



**SELECTED LEGISLATION FROM THE
HOUSE COMMITTEES ON ADMINISTRATION
OF CRIMINAL JUSTICE AND CIVIL LAW**

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of the Louisiana Legislature

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SELECTED CRIMINAL JUSTICE LEGISLATION

Probation and Parole

Act No. 544 (SB 273) by Sen. Foil

Grants parole eligibility to offenders serving a life sentence for an offense committed on or before July 2, 1973, for which the offender pleaded guilty.

Effective June 17, 2022.

Act No. 615 (HB 282) by Rep. Marino

Provides that the defendant will be placed under the supervision of the drug division probation program for a period of time determined by the court, except that the probation period for a defendant convicted of an offense of R.S. 14.98, 98.1, 98.2, or 98.3, relative to operating a vehicle while intoxicated, shall not be less than 12 months.

Further provides that if a defendant has been sentenced to complete a specialty court program, the defendant may be placed on probation under the supervision of a probation office, agency, or officer designated by the court, other than the division of probation and parole of the Dept. of Public Safety and Corrections.

Effective August 1, 2022.

Act No. 726 (HB 102) by Rep. Muscarello

Provides that beginning on August 1, 2024, the committee on parole shall not consider a parole rehearing of any prisoner who is serving a sentence for any of the following offenses until at least four years after the denial of parole:

- (1) Any crime of violence or sex offense, for which the prisoner is serving a life sentence and for which the prisoner is eligible for parole.
- (2) Any crime that is both a crime of violence and a sex offense, for which the prisoner is serving a fixed term of years and for which the prisoner is eligible for parole.
- (3) Manslaughter, for which the prisoner is eligible for parole.

Effective August 1, 2022.

Act No. 750 (HB 628) by Rep. Bryant

Provides that persons convicted of both a crime of violence and a sex offense when the offense was committed on or after January 1, 1997, shall not be eligible for parole.

Provides for prospective and retroactive application.

Effective August 1, 2022.

Juveniles

Act No. 175 (SB 71) by Sen. Connick

Clarifies that divestiture of the juvenile court's jurisdiction only occurs on a probable cause finding at a continued custody hearing or a return of a bill of indictment. Further clarifies that the district attorney has discretion to file a petition in juvenile court or obtain an indictment for certain serious felony offenses listed in Children's Code Article 305(A)(1).

Provides that if the district attorney files a petition in juvenile court, and the child waives a continued custody hearing, the jurisdiction remains for all further proceedings, including review of bail, with the juvenile court.

Effective August 1, 2022.

Act No. 176 (SB 72) by Sen. Connick

Removes the authority of the juvenile court to dismiss a Child in Need of Care or Family in Need of Services petition on its own motion or the motion of the parent or child to align with Act 172 of the 2011 Regular Session, which removed the authority of the juvenile court to dismiss a juvenile delinquency petition on its own motion or the motion of the parent or child.

Effective August 1, 2022.

Act No. 202 (HB 64) by Rep. Landry

Increases the age of a "protected person" to 18 years of age for any person who is a victim of a crime or a witness in a juvenile or criminal proceeding.

Relative to the surrender of parental rights, defines "child" as a person under 18 years of age and not emancipated by marriage.

Relative to the prosecution of crime against nature by solicitation, increases the age of the victim to a person under 18 years of age.

Effective August 1, 2022.

Act No. 217 (HB 432) by Rep. Phelps

Requires that progress reports provided to the court and the child's counsel on the child's whereabouts and condition shall also be provided to the district attorney and shall be provided not less than one week prior to any in-court review hearing.

Effective August 1, 2022.

Act No. 496 (HB 746) by Rep. Duplessis

Prohibits the placement of any juvenile within the custody of the office of juvenile justice in any form of solitary confinement for any reason other than a temporary response to behavior that poses a serious and immediate threat of physical harm to the juvenile or others.

Prohibits the placement of a juvenile in solitary confinement for the purposes of discipline, punishment, administrative convenience, retaliation, protective custody, suicide intervention, or general behavior management that is not a response to a serious and immediate threat of physical harm to the juvenile or others, rule violations, in response to staffing shortages, or for any other reason that is not an emergency response to behavior that poses a serious and immediate threat of physical harm to the juvenile or others.

Provides that under no circumstances shall a juvenile who has expressed suicidal indications or attempted suicide be placed in solitary confinement.

Permits the placement of a juvenile in solitary confinement in either of the following circumstances:

- (1) Progressive protocols, beginning with verbal calming and other de-escalation techniques attempted by facility staff, have proven unsuccessful at resolving the imminent threat of physical harm.
- (2) There is a need to eliminate the serious and immediate risk of physical harm to the juvenile or others.

Requires all protocols and techniques to be documented, along with an explanation of why solitary confinement was ultimately deemed necessary.

Requires the release of a juvenile placed in solitary confinement from solitary confinement as soon as the serious and immediate risk of physical harm to self or others is resolved. Further provides that a juvenile shall only be held in solitary confinement for a period that does not compromise or harm his physical health or mental health, as determined by a mental health practitioner.

Provides that no period of solitary confinement shall last longer than eight hours and after eight hours, the juvenile shall be returned to the general population.

Permits the transportation of a juvenile to a mental health facility upon the recommendation of a mental health professional or the implementation of a mental health crisis plan developed by facility staff that allows for the juvenile to return to the general population safely if a mental health professional determines that the juvenile continues to pose a serious and immediate threat of physical harm to the juvenile or others after eight hours.

Permits the placement of a juvenile into solitary confinement for an additional period of time not to exceed eight-hour increments only upon recommendation of the mental health professional if it is determined that the options of transporting the juvenile to a mental health facility or implementing a mental health crisis plan are not practicable after an in-person evaluation by a mental health professional at the facility.

Provides that each additional eight-hour increment shall be preceded by an additional evaluation and recommendation by a mental health professional that the juvenile may continue to be placed into solitary confinement, but under no circumstances shall the juvenile who has been evaluated be held in solitary confinement for longer than 24 hours.

Requires that all instances of solitary confinement be approved immediately by the facility director, deputy director, or supervisor with the highest level of authority who is present at the facility at the time, and only after consultation with a qualified mental health practitioner who has spoken with the juvenile. Further provides that approval shall be re-affirmed every hour thereafter.

Requires that the facility director, deputy director, or supervisor with the highest level of authority who is present at the facility at the time immediately notify the deputy secretary and the senior administrative team any time a juvenile is placed in solitary confinement.

Requires the facility to contact the juvenile's parent or guardian and the juvenile's attorney of record to provide notice that the juvenile was placed in solitary confinement and the reason for the confinement within two hours of placing a juvenile in solitary confinement.

Requires the continuous monitoring of juveniles placed in solitary confinement. Further provides that facility staff shall engage in continued crisis intervention and de-escalation techniques and make visual and verbal contact with each youth in solitary confinement at least every 10 minutes.

Provides that the intent and purpose of crisis intervention is to help de-escalate the juvenile's behavior so he can rejoin the general population as soon as possible. Provides that staff shall document the time and nature of the observation and interventions.

Provides that within the first hour of solitary confinement and every hour thereafter, a qualified mental health practitioner shall speak to the juvenile to help the juvenile de-escalate and exit solitary confinement as soon as possible.

Requires staff to return the juvenile to programming as soon as the juvenile has regained self control and is no longer engaging in behavior that threatens serious and immediate harm to himself or others. Permits staff to return the juvenile to a separate area other than a cell or other isolated space, if

necessary, where staff can help the juvenile self-regulate and become ready to return to the general population.

Provides that all rooms used for solitary confinement shall have adequate and operating lighting, heating and cooling, and ventilation for the comfort of the juvenile. Further provides that rooms shall be clean and resistant to suicide and self-harm.

Further provides that juveniles in solitary confinement shall have access to sunlight, drinking water, toilet facilities, working showers, hygiene supplies, mattresses, reading materials, meals, contact with parents or legal guardians, legal assistance, educational programming, and appropriate medical and mental health services, which shall be provided by mental health staff as needed.

Requires that every instance of solitary confinement be documented electronically and in the aggregate. Further provides that unidentified data on the frequency and length of time that the juvenile spends in solitary confinement shall be available upon request as a public record.

Provides that documentation of the solitary confinement shall include all of the following:

- (1) The date of the occurrence.
- (2) The race, ethnicity, age, gender, and disability status of the juvenile.
- (3) The reason for the juvenile's placement in solitary confinement.
- (4) An explanation of why less restrictive means for placement were unsuccessful.
- (5) The ultimate duration of the juvenile's placement in solitary confinement.
- (6) Facility staffing levels at the time of the juvenile's confinement.
- (7) Any incidents of self-harm, suicide attempts, or suicide committed by the juvenile while he was confined and where the juvenile was placed after leaving solitary confinement.

Requires the office of juvenile justice to submit a report on the use of solitary confinement quarterly to the Juvenile Justice Reform Act Commission. Further requires that the report include the following:

- (1) The length of time each juvenile was in solitary confinement.
- (2) The race, ethnicity, age, gender, and disability status of each juvenile placed in solitary confinement.
- (3) The facility staffing levels at the time of the juvenile's confinement.

- (4) The reason each juvenile was placed in confinement, and where the juvenile was placed after leaving solitary confinement.
- (5) Each instance of solitary confinement exceeding eight hours, including all reasons why attempts to return the juvenile to the general population of the facility were unsuccessful.
- (6) All corrective measures taken in response to noncompliance with the law.
- (7) Redacted personal identifying information that provides individual, not aggregate, data.

Requires that the initial quarterly report be submitted within two weeks after the quarter ending on Sept. 30, 2022. Further requires that subsequent reports be submitted for the ensuing quarters within two weeks after the end of each quarter.

Requires the office of juvenile justice to post a report on the use of solitary confinement on its website quarterly with deidentified aggregate data that is disaggregated by facility and includes but is not limited to all of the following:

- (1) Total number of juveniles placed in solitary confinement that quarter.
- (2) Race and ethnicity, age, and gender of juveniles placed in solitary confinement.
- (3) Disability status of juveniles placed in solitary confinement.
- (4) Number of instances of solitary confinement exceeding eight hours.
- (5) Number of instances, if any, of self-harm while in solitary confinement.
- (6) Number of instances, if any, of suicide attempts while in solitary confinement.
- (7) Number of instances, if any, of completed suicides while in solitary confinement.

Provides that all agency staff shall be trained on the appropriate use of solitary confinement during their initial training to work at the office of juvenile justice and subsequently at regular intervals. Further provides that staff shall be required to demonstrate proficiency with decisions regarding when and how to use solitary confinement before completing their initial training to work in office of juvenile justice facilities and ongoing during their employment.

Provides that every juvenile placed in the custody of the office of juvenile justice shall receive an explanation on the solitary confinement policy by staff promptly upon arrival to a facility, and information on this policy shall be communicated to the juvenile's parents or guardians through the most direct means possible, with in-person communication being most preferable.

Effective August 1, 2022.

Act No. 565 (HB 434) by Rep. Phelps

Prohibits deferred dispositional agreements from being available in cases where the child has been convicted of a crime of violence.

Effective August 1, 2022.

Act No. 674 (SB 370) by Sen. Harris

Authorizes the court to impose a requirement that the child and his parent or legal guardian cooperate in connection with any part of the disposition order including but not limited to a court-approved decisionmaking course necessary for his rehabilitation.

Effective August 1, 2022.

Act No. 693 (SB 323) by Sen. Cloud

Requires the deputy secretary for youth services to adopt rules to develop and implement a tiered system of secure juvenile facilities in the state for the placement of juveniles in the custody of the office of juvenile justice. Further provides that the tiered system shall be developed and implemented for the placement of low risk, medium risk, and high risk juveniles.

Requires the rules to be adopted no later than January 1, 2023.

Requires that the rules, at a minimum, include all of the following:

- (1) An assessment of each child to be performed upon placement in the custody of the office of juvenile justice and at other times determined necessary by the deputy secretary. Provides that the assessment shall be used to classify each child as high risk, medium risk, or low risk for the purposes of facility placement.
- (2) A medical, educational, and psychological evaluation of each child to be performed upon placement in the custody of the office of juvenile justice.
- (3) A continuum of care plan for each child in the custody of the office of juvenile justice, which shall include treatment, service, academic, and vocational opportunities.

Effective August 1, 2022.

Criminal Offenses

Act No. 33 (HB 134) by Rep. Marino

Relative to the crime of false statements and false or altered documents, provides that restitution shall be ordered according to C.Cr.P. Art. 883.2 and shall be made payable to the La. Unclaimed Property Permanent Trust Fund.

Effective August 1, 2022.

Act No. 45 (HB 322) by Rep. Marino

Relative to the crime of simple damage to property, adds that the amount of damages shall determine the grade of the offense in the case of damage to multiple properties by an offender's distinct acts as part of a continuous sequence of events.

Effective August 1, 2022.

Act No. 75 (SB 66) by Sen. Connick

Provides enhanced penalties for the crime of violation of protective orders when the offender, while in possession of a firearm, goes to the residence or household, school, or place of employment of the person for whose benefit the protective order is in effect.

Effective August 1, 2022.

Act No. 127 (SB 70) by Sen. Talbot

Creates the crime of theft of a catalytic converter or engine control module, which is misappropriation or taking of a catalytic converter or engine control module which belongs to another, either without the consent of the owner to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations. Further provides that an intent to deprive the owner permanently of the catalytic converter or engine control module is essential.

Provides for the following penalties:

- (1) When the misappropriation or taking and any related damage amounts to a value of \$25,000 or more, the offender is to be imprisoned, at hard labor, for not less than 10 years nor more than 20 years, or fined not more than \$50,000, or both.
- (2) When the misappropriation or taking and any related damage amounts to a value of \$5,000 or more, but less than \$25,000, the offender is to be imprisoned, with or without hard labor, for not less than five years nor more than 10 years, or fined not more than \$10,000, or both.

- (3) When the misappropriation or taking and any related damage amounts to a value of \$1,000 or more, but less than \$5,000, the offender is to be imprisoned, with or without hard labor, for not less than two years nor more than five years, or fined not more than \$3,000, or both.
- (4) When the misappropriation or taking and any related damage amounts to a value of less than \$1,000, the offender is to be imprisoned for not less than 90 days nor more than six months, or fined not more than \$1,000, or both.

Provides that if the offender has been convicted two or more times of theft of catalytic converter or engine control module, upon any subsequent conviction, he is to be imprisoned, with or without hard labor, for an additional year to be served consecutively, or may be fined not more than an additional \$2,000, or both. Further provides that when there has been a taking by a number of distinct acts, the amount of the taking is determined by the aggregate value of the amount of each taking.

Further requires secondhand dealers who buy or sell an unattached catalytic converter or engine control module as a single item and not part of a scrapped motor vehicle to register with the chief of police and sheriff of each city and parish in which his business is conducted.

Effective August 1, 2022.

Act No. 129 (SB 136) by Sen. Connick

Adds the crime of battery of emergency room personnel, emergency services personnel, or a healthcare professional to the list of crimes of violence.

Expands the definition of "healthcare professional" for the crime of battery of emergency room personnel, emergency services personnel, or a healthcare professional to include a patient transporter, dietary worker, patient access representative, security personnel, patient relations advocate, or any other person who otherwise assists in or supports the performance of healthcare services.

Provides that whoever commits a second or subsequent offense of battery of emergency room personnel, emergency services personnel, or healthcare professional shall be fined not more than \$1,000 and imprisoned, with or without hard labor, for not less than one year nor more than three years. At least 45 days of the sentence shall be served without benefit of parole, probation, or suspension of sentence.

Provides that on a second or subsequent offense, if the battery produces an injury that requires medical attention, the offender shall be fined not more than \$10,000 and imprisoned, with or without hard labor, for not less than two years nor more than five years. At least 90 days of the sentences shall be served without benefit of parole, probation, or suspension of sentence.

Creates the crime of assault on emergency room personnel, emergency services personnel, or a healthcare professional, which is defined as an assault committed when the offender has reasonable grounds to believe that the victim is a emergency room personnel, emergency services personnel, or a healthcare professional acting in the performance of his duties.

Provides for a fine of not more than \$1,000 or imprisonment for not less than 30 days nor more than 180 days, or both.

Creates the crime of unlawful disruption of the operation of a healthcare facility, defined as the intentional communication of information that the commission of a crime of violence is imminent or in progress, or that a circumstance dangerous to human life exists or is about to exist, when committed under any one or more of the following circumstances:

- (1) When the offender's actions cause emergency room personnel, emergency services personnel, or healthcare professionals at a healthcare facility to be in sustained fear for their safety, and a reasonable person would have known that his actions could cause sustained fear.
- (2) When the offender's actions cause the evacuation of a healthcare facility, and a reasonable person would have known that his actions could cause an evacuation.
- (3) When the offender's actions cause any other serious disruption to the operation of a healthcare facility, and a reasonable person would have known that his actions could cause serious disruption to the operation of a healthcare facility.

Provides for a fine of not more than \$1,000, or imprisonment, with or without hard labor, for not less than one year nor more than five years, or both.

Effective August 1, 2022.

Act No. 131 (SB 161) by Sen. Talbot

Provides for an increased penalty of not less than 10 nor more than 20 years, without the benefit of parole, probation, or suspension of sentence if serious bodily injury is caused during the commission of the crime of carjacking.

Effective August 1, 2022.

Act No. 173 (SB 64) by Sen. Connick

Adds the crimes of aggravated kidnapping of a child, molestation, and sexual battery of persons with infirmities to the list of crimes of violence.

Defines "rape" to include foreign object penetration and defines "first degree/aggravated rape" to include rapes committed during the course of burglary crimes.

Replaces the definitions of "physical infirmity" and "mental infirmity" relative to first degree/aggravated rape with language to better protect victims with disabilities.

Defines the term "sexually abused" relative to second degree kidnapping and aggravated kidnapping of a child to mean that the victim was subjected to any offense defined as a sex offense.

Aligns second degree sexual battery, oral sexual battery, and sexual battery of persons with infirmities with other provisions of law.

Makes the "under 13" variants of sexual battery, molestation, and indecent behavior with a juvenile responsive to first degree/aggravated rape of a child under 13.

Updates the evidentiary rule that a sexual assault victim's attire is generally inadmissible in a proceeding to broadly include all crimes of sexual assault or a crime defined as a sex offense.

Effective August 1, 2022.

Act No. 220 (HB 447) by Rep. Hughes

Creates the crime of recruitment of juveniles to commit carjacking.

Provides that it shall be unlawful for any person over the age of 17 to intentionally recruit, entice, aid, solicit, or encourage any child under the age of 18 to commit the offense of carjacking.

Provides for a term of imprisonment at hard labor, for not less than five years nor more than 20 years, without benefit of parole, probation, or suspension of sentence.

Adds the crime of recruitment of juveniles to commit carjacking as an element of the crime of racketeering activity.

Effective August 1, 2022.

Act No. 225 (HB 601) by Rep. Hughes

Provides that a person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for use of a controlled dangerous substance or for possession of drug paraphernalia.

Removes the prior law exception to immunity when a person illegally provided or administered a controlled dangerous substance to the individual.

Further provides that a person who experiences a drug-related overdose and is in need of medical assistance may not be arrested, charged, prosecuted, or penalized for use of a controlled dangerous substance or for possession of drug paraphernalia if evidence for the offense was obtained as a result of the overdose and the need for medical assistance.

Provides that any person seeking medical assistance for an individual experiencing a drug-related overdose or any person experiencing a drug-related overdose shall also not be subject to the following, if related to seeking medical assistance:

- (1) Sanctions for a violation of a condition of pretrial release, condition of probation, or condition of parole, related to the incident which required medical assistance.
- (2) Civil forfeiture of property, related to the incident which required medical assistance.

Provides that the act of providing or seeking first aid or other medical assistance for someone who is experiencing a drug overdose may be used as a mitigating factor in a criminal prosecution.

This Act shall not:

- (1) Limit any seizure of evidence or contraband otherwise permitted by law.
- (2) Limit or abridge the authority of a law enforcement officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense.
- (3) Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regard to a defendant who does not qualify for the protections of new law or with regard to other crimes committed by a person who otherwise qualifies for the protections of new law.

Effective August 1, 2022.

Act No. 468 (HB 371) by Rep. McMahan

Relative to the crimes of battery of a police officer and resisting a police officer with force or violence, adds juvenile detention facility officers to the definition of "police officer".

Effective August 1, 2022.

Act No. 493 (HB 706) by Rep. Stefanski

Creates the crime of menacing and defines the crime as the intentional communication of information that the commission of a crime of violence is imminent or in progress or that a circumstance dangerous to human life exists or is about to exist, when committed under any of the following circumstances:

- (a) The offender's actions cause members of the general public to be in sustained fear for their safety, and a reasonable person would have known that such actions could cause such sustained fear.
- (b) The offender's actions cause the evacuation of a building, a public structure, or a facility of transportation, and a reasonable person would have known that such actions could cause an evacuation.

- (c) The offender's actions cause any other serious disruption to the general public, and a reasonable person would have known that such actions could cause serious disruption to the general public.

Provides that whoever commits the crime shall be fined not more \$1,000 or imprisoned with or without hard labor for not more than two years, or both.

Adds the crime of menacing to the list of hate crimes.

Effective August 1, 2022.

Act No. 629 (HB 607) by Rep. Geymann

Relative to the crime of simple cruelty to animals, provides that the court may order an offender to pay for any expenses incurred for the housing of the animal and for medical treatment of the animal, pursuant to C.Cr.P. Art. 883.2.

Effective August 1, 2022.

Act No. 673 (SB 337) by Sen. Smith

Relative to enhanced penalties when the operator's driving license is suspended for certain offenses, provides for the application of an enhanced penalty when the license is suspended for first degree vehicular negligent injuring or a third or subsequent conviction of operating a vehicle while intoxicated. Further provides that the penalties are in addition to any other penalty imposed under Title 14 of the La. Revised Statutes of 1950.

Increases the enhanced penalty of imprisonment to not less than 90 days nor more than one year without benefit of suspension of imposition or execution of sentence.

Effective August 1, 2022.

Act No. 731 (HB 491) by Rep. Bacala

Provides that simple robbery is either of the following:

- (1) The taking of anything of value belonging to another from the person of another or that is in the immediate control of another, by use of force or intimidation, but not armed with a dangerous weapon.
- (2) The taking of anything of value when a person is part of a group of three or more individuals and the person has the intent to take anything of value from a retail establishment that is in

the immediate control of a retail employee or employer and there is reasonable belief that a reasonable person would not intercede because of fear.

Effective August 1, 2022.

Act No. 736 (HB 568) by Rep. Edmonds

Relative to the crime of adoption deception, provides for an additional element that includes when a person has the specific intent to make false representations to induce the payment of living expenses or other benefits in connection with a purported adoption placement.

This Act does not apply to a person who agrees to an adoption plan agreement and subsequently, in good faith, declines to proceed with the prospective adoption in favor of parenting the child.

Effective August 1, 2022.

Act No. 746 (HB 627) by Rep. Bryant

Relative to the crime of unauthorized use of a motor vehicle, adds that when the misappropriation or taking amounts to less than a value of \$1,000, the offender shall be imprisoned for not more than six months, or fined not more than \$1,000, or both.

Effective August 1, 2022.

Controlled Dangerous Substances

Act No. 46 (HB 378) by Rep. Marino

Adds 24 additional substances to Schedule I and Serdexmethylphenidate to Schedule IV.

Adds samidorphan as a Schedule II substance of vegetable origin.

Effective August 1, 2022.

Act No. 137 (HB 212) by Rep. D. Miller

Excludes rapid fentanyl test strips (FTS) or any testing equipment or devices solely used, intended for use, or designed to determine whether a substance contains fentanyl or its analogues as "drug paraphernalia".

This Act shall be cited and referred to as "Gabby's Law".

Effective August 1, 2022.

Act No. 439 (HB 137) by Rep. Marino

Provides that visiting qualifying patients shall be exempt from the prohibitions for possession and distribution of marijuana. This Act does not prohibit the arrest or prosecution of any person for diversion of medical marijuana or any other conduct outside the scope of the state-sanctioned medical marijuana program.

Effective August 1, 2022.

Act No. 499 (HB 775) by Rep. Glover

Excludes any equipment or devices solely used or intended for use for the inhalation of raw or crude marijuana, tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols when a person is a patient of a state-sponsored medical marijuana program and possesses medical marijuana in a form permissible under R.S. 40:1046 for therapeutic use.

Effective August 1, 2022.

Act No. 671 (SB 315) by Sen. Womack

Provides that if an offender unlawfully distributes or dispenses fentanyl or carfentanil or heroin which is the direct cause of serious bodily injury to the person who ingested or consumed the substance, the offense shall be classified as a crime of violence, and the offender shall be imprisoned at hard labor for not less than five years nor more than 40 years. At least five years of the sentence of imprisonment shall be imposed without benefit of probation, parole, or suspension of sentence. In addition, the offender may be required to pay a fine of not more than \$50,000.

Adds the distribution of fentanyl or carfentanil which causes serious bodily injury and the distribution of heroin which cause serious bodily injury to the offenses included as a crime of violence.

Effective August 1, 2022.

Expungement

Act No. 36 (HB 162) by Rep. Marino

Removes the requirement that a person determined to be factually innocent and entitled to compensation for a wrongful conviction obtain a certification from the district attorney and provides that such persons shall be exempt from the payment of processing fees.

Provides that a person who has been granted a pardon shall be exempt from the payment of processing fees. Excludes persons granted a first offender pardon from the exemption of the payment of processing fees.

Effective August 1, 2022.

Act No. 130 (SB 148) by Sen. Mizell

Creates the "Michelle Johnson Act".

Adds other offenses to the definition of "human trafficking" and "commercial sexual activity".

Provides a form and procedure for human trafficking victims to request expungement of a record of offense from the prosecuting authority by applying for a "certification of human trafficking victim status".

Provides that the "certification of human trafficking victim status" indicates that the offense for which the expungement is sought was committed as the result of the applicant being a victim of human trafficking. Further provides the applicant has the burden of establishing by a preponderance of the evidence that the offense was committed as a result of being a victim of human trafficking.

Provides that the certification is prima facie evidence that similar eligible crimes committed during the same time period within other La. jurisdictions were committed as the result of the applicant being a victim of human trafficking.

Waives all applicable time delays pertaining to expungement when the certification is presented to the clerk of court with the application for expungement.

Provides that an applicant for the expungement of a record of offense who was a victim of human trafficking is not required to pay any fees to the clerk of court, the La. Bureau of Criminal Identification and Information, the sheriff, the district attorney, or any other agency.

Provides that utilization of this process does not preclude any applicant from seeking an additional expungement to which they are entitled.

Requires the La. District Attorneys Association to submit an annual report to the Legislature that includes the number of applications for, denials of, and approvals of the certification of human trafficking.

Provides a form for the "certification of human trafficking victim status" to be executed by the district attorney.

Effective May 26, 2022.

Criminal Procedure

Act No. 42 (HB 247) by Rep. Magee

Relative to the recusal of judges, adds an additional ground requiring a judge to be recused when there exists a substantial and objective basis that would reasonably be expected to prevent the judge from conducting any aspect of the cause in a fair and impartial manner.

Requires a judge who self-recuses to contemporaneously file into the record the order of recusal and the written reasons therefor and to also provide a copy to the judicial administrator of the supreme court.

Requires a judge who is the subject of a valid motion to recuse to refer the motion for hearing or recuse himself.

Requires a motion to recuse to be filed not later than 30 days after the facts are discovered but in all cases at least 30 days prior to commencement of the trial, and requires the judge to act not later than seven days after the judge receives the motion to recuse from the clerk of court.

Also provides that if a motion to recuse is not timely filed or fails to set forth facts constituting a ground for recusal, the judge who is the subject of the motion may deny it without referring it to another judge but must give written reasons for the denial.

Provides that in courts having only one judge, the supreme court shall appoint another judge to hear the motion to recuse.

Provides that in courts having more than two judges, the cause shall be randomly reassigned to another judge. Additionally provides that in courts having two judges, the cause shall be tried by the other judge, and in courts having only one judge, the supreme court shall appoint another judge to try the cause.

Allows an appellate court judge who is the subject of a motion to recuse that fails to set forth facts constituting a ground for recusal to deny the motion without a hearing, provided the judge gives written reasons for the denial.

Requires both sides to apply for review by supervisory writs and provides that this shall be the exclusive remedy. Also requires the judge to advise the defendant in open court that rulings concerning recusals of judges cannot be raised on appeal.

Effective August 1, 2022.

Act No. 219 (HB 443) by Rep. Magee

Relative to financial obligations for criminal offenders, requires the court to conduct a hearing to determine if the financial obligation would cause a substantial financial hardship on the defendant. Authorizes the court to delay the hearing up to 90 days in order for the parties to submit evidence.

Authorizes the defendant or the court to waive the judicial determination of a substantial financial hardship, and also provides that if the court waives the hearing on its own motion, the court shall provide reasons, entered upon the record, for its determination.

Requires the consent of the victim before waiving any award of restitution owed to the victim.

Requires the amount of each monthly payment for the payment plan to be determined by the court after considering all relevant factors including but not limited to the defendant's average gross daily income for an eight-hour work day.

Authorizes the state to file a motion to reevaluate the defendant's ability to fulfill his financial obligations.

Specifies that the defendant's obligation may be enforced in the same manner as provided for the execution of judgments in the Code of Civil Procedure.

Effective August 1, 2022.

Act No. 384 (HB 361) by Rep. Marino

Adds an exception for a judge to issue a search warrant for medical records outside of the territorial jurisdiction of the court.

Adds an exception for a search warrant for medical records to be executed after the expiration of the tenth day after its issuance.

Authorizes a judge to issue a search warrant for the search for and seizure of medical records of any person. Provides that the warrant may be issued by a judge of either the court of territorial jurisdiction where the investigation for the medical records is being conducted or the court of territorial jurisdiction where the custodian of the medical records may be found. The warrant may be executed in any place the medical records may be found and shall be directed to any peace officer who shall obtain and distribute the medical records as directed in the warrant.

Provides that a search warrant for medical records remains in effect for 180 days after its issuance.

Provides that any examination of any medical records seized shall be at the direction of the attorney general, the district attorney, or the investigating agency. Further provides that any examination of

the medical records may be conducted at any time before or during the pendency of any criminal proceeding in which the medical records may be used as evidence.

Effective August 1, 2022.

Act No. 391 (HB 726) by Rep. Lyons

Provides that a defendant shall not be incarcerated for his inability to meet his financial obligations if those financial obligations would cause substantial financial hardship to the defendant or his dependants.

Applies to defendants convicted of traffic offenses, misdemeanor offenses, or felonies under applicable law.

Effective August 1, 2022.

Act No. 446 (HB 200) by Rep. Brown

Provides that a plea of not guilty of a misdemeanor may be allowed to be entered through counsel of record. Further provides that a plea of not guilty of a misdemeanor shall be allowed to be entered through counsel of record in the absence of the defendant by the filing of a sworn affidavit in advance of the scheduled arraignment date.

Effective August 1, 2022.

Act No. 473 (HB 629) by Rep. Bryant

Provides that the odor of marijuana alone shall not provide a law enforcement officer with probable cause to conduct a search of a person's place of residence.

Effective August 1, 2022.

Act No. 621 (HB 409) by Rep. Marino

Provides that a peace officer may not issue written summons instead of making custodial arrests in the occurrence of certain domestic violence crimes, including but not limited to domestic abuse battery, battery of a dating partner, and stalking.

Effective August 1, 2022.

Act No. 625 (HB 431) by Rep. Jordan

Prohibits the comparison of DNA obtained by a criminal justice agency from a sexual assault collection kit with other DNA records for the purpose of investigating the victim of the

sexually-oriented criminal offense who submitted the DNA if that victim is charged with or suspected of committing any criminal offense.

Effective August 1, 2022.

Bail

Act No. 90 (SB 360) by Sen. Foil

Provides the commencement dates for the 180-day time period for filing a rule to show cause to obtain a judgment of bond forfeiture.

Provides that a motion seeking relief shall be filed prior to or at the hearing on a rule to show cause to obtain a judgment of bond forfeiture and shall include a sworn affidavit of efforts to locate the defendant, an engagement contract between the bondsman and the recovery team, and the last communication between the defendant's next of kin or indemnitor.

Provides that if the motion meets certain requirements, the court shall grant the motion and allow additional time to surrender the defendant. The rule to show cause shall be continued until after the expiration of the extension of time. If the motion does not meet the requirements, the court may deny the motion.

Effective May 24, 2022.

Act No. 593 (SB 396) by Sen. Morris

Provides that upon conviction in any case, the bail undertaking shall cease and the surety shall be relieved of all obligations under the bail undertaking by operation of law without the need to file a motion or other pleading. Provides that such discharge shall not prejudice the state's right to obtain a judgment of bond forfeiture after the elapse of 180 days following the execution of the certificate that notice of warrant for arrest was sent.

Effective August 1, 2022.

Forfeiture

Act No. 698 (SB 359) by Sen. Jackson

Authorizes the delay in filing the judicial forfeiture proceeding for 180 days if an extension to file a claim is granted.

Changes effectiveness of notice from mailing to receipt of a written notice by certified mail.

Authorizes a court to grant an extension of time for the filing of a claim for good cause shown and that good cause includes incarceration of the owner or interest holder. Further provides that incarceration of the owner or interest holder during the original 30 day period creates a rebuttable presumption of good cause as to the owner or interest holder.

Requires motion granting an extension be filed within 60 days after receipt of the Notice of Pending Forfeiture.

Effective August 1, 2022.

Act No. 747 (HB 820) by Rep. Villio

Defines the terms "commingled funds", "criminal activity", "facilitating property", and "proceeds".

Provides that all facilitating property, proceeds, and commingled funds, without limitation to commingled funds of persons who knowingly or should have reasonably known of the foregoing criminal activity, shall be subject to seizure and forfeiture if involved in or derived from any of the following offenses:

- (1) Identity theft.
- (2) Access device fraud.
- (3) Illegal transmission of monetary funds.
- (4) Bank fraud.
- (5) Monetary instrument abuse.
- (6) Computer fraud.
- (7) Money laundering; transactions involving proceeds derived from criminal activity.

Provides that any facilitating property, proceeds, and commingled funds subject to forfeiture may be seized under process issued by any court of record having jurisdiction over the facilitating property, proceeds, and commingled funds.

Provides that seizure without such process may be made when either of the following exists:

- (1) The seizure is incident to an arrest with probable cause or a search under a valid search warrant or with probable cause or an inspection under valid administrative inspection warrant.

- (2) The facilitating property, proceeds, and commingled funds subject to seizure have been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding.

Provides that all forfeitures or dispositions shall be made with due provisions for the rights of factually innocent persons and that no forfeiture or disposition shall affect the rights of factually innocent persons.

Provides that no mortgage, lien, privilege, or other security interest recognized under the laws of La. and no ownership interest in indivision shall be affected by a forfeiture if the owner of such mortgage, lien, privilege, or other security interest, or owner in indivision establishes that he is a factually innocent person. Further provides that a mortgage, lien, or security interest held by a federally-insured financial institution shall not be affected by the seizure and forfeiture provisions.

Provides that notice of pending forfeiture or disposition shall be provided by the district attorney.

Requires a prompt forfeiture proceeding in the event of a seizure. Further provides that any facilitating property, proceeds, and commingled funds taken or detained shall not be subject to sequestration or attachment but is deemed to be in the custody of the law enforcement officer making the seizure, subject only to a court order.

Permits a law enforcement officer making the seizure, when property is seized pending forfeiture and final disposition, to do any of the following:

- (1) Place the property under seal.
- (2) Remove the property to a place designated by the court.
- (3) Request another agency authorized by law to take custody of the property and remove it to an appropriate location.

Permits the district attorney to institute civil proceedings and requires the district court to proceed as soon as practicable to the hearing and determination following conviction or agreement between the parties. Further provides that pending final determination, the court may at any time enter such injunctions or restraining orders or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper.

Precludes the defendant in a subsequent civil action from denying the essential facts established in any criminal proceeding when a final judgment or decree has been rendered in favor of the state.

Provides for the commencement of a criminal or civil action or proceeding at any time within five years after the conduct in violation terminates or the cause of action accrues. Further provides that if a criminal prosecution or civil action is commenced, the running of the prescribed period with respect to any cause of action which is based in whole or in part upon any matter complained of in

any such prosecution or action shall be suspended during the pendency of such prosecution or action and for two years following its termination.

Provides that the application of one civil remedy shall not preclude the application of any other remedy, civil or criminal, under any other provision of law. Further provides that civil remedies are supplemental and not mutually exclusive.

Provides that the allocation of proceeds from forfeitures or dispositions shall be determined by the court in accordance with each law enforcement entity's participation in the investigation, seizure, and forfeiture process. Further provides that proceeds shall be distributed in the following order of priority:

- (1) Satisfaction of any bona fide security interest or lien.
- (2) Payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs.
- (3) The remaining funds shall be allocated as follows:
 - (a) 60% to the law enforcement agency or agencies making the seizure.
 - (b) 20% to the criminal court fund.
 - (c) 20% to the district attorney's office pursuing the forfeiture.

Effective August 1, 2022.

Gaming

Act No. 266 (SB 290) by Sen. Cortez

Relative to sports wagering, includes operators and electronic wagering in compulsive and problem gambling programs.

Provides that if a video draw poker licensee becomes a sport wagering licensee, all of the rules and requirements of the uniform compulsive and problem gambling program shall be applicable to the licensee.

Provides that if a sports wagering platform provider contracts with more than one sports wagering licensee, it may not claim more than the maximum amount of eligible promotional play per licensee in any calendar year, regardless of the amount allocated to it by multiple sports wagering licensees.

Clarifies that the distribution in the Sports Wagering Local Allocation Fund shall be proportionate to the population percentage of each parish that approved a proposition to allow sports wagering compared to the total population of such parishes based on the latest federal decennial census.

Effective July 1, 2022.

Act No. 387 (HB 620) by Rep. Stefanski

Adds private nonprofit elementary or secondary schools and public elementary or secondary schools to the list of organizations authorized to hold and operate certain games of chance.

Allows the office of charitable gaming to license private nonprofit elementary or secondary schools and public elementary or secondary schools to hold and operate certain games of chance without having to qualify with the IRS for a federal income tax exemption.

Provides that a private nonprofit elementary or secondary school and public elementary or secondary school in this state shall be exempt from licensing and reporting procedures in any municipality or parish whose governing authority has decided to permit raffles, bingo, and keno within its limits. Such private nonprofit school or public school shall be exempted from licensing or reporting procedures only for the conducting of raffles as a means of fund-raising.

Effective August 1, 2022.

Law Enforcement

Act No. 334 (HB 377) by Rep. Huval

Provides for the duty of law enforcement to record the fingerprints of all persons arrested for any offense involving the operation of a vehicle while intoxicated, including local ordinances pertaining to operating a motor vehicle while intoxicated. Further provides that law enforcement shall have no duty to record fingerprints if the fingerprint system at the local prison is unavailable.

Relative to the operation of a motor vehicle while intoxicated, expands the list of offenses where law enforcement can obtain and file the fingerprint and identification data of a person who commits the offenses, including local ordinances pertaining to operating a motor vehicle while intoxicated.

Effective August 1, 2022.

Act No. 560 (HB 904) by Rep. Phelps

Prohibits sexual intercourse or any other sexual conduct between a person who is detained or arrested and any person who is a law enforcement officer, an employee of the Dept. of Public Safety

and Corrections, an employee of any prison, jail, or correctional institution, or any person employed by entities operating work release facilities of the Dept. of Public Safety and Corrections.

Effective August 1, 2022.

Act No. 668 (SB 182) by Sen. Fields

Adds willfully and knowingly subjecting any person to the deprivation of any right, privilege, or immunity secured or protected by the U. S. Constitution and laws, if serious bodily injury or death results, to the list of conduct that is malfeasance in office.

Removes the officer's involuntary termination by his employing law enforcement agency for disciplinary reasons involving an adjudication of civil rights violations from the list of revocation offenses over which the P.O.S.T. Council has discretion.

Adds as a condition to the list of revocation offenses over which the P.O.S.T. Council has discretion to conduct a revocation hearing allowing an officer to retire or resign, as a result of disciplinary action taken against the officer for any conduct during the course and scope of employment that would constitute an unreasonable use of force.

Effective June 18, 2022.

Weapons/Firearms

Act No. 126 (SB 53) by Sen. Foil

Adds retired judges of federal courts, retired U.S. attorneys, retired assistant U.S. attorneys, and retired federal investigators to the list of certain active persons who are not prohibited from possessing and concealing a handgun when the person is qualified annually by P.O.S.T.

Effective May 26, 2022.

Act No. 433 (HB 8) by Rep. Fontenot

Adds city prosecutors, designated assistant city prosecutors, a U.S. representative from La. and his designated, employed congressional staffer, a U.S. senator from La. and his designated, employed congressional staffer, and retired members of the U.S. Congress to the list of certain active persons who are not prohibited from possessing and concealing a handgun when the person is qualified annually by P.O.S.T.

Effective August 1, 2022.

Act No. 465 (HB 365) by Rep. Seabaugh and Act No. 702 (SB 393) by Sen. White

Adds the crime of possession of a firearm or carrying of a concealed weapon by a person convicted of certain felonies in violation of R.S. 14:95.1(D) to the list of crimes of violence.

Provides that if a violation of R.S. 14:95.1 relative to a felon in possession is committed during the commission of a crime of violence, then the violation of R.S. 14:95.1 shall also be designated a crime of violence.

Effective June 15, 2022 (Act No. 465) and June 18, 2022 (Act No. 702).

Act No. 484 (HB 585) by Rep. Freeman

Provides that the sheriff of each parish shall report on an annual basis to the La. Commission on Law Enforcement and Administration of Criminal Justice the following aggregate data pursuant to C.Cr.P. Art. 1002:

- (1) The total number of civil orders to transfer firearms received by the sheriff's office.
- (2) The total number of criminal orders to transfer firearms received by the sheriff's office.
- (3) The total number of proof of transfer forms completed and retained by the sheriff's office.
- (4) The total number of declarations of non-possession received by the sheriff's office.
- (5) The number of firearm transfers completed and itemized as follows:
 - (a) To the sheriff's office.
 - (b) To a third party entity.
 - (c) To contracted storage.
 - (d) Via legal sale.
- (6) The number of orders received from the court stating that firearms shall be returned to the transferor under C.Cr.P. Art. 1003.

Provides that the sheriff shall submit a report to the La. Commission on Law Enforcement and Administration of Criminal Justice regardless of whether the sheriff is able to complete a firearm transfer.

Provides for the following duties of the La. Commission on Law Enforcement and Administration of Criminal Justice:

- (1) By Jan. 1, 2023, create and distribute a standardized form for use by the sheriff of each parish to use to report all required aggregate data fields. The form shall not contain any identifying information of the person who possesses the firearm and shall only contain numerical data provided.
- (2) Provide a single point of contact or web portal to which each sheriff shall submit the completed form.
- (3) Collected submissions of completed forms by the sheriff of each parish no later than Jan. 31st of each calendar year. Each form shall contain the aggregate data for each of the items listed for the prior calendar year.
- (4) Publish the data collected from the sheriff of each parish to the commission's public website by Feb. 28th of each calendar year.
- (5) Submit a report containing the received information to the House Committee on Administration of Criminal Justice and the Senate Committee on Judiciary C no later than March 1st of each calendar year.

Effective August 1, 2022.

Act No. 518 (HB 868) by Rep. Miguez

Creates the "Louisiana Firearm Safety Awareness Act".

Requires state police to provide a two-hour online handgun education course at no cost to La. residents.

Provides for the purpose of the online education course and provides that the course is optional and shall not be a requirement for obtaining a concealed handgun permit under R.S. 40:1379.3.

Provides that completion of the online education course shall not grant any person the right to carry a concealed handgun unless otherwise provided by law.

Requires that the online handgun education course cover all of the following topics:

- (1) Handgun basics and nomenclature.
- (2) Firearm-free zones.
- (3) Use of deadly force.
- (4) Interactions with law enforcement officers.
- (5) Conflict resolution.

- (6) Accident prevention.
- (7) Unauthorized access prevention.
- (8) Safe handling of a handgun.

Requires state police to maintain an online database of all licensed handgun and firearm instructors to allow the public to search for classes.

Requires state police to develop and promulgate the content, structure, accessibility, and all other related matters of the online handgun education course in accordance with the rules and regulations of the Administrative Procedure Act. Further requires that state police divide the course topics into eight video segments that shall broadcast for no less than 15 minutes per segment.

Effective August 1, 2022.

Act No. 587 (HB 463) by Rep. Seabaugh

Removes the intentional concealment of any switchblade knife, spring knife, or other knife or similar instrument having a blade which may be automatically unfolded or extended from a handle by the manipulation of a button, switch, latch, or similar contrivance located on the handle from the crime of illegal carrying of weapons (R.S. 14:95) .

Effective August 1, 2022.

Act No. 602 (HB 42) by Rep. Frieman

Adds retired justices of the peace to the list of certain retired persons who are not prohibited from possessing and concealing a handgun when the person is qualified annually by P.O.S.T.

Effective August 1, 2022.

Act No. 680 (SB 143) by Sen. Morris

Creates an additional exception to the crime of illegal carrying of weapons (R.S. 14:95) for any La. resident who does not possess a concealed handgun permit but otherwise meets the same eligibility requirements as those who do possess a concealed handgun permit, if the resident is a reserve or active-duty member of any branch of the U.S. Armed Forces, a member of the La. National Guard or the La. Air National Guard, or a former member of any branch of the U.S. Armed Forces, the La. National Guard, or the La. Air National Guard who has been honorably discharged from service.

Requires a person in possession of a concealed handgun pursuant to the permit exception to have on his person proof that he meets the qualifications, which may be a valid military ID, a valid La. driver's license or special ID card displaying the word "Veteran", or a valid La. driver's license or

special ID card accompanied by a Dept. of Defense Form 214 indicating character of service as "Honorable" or "Under Honorable Conditions (General)".

Provides that any person carrying a concealed handgun pursuant to the permit exception is deemed to have met all legal requirements.

Extends the prohibition from carrying and concealing a handgun while under the influence of alcohol or a controlled dangerous substance to nonpermitted legal carriers.

Extends to nonpermitted legal carriers the requirement to notify any police officer who approaches the permittee in an official manner or with an identified official purpose that he has a weapon on his person, submit to a pat-down, and allow the officer to temporarily disarm him.

Requires state police to provide a two-hour online handgun education course at no cost to La. residents.

Provides for the purpose of the online education course and provides that the course is optional and shall not be a requirement for obtaining a concealed handgun permit under R.S. 40:1379.3.

Provides that completion of the online education course shall not grant any person the right to carry a concealed handgun unless otherwise provided by law.

Requires that the online handgun education course cover all of the following topics:

- (1) Handgun basics and nomenclature.
- (2) Firearm-free zones.
- (3) Use of deadly force.
- (4) Interactions with law enforcement officers.
- (5) Conflict resolution.
- (6) Accident prevention.
- (7) Unauthorized access prevention.
- (8) Safe handling of a handgun.

Requires state police to maintain an online database of all licensed handgun and firearm instructors to allow the public to search for classes.

Requires state police to develop and promulgate the content, structure, accessibility, and all other related matters of the online handgun education course in accordance with the rules and regulations

of the Administrative Procedure Act. Further requires that state police divide the course topics into eight video segments that shall broadcast for no less than 15 minutes per segment.

Effective August 1, 2022.

Victim Notification

Act No. 140 (HB 265) by Rep. Villio

Provides that notification of an offender's scheduled parole hearing shall be in writing and sent by mail or electronic communications to the victim or the spouse or next of kin of a deceased victim no less than 60 days prior to the hearing date.

Provides that the notice shall advise the victim, or the spouse or next of kin of a deceased victim how to obtain information about their rights with regard to the hearing.

Allows notice by electronic communications only in instances where the victim has opted-in to such form of notification during the registration process and provides that notice is complete upon transmission.

Adds a probation hearing as a type of proceeding where advance notification by the clerk of court can be given to a victim or designated family member.

Provides that one of the powers and duties of the Dept. of Public Safety and Corrections (department) is to notify all registered persons by mail or electronic communications at the time of the appeal, discharge, or parole of an inmate including a juvenile inmate.

Further requires the department to notify the victim or the victim's family, all persons who have filed a victim registration and notification form, the appropriate law enforcement agency, and the appropriate district attorney no later than 60 days prior to release of an inmate who has been convicted of a crime of violence as provided in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541 and is eligible for release pursuant to R.S. 15:571.3.

Provides that notice from the department by electronic communications is allowed only in instances where the victim has opted-in to such form of notification during the registration process and is complete upon transmission.

Provides that the department shall have the duty to immediately notify the victim, family member of the victim, or witness, at the most current address or phone number on file with the department, and via electronic communication by the most reasonable and expedient means possible in the event of an escape or absconding by an inmate including a juvenile inmate. Provides that notice by electronic communications is complete upon transmission.

Provides that the victim or the victim's family, a victim advocacy group, and the district attorney or his representative may also appear before the board or committee in person or by means of teleconference or telephone communication.

Effective August 1, 2022.

Act No. 568 (HB 508) by Rep. G. Miller

Creates the "Becnel Survivor Notification Act".

Provides that one of the powers and duties of the Dept. of Public Safety and Corrections (department) is to notify all registered persons by mail or electronic communications of the time of the appeal, discharge, or parole of an inmate, including a juvenile inmate.

Further provides that the department shall, if known by the department, notify the victim or the victim's family, all persons who have filed a victim registration and notification form, the appropriate law enforcement agency, and the appropriate district attorney no later than 60 days prior to release of an inmate who has been convicted of a crime of violence as provided in R.S. 14:2(B) or a sex offense as defined in R.S. 15:541 and is eligible for release pursuant to R.S. 15:571.3.

Provides that notice by electronic communications shall be allowed only in instances where the registered person has opted-in to such form of notification during the registration process and is complete upon transmission.

Effective August 1, 2022.

Miscellaneous

Act No. 436 (HB 129) by Rep. Nelson

Requires the Dept. of Public Safety and Corrections (department) to immediately notify an arrested person by regular mail and any available electronic communication that his operator's license may be suspended if he fails to honor the written promise to appear or pay an appropriate fine for the offense within 180 days after the date the notice was received.

Requires the department to send a second notice to the arrested person by regular mail and any available electronic communication no later than 120 days after receiving notice from the court exercising jurisdiction of the pending suspension of the operator's license of the arrested person.

Provides that upon notification to the department, and payment of \$100, if the operator's license of the arrested person was suspended, the operator's license shall be released from the pending suspension, renewed, or reissued. Provides that the \$100 fee may only be assessed once per summons.

Provides that failure to appear due to incarceration shall be a valid defense for a violation if the person arrested provides evidence of incarceration to the court. Requires the license to be renewed and reissued without payment, all failure to appear payments waived, and any other flags reported to the department be resolved.

Provides that all notices from the department shall include the following information:

- (1) The summons information that the individual failed to appear on.
- (2) The date of the failure to appear.
- (3) The contact information and name of the court where the person needs to appear.

Effective August 1, 2022.

SELECTED CIVIL LAW LEGISLATION

Adoption

Act No. 633 (HB 727) by Rep. Bacala

Provides for reporting duties associated with agency adoptions and private adoptions prior to finalization or if an interlocutory decree has been entered into.

Effective August 1, 2022.

Birth Certificates

Act No. 470 (HB 450) by Rep. C. Owen

Provides that an adopted person who is 24 years of age or older may request an uncertified copy of his original birth certificate from the state registrar of vital records.

Provides that a birth parent may at any time request from the registrar a contact preference form that shall accompany the adopted person's original birth certificate. The contact preference form shall allow for the birth parent to indicate whether and how he would like to be contacted and shall be released to an adopted person when he requests his original birth certificate.

Effective August 1, 2022.

Act No. 645 (HB 507) by Rep. Marino

Provides that if the mother or the man whose surname may be given to a child possesses both a maternal and paternal surname according to national custom or practice, the child's surname listed on his birth certificate may be consistent with the national custom or practice of the mother or man.

Effective August 1, 2022.

Children's Code

Act No. 232 (HB 848) by Rep. Bryant

Provides that all files, records, and information regarding an inconclusive or not justified report of child abuse shall be released to certain agencies in the course of investigations or legal proceedings upon request when the requesting agency has good cause to believe that the files, records, or

information contain information which may be constitutionally required to be disclosed pursuant to Brady v. Maryland, 373 U.S. 83 (1963) and its progeny.

Effective August 1, 2022.

Act No. 272 (HB 360) by Rep. Hilferty (on recommendation of the La. State Law Institute)

Provides for the continuous revision of the Children's Code. Changes, clarifies, and defines terminology used within the Children's Code. Provides for the taxing of fees, appointment of counsel, service and notice requirements, use of court discretion, and other procedural requirements in child in need of care proceedings. Provides for service and notice requirements in adoption proceedings.

Effective August 1, 2022.

Family Law

Act No. 121 (SB 102) by Sen. Foil

Provides that both parents of a minor child are cotutors with equal authority to act alone and on behalf of the child.

Effective May 25, 2022.

Act No. 416 (SB 255) by Sen. Barrow

Provides that failure to appear at a hearing on the petition for a protective order in a domestic abuse case shall not on its own constitute grounds for assessing court costs and fees against the petitioner.

Effective June 15, 2022.

Act No. 614 (HB 272) by Rep. Jefferson (on recommendation of the La. State Law Institute)

Requires that when a court orders a mental health evaluation in certain support, custody, or visitation proceedings, the appointed mental health professional shall be licensed and provides for ex parte communications with the mental health professional.

Defines "licensed mental health professional" as a person who possesses at least a master's degree and who is licensed in counseling, social work, psychology, marriage and family counseling, or is exempt from licensing requirements.

Effective August 1, 2022.

Act No. 620 (HB 403) by Rep. Jefferson

Provides for the use and occupancy of community property and provides that a spouse may request rent for a spouse exercising exclusive use and occupancy of a residency.

Effective August 1, 2022.

Act No. 772 (SB 489) by Sen. Jackson

Provides that the court shall not order the suspension of a delinquent child support obligor's license unless it finds that a properly issued immediate income assignment or garnishment of wages did not result in the withholding or seizure of income and the obligor has not otherwise made payment toward the obligation of child support.

Effective June 18, 2022.

Civil Procedure

Act No. 91 (SB 363) by Sen. Foil

Provides for the release of superior mortgage payoff amounts for sheriff sales.

Provides for the issuance of a subpoena duces tecum to the owner or servicer of an obligation secured by a superior encumbrance to the owner or servicer of the superior encumbrance at least fourteen calendar days before the response is due and shall be returnable at least seven calendar days prior to the scheduled sheriff's sale. Provides that in the case of a postponed or rescheduled sheriff's sale, the seizing creditor may request the owner or servicer of the superior encumbrance update the amounts due.

Effective August 1, 2022.

Act No. 115 (HB 164) by Rep. Pressly

Provides relative to the filing of documents by facsimile transmission. Filing is deemed complete at the time the facsimile transmission is received by the clerk of court.

Provides for summary proceedings if the filing party does not receive confirmation of receipt.

Effective August 1, 2022.

Act No. 265 (SB 284) by Sen. Foil

Provides relative to garnishment proceedings. Provides that the garnishee file sworn answers to interrogatories within 30 days from the date of service. Provides that the judgment creditor file a contradictory motion within 30 days of notice of the filing of the garnishee's answer.

Adds tips reported to the employer to the existing exemption of property not required to be delivered to the sheriff by the garnishee.

Provides that tips reported to the employer or other income of a laborer shall be subject to garnishment.

Effective August 1, 2022.

Act No. 318 (SB 486) by Sen. Morris

Provides for the conversion of electronic records of any pleading, document, or exhibit. Requires the originals of conveyances be preserved by the clerk of court.

Effective August 1, 2022.

Act No. 372 (HB 124) by Rep. Muscarello

Provides that a hearing on any motion or exception may be conducted by any audio-visual means at the discretion of the court and that a judge trial may be conducted by any audio-visual means with the consent of all parties and permission of the court.

Effective August 1, 2022.

Act No. 455 (HB 264) by Rep. Seabaugh

Requires that the original and amended or supplemental petition be served to any additional defendants.

Effective August 1, 2022.

Act No. 504 (SB 214) by Sen. Luneau

Requires nonresident insurance claims adjusters who adjusted a La. insurance claim to appear and testify at trial and be available for deposition by telephone and video teleconference.

Provides that deposition testimony of a nonresident insurance claims adjuster taken via telephone or video conference shall not be admissible at trial other than for the purpose of impeachment or upon the showing of death or incapacity of the deponent.

Effective August 1, 2022.

Contracts

Act No. 632 (HB 703) by Rep. G. Miller

Provides that any provision of certain repair contracts entered into following a natural disaster which purports to require a proceeding involving a dispute over the contract to be brought in a venue other than a venue provided by existing law is contrary to the public policy of this state and is null, void, and unenforceable.

Provides for the cancellation of a disaster repair contract.

Effective August 1, 2022.

Judicial Recusal

Act No. 38 (HB 184) by Rep. G. Miller (on recommendation of the La. State Law Institute)

Requires a district judge, parish or city court judge, or justice of the peace to take action on a motion to recuse within seven days after his receipt of the motion from the clerk of court.

Provides that if a motion to recuse a judge of a court of appeal fails to set forth a ground for recusal, the judge who is the subject of the motion may deny it without the appointment of another judge or hearing, but the judge shall give written reasons for the denial.

Effective August 1, 2022.

Liability

Act No. 59 (HB 842) by Rep. McMahan

Provides for immunity from liability for licensed veterinarians and veterinary technicians who report in good faith and with reasonable belief that an animal has been subject to animal cruelty, neglect, or other prohibited act towards animals.

Effective August 1, 2022.

Act No. 285 (SB 103) by Sen. Foil

Provides that in legal malpractice actions by a client against an attorney, the client's recovery shall be limited to the maximum amount that would have been awarded in the client's underlying claim.

Effective July 1, 2022.

Act No. 440 (HB 142) by Rep. Schlegel

Provides for liability for commercial entities that publish or distribute material harmful to minors and fail to place reasonable verification methods to verify the age of individuals attempting to access the material.

Exempts bona fide news or public interest reporting, as well as internet service providers, search engines, and cloud service providers who provide access.

Effective January 1, 2023.

Act No. 453 (HB 260) by Rep. Magee

Provides for immunity from liability for federal firearms licensee for any act or omission arising from a firearm hold agreement.

Effective August 1, 2022.

Act No. 511 (HB 896) by Rep. McFarland

Applies collateral source provisions regarding recoverable past medical expenses to suits against the state, state agencies, or political subdivisions.

Effective August 1, 2022.

Act No. 740 (HB 923) by Rep. McKnight

Provides that no person shall have a cause of action against a Mardi Gras krewe or a member, contractor, or employee of a contractor of such krewe, who is hired to construct or stage Mardi Gras parades for any loss or damage caused through the operation of a float or other vehicle in connection with a parade unless the loss or damage was caused by a deliberate and wanton act or gross negligence.

Effective August 1, 2022.

Notaries

Act No. 192 (HB 903) by Rep. G. Miller

Provides that a remote notarial act is deemed to be executed in any parish where the notary is physically located if the notary has jurisdiction in the parish of execution.

Provides that the venue for actions on a contract that is a remote online notarial act may be brought in any parish in which a party was physically located at the time of notarization.

Effective August 1, 2022.

Act No. 363 (HB 39) by Rep. C. Owen

Authorizes the superintendent of the Beauregard Parish School Board to appoint up to two employees as ex officio notaries public.

Effective August 1, 2022.

Prescription

Act No. 386 (HB 402) by Rep. Hughes

Defines "abuse" as it relates to the prescriptive period for an action against a person for sexual abuse of a minor, or for physical abuse of a minor resulting in permanent impairment or permanent physical injury or scarring.

Provides that any person whose cause of action related to sexual abuse of a minor was barred by liberative prescription shall be permitted to file an action on or before June 14, 2024. Further provides that the revival of claims includes any cause of action related to sexual abuse of a minor that previously prescribed under any La. prescriptive period.

Effective June 10, 2022.

Act No. 469 (HB 389) by Rep. Pressly

Provides that in cases where a state of emergency or disaster suspends or extends liberative prescriptive or peremption periods, the suspension or extension applies only to the liberative prescriptive or peremptive periods that would have otherwise accrued during the time specified in the order or duration of the order's effectiveness.

Provides that the supreme court may suspend or extend deadlines applicable to legal proceedings in court, including abandonment of actions, but only to the extent that such proceedings would have otherwise accrued during the period of time in the order. The court may specify in the order a time period within which to file a pleading affected by the suspension or extension. If no amount of time is specified, the parties shall have 30 days after the period has expired.

Repeals law providing that a suspension period will terminate upon the earlier of a supreme court order or termination of the declared state of emergency or disaster.

Effective August 1, 2022.

Property

Act No. 442 (HB 160) by Rep. Landry

Provides that the cessation of residential occupancy shall not be deemed evidence of abandonment for 30 days in parishes subject to the initial declaration of a federally declared disaster. Provides for recovery of damages, costs, and attorney fees against lessors or owners for failure to comply.

Effective August 1, 2022.

Act No. 481 (HB 549) by Rep. Boyd

Prohibits the enforceability of immovable property covenants that restrict conveyance due to race or religion in properties governed by condominium associations, timeshare plans, and homeowners associations.

Provides a procedure for board membership of a residential planned community to amend community documents.

Effective August 1, 2022.

Act No. 603 (HB 57) by Rep. Hollis

Provides for a 30 day notice period for individual lot owners prior to the filing of a sworn detailed statement to secure a homeowners association privilege.

Reduces the privilege preservation period from five years to one year for charges assessed to the homeowner for alleged violations of community documents.

Effective August 1, 2022.

Act No. 636 (HB 905) by Rep. G. Miller

Requires the purchasing co-owner's share be deducted from the purchase price of a property or interest in a property.

Effective August 1, 2022.

Successions

Act No. 40 (HB 225) by Rep. G. Miller (on recommendation of the Ls. State Law Institute)

Repealed the law providing that ascendants inherited the immovable property given by them to their descendants who died without descendants, subject to all mortgages which the descendant may have imposed on them.

Effective August 1, 2022.

Act No. 44 (HB 309) by Rep. Jenkins

Authorizes use of a photocopy of the certified death certificate to deliver immovable property described in an affidavit of small succession.

Effective August 1, 2022.

Trusts

Act No. 22 (HB 58) by Rep. G. Miller

Provides for the creation of irrevocable trusts for interdicts who are permanently disabled for the purpose of retaining governmental benefits.

Effective August 1, 2022.

Act No. 37 (HB 172) by Rep. G. Miller (on recommendation of the La. State Law Institute)

Provides that the duties of a trustee are owed exclusively to the settlor while a trust is revocable, unless otherwise provided by the trust instrument.

Effective August 1, 2022.

Miscellaneous

Act No. 425 (SB 426) by Sen. McMath

Enacts the Allen Toussaint Legacy Act, providing for individual property rights in connection with the use of an individual's identity for commercial purposes.

Effective August 1, 2022.

Act No. 529 (HB 1083) by Rep. Newell

Prohibits natural, protective, or cultural hairstyle discrimination in education, employment, public accommodations, and housing options.

Effective August 1, 2022.

Act No. 718 (HB 887) by Rep. R. Carter

Authorizes a child, brother, or sister given in adoption to bring wrongful death and survival actions.

Effective August 1, 2022.

Constitutional Amendment

Act No. 246 (HB 298) by Rep. Jordan

Constitutional amendment that prohibits slavery and involuntary servitude except for the otherwise lawful administration of criminal justice.

Provides for the submission of the proposed amendment to the voters at the statewide election to be held November 8, 2022.

Vetoed Legislation

HB 953 by Rep. Seabaugh

Would have provided that the government shall provide protections of the highest order to every church, synagogue, temple, or other place of worship and shall not discriminate against any church, synagogue, temple, or other place of worship by requiring restrictions that are greater than the least severe restrictions that are imposed upon or enforced against any secular business, service, or assembly.