of one (1) of these offenses.

Whoever commits the crime of receiving stolen things shall be punished as provided in section 1-8 of this Code.

#### **SECTION 21-71 – Issuing Worthless Checks**

(a)(1)(A) Issuing worthless checks is the issuing, in exchange for anything of value, whether the exchange is contemporaneous or not, with intent to defraud, of any check, draft, or order for the payment of money upon any bank or other depository, knowing at the time of the issuing that the offender has not sufficient credit with the bank, or other depository for the payment of such check, draft, or order in full upon its presentation.

(B) This section shall apply to a check, draft, or order tendered for satisfaction, in whole or in part, of payments due on installment contracts, open accounts, or any other obligation for which the creditor has authorized periodic payments or the extension of time in which to pay.

(C) This provision shall apply to a check, draft, or order for the payment of money given for a motor vehicle when such payment is conditioned upon delivery of documents necessary for transfer of a valid title to the purchaser.

(D) For purposes of this section, an open account shall include accounts where checks are tendered as payment:

(i) In advance of receipt, in whole or in part, for telecommunication facilities or services.

(ii) For deposits, prepayments, or payments for the lease or rent of a rental motor vehicle, pursuant to a lease or rental agreement.

(2) The offender's failure to pay a check, draft, or order, issued for value, within ten (10) days after notice of its nonpayment upon presentation has been deposited by certified mail in the United States mail system addressed to the issuer thereof either at the address shown on the instrument or the last known address for such person shown on the records of the bank upon which such instrument is drawn or within ten (10) days after deliver or personal tender of the written notice to said issuer by the payee or his agent, shall be presumptive evidence of his intent to defraud.

(b) Issuing worthless checks is also the issuing, in exchange for anything of value, whether the exchange is contemporaneous or not, with intent to defraud, of any check, draft, or order for the payment of money, when the offender knows at the time of the issuing that the account designated on the check, draft, or order has been closed, or is nonexistent or fictitious, or is one in which the offender has no interest or on which he has no authority to issue such check, draft, or order.

(c) When the amount of the check or checks is less than five hundred dollars (\$500.00), the offender shall be imprisoned for not more than six (6) months, or may be fined not more than five hundred dollars (500.00) or both.

(d) In addition to any other fine or penalty imposed under this section, the court shall order as part of the sentence restitution in the amount of the check or checks, plus fifteen dollars (\$15.00) per check service charge payable to the person or entity that initially honored the worthless check or checks, an authorized collection agency, or justice of the peace. In the event the fifteen-dollar per check service charge is paid to a person or entity other than one who initially honored the worthless check or checks, the court shall also order as part of the sentence restitution equal to the amount that the bank or other depository charged the person or entity who initially honored the worthless check, plus the actual cost of notifying the offender of nonpayment as required by paragraph (a)(2).

### **SECTION 21-73.2 – Offenses Against Intellectual Property**

(a) An offense against intellectual property is the intentional:

(1) Destruction, insertion, or modification, without consent, of intellectual property; or

(2) Disclosure, use, copying, taking, or accessing, without consent, of intellectual property.

(b)(1) Whoever commits an offense against intellectual property shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both, for commission of the offense.

(2) However, when the damage or loss amounts to a value of five hundred dollars or more, the offender may be fined not more than ten thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

(c) The provisions of this Section shall not apply to disclosure, use, copying, taking, or accessing by proper means as defined in this Subpart.

### **SECTION 21-73.3 – Offenses Against Computer Equipment or Supplies**

(a) An offense against computer equipment or supplies is the intentional modification or destruction, without consent, of computer equipment or supplies used or intended to be used in a computer, computer system, or computer network.

(b)(1) Whoever commits an offense against computer equipment or supplies shall be fined not more than five hundred dollars, or be imprisoned for not more than six months, or both.

(2) However, when the damage or loss amounts to a value of five hundred dollars or more, the offender may be fined not more than ten thousand dollars, or imprisoned with or without hard labor, for not more than five years, or both.

## **SECTION 21-73.6 – Offenses Against Electronic Mail Service Provider**

(a) It shall be unlawful for any person to use a computer, a computer network, or the computer services of an electronic mail service provider to transmit unsolicited bulk electronic mail in contravention of the authority granted by or in violation of the policies set by the electronic mail service provider. Transmission of electronic mail from an organization to its members or noncommercial electronic mail transmissions shall not be deemed to be unsolicited bulk electronic mail.

(b) It is unlawful for any person to use a computer or computer network without authority with the intent to falsify or forge electronic mail transmission information or other routing information in any manner in connection with the transmission of unsolicited bulk electronic mail through or into the computer network of an electronic mail service provider or its subscribers. It is also unlawful for any person knowingly to sell, give, or otherwise distribute or possess with the intent to sell, give, or distribute software which is any of the following:

(1) Primarily designed or produced for the purpose of facilitating or enabling the falsification of electronic mail transmission information or other routing information.

(2) Has only limited commercially significant purpose or use other than to facilitate or enable the falsification of electronic mail transmission information or other routing information.

(3) Marketed by that person or another acting in concert with that person with that person's knowledge for use in facilitating or enabling the falsification of electronic mail transmission information or other routing information.

(c) Whoever violates the provisions of this Section shall be fined not more than five thousand dollars.

(d) Nothing in this Section shall be construed to interfere with or prohibit terms or conditions in a contract or license related to computers, computer data, computer networks, computer operations, computer programs, computer services, or computer software, or to create any liability by reason of terms or conditions adopted by, or technical measures implemented by, an electronic mail service provider to prevent the transmission of unsolicited electronic mail in violation of this Section.

## **SECTION 21-73.7 – Computer Tampering**

(a) Computer tampering is the intentional commission of any of the actions enumerated in this Subsection when that action is taken knowingly and without the authorization of the owner of a computer:

(1) Accessing or causing to be accessed a computer or any part of a computer or any program or data contained within a computer.

(2) Copying or otherwise obtaining any program or data contained within a computer.

(3) Damaging or destroying a computer, or altering, deleting, or removing any program or data contained within a computer, or eliminating or reducing the ability of the owner of the computer to access or utilize the computer or any program or data contained within the computer.

(4) Introducing or attempting to introduce any electronic information of any kind and in any form into one or more computers, either directly or indirectly, and either simultaneously or sequentially, with the intention of damaging or destroying a computer, or altering, deleting, or removing any program or data contained within a computer, or eliminating or reducing the ability of the owner of the computer to access or utilize the computer or any program or data contained within the computer.

(b) For purposes of this Section:

(1) Actions which are taken without authorization include actions which intentionally exceed the limits of authorization.

(2) If an owner of a computer has established a confidential or proprietary code which is required in order to access a computer, and that code has not been issued to a person, and that person uses that code to access that computer or to cause that computer to be accessed, that action creates a rebuttable presumption that the action was taken without authorization or intentionally exceeded the limits of authorization.

(3) The vital services or operations of the state, or of any parish, municipality, or other local governing authority, or of any utility company are the services or operations which are necessary to protect the public health, safety, and welfare, and include but are not limited to: law enforcement; fire protection; emergency services; health care; transportation; communications; drainage; sewerage; and utilities, including water, electricity, and natural gas and other forms of energy.

(c) Whoever commits the crime of computer tampering as defined in Paragraphs (A)(1) and (2) of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(d) Whoever commits the crime of computer tampering as defined in Paragraphs (A)(3) and (4) of this Section shall be fined not more than ten thousand dollars or imprisoned, with or without hard labor, for not more than five years, or both.

(e) Whoever violates the crime of computer tampering as defined in Paragraphs (A)(3) and (4) of this Section with the intention of disrupting the vital services or operations of the state, or of any parish, municipality, or other local governing authority, or of any utility company, or with the intention of causing death or great bodily harm to one or more persons, shall be fined not more than ten thousand dollars or imprisoned at hard labor for not more than fifteen years, or both.

#### **SECTION 21-74 – Criminal Neglect of Family**

(a)(1) Criminal neglect of family is the desertion or intentional nonsupport:

(A) By a spouse of his or her spouse who is in destitute or necessitous circumstances; or  
(B) By either parent of his minor child who is in necessitous circumstances, there being a duty established by this Section for either parent to support his child.

(2) Each parent shall have this duty without regard to the reasons and irrespective of the causes of his living separate from the other parent. The duty established by this Section shall apply retrospectively to all children born prior to the effective date of this Section.

(3) For purposes of this Subsection, the factors considered in determining whether “necessitous circumstances” exist are food, shelter, clothing, health, and with regard to minor children only, adequate education, including but not limited to public, private, or home schooling, and comfort.

(b)(1) Whenever a husband has left his wife or a wife has left her husband in destitute or necessitous circumstances and has not provided means of support within thirty days thereafter, his or her failure to so provide shall be only presumptive evidence for the purpose of determining the substantive elements of this offense that at the time of leaving he or she intended desertion and nonsupport. The receipt of assistance from the Family Independence Temporary Assistance Program (FITAP) shall constitute only presumptive evidence of necessitous circumstances for purposes of proving the substantive elements of this offense. Physical incapacity which prevents a person from seeking any type of employment constitutes a defense to the charge of criminal neglect of family.

(2) Whenever a parent has left his minor child in necessitous circumstances and has not provided means of support within thirty days thereafter, his failure to so provide shall be only presumptive evidence for the purpose of determining the substantive elements of this offense that at the time of leaving the parent intended desertion and nonsupport. The receipt of assistance from the Family Independence Temporary Assistance Program (FITAP) shall constitute only presumptive evidence

of necessitous circumstances for the purpose of proving the substantive elements of this offense. Physical incapacity which prevents a person from seeking any type of employment constitutes a defense to the charge of criminal neglect of family.

(c) Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this Section. Husband and wife are competent witnesses to testify to any relevant matter.

(d)(1) Whoever commits the offense of criminal neglect of family shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both, and may be placed on probation pursuant to R.S. 15:305.

(2) If a fine is imposed, the court shall direct it to be paid in whole or in part to the spouse or to the tutor or custodian of the child, to the court approved fiduciary of the spouse or child, or to the Louisiana Department of Children and Family Services in a FITAP or Family Independence Temporary Assistance Program case or in a non-FITAP or Family Independence Temporary Assistance Program case in which the said department is rendering services, whichever is applicable; hereinafter, said payee shall be referred to as the “applicable payee.” In addition, the court may issue a support order, after considering the circumstances and financial ability of the defendant, directing the defendant to pay a certain sum at such periods as the court may direct. This support shall be ordered payable to the applicable payee. The amount of support as set by the court may be increased or decreased by the court as the circumstances may require.

(3) The court may also require the defendant to enter into a recognizance, with or without surety, in order that the defendant shall make his or her personal appearance in court whenever required to do so and shall further comply with the terms of the order or of any subsequent modification thereof.

(e) For the purposes of this Section, “spouse” shall mean a husband or wife.

## **SECTION 21-79 – Violation of Protective Orders**

(a)(1)(A) Violation of protective orders is the willful disobedience of a preliminary or permanent injunction or protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 327.1, 335.1, 335.2, and 871.1 after a contradictory court hearing, or the willful disobedience of a temporary restraining order or any ex parte protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., criminal stay-away orders as provided for in Code of Criminal Procedure Articles 327.1, 335.1, 335.2, Children's Code Article 1564 et seq., or Code of Civil Procedure Articles 3604 and 3607.1, if the defendant has been given notice of the temporary restraining order or ex parte protective order by service of process as required by law.

(B) A defendant may also be deemed to have been properly served if tendered a certified copy of a temporary restraining order or ex parte protective order by any law enforcement officer who has been called to any scene where the named defendant is present. Such service of a previously issued temporary restraining order or ex parte protective order if noted in the police report shall be deemed sufficient evidence of service of process and admissible in any civil or criminal proceedings.

(2) Violation of protective orders shall also include the willful disobedience of an order of protection issued by a foreign state.

(3) Violation of protective orders shall also include the willful disobedience of the following:

(A) An order issued by any state, federal, parish, city, or municipal court judge, magistrate judge, commissioner or justice of the peace that a criminal defendant stay away from a specific person or persons as a condition of that defendant's release on bond.

(B) An order issued by any state, federal, parish, city, or municipal court judge, magistrate judge, commissioner or justice of the peace that a defendant convicted of a violation of any state, federal,

parish, municipal, or city criminal offense stay away from any specific person as a condition of that defendant's release on probation.

(C) A condition of a parole release which requires that the parolee stay away from any specific person.

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

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

(3) On a third or subsequent conviction for violation of protective orders which does not involve a battery or any crime of violence as defined by R.S. 14:2(B) against the person protected by the protective order, regardless of whether the current offense occurred before or after the earlier convictions, the offender shall be fined not more than one thousand dollars and imprisoned for not less than fourteen days nor more than six months. At least fourteen days of the sentence of imprisonment imposed under this Paragraph shall be without benefit of probation, parole, or suspension of sentence. If a portion of the sentence is imposed with benefit of probation, parole, or suspension of sentence, the court shall require the offender to participate in a court-approved domestic abuse counseling program, unless the offender has previously been required to participate in such program and, in the discretion of the judge, the offender would not benefit from such counseling.

(c)(1) Whoever is convicted of the offense of violation of protective orders where the violation involves a battery or any crime of violence as defined by R.S. 14:2(B) against the person protected by the protective order, and who has not been convicted of violating a protective order or of an assault or battery upon the person protected by the protective order within the five years prior to commission of the instant offense, shall be fined not more than five hundred dollars and imprisoned for not less than fourteen days nor more than six months. At least fourteen days of the sentence of imprisonment imposed under this Paragraph shall be without benefit of probation, parole, or suspension of sentence. If a portion of the sentence is imposed with benefit of probation, parole, or suspension of sentence, the court shall require the offender to participate in a court-approved domestic abuse counseling program as part of that probation.

(2) Whoever is convicted of the offense of violation of protective orders where the violation involves a battery or any crime of violence as defined by R.S. 14:2(B) against the person for whose benefit the protective order is in effect, and who has been convicted not more than one time of violating a protective order or of an assault or battery upon the person for whose benefit the protective order is in effect within the five-year period prior to commission of the instant offense, regardless of whether the instant offense occurred before or after the earlier convictions, shall be fined not more than one thousand dollars and imprisoned for not less than three months nor more than six months. At least fourteen days of the sentence of imprisonment imposed under this Paragraph shall be without benefit of probation, parole, or suspension of sentence. If a portion of the sentence is imposed with benefit of probation, parole, or suspension of sentence, the court shall require the offender to participate in a court-approved domestic abuse counseling program, unless the offender has previously been required to participate in such program and, in the discretion of the court, the offender would not benefit from such counseling.

(3) Whoever is convicted of the offense of violation of protective orders where the violation involves a battery or any crime of violence as defined by R.S. 14:2(B) against the person for whose benefit the protective order is in effect, and who has more than one conviction of violating a protective order or of an assault or battery upon the person for whose benefit the protective order

is in effect during the five-year period prior to commission of the instant offense, regardless of whether the instant offense occurred before or after the earlier convictions, the offender shall be fined not more than two thousand dollars and imprisoned with or without hard labor for not less than one year nor more than five years. At least one year of the sentence of imprisonment imposed under this Paragraph shall be without benefit of probation, parole, or suspension of sentence.

(d) If, as part of any sentence imposed under this Section, a fine is imposed, the court may direct that the fine be paid for the support of the spouse or children of the offender.

(e)(1) Law enforcement officers shall use every reasonable means, including but not limited to immediate arrest of the violator, to enforce a preliminary or permanent injunction or protective order obtained pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 327.1, 335.1, 335.2, and 871.1 after a contradictory court hearing, or to enforce a temporary restraining order or ex parte protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, R.S. 46:2171 et seq., Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 327.1, 335.1, and 335.2 if the defendant has been given notice of the temporary restraining order or ex parte protective order by service of process as required by law.

(2) Law enforcement officers shall at a minimum issue a summons to the person in violation of a temporary restraining order, a preliminary or permanent injunction, or a protective order issued pursuant to R.S. 9:361 et seq., R.S. 9:372, R.S. 46:2131 et seq., R.S. 46:2151, Children's Code Article 1564 et seq., Code of Civil Procedure Articles 3604 and 3607.1, or Code of Criminal Procedure Articles 30, 327.1, 335.2, and 871.1.

(f) This Section shall not be construed to bar or limit the effect of any other criminal statute or civil remedy.

(g) "Instant offense" as used in this Section means the offense which is before the court.

(h) An offender ordered to participate in a domestic abuse counseling program under the provision of this Section shall pay the cost incurred in participating in the program, unless the court determines that the offender is unable to pay. Failure to make payment under this Subsection shall subject the offender to revocation of probation.

## **SECTION 21-80.1 – Misdemeanor Carnal Knowledge of a Juvenile**

(a) Misdemeanor carnal knowledge of a juvenile is committed when a person who is seventeen years of age or older has sexual intercourse, with consent, with a person who is thirteen years of age or older but less than seventeen years of age, when the victim is not the spouse of the offender, and when the difference between the age of the victim and age of the offender is greater than two years, but less than four years.

(b) As used in this Section, "sexual intercourse" means anal, oral, or vaginal sexual intercourse.

(c) Lack of knowledge of the juvenile's age shall not be a defense. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

(d) Whoever commits the crime of misdemeanor carnal knowledge of a juvenile shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(e) The offender shall be eligible to have his conviction set aside and his prosecution dismissed in accordance with the appropriate provisions of the Code of Criminal Procedure.

(f) The offender shall not be subject to any of the provisions of law which are applicable to sex offenders, including but not limited to the provisions which require registration of the offender and notice to the neighbors of the offender.

## **SECTION 21-81.4 – Prohibited Sexual Conduct Between Educator and Student**

(a) Prohibited sexual conduct between an educator and a student is committed when any of the following occur:

(1) An educator has sexual intercourse with a person who is seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, when the victim is not the spouse of the offender and is a student at the school where the educator is assigned, employed, or working at the time of the offense.

(2) An educator commits any lewd or lascivious act upon a student or in the presence of a student who is seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, with the intention of gratifying the sexual desires of either person, when the victim is a student at the school in which the educator is assigned, employed, or working at the time of the offense.

(3) An educator intentionally engages in the touching of the anus or genitals of a student seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, using any instrumentality or any part of the body of the educator, or the touching of the anus or genitals of the educator by a person seventeen years of age or older, but less than twenty-one years of age, where there is an age difference of greater than four years between the two persons, when the victim is a student at the school in which the educator is assigned, employed, or working at the time of the offense using any instrumentality or any part of the body of the student.

(b) As used in this Section:

(1) “Educator” means any administrator, coach, instructor, paraprofessional, student aide, teacher, or teacher aide at any public or private school, assigned, employed, or working at the school or school system where the victim is enrolled as a student on a full-time, part-time, or temporary basis.

(2) “School” means a public or nonpublic elementary or secondary school or learning institution which shall not include universities and colleges.

(3) “Sexual intercourse” means anal, oral, or vaginal sexual intercourse. Emission is not necessary, and penetration, however slight, is sufficient to complete the crime.

(4) “Student” includes students enrolled in a school who are seventeen years of age or older, but less than twenty-one years of age.

(c) The consent of a student, whether or not that student is seventeen years of age or older, shall not be a defense to any violation of this Section.

(d) Lack of knowledge of the student's age shall not be a defense.

(e)(1) Whoever violates the provisions of this Section shall be fined not more than one thousand dollars, or imprisoned for not more than six months, or both.

(2) For a second or subsequent offense, an offender may be fined not more than five thousand dollars and shall be imprisoned, with or without hard labor, for not less than one year nor more than five years.

(f) Notwithstanding any claim of privileged communication, any educator having cause to believe that prohibited sexual conduct between an educator and student shall immediately report such conduct to a local or state law enforcement agency.

(g) No cause of action shall exist against any person who in good faith makes a report, cooperates in any investigation arising as a result of such report, or participates in judicial proceedings arising out of such report, and such persons shall have immunity from civil or criminal liability that otherwise might be incurred or imposed. This immunity shall not be extended to any person who makes a report known to be false or with reckless disregard for the truth of the report.

(h) In any action to establish damages against a defendant who has made a false report of prohibited sexual conduct between an educator and student, the plaintiff shall bear the burden of proving that the defendant who filed the false report knew the report was false or that the report was filed with reckless disregard for the truth of the report. A plaintiff who fails to meet the burden of proof set forth in this Subsection shall pay all court costs and attorney fees of the defendant.

## **SECTION 21-82 – Prostitution; Definition; Penalties; Enhancement**

(a) Prostitution is:

(1) The practice by a person of indiscriminate sexual intercourse with others for compensation.

(2) The solicitation by one person of another with the intent to engage in indiscriminate sexual intercourse with the latter for compensation.

(b) As used in this Section, “sexual intercourse” means anal, oral, or vaginal sexual intercourse.

(c)(1) Whoever commits the crime of prostitution shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

(2) On a second conviction, the offender shall be fined not less than two hundred fifty dollars nor more than two thousand dollars or be imprisoned, with or without hard labor, for not more than two years, or both.

(3) On a third and subsequent conviction, the offender shall be imprisoned, with or without hard labor, for not less than two nor more than four years and shall be fined not less than five hundred dollars nor more than four thousand dollars.

(4) Whoever commits the crime of prostitution with a person under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(5) Whoever commits the crime of prostitution with a person under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(d) Any offense under this Section committed more than five years prior to the commission of the offense with which the defendant is charged shall not be considered in the assessment of penalties under this Section.

(e) If the offense occurred as a result of a solicitation by the offender while the offender was located on a public road or highway, or the sidewalk, walkway, or public servitude thereof, the court shall sentence the offender to imprisonment for a minimum of ninety days. If a portion of the sentence is suspended, the court may place the offender upon supervised probation if the offender agrees, as a condition of probation, to perform two hundred forty hours of community service work collecting or picking up litter and trash on the public roads, streets, and highways, under conditions specified by the court.

(f) All persons who are convicted of the offense of prostitution shall be referred to the parish health unit for counseling concerning Acquired Immune Deficiency Syndrome. The counseling shall be provided by existing staff of the parish health unit whose duties include such counseling.

(g)(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim

pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

### **SECTION 21-83 – Soliciting for Prostitutes**

(a) Soliciting for prostitutes is the soliciting, inviting, inducing, directing, or transporting a person to any place with the intention of promoting prostitution.

(b)(1) Whoever commits the crime of soliciting for prostitutes shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Whoever commits the crime of soliciting for prostitutes when the person being solicited is under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the crime of soliciting for prostitutes when the person being solicited is under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4)(A) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(B) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include but shall not be limited to electronic communication devices, computers, computer-related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

### **SECTION 21-83.1 – Inciting Prostitution**

(a) Inciting prostitution is the aiding, abetting, or assisting in an enterprise for profit in which:

(1) Customers are charged a fee for services which include prostitution, regardless of what portion of the fee is actually for the prostitution services,

(2) When the person knows or when a reasonable person in such a position should know that such aiding, abetting, or assisting is for prostitution, and

(3) When the proceeds or profits are to be in any way divided by the prostitute and the person aiding, abetting, or assisting the prostitute.

(b)(1) Whoever commits the crime of inciting prostitution shall be fined not more than one thousand dollars or imprisoned for not more than one year, or both.

(2) Whoever commits the crime of inciting prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the crime of inciting prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4)(a) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(b) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include but shall not be limited to electronic communication devices, computers, computer-related equipment, motor vehicles, photographic equipment used to record or create still

or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

### **SECTION 21-83.3 – Prostitution by Massage**

(a) Prostitution by massage is the erotic stimulation of the genital organs of another by any masseur, masseuse, or any other person, whether resulting in orgasm or not, by instrumental manipulation, touching with the hands, or other bodily contact exclusive of sexual intercourse or unnatural carnal copulation, when done for money.

(b) As used in this Section, the terms:

(1) “Masseur” means a male who practices massage or physiotherapy, or both.

(2) “Masseuse” means a female who practices massage or physiotherapy, or both.

(c) Whoever commits the crime of prostitution by massage shall be fined not more than five hundred dollars or imprisoned not more than six months, or both.

(d)(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

### **SECTION 21-83.4 – Massage; Sexual Conduct Prohibited**

(a) It shall be unlawful for any masseur, masseuse, or any other person, while in a massage parlor or any other enterprise used as a massage parlor, by stimulation in an erotic manner, to:

(1) Expose, touch, caress, or fondle the genitals, anus, or pubic hairs of any person or the nipples of the female breast; or

(2) To perform any acts of sadomasochistic abuse, flagellation, or torture in the context of sexual conduct.

(b) Whoever violates this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(c)(1) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes as provided in R.S. 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this Paragraph shall be eligible for specialized services for sexually exploited children.

(2) It shall be an affirmative defense to prosecution for a violation of this Section that, during the time of the alleged commission of the offense, the defendant is determined to be a victim of human trafficking pursuant to the provisions of R.S. 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this Paragraph shall be notified of any treatment or specialized services for sexually exploited persons to the extent that such services are available.

### **SECTION 21-85 – Letting Premises for Prostitution**

(a) Letting premises for prostitution is the granting of the right of use or the leasing of any premises, knowing that they are to be used for the practice of prostitution, or allowing the continued use of the premises with such knowledge.

(b)(1) Whoever commits the crime of letting premises for prostitution shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(2) Whoever commits the crime of letting premises for prostitution of persons under the age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years nor more than fifty years, or both.

(3) Whoever commits the crime of letting premises for prostitution of persons under the age of fourteen years shall be fined not more than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five years nor more than fifty years, or both.

(4)(A) In addition, the court shall order that the personal property used in the commission of the offense shall be seized and impounded, and after conviction, sold at public sale or public auction by the district attorney in accordance with R.S. 15:539.1.

(B) The personal property made subject to seizure and sale pursuant to Subparagraph (a) of this Paragraph may include but shall not be limited to electronic communication devices, computers, computer-related equipment, motor vehicles, photographic equipment used to record or create still or moving visual images of the victim that are recorded on paper, film, video tape, disc, or any other type of digital recording media.

#### **SECTION 21-88 – Distribution of Abortifacients**

(a) Distribution of abortifacients is the intentional:

(1) Distribution or advertisement for distribution of any drug, potion, instrument, or article for the purpose of procuring an abortion; or

(2) Publication of any advertisement or account of any secret drug or nostrum purporting to be exclusively for the use of females, for preventing conception or producing abortion or miscarriage.

(b) Whoever commits the crime of distribution of abortifacients shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

#### **SECTION 21-92 – Contributing to the Delinquency of Juveniles**

(a) Contributing to the delinquency of juveniles is the intentional enticing, aiding or permitting, by anyone over the age of seventeen (17), of any child under the age of seventeen (17), and no exception shall be made for a child who has been emancipated by marriage or otherwise to:

(1) Beg, sing, sell any article or play any musical instrument in any public place for the purpose of receiving alms;

(2) Associate with any vicious or disreputable persons or frequent places where the same may be found; or

(3) Visit any place where beverages of either high or low alcoholic content are the principal commodity sold or given away; or

(4) Visit any place where any gambling device is found, or where gambling habitually occurs; or

(5) Habitually trespass where it is recognized that he has no right to be; or

(6) Use any vile, obscene or indecent language; or

(7) Perform any sexually immoral act; or

(8) Absent himself or remain away, without authority of his parents or tutor, from his home or place of abode; or

(9) Violate any law of the state or ordinance of any parish or village or town or city of the state; or

(10) Visit any place where sexually indecent and obscene material, of any nature is offered for sale, displayed or exhibited.

(11)(A) Become involved in the commission of a crime of violence as defined in R.S. 14:2(B) which is a felony or a violation of the Uniform Controlled Dangerous Substances Law which is a felony.

(B) Become involved in the commission of any other felony not enumerated in Subparagraph (a) of this Paragraph.

(b) Lack of knowledge of the juvenile's age shall not be a defense.

(c) Whoever commits the crime of contributing to the delinquency of a juvenile shall be punished as provided in section 1-8 of this Code.

(d)(1) Whoever is charged and convicted of contributing to the delinquency of a juvenile under Subparagraph (a) of Paragraph (11) of Subsection A of this Section shall be imprisoned at hard labor for not less than two years and for not more than ten years or imprisoned according to the sentence of imprisonment for the underlying felony, whichever is less.

#### **SECTION 21 - 93.11. Unlawful sales to persons under twenty-one**

A. Unlawful sales to persons under twenty-one is the selling or otherwise delivering for value of any alcoholic beverage to any person under twenty-one years of age unless such person is the lawful owner or lawful employee of an establishment to which the sale is being made and is accepting such delivery pursuant to such ownership or employment. Lack of knowledge of the person's age shall not be a defense.

B. Whoever violates the provisions of this Section shall be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned for not less than thirty days nor more than six months, or both.

#### **SECTION 21- 93.12. Purchase and public possession of alcoholic beverages; exceptions; penalties**

A. It is unlawful for any person under twenty-one years of age to purchase or have public possession of any alcoholic beverage.

B. (1) Whoever violates the provisions of this Section shall be fined not more than one hundred dollars or imprisoned for not more than six months, or both.

(2) Any person apprehended while violating the provisions of this Section shall be issued a citation by the apprehending law enforcement officer, which shall be paid in the same manner as provided for the offenders of local traffic violations.

(3) In addition to the penalties provided in Paragraph (1) of this Subsection, the driver's license of any person violating the provisions of this Section may be suspended upon conviction, plea of guilty, or nolo contendere for a period of one hundred eighty days. Upon conviction, plea of guilty, or nolo contendere, the court shall surrender the driver's license to the Department of Public Safety and Corrections for suspension in accordance with the provisions of this Section. Upon first conviction, the court may issue an order which authorizes the department to issue a restricted driver's license upon

a demonstration to the court that a hardship would result from being unable to drive to school or work. Such restrictions shall be determined by the court.

### **SECTION 21- 93.13. Unlawful purchase of alcoholic beverages by persons on behalf of persons under twenty-one**

A. It is unlawful for any person, other than a parent, spouse, or legal guardian, as specified in [R.S. 14:93.10\(2\)\(a\)\(ii\)](#), to purchase on behalf of a person under twenty-one years of age any alcoholic beverage.

B. (1) Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.

(2) In addition to the penalties provided in Paragraph (1) of this Subsection, the driver's license of any person violating the provisions of this Section may be suspended upon conviction, plea of guilty, or nolo contendere for a period of one hundred eighty days. Upon conviction, plea of guilty, or nolo contendere, the court shall surrender the driver's license to the Department of Public Safety and Corrections for suspension in accordance with the provisions of this Section. Upon first conviction, the court may issue an order which authorizes the department to issue a restricted driver's license upon a demonstration to the court that suspension of his driving privileges will deprive him or his family of the necessities of life or prevent him from earning a livelihood. Such restrictions shall be determined by the court.

### **SECTION 21-93.2 – Tattooing and Body Piercing of Minors; Prohibition**

(a) It is unlawful for any person to tattoo or body pierce any other person under the age of eighteen without the consent of an accompanying parent or tutor of such person.

(b) It is unlawful for any business entity to pierce the body of any person under the age of eighteen without the consent of a parent or legal custodian of such person.

(c) Whoever is found guilty of violating the provisions of this Section shall be fined not less than one hundred dollars nor more than five hundred dollars or be imprisoned for not less than thirty days nor more than one year, or both.

### **SECTION 21-93.2.1 – Child Desertion**

(a) Child desertion is the intentional or criminally negligent exposure of a child under the age of ten years, by a person who has the care, custody, or control of the child, to a hazard or danger against which the child cannot reasonably be expected to protect himself, or the desertion or abandonment of such child, knowing or having reason to believe that the child could be exposed to such hazard or danger.

(b)(1) Whoever commits the crime of child desertion shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both.

(2) On a second and subsequent conviction, the offender shall be fined not more than five hundred dollars and imprisoned for not less than thirty days nor more than six months, at least thirty days of which shall be without benefit of probation or suspension of sentence.

### **SECTION 21-95.7 – Possession of or Dealing in Firearms With Obliterated Numbers or Marks**

(a) No person shall intentionally receive, possess, carry, conceal, buy, sell, or transport any firearm from which the serial number or mark of identification has been obliterated.

(b) This Section shall not apply to any firearm which is an antique or war relic and is inoperable or for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade, or which was originally manufactured without such a number.

(c) Whoever violates the provisions of this Section shall be fined not more than one thousand dollars and imprisoned as follows:

(1) For a first offense, the penalty shall be imprisonment, with or without hard labor, for not less than one year nor more than five years.

(2) For a second or subsequent offense, the penalty shall be imprisonment, with or without hard labor, for not less than two years nor more than ten years.

### **SECTION 21-98 – Operating a Vehicle While Intoxicated**

(a)(1) The crime of operating a vehicle while intoxicated is the operating of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance when any of the following conditions exist:

(A) The operator is under the influence of alcoholic beverages.

(B) The operator's blood alcohol concentration is 0.08 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood.

(C) The operator is under the influence of any controlled dangerous substance listed in Schedule I, II, III, IV, or V as set forth in R.S. 40:964.

(D)(i) The operator is under the influence of a combination of alcohol and one or more drugs that are not controlled dangerous substances and that are legally obtainable with or without a prescription.

(ii) It shall be an affirmative defense to any charge under this Subparagraph that the label on the container of the prescription drug or the manufacturer's package of the drug does not contain a warning against combining the medication with alcohol.

(E)(i) The operator is under the influence of one or more drugs that are not controlled dangerous substances and that are legally obtainable with or without a prescription.

(ii) It shall be an affirmative defense to any charge under this Subparagraph that the operator did not knowingly consume quantities of the drug or drugs that substantially exceed the dosage prescribed by the physician or the dosage recommended by the manufacturer of the drug.

(2) A valid driver's license shall not be an element of the offense, and the lack thereof shall not be a defense to a prosecution for operating a vehicle while intoxicated.

(b)(1) This Subsection shall be cited as the “Child Endangerment Law”.

(2) When the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child twelve years of age or younger was a passenger in the motor vehicle, aircraft, watercraft, vessel, or other means of motorized conveyance at the time of the commission of the offense:

(A) Except as provided in Subparagraphs (b) and (c) of this Paragraph, the execution of the minimum mandatory sentence provided by R.S. 14:98.1 or 98.2, as appropriate, shall not be suspended.

(c)(1) For purposes of determining whether a defendant has a prior conviction for a violation of this Section, a conviction under any of the following shall constitute a prior conviction:

(A) R.S. 14:32.1, vehicular homicide.

(B) R.S. 14:32.8, third degree feticide.

(C) R.S. 14:39.1, vehicular negligent injuring.

(D) R.S. 14:39.2, first degree vehicular negligent injuring.

(E) A law of any state or an ordinance of a municipality, town, or similar political subdivision of another state that prohibits the operation of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance while intoxicated, while impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance.

(2) The determination under this Subsection shall be made by the court as a matter of law.

(3) For purposes of this Section, a prior conviction shall not include a conviction for an offense under this Section, a conviction for an offense under R.S. 14:39.1, or a conviction under the laws of any state or an ordinance of a municipality, town, or similar political subdivision of another state which prohibits the operation of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance while intoxicated, while impaired, or while under the influence of alcohol, drugs, or any controlled dangerous substance if committed more than ten years prior to the commission of the crime for which the defendant is being tried, and such conviction shall not be considered in the assessment of penalties in this Section. However, periods of time during which the offender was awaiting trial, under an order of attachment for failure to appear, or on probation or parole for an offense described in this Paragraph, or periods of time during which an offender was incarcerated in a penal institution in this or any other state for any offense, including an offense described in Paragraph (1) of this Subsection, shall be excluded in computing the ten-year period.

(d)(1) On a conviction of a first offense violation of the provisions of this Section, notwithstanding any other provision of law to the contrary, the offender shall be sentenced under the provisions of R.S. 14:98.1.

(2)(A) Except as provided by Subparagraph (b) of this Paragraph, on a conviction of a second offense violation of the provisions of this Section, notwithstanding any other provision of law to the contrary and regardless of whether the second offense occurred before or after the first conviction, the offender shall be sentenced under the provisions of R.S. 14:98.2.

(B) If the conviction of a second offense violation of the provisions of this Section when the first offense was for the crime of vehicular homicide in violation of R.S. 14:32.1, third degree feticide in violation of R.S. 14:32.8, or first degree vehicular negligent injuring in violation of R.S. 14:39.2, the offender shall be sentenced under the provisions of R.S. 14:98.2(D).

(2) The vehicle shall be exempt from sale if it was stolen, or if the driver of the vehicle at the time of the violation was not the owner and the owner did not know that the driver was operating the vehicle while intoxicated. If this exemption is applicable, the vehicle shall not be released from impoundment until such time as towing and storage fees have been paid. In addition, the vehicle shall be exempt from sale if all towing and storage fees are paid by a valid lienholder.

(3) If the district attorney elects to forfeit the vehicle, he shall file a written motion at least five days prior to sentencing, stating his intention to forfeit the vehicle. When the district attorney elects to forfeit the vehicle, the court shall order it forfeited.

(4) The proceeds of the sale shall first be used to pay court costs and towing and storage costs, and the remainder shall be allocated as follows:

(A) Sixty percent of the funds shall go to the arresting agency.

(B) Twenty percent of the funds shall go to the prosecuting district attorney.

(C) Twenty percent of the funds shall go to the Louisiana Property and Casualty Insurance Commission for its use in studying ways to reduce drunk driving and insurance rates.

(g)(1) If an offender placed on probation for a conviction of a violation of this Section fails to complete the required substance abuse treatment, or fails to participate in a driver improvement program, or violates any other condition of probation, including conditions of home incarceration, his probation may be revoked, and he may be ordered to serve the balance of the sentence of imprisonment, without credit for time served under home incarceration.

(2) If the offender is found to be in violation of both the terms of his release for good behavior by the Department of Public Safety and Corrections, committee on parole, and in violation of his probation by the court, then the remaining balance of his diminution of sentence shall be served first, with the previously suspended sentence imposed by the court to run consecutively thereafter.

### **SECTION 21-98.1 – Operating While Intoxicated; First Offense; Penalties**

(a)(1) Except as modified by the provisions of Paragraphs (2) and (3) of this Subsection, on a conviction of a first offense violation of R.S. 14:98, the offender shall be fined not less than three hundred dollars nor more than one thousand dollars, and shall be imprisoned for not less than ten days nor more than six months. Imposition or execution of sentence under this Paragraph shall not be suspended unless the offender is placed on probation with the minimum conditions that he complete all of the following:

(A) Serve forty-eight hours in jail, which shall not be suspended, or in lieu thereof, perform no less than thirty-two hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program.

(B) Participate in a court-approved substance abuse program, which may include an assessment by a licensed clinician to determine if the offender has a diagnosis of substance abuse disorder. Nothing herein shall prohibit the court from modifying the portions of the program as may be applicable and appropriate to an individual offender as shown by the assessment.

(C) Participate in a court-approved driver improvement program.

(D) Except as provided by Subparagraph (3)(c) of this Subsection, the court may order that the offender not operate a motor vehicle during the period of probation, or such shorter time as set by the court, unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 14:98.5(C) and R.S. 32:378.2.

(2) If the offender had a blood alcohol concentration of 0.15 percent or more but less than 0.20 percent by weight based on grams of alcohol per one hundred cubic centimeters of blood, at least forty-eight hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence, and is to be served in addition to any sentence of imprisonment imposed pursuant to Subparagraph (1)(a) of this Subsection, provided that the total period of imprisonment upon conviction of the offense, including imprisonment for default in payment of a fine or costs, shall not exceed six months.

(3)(A) If the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the offender shall be fined not less than seven hundred fifty dollars nor more than one thousand dollars and at least forty-eight hours of the sentence imposed pursuant to Paragraph (1) of this Subsection shall be served without the benefit of parole, probation, or suspension of sentence, and is to be served in addition to any sentence of imprisonment imposed pursuant to Subparagraph (1)(a) of this Subsection, provided that the total period of imprisonment upon conviction of the offense, including imprisonment for default in payment of a fine or costs, shall not exceed six months.

(B) In addition to any penalties imposed under this Section, upon conviction of a first offense, if the offender had a blood alcohol concentration of 0.20 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, the driver's license of the offender shall be suspended for two years.

(C) The court shall require that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning

ignition interlock device in compliance with the requirements of R.S. 14:98.5(C) and R.S. 32:378.2. The ignition interlock device shall remain installed and operative on his vehicle during the first twelve-month period of suspension of his driver's license following the date of conviction.

(b) Nothing in this Section shall prohibit a court from sentencing an offender to serve any portion of the sentence under home incarceration pursuant to R.S. 14:98.5, either in lieu of, or in addition to, a term of imprisonment if otherwise allowed under the provisions of Code of Criminal Procedure Article 894.2 and R.S. 14:98.5(B).

(c) An offender may apply for a restricted driver's license to be in effect during the entire period of suspension upon proof to the Department of Public Safety and Corrections that his motor vehicle has been equipped with a functioning ignition interlock device in compliance with the requirements of R.S. 32:378.2.

### **SECTION 21-98.5 – Special Provisions and Definitions**

(a)(1) An offender ordered to participate in a substance abuse program, home incarceration, or a driver improvement program in accordance with the penalty provisions of R.S. 14:98, 98.1 shall pay the cost incurred in participating in the program. Failure to make such payment shall subject the offender to revocation of probation, unless the court determines that the offender is unable to pay.

(2) Except as provided by Paragraph (4) of this Subsection and unless otherwise authorized or prohibited, on a misdemeanor violation of R.S. 14:98 the court may sentence the offender to home incarceration.

(3) Except as modified by Paragraph (5) of this Subsection, when the court sentences an offender to home incarceration, the offender shall be subject to special conditions to be determined by the court, which shall include but not be limited to the following:

(A) Electronic monitoring. However, nothing in this Section shall prohibit a court from ordering nonelectronic monitored home incarceration as a condition of probation for a first or second conviction where the period of home incarceration is less than five days.

(B) Curfew restrictions.

(C) The court shall require the offender to obtain employment.

(D) The court shall require the offender to participate in a court-approved driver improvement program, if not already a condition of his probation.

(E) The activities of the offender outside of his home shall be limited to traveling to and from work, church services or other religious services, Alcoholics Anonymous meetings, Narcotics Anonymous meetings, other secular-based addiction recovery group meetings, accredited educational institutions, meetings with his probation or parole officer, court-ordered community service activities, court-ordered substance abuse treatments, and a court-approved driver improvement program.

(F) Except as inconsistent with the provisions of this Subsection, an offender sentenced to home incarceration shall be subject to all other applicable provisions of Code of Criminal Procedure Article 894.2.

(4) An offender who has been convicted of any second violation of any state or local law or ordinance prohibiting operating a vehicle while intoxicated, committed within five years of the commission of any prior operating while intoxicated violation, shall not be eligible for home incarceration until the offender has first served a minimum of forty-eight consecutive hours of imprisonment.

(c)(1) No offender who is ordered to install an ignition interlock device as a condition of probation shall:

(A) Fail to comply with all applicable provisions of R.S. 15:306 and 307 and R.S. 32:378.2 and 414(D)(1)(b).

(B) Violate the conditions of his restricted driver's license as set by the Department of Public Safety and Corrections.

(C) Operate, rent, lease, or borrow a motor vehicle unless that vehicle is equipped with a functioning ignition interlock device.

(D) Request or solicit any other person to blow into an ignition interlock device or to start a motor vehicle equipped with the device for the purpose of providing the offender with an operable motor vehicle.

(2) If the court imposes the use of an ignition interlock device as a condition of probation, the offender shall provide proof of compliance to the court or the probation officer within thirty days. If the offender fails to provide proof of installation within that period, absent a finding by the court of good cause for the failure that is entered into the court record, the court shall revoke the offender's probation.

(3) The provisions of this Subsection shall not require installation of an ignition interlock device in any vehicle described in R.S. 32:378.2(I).

(d)(1) "Community service activities" as used in this Section and R.S. 14:98.1 in addition to participation in a litter abatement or collection program, may include duty in any morgue, coroner's office, or emergency treatment room of a state-operated hospital or other state-operated emergency treatment facility, with the consent of the administrator of the morgue, coroner's office, hospital, or facility.

(2) An offender who participates in a litter abatement or collection program pursuant to this Subsection shall have no cause of action for damages against the entity conducting the program or supervising the offender's participation therein, including a municipality, parish, sheriff, or other entity, nor against any official, employee, or agent of such entity, for any injury or loss suffered by him during or arising out of his participation therein, if such injury or loss is a direct result of the lack of supervision or act or omission of the supervisor, unless the injury or loss was caused by the intentional or grossly negligent act or omission of the entity or its official, employee, or agent.

## **SECTION 21-98.6 – Underage Operating While Intoxicated**

(a) The crime of underage operating a vehicle while intoxicated is the operating of any motor vehicle, aircraft, watercraft, vessel, or other means of conveyance when the operator's blood alcohol concentration is 0.02 percent or more by weight based on grams of alcohol per one hundred cubic centimeters of blood, if the operator is under the age of twenty-one.

(b) Any underage person whose blood alcohol concentration is found to be in violation of R.S. 14:98(A)(1)(b) shall be charged under the provisions of that Subparagraph rather than under this Section.

(c)(1) On a first conviction, the offender shall be fined not less than one hundred dollars nor more than two hundred fifty dollars, and imprisoned for not less than ten days nor more than three months. Imposition or execution of sentence shall not be suspended unless the offender is placed on probation with the minimum conditions that he:

(A) Perform thirty-two hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program.

(B) Participate in a court-approved substance abuse and driver improvement program.

(2) On a second or subsequent conviction, regardless of whether the second offense occurred before or after the first conviction, the offender shall be fined not less than two hundred fifty dollars nor more than five hundred dollars, and imprisoned for not less than thirty days nor more than six

months. Imposition or execution of sentence under this Paragraph shall not be suspended unless the offender is placed on probation with the minimum conditions that he:

(A) Serve forty-eight hours in jail without benefit of parole, probation, or suspension of sentence, or in lieu thereof, perform no less than eighty hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program.

(B) Participate in a court-approved substance abuse program.

(C) Participate in a court-approved driver improvement program.

(3) Nothing in this Section shall prohibit a court from sentencing an offender to serve any portion of the sentence under home incarceration either in lieu of, or in addition to, a term of imprisonment if otherwise allowed under the provisions of Code of Criminal Procedure Article 894.2 and R.S. 14:98.5(B).

(4) The court may require that the offender not operate a motor vehicle during the period of probation unless any vehicle, while being operated by the offender, is equipped with a functioning ignition interlock device in accordance with R.S. 14:98.5(C).

(d) Court programs regarding substance abuse as provided for by Subsection C of this Section shall include a screening procedure to determine the portions of the program that may be applicable and appropriate for individual offenders.

#### **SECTION 21-98.7 – Unlawful Refusal to Submit to Chemical Tests; Arrests for Driving While Intoxicated**

(a) No person under arrest for a violation of R.S. 14:98, or 98.6, or any other law or ordinance that prohibits operating a vehicle while intoxicated, may refuse to submit to a chemical test when requested to do so by a law enforcement officer if he has refused to submit to such test on two previous and separate occasions of any such violation.

(b)(1) Whoever violates the provisions of this Section shall be fined not less than three hundred dollars nor more than one thousand dollars, and shall be imprisoned for not less than ten days nor more than six months.

(2) Imposition or execution of sentence shall not be suspended unless one of the following occurs:

(A) The offender is placed on probation with the minimum conditions that he serve two days in jail and participate in a court-approved substance abuse program and participate in a court-approved driver improvement program.

(B) The offender is placed on probation with the minimum conditions that he perform thirty-two hours of court-approved community service activities, at least half of which shall consist of participation in a litter abatement or collection program, participate in a court-approved substance abuse program, and participate in a court-approved driver improvement program. An offender who participates in a litter abatement or collection program pursuant to this Subparagraph shall have no cause of action for damages against the entity conducting the program or supervising his participation therein, as provided by R.S. 14:98.5(D).

#### **SECTION 21-98.8 – Operating a Vehicle While Under Suspension for Certain Prior Offenses**

(a) It is unlawful to operate a motor vehicle on a public highway where the operator's driving privileges have been suspended under the authority of R.S. 32:414(A)(1), (B)(1) or (2), (D)(1)(a), or R.S. 32:667. It shall not be a violation of the provisions of this Section when a person operates a motor vehicle to obtain emergency medical care for himself or any other person.

(b) Whoever violates the provisions of this Section shall be imprisoned for not less than fifteen days nor more than six months without benefit of suspension of imposition or execution of sentence, except as provided in Subsection C of this Section.

(c) When the operator's driving privileges were suspended for manslaughter, vehicular homicide, or negligent homicide, the offender shall be imprisoned for not less than sixty days nor more than six months without benefit of suspension of imposition or execution of sentence.

#### **SECTION 21-102.14 – Unlawful Ownership of a Dangerous Dog**

(a) For the purposes of this Section “dangerous dog” means:

(1) Any dog which when unprovoked, on two separate occasions within the prior thirty-six-month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner of the dog; or

(2) Any dog which, when unprovoked, bites a person causing an injury; or

(3) Any dog which, when unprovoked, on two separate occasions within the prior thirty-six-month period, has killed, seriously bitten, inflicted injury, or otherwise caused injury to a domestic animal off the property of the owner of the dog.

(b) It is unlawful for any person to own a dangerous dog without properly restraining or confining the dog.

(c) A dangerous dog, while on the owner's property, shall, at all times, be kept indoors, or in a secure enclosure. A dangerous dog may be off the owner's property only if it is restrained by a leash which prevents its escape or access to other persons.

(d) The owner of a dog determined by the court to be dangerous shall post signs around the secure enclosure no more than thirty feet apart and at each normal point of ingress and egress. The signs shall bear the words “Beware of Dog”, or “Dangerous Dog” in letters at least three and one-half inches high and shall be so placed as to be readily visible to any person approaching the secure enclosure.

(e) If the dog in question dies, or is sold, transferred, or permanently removed from the municipality or parish where the owner resides, the owner of a dangerous dog shall notify the animal control agency of the changed condition and new location of the dog in writing within two days.

(f) Whoever violates the provisions of this Section shall be fined not more than three hundred dollars.

(g) The provisions of this Section shall not apply to:

(1) Any dog which is owned, or the service of which is employed, by any state or local law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

(2) Any dog trained in accordance with the standards of a national or regional search and rescue association to respond to instructions from its handler in the search and rescue of lost or missing individuals and which dog, together with its handler, is prepared to render search and rescue services at the request of law enforcement.

#### **SECTION 21-102.15 – Unlawful Ownership of a Vicious Dog**

(a) For the purposes of this Section “vicious dog” means any dog which, when unprovoked, in an aggressive manner, inflicts serious bodily injury on or kills a human being and was previously determined to be a dangerous dog.

(b) It is unlawful for any person to own a vicious dog.

(c) Whoever violates the provisions of this Section shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(d) The provisions of this Section shall not apply to:

(1) Any dog which is owned, or the service of which is employed, by any state or local law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders.

(2) Any dog trained in accordance with the standards of a national or regional search and rescue association to respond to instructions from its handler in the search and rescue of lost or missing individuals and which dog, together with its handler, is prepared to render search and rescue services at the request of law enforcement.

### **SECTION 102.23 – Cockfighting**

(a) It shall be unlawful for any person to:

(1) Organize or conduct any commercial or private cockfight wherein there is a display of combat or fighting among one or more domestic or feral chickens and in which it is intended or reasonably foreseeable that the chickens would be injured, maimed, mutilated, or killed; or

(2) Possess, train, purchase, or sell any chicken with the intent that the chicken shall be engaged in an unlawful commercial or private cockfight as prohibited in Paragraph (1) of this Subsection.

(b) As used in this Section, the following words and phrases have the following meanings ascribed to them:

(1) “Chicken” means any game fowl or rooster whether domestic or feral normally used in a cockfight.

(2) “Cockfight” means a contest wherein chickens are set against one another with the intention that they engage in combat.

(c) Possessing, manufacturing, buying, selling, or trading of paraphernalia such as spurs, gaffs, knives, leather training spur covers, and other items or substances normally used in cockfighting with the intent that they shall be used in a cockfight together with evidence that the paraphernalia is being used or intended for use in the unlawful training of a chicken to fight with another chicken, shall be admissible as evidence of a violation of this Section. Whoever violates the provisions of this Subsection, upon conviction shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. However, the provisions of this Section shall not be construed to prohibit the possessing, buying, selling, or trading of any spurs, gaffs, knives, leather training spur covers, or any other items normally used in cockfighting which are at least five years old and have historical value.

(d)(1) Whoever violates the provisions of this Section, on conviction of a first offense, shall be fined not less than seven hundred fifty dollars, nor more than two thousand dollars, or imprisoned, with or without hard labor, for not less than six months nor more than one year, or both. In addition to any other penalty imposed, on a conviction of a first offense, the offender shall be ordered to perform fifteen eight-hour days of court-approved community service. The community service requirement shall not be suspended.

(2) On a conviction of a second offense, the offender shall be fined not less than one thousand dollars, nor more than two thousand dollars, and shall be imprisoned, with or without hard labor, for not less than one year nor more than three years. At least six months of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence.

(e) For the purposes of this Section, when more than one chicken is subject to an act that would constitute cockfighting, each chicken involved shall constitute a separate offense.

(f) The provisions of this Section shall not be construed to prohibit the raising of any chicken, rooster, or gamefowl for the purposes of personal enjoyment, exhibition, or agricultural pursuits as long as the purpose of such pursuits are legal.

### **SECTION 21-103 – Disturbing the Peace**

(a) Disturbing the peace is the doing of any of the following in such manner as would foreseeably disturb or alarm the public:

(1) Engaging in a fistic encounter; or

(2) Addressing any offensive, derisive, or annoying words to any other person who is lawfully in any street, or other public place; or call him by an offensive or derisive name, or make any noise or exclamation in his presence and hearing with the intent to deride, offend, or annoy him or to prevent him from pursuing his lawful business occupation, or duty; or

(3) Appearing in an intoxicated condition; or

(4) Engaging in any act in a violent and tumultuous manner by any three (3) or more persons; or

(5) Holding of an unlawful assembly; or

(6) Interruption of any lawful assembly of people.

(7) Intentionally engaging in any act or any utterance, gesture, or display designed to disrupt a funeral, funeral route, or burial of a deceased person during the period beginning one hundred twenty minutes before and ending one hundred twenty minutes after the funeral or burial, within three hundred feet of the funeral or burial.

(8)(A) Intentionally blocking, impeding, inhibiting, or in any other manner obstructing or interfering with a funeral route.

(B) Intentionally blocking, impeding, inhibiting, or in any other manner obstructing or interfering, within five hundred feet, with access into or from any building or parking lot of a building in which a funeral or burial is being conducted, or any burial plot or the parking lot of the cemetery in which a funeral or burial is being conducted, during the period beginning one hundred twenty minutes before and ending one hundred twenty minutes after the funeral or burial.

(b) Whoever commits the crime of disturbing the peace shall be punished as provided in section 1-8 of this Code.

### **SECTION 21-106 – Obscenity**

(a) The crime of obscenity is the intentional:

(1) Exposure of the genitals, pubic hair, anus, vulva, or female breast nipples in any public place or place open to the public view, or in any prison or jail, with the intent of arousing sexual desire or which appeals to prurient interest or is patently offensive.

(2)(A) Participation or engagement in, or management, operation, production, presentation, performance, promotion, exhibition, advertisement, sponsorship, electronic communication, or display of, hard core sexual conduct when the trier of fact determines that the average person applying contemporary community standards would find that the conduct, taken as a whole, appeals to the prurient interest; and the hard core sexual conduct, as specifically defined herein, is presented in a patently offensive way; and the conduct taken as a whole lacks serious literary, artistic, political, or scientific value.

(B) Hard core sexual conduct is the public portrayal, for its own sake, and for ensuing commercial gain of:

(i) Ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being; or

(ii) Masturbation, excretory functions or lewd exhibition, actual, simulated, or animated, of the genitals, pubic hair, anus, vulva, or female breast nipples; or

(iii) Sadomasochistic abuse, meaning actual, simulated or animated, flagellation, or torture by or upon a person who is nude or clad in undergarments or in a costume that reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or in the condition of being fettered, bound, or otherwise physically restrained, on the part of one so clothed; or

(iv) Actual, simulated, or animated touching, caressing, or fondling of, or other similar physical contact with a pubic area, anus, female breast nipple, covered or exposed, whether alone or between humans, animals, or a human and an animal, of the same or opposite sex, in an act of apparent sexual stimulation or gratification; or

(v) Actual, simulated, or animated stimulation of a human genital organ by any device whether or not the device is designed, manufactured, or marketed for such purpose.

(3)(A) Sale, allocation, consignment, distribution, dissemination, advertisement, exhibition, electronic communication, or display of obscene material, or the preparation, manufacture, publication, electronic communication, or printing of obscene material for sale, allocation, consignment, distribution, advertisement, exhibition, electronic communication, or display.

(B) Obscene material is any tangible work or thing which the trier of fact determines that the average person applying contemporary community standards would find, taken as a whole, appeals to the prurient interest, and which depicts or describes in a patently offensive way, hard core sexual conduct specifically defined in Paragraph (2) of this Subsection, and the work or thing taken as a whole lacks serious literary, artistic, political, or scientific value.

(4) Requiring as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, or publication to a purchaser or consignee that such purchaser or consignee also receive or accept any obscene material, as defined in Paragraph (3) of this Subsection, for resale, distribution, display, advertisement, electronic communication, or exhibition purposes; or, denying or threatening to deny a franchise to, or imposing a penalty, on or against, a person by reason of his refusal to accept, or his return of, such obscene material.

(5) Solicitation or enticement of an unmarried person under the age of seventeen years to commit any act prohibited by Paragraphs (1), (2), or (3) of this Subsection.

(6) Advertisement, exhibition, electronic communication, or display of sexually violent material. "Violent material" is any tangible work or thing which the trier of facts determines depicts actual or simulated patently offensive acts of violence, including but not limited to, acts depicting sadistic conduct, whippings, beatings, torture, and mutilation of the human body, as described in Item (2)(b)(iii) of this Subsection.

(7)(A) Transmission or causing the transmission by a person, knowing the content of an advertisement to be sexually explicit as defined in this Paragraph, of an unsolicited advertisement containing sexually explicit materials in an electronic communication to one or more persons within this state without including in the advertisement the term "ADV-ADULT" at the beginning of the subject line of the advertisement. A "subject line" is the area of an electronic communication that contains a summary description of the content of the message.

(B) As used in this Paragraph, "sexually explicit" means the graphic depiction of sex, including but not limited to sexual audio, text, or images; depiction of sexual activity; nudity; or sexually oriented language.

(8)(A) Transmission or causing the transmission by a person, knowing its content to be sexually explicit as defined in this Paragraph, of an unsolicited text message containing sexually explicit materials to a wireless telecommunications device of one or more persons within this state.

(B) As used in this Paragraph:

(i) “Sexually explicit” means the graphic depiction of sex, including but not limited to sexual audio, text, or images, the depiction of sexual activity, nudity, or sexually oriented language and is obscene as defined in Subparagraph (A)(3)(b) of this Section.

(ii) “Wireless telecommunications device” means a cellular telephone, a text-messaging device, a personal digital assistant, a tablet computer, or any other substantially similar wireless device.

(b) Lack of knowledge of age or marital status shall not constitute a defense.

(c) If any employee of a theatre or bookstore acting in the course or scope of his employment, is arrested for an offense designated in this Section, the employer shall reimburse the employee for all attorney's fees and other costs of defense of such employee. Such fees and expenses may be fixed by the court exercising criminal jurisdiction after contradictory hearing or by ordinary civil process.

(d)(1) The provisions of this Section do not apply to recognized and established schools, churches, museums, medical clinics, hospitals, physicians, public libraries, governmental agencies, quasi-governmental sponsored organizations and persons acting in their capacity as employees or agents of such organizations, or a person solely employed to operate a movie projector in a duly licensed theatre.

(2) For the purpose of this Subsection, the following words and terms shall have the respective meanings defined as follows:

(A) “Churches” means any church, affiliated with a national or regional denomination.

(B) “Medical clinics and hospitals” means any clinic or hospital of licensed physicians or psychiatrists used for the reception and care of persons who are sick, wounded, or infirm.

(C) “Physicians” means any licensed physician or psychiatrist.

(D) “Recognized and established schools” means schools having a full time faculty and pupils, gathered together for instruction in a diversified curriculum.

(e) This Section does not preempt, nor shall anything in this Section be construed to preempt, the regulation of obscenity by municipalities, parishes, and consolidated city-parish governments; however, in order to promote uniform obscenity legislation throughout the state, the regulation of obscenity by municipalities, parishes, and consolidated city-parish governments shall not exceed the scope of the regulatory prohibitions contained in the provisions of this Section.

(f)(1) Except for those motion pictures, printed materials, electronic communication and photographic materials showing actual ultimate sexual acts or simulated or animated ultimate sexual acts when there is an explicit, close-up depiction of human genital organs so as to give the appearance of the consummation of ultimate sexual acts, no person, firm, or corporation shall be arrested, charged, or indicted for any violations of a provision of this Section until such time as the material involved has first been the subject of an adversarial hearing under the provisions of this Section, wherein such person, firm, or corporation is made a defendant and, after such material is declared by the court to be obscene, such person, firm, or corporation continues to engage in the conduct prohibited by this Section. The sole issue at the hearing shall be whether the material is obscene.

(2) The hearing shall be held before the district court having jurisdiction over the proceedings within seventy-two hours after receipt of notice by the person, firm, or corporation. The person, firm, or corporation shall be given notice of the hearing by registered mail or by personal service on the owner, manager, or other person having a financial interest in the material; provided, if there is no such person on the premises, then notice may be given by personal service on any employee of the person, firm, or corporation on such premises. The notice shall state the nature of the violation, the date, place, and time of the hearing, and the right to present and cross-examine witnesses.

(3) The state or any defendant may appeal from a judgment. Such appeal shall not stay the judgment. Any defendant engaging in conduct prohibited by this Section subsequent to notice of the judgment, finding the material to be obscene, shall be subject to criminal prosecution notwithstanding the appeal from the judgment.

(4) No determination by the district court pursuant to this Section shall be of any force and effect outside the judicial district in which made and no such determination shall be res judicata in any proceeding in any other judicial district. In addition, evidence of any hearing held pursuant to this Section shall not be competent or admissible in any criminal action for the violation of any other Section of this Title; provided, however, that in any criminal action, charging the violation of any other Section of this Title, against any person, firm, or corporation that was a defendant in such hearing, involving the same material declared to be obscene under the provisions of this Section, then evidence of such hearing shall be competent and admissible as bearing on the issue of scienter only.

(g)(1) Except as provided in Paragraph (5) of this Subsection, on a first conviction, whoever commits the crime of obscenity shall be fined not less than one thousand dollars nor more than two thousand five hundred dollars, or imprisoned, with or without hard labor, for not less than six months nor more than three years, or both.

(2)(A) Except as provided in Paragraph (5) of this Subsection, on a second conviction, the offender shall be imprisoned, with or without hard labor for not less than six months nor more than three years, and in addition may be fined not less than two thousand five hundred dollars nor more than five thousand dollars.

(B) The imprisonment provided for in Subparagraph (a) of this Paragraph, may be imposed at court discretion if the court determines that the offender, due to his employment, could not avoid engagement in the offense. This Subparagraph shall not apply to the manager or other person in charge of an establishment selling or exhibiting obscene material.

(3) Except as provided in Paragraph (5) of this Subsection, on a third or subsequent conviction, the offender shall be imprisoned with or without hard labor for not less than two years nor more than five years, and in addition may be fined not less than five thousand dollars nor more than ten thousand dollars.

(4) When a violation of Paragraph (1), (2), or (3) of Subsection A of this Section is with or in the presence of an unmarried person under the age of seventeen years, the offender shall be fined not more than ten thousand dollars and shall be imprisoned, with or without hard labor, for not less than two years nor more than five years, without benefit of parole, probation, or suspension of sentence.

(5) Whoever violates the provisions of Paragraphs (A)(7) or (A)(8) of this Section may be fined not less than one hundred dollars nor more than five hundred dollars.

(h)(1) When a corporation is charged with violating this Section, the corporation, the president, the vice president, the secretary, and the treasurer may all be named as defendants. Upon conviction for a violation of this Section, a corporation shall be sentenced in accordance with Subsection G of this Section. All corporate officers who are named as defendants shall be subject to the penalty provisions of this Section as set forth in Subsection G of this Section.

(2) If the corporation is domiciled in this state, upon indictment or information filed against the corporation, a notice of arraignment shall be served upon the corporation, or its designated agent for service of process, which then must appear before the district court in which the prosecution is pending to plead to the charge within fifteen days of service. If no appearance is made within fifteen days, an attorney shall be appointed by the court to represent the defendant corporation with respect to the charge or to show cause why the corporation should not be enjoined from continuing in business during the pendency of the criminal proceedings. Appearance for arraignment may be made through private counsel.

(3) If the corporation is domiciled out of state and is registered to do business in Louisiana, notice of arraignment shall be served upon the corporate agent for service of process or the secretary of state, who shall then notify the corporation charged by indictment or information to appear before the district court in which the prosecution is pending for arraignment within sixty days after the

notice is mailed by the secretary of state. If no appearance is made within sixty days the court shall appoint an attorney to represent the defendant corporation with respect to the charge or to show cause why the corporation should not be enjoined from continuing in business during the pendency of the criminal proceedings. Appearance for arraignment may be made by private counsel.

(4) If the corporation is domiciled out of state and is not registered to do business in Louisiana, notice of arraignment of the corporation shall be served upon the secretary of state and an employee, officer, or agent for service of process of the corporation found within the parish where the violation of this Section has allegedly occurred. Such notice shall act as a bar to that corporation registering to do business in Louisiana until it appears before the district court in which the prosecution is pending to answer the charge.

(i)(1)(A) When an act of obscenity as defined in Paragraph (A)(1) of this Section is reported, the law enforcement agency acting in response to the reported incident shall provide notice of the incident to the principal or headmaster of each school located within two thousand feet of where the incident occurred. This notice shall be provided by the law enforcement agency to the principal or headmaster within twenty-four hours of receiving the report of the incident and by any reasonable means, including but not limited to live or recorded telephone message or electronic mail.

(b) The notice required by the provisions of Subparagraph (a) of this Paragraph shall include the date, time, and location of the incident, a brief description of the incident, and a brief description of the physical characteristics of the alleged offender which may include but shall not be limited to the alleged offender's sex, race, hair color, eye color, height, age, and weight.

(2)(A) Within twenty-four hours of receiving notice of the incident from law enforcement pursuant to the provisions of Paragraph (1) of this Subsection, the principal or headmaster shall provide notice of the incident to the parents of all students enrolled at the school by any reasonable means, including but not limited to live or recorded telephone message or electronic mail.

(B) The notice required by the provisions of Subparagraph (a) of this Paragraph shall include the same information required for the notice provided in Paragraph (1) of this Subsection to the extent that the information is provided by law enforcement to the principal or headmaster of the school.

(3) When the expiration of the twenty-four-hour period occurs on a weekend or holiday, notice shall be provided no later than the end of the next regular school day.

(4) For purposes of this Subsection, “school” means any public or private elementary or secondary school in this state, including all facilities of the school located within the geographical boundaries of the school property.

(5) The principal, headmaster, school, owner of the school, operator of the school, and the insurer or self-insurance program for the school shall be immune from any liability that arises as a result of compliance or noncompliance with this Subsection, except for any willful violation of the provisions of this Subsection.

### **SECTION 21-106.3 – Unlawful exhibition of sexually explicit material in a motor vehicle; penalties**

(a) It shall be unlawful for any person to knowingly exhibit sexually explicit material in a motor vehicle on a public street, highway, public place, or any place open to public view knowing that the material is visible to the public from outside the motor vehicle.

(b) For the purposes of this Section the term “exhibit sexually explicit material” means to present, exhibit, project, or display a motion picture, film, videotape, compact disc, digital versatile disc, digital video disc, or any other form of visual technology of any of the following:

(1) Ultimate sexual acts, normal or perverted, actual, simulated, or animated, whether between human beings, animals, or an animal and a human being.

(2) The graphic depiction of sex, including but not limited to the visual depiction of sexual activity or nudity.

(c)(1) Whoever violates a provision of this Section upon a first conviction shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

(2) Upon a second conviction, the offender shall be fined not more than one thousand dollars and imprisoned for not more than one year, or both.

(3) Upon a third or subsequent conviction, the offender shall be fined not more than one thousand dollars and shall be imprisoned for not more than one year, or both. At least ten days of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

### **SECTION 21-116 – Flag Desecration**

Flag desecration is the act of any person who shall intentionally, in any manner, for exhibition or display:

(1) Place or cause to be placed any word, mark, design or advertisement of any nature upon any flag; or

(2) Expose to public view any flag, upon which has been printed or otherwise produced, or to which shall have been attached any such word, mark, design, or advertisement; or

(3) Expose to public view, or have in possession for sale or any other purpose, any article of merchandise, or thing for holding or carrying merchandise, upon or to which shall have been produced or attached any flag, in order to advertise, call attention to or decorate such article; or

(4) Publicly mutilate, defile, or by word or act cast contempt upon any flag.

The word “flag” as used herein shall mean any duly authorized flag, shield, standard, color or ensign of the United States, the State of Louisiana, or the Confederate States of America, or any copy thereof.

Whoever commits the crime of flag desecration shall be fined not more than one hundred dollars, or imprisoned for not more than ninety days, or both.

### **SECTION 21-116.1 – Flag Burning**

(a) Flag burning is the act of any person who intentionally burns or sets fire to the United States flag to cast contempt upon the flag.

(b) This Section shall not prohibit the burning of the flag in a respectful retirement ceremony to dispose of a worn or soiled flag.

(c) The word “flag” as used in this Section shall mean the flag of the United States.

(d) Whoever commits the crime of flag burning shall be fined not more than one thousand dollars, or imprisoned for not more than ninety days, or both.

(e) The provisions of this Section shall not take effect unless and until an amendment to the federal constitution regarding flag desecration is proposed by the Congress and approved by the requisite number of states and becomes law.

### **SECTION 21-285 – Telephone Communications; Improper Language; Harassment; Penalty**

(a) No person shall:

(1) Engage in or institute a telephone call, telephone conversation, or telephone conference, with another person, anonymously or otherwise, and therein use obscene, profane, vulgar, lewd, lascivious, or indecent language, or make any suggestion or proposal of an obscene nature or threaten any illegal or immoral act with the intent to coerce, intimidate, or harass another person.

(2) Make repeated telephone communications anonymously or otherwise in a manner reasonably expected to annoy, abuse, torment, harass, embarrass, or offend another, whether or not conversation ensues.

(3) Make a telephone call and intentionally fail to hang up or disengage the connection.

(4) Engage in a telephone call, conference, or recorded communication by using obscene language, when by making a graphic description of a sexual act, and the offender knows or reasonably should know that such obscene or graphic language is directed to, or will be heard by, a minor. Lack of knowledge of age shall not constitute a defense.

(5) Knowingly permit any telephone under his control to be used for any purpose prohibited by this Section.

(b) Any offense committed by use of a telephone as set forth in this Section shall be deemed to have been committed at either the place where the telephone call or calls originated or at the place where the telephone call or calls were received.

(c) Whoever violates the provisions of this Section shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

(d) Upon second or subsequent offenses, the offender shall be fined not more than five thousand dollars, or imprisoned with or without hard labor for not more than two years, or both.

**SECTION 21-329.2 – Inciting to Riot**

Inciting to riot is the endeavor by any person to incite or procure any other person to create or participate in a riot.

Remove the following Sections from the Hammond Code of Ordinances:

- 21-63.1
- 21-63.2
- 21-63.5
- 21-63.6
- 21-105.1

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**SECTION 16-32 – Intentional littering prohibited; criminal penalties; simple littering prohibited; civil penalties; special court costs**

(a) Intentional littering. (1) No person shall intentionally dispose or permit the disposal of litter upon any public place in the state, upon private property in this state not owned by him, upon property located in rural areas in this state not owned by him, or in or on the waters of this state, whether from a vehicle or otherwise, including but not limited to any public highway, public right-of-way, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley, except when such property is designated by the state or by any of its agencies or political subdivisions for the disposal of such litter and such person is authorized to use such property for such purpose.

(2) Whoever violates the provisions of this Subsection shall:

(A) Upon first conviction, be fined two hundred fifty dollars and sentenced to serve eight hours of community service in a litter abatement work program as approved by the court.

(B) Upon second conviction, be fined five hundred dollars and sentenced to serve sixteen hours of community service in a litter abatement work program as approved by the court.

(C) Upon third or subsequent conviction, be fined one thousand two hundred fifty dollars, have his motor vehicle driver's license suspended for one year, and be sentenced to serve eighty hours of community service in a litter abatement work program as approved by the court, or all or any combination of the penalties provided by this Subparagraph.

(3) Whoever violates the provisions of this Subsection by the intentional disposal or permitting the disposal of cigarettes, cigarette butts, cigars, cigarillos, or cigar or cigarillo tips from a motor vehicle shall:

(A) Upon first conviction, be fined three hundred dollars and sentenced to serve eight hours of community service in a litter abatement work program as approved by the court.

(B) Upon second conviction, be fined seven hundred dollars and sentenced to serve sixteen hours of community service in a litter abatement work program as approved by the court.

(C) Upon third or subsequent conviction, be fined one thousand five hundred dollars, have his motor vehicle driver's license suspended for one year, and be sentenced to serve eighty hours of community service in a litter abatement work program as approved by the court, or all or any combination of the penalties provided by this Subparagraph.

(b) Simple littering. (1) No person shall dispose of, or create a condition that the person knew or should have known was likely to result in the disposal of, litter upon any public place in this state, upon private property in this state not owned by him, upon property located in a rural area in this state not owned by him, or in or on the waters of this state, whether from a vehicle or otherwise, including but not limited to any public highway, public right-of-way, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley.

(2) Persons found liable under the provisions of this Subsection shall be assessed the following civil penalties and costs:

(A) For a first violation, such person shall either be fined seventy-five dollars or given the option to perform eight hours of community service in a litter abatement work program in lieu of the assessed seventy-five dollar fine.

(B) For a second and each subsequent violation, such person shall either be fined five hundred dollars or be given the option to perform sixteen hours of community service in a litter abatement work program in lieu of the five hundred dollar fine.

(c) Whoever violates the provisions of this Section shall pay special court costs of one hundred dollars in lieu of other costs of court and the special court costs shall be disbursed as follows:

(1) Twenty dollars shall be paid to the judicial expense fund for that judicial district, or to the justice of the peace or the city court, as the case may be.

(2) Twenty dollars shall be paid to the office of the district attorney, to the constable, or to the municipal prosecuting attorney, as the case may be.

(3) Ten dollars shall be paid to the clerk of the district court, or to the justice of the peace or the city court, as the case may be.

(4) Twenty-five dollars shall be paid to the state treasury for credit to the Keep Louisiana Beautiful Fund.

(5) Twenty-five dollars shall be paid to the law enforcement agency that issued the citation.

(d)(1) If the litter is disposed from a motor vehicle, boat, or conveyance, except a bus or large passenger vehicle or a school bus, all as defined in R.S. 32:1, there shall be an inference that the driver of the conveyance disposed of the litter. If such litter was possessed by a specific person immediately before the act of disposing, there shall be an inference that the possessor committed the act of disposing.

(2) When litter disposed in violation of this Section is discovered to contain any article or articles, including but not limited to letters, bills, publications, or other writings, which display the name of a person or in any other manner indicate that the article belongs or belonged to such person, there shall be an inference that such person has violated this Section.

(e) The person shall be cited for the offense by means of a citation, summons, or other means provided by law.

(f) A person may be found guilty or held liable and fined under this Section although the commission of the offense did not occur in the presence of a law enforcement officer if the evidence presented to the court establishes that the defendant has committed the offense.

(g) For the purposes of this Section, each occurrence shall constitute a separate violation.

(h) In addition to penalties otherwise provided, a person convicted or held liable under this Section shall:

(1) Repair or restore property damaged by or pay damages for any damage arising out of the violation of this Section.

(2) Pay all reasonable investigative expenses and costs to the investigative agency or agencies.

(i) Notwithstanding any provision to the contrary, this Section shall not apply to any activity by persons owning or operating duly licensed commercial vehicles engaged in the collection and transportation of solid waste, construction, or demolition debris or wood waste, as such terms are defined by the rules and regulations of the Department of Environmental Quality, occurring in the course of servicing scheduled pickup routes pursuant to commercial or local government contracts or en route to an authorized pickup station, transfer station, or disposal facility. To qualify for the exemption provided for in this Subsection, the commercial vehicle shall be covered at all times, except during loading and unloading, in a manner that prevents rain from reaching the waste, prevents waste from falling or blowing from the vehicle, and ensures that leachate from the waste is not discharged from the vehicle during transportation.

## **SECTION 16-36 – Gross Littering Prohibited; Criminal Penalties; Indemnification**

(a) No person shall intentionally dispose or permit the disposal of any household or office furniture or appliances, automotive parts, including but not limited to tires and engines, trailers, boats and boating accessories, tools and equipment, building materials, roofing nails, and bags or boxes of household or office garbage or refuse upon any public place in the state, upon private property in this state not owned by him, upon property located in rural areas in this state not owned by him, or in or on the waters of this state, whether from a vehicle or otherwise, including but not limited to any public highway, public right-of-way, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, or alley, except when such property is designated by the state or by any of its agencies or political subdivisions for the disposal of such items and such person is authorized to use such property for such purpose.

(b)(1) If the litter listed in Subsection A is disposed of from a motor vehicle, boat, or conveyance, except a bus or large passenger vehicle or a school bus, all as defined by R.S. 32:1, there shall be an inference that the driver of the conveyance disposed of the litter. If such litter was possessed by a specific person immediately before the act of disposing, there shall be an inference that the possessor committed the act of disposing.

(2) When litter disposed in violation of this Section is discovered to contain any article or articles, including but not limited to letters, bills, publications, or other writings, which display the name

of a person or in any other manner indicate that the article belongs or belonged to such person, there shall be an inference that such person has violated this Section.

(c) The person shall be cited for the offense by means of a citation, summons, or other means provided by law.

(d)(1) Whoever violates the provisions of this Section shall, upon first conviction, be fined not less than five hundred dollars nor more than one thousand dollars and sentenced to serve eight hours of community service in a litter abatement work program as approved by the court.

(2) Upon second conviction, an offender shall be fined not less than one thousand dollars nor more than two thousand five hundred dollars and sentenced to serve twenty-four hours of community service in a litter abatement work program as approved by the court.

(3) Upon third or subsequent conviction, an offender shall be fined not less than one thousand five hundred dollars nor more than five thousand dollars, have his motor vehicle driver's license suspended for one year, be imprisoned for not more than thirty days, or sentenced to serve not less than forty-eight and not more than one hundred hours in a litter abatement work program as approved by the court, or all or any combination of the aforementioned penalties.

(4) The judge may require an individual convicted of a violation of this Section to remove litter from state highways, public rights-of-way, public playgrounds, public parks, or other appropriate locations for any prescribed period of time in lieu of the penalties prescribed in this Section.

(e) A person may be found guilty and fined under this Section although the commission of the offense did not occur in the presence of a law enforcement officer if the evidence presented to the court establishes that the defendant has committed the offense.

(f) For the purposes of this Section, each occurrence shall constitute a separate violation.

(g) In addition to penalties otherwise provided, a person convicted under this Section shall:

(1) Repair or restore property damaged by or pay damages for any damage arising out of the violation of this Section.

(2) Pay all reasonable investigative expenses and costs to the investigative agency or agencies.

### **Sec. 1-8. - General penalty.**

It shall be unlawful for any person to violate or fail to comply with any provision of this Code or commit any act declared to be unlawful or a misdemeanor, and where no specific penalty is provided therefor, the violation of any provision of this Code shall be punished by a fine not exceeding one thousand dollars (\$1000.00) or imprisonment for a term not exceeding two (2) years, or by both such fine and imprisonment, within the discretion of the court.

The Judge retains the discretion to sentence any person who violates any provision of this Code or commit any act declared to be unlawful or a misdemeanor, to any other sentence or other terms and conditions deemed appropriate, regardless of whether a specific penalty has been provided herein.

Each day any violation of any provision of this Code shall continue constitutes a separate offense.

The current Ordinance 21-116 shall be moved to Chapter 16 as Ordinance 16-39

2. All Ordinances in conflict therewith are repealed.