

2017 Regular Session

SENATE BILL NO. 220

BY SENATOR ALARIO

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

CRIME/PUNISHMENT. Provides relative to penalties for certain offenses. (8/1/17)

1 AN ACT

2 To amend and reenact R.S. 14:52(B), 54.1(B), 56(B)(1) and (2), 62.2(B), 62.8(B), 67(B),

3 67.25(D), 67.26(C), 68(B), 68.4(B), 68.7(B)(1), 69(B) and (C), 70.2(C), 70.4(E),

4 71(C), (D), (E), (F), and (G), 82(C)(3), 95.1(B), 202.1(C), and 230(E)(4) and R.S.

5 40:966(B), (C), (D), (E), and (F), 967(B) and (C), 968(B), 969(B) and (C), and

6 970(B) and (C), to enact R.S. 14:69(D) and Chapter 3 of Title 14 of the Louisiana

7 Revised Statutes of 1950, comprised of R.S. 14:601, and R.S. 40:967(D), and to

8 repeal R.S. 14:2(B)(8), (25), and (29), 56.1, 56.2, 56.3, 62.1, 62.6, 62.9, 67.1, 67.2,

9 67.3, 67.6, 67.7, 67.8, 67.9, 67.10, 67.18, 67.20, 67.21, 67.24, 67.25(E), 67.28, 67.30,

10 68.5, 71(H) and (I), and 211 and R.S. 40:966(G), (H) and (I) and 967(F) and (G),

11 relative to felony and misdemeanor offenses; to provide relative to penalties for

12 certain felony and misdemeanor offenses; to provide relative to legislative findings

13 and intent; to provide relative to create and provide for the membership, duties, and

14 reporting requirements of the Louisiana Felony Class System Task Force; and to

15 provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 14:52(B), 54.1(B), 56(B)(1) and (2), 62.2(B), 62.8(B), 67(B),

1 67.25(D), 67.26(C), 68(B), 68.4(B), 68.7(B)(1), 69(B) and (C), 70.2(C), 70.4(E), 71(C), (D),  
2 (E), (F), and (G), 82(C)(3), 95.1(B), 202.1(C), and 230(E)(4) are hereby enacted to read as  
3 follows:

4 §52. Simple arson

5 \* \* \*

6 B. Whoever commits the crime of simple arson, where the damage done  
7 amounts to five hundred dollars or more, shall be fined not more than fifteen  
8 thousand dollars and imprisoned at hard labor for not ~~less than two years nor~~ more  
9 than fifteen years.

10 \* \* \*

11 §54.1. Communicating of false information of planned arson

12 \* \* \*

13 B. Whoever commits the crime of communicating of false information of  
14 arson or attempted arson shall be imprisoned at hard labor for not more than ~~twenty~~  
15 fifteen years.

16 \* \* \*

17 §56. Simple criminal damage to property

18 \* \* \*

19 B.(1) Whoever commits the crime of simple criminal damage to property  
20 where the damage is less than ~~five hundred~~ one thousand dollars shall be fined not  
21 more than one thousand dollars or imprisoned for not more than six months, or both.

22 (2) Where the damage amounts to ~~five hundred~~ one thousand dollars but less  
23 than fifty thousand dollars, the offender shall be fined not more than one thousand  
24 dollars or imprisoned with or without hard labor for not more than two years, or  
25 both.

26 \* \* \*

27 §62.2. Simple burglary of an inhabited dwelling

28 \* \* \*

29 B. Whoever commits the crime of simple burglary of an inhabited dwelling

1 shall be imprisoned at hard labor for not less than one year, ~~without benefit of parole,~~  
2 ~~probation or suspension of sentence,~~ nor more than twelve years.

3 \* \* \*

4 §62.8. Home invasion

5 \* \* \*

6 B.(1) ~~Except as provided in Paragraphs (2) and (3) of this Subsection,~~  
7 ~~whoever~~ **Whoever** commits the crime of home invasion shall be fined not more than  
8 five thousand dollars and shall be imprisoned at hard labor for ~~not more than twenty-~~  
9 ~~five years~~ **not less than one year nor more than thirty years.**

10 (2) ~~Whoever commits the crime of home invasion while armed with a~~  
11 ~~dangerous weapon shall be fined not more than seven thousand dollars and shall be~~  
12 ~~imprisoned at hard labor for not less than five years nor more than thirty years.~~

13 (3) ~~Whoever commits the crime of home invasion when, at the time of the~~  
14 ~~unauthorized entering, there is present in the dwelling or structure any person who~~  
15 ~~is under the age of twelve years, is sixty-five years of age or older, or who has a~~  
16 ~~developmental disability as defined in R.S. 28:451.2, shall be fined not more than ten~~  
17 ~~thousand dollars and shall be imprisoned at hard labor for not less than ten nor more~~  
18 ~~than twenty-five years. At least ten years of the sentence imposed shall be served~~  
19 ~~without benefit of parole, probation, or suspension of sentence.~~

20 \* \* \*

21 §67. Theft

22 \* \* \*

23 B.(1) Whoever commits the crime of theft when the misappropriation or  
24 taking amounts to a value of twenty-five thousand dollars or more shall be  
25 imprisoned, ~~with or without~~ at hard labor, for not ~~less than five years nor more than~~  
26 twenty years, or may be fined not more than fifty thousand dollars, or both.

27 (2) When the misappropriation or taking amounts to a value of five thousand  
28 dollars or more, but less than a value of twenty-five thousand dollars, the offender  
29 shall be imprisoned, with or without hard labor, for not more than ten years, or may

1 be fined not more than ten thousand dollars, or both.

2 (3) When the misappropriation or taking amounts to a value of ~~seven hundred~~  
3 **fifty one thousand** dollars or more, but less than a value of five thousand dollars, the  
4 offender shall be imprisoned, with or without hard labor, for not more than five  
5 years, or may be fined not more than three thousand dollars, or both.

6 (4) When the misappropriation or taking amounts to less than a value of  
7 ~~seven hundred fifty~~ **one thousand** dollars, the offender shall be imprisoned for not  
8 more than six months, or may be fined not more than one thousand dollars, or both.  
9 If the offender in such cases has been convicted of theft two or more times  
10 previously, upon any subsequent conviction he shall be imprisoned, with or without  
11 hard labor, for not more than two years, or may be fined not more than two thousand  
12 dollars, or both.

13 \* \* \*

14 §67.25. Organized retail theft

15 \* \* \*

16 D.(1) Whoever commits the crime of organized retail theft when the  
17 aggregate amount of the misappropriation, taking, purchasing, possessing, procuring,  
18 receiving, or concealing in any one-hundred-eighty-day period amounts to a value  
19 ~~less than five hundred~~ **of twenty-five thousand** dollars **or more** shall be imprisoned  
20 ~~with or without~~ **at** hard labor for not more than ~~two~~ **twenty** years, or may be fined  
21 not more than ~~two~~ **fifty** thousand dollars, or both.

22 E.(2) Whoever commits the crime of organized retail theft when the  
23 aggregate amount of the misappropriation, taking, purchasing, possessing, procuring,  
24 receiving, or concealing in any one-hundred-eighty-day period amounts to a value  
25 ~~more than five hundred~~ **of five thousand dollars or more, but less than a value of**  
26 **twenty-five thousand** dollars shall be imprisoned with or without hard labor for not  
27 more than ten years, or may be fined not more than ten thousand dollars, or both.

28 **(3) Whoever commits the crime of organized retail theft when the**  
29 **aggregate amount of the misappropriation, taking, purchasing, possessing,**

1 procuring, receiving, or concealing in any one-hundred-eighty-day period  
 2 amounts to a value of one thousand dollars or more but less than a value of five  
 3 thousand dollars shall be imprisoned, with or without hard labor, for not more  
 4 than five years, or may be fined not more than three thousand dollars, or both.

5 (4) When the misappropriation or taking amounts to less than a value of  
 6 one thousand dollars, the offender shall be imprisoned for not more than six  
 7 months, or may be fined not more than one thousand dollars, or both. If the  
 8 offender in such cases has been convicted of theft two or more times previously,  
 9 upon any subsequent conviction the offender shall be imprisoned, with or  
 10 without hard labor, for not more than two years, or fined not more than two  
 11 thousand dollars, or both.

12 §67.26. Theft of a motor vehicle

13 \* \* \*

14 C.(1) Whoever commits the crime of theft of a motor vehicle when the  
 15 misappropriation or taking amounts to a ~~sum of one thousand five hundred dollars~~  
 16 ~~or more shall be imprisoned, with or without hard labor, for not more than ten years~~  
 17 value of twenty-five thousand dollars or more shall be imprisoned at hard labor  
 18 for not more than twenty years, or may be fined not more than ~~three~~ fifty thousand  
 19 dollars, or both.

20 (2) Whoever commits the crime of theft of a motor vehicle when the  
 21 misappropriation or taking amounts to a ~~sum of five hundred dollars or more but less~~  
 22 ~~than one thousand five hundred dollars shall be imprisoned, with or without hard~~  
 23 ~~labor, for not more than five years~~ value of five thousand dollars or more, but less  
 24 than a value of twenty-five thousand dollars, shall be imprisoned, with or  
 25 without hard labor, for not more than ten years, or may be fined not more than  
 26 ~~two~~ ten thousand dollars, or both.

27 (3) Whoever commits the crime of theft of a motor vehicle when the  
 28 misappropriation or taking amounts to a ~~sum of less than five hundred dollars shall~~  
 29 ~~be imprisoned for not more than six months~~ value of one thousand dollars or more

1 but less than a value of five thousand dollars shall be imprisoned, with or  
2 without hard labor, for not more than five years, or may be fined not more than  
3 ~~one~~ three thousand dollars, or both.

4 (4) When the misappropriation or taking amounts to less than a value of  
5 one thousand dollars, the offender shall be imprisoned for not more than six  
6 months, or fined not more than one thousand dollars, or both. If the offender  
7 in such cases has been convicted of theft two or more times previously, then  
8 upon any subsequent conviction the offender shall be imprisoned for not more  
9 than two years, or fined not more than two thousand dollars, or both.

10 \* \* \*

11 §68. Unauthorized use of a movable

12 \* \* \*

13 B. Whoever commits the crime of unauthorized use of a movable having a  
14 value of ~~five hundred~~ one thousand dollars or less shall be fined not more than five  
15 hundred dollars, imprisoned for not more than six months, or both. Whoever  
16 commits the crime of unauthorized use of a movable having a value in excess of ~~five~~  
17 ~~hundred~~ one thousand dollars shall be fined not more than five thousand dollars,  
18 imprisoned, with or without hard labor, for not more than ~~five~~ two years, or both.

19 \* \* \*

20 §68.4. Unauthorized use of a motor vehicle

21 \* \* \*

22 B. Whoever commits the crime of unauthorized use of a motor vehicle shall  
23 be fined not more than five thousand dollars or imprisoned with or without hard  
24 labor for not more than ~~ten~~ two years or both.

25 \* \* \*

26 §68.7. Receipts and universal product code labels; unlawful acts

27 \* \* \*

28 B.(1) Except as provided in ~~Paragraphs~~ Paragraph (3) ~~and (4)~~ of this  
29 Subsection, whoever violates the provisions of this Section shall be subject to the

1 following penalties:

2 (a) When the fair market value of the goods which are the subject of the  
3 falsified retail sales receipts or universal product code labels, as described in  
4 Subsection A of this Section, ~~equals one thousand five hundred dollars or more,~~  
5 ~~imprisonment, with or without hard labor, for not more than ten years~~ **amounts to**  
6 **a value of twenty-five thousand dollars or more, the offender shall be**  
7 **imprisoned at hard labor for not more than twenty years,** or a fine not to exceed  
8 ~~three~~ **fifty** thousand dollars, or both.

9 (b) When the fair market value of the goods which are the subject of the  
10 falsified retail sales receipts or universal product code labels, as described in  
11 Subsection A of this Section, ~~equals five hundred dollars or more but less than one~~  
12 ~~thousand five hundred dollars, imprisonment, with or without hard labor, for not~~  
13 ~~more than five years~~ **amounts to a value of five thousand dollars or more, but less**  
14 **than a value of twenty-five thousand dollars, shall be imprisoned, with or**  
15 **without hard labor, for not more than ten years,** or a fine of not more than ~~two~~  
16 **ten** thousand dollars, or both.

17 (c) When the fair market value of the goods which are the subject of the  
18 falsified retail sales receipts or universal product code labels, as described in  
19 Subsection A of this Section, ~~is less than five hundred dollars, imprisonment for not~~  
20 ~~more than six months~~ **amounts to a value of one thousand dollars or more but**  
21 **less than five thousand dollars, the offender shall be imprisoned, with or**  
22 **without hard labor, for not more than five years,** or a fine not to exceed ~~five~~  
23 ~~hundred~~ **three thousand** dollars, or both. If a person is convicted of violating the  
24 provisions of this Section in a manner consistent with this Subparagraph two or more  
25 times previously, ~~upon any subsequent conviction, he shall be imprisoned, with or~~  
26 ~~without hard labor, for not more than two years, or may be fined not more than two~~  
27 ~~thousand dollars, or both.~~

28 **(d) When the fair market value of the goods which are the subject of the**  
29 **falsified retail sales receipts or universal product code labels, as described in**



1 be imprisoned, with or without hard labor, for not more than two years, or may be  
2 fined not more than two thousand dollars, or both.

3 ~~(4)C.~~ When the offender has committed the crime of illegal possession of  
4 stolen things by a number of distinct acts, the aggregate of the amount of the things  
5 so received shall determine the grade of the offense.

6 ~~C.D.~~ It shall be an affirmative defense to a violation of this Section  
7 committed by means of possessing, that the accused, within seventy-two hours of his  
8 acquiring knowledge or good reason to believe that a thing was the subject of  
9 robbery or theft, reports that fact or belief in writing to the district attorney in the  
10 parish of his domicile.

11 \* \* \*

12 §70.2. Refund or access device application fraud

13 \* \* \*

14 C.(1) Whoever commits the crime of refund fraud shall be fined not more  
15 than five hundred dollars or imprisoned for not more than six months, or both.

16 (2) Whoever commits the crime of access device application fraud when the  
17 misappropriation or taking amounts to a value of ~~one thousand five hundred dollars~~  
18 ~~or more shall be imprisoned, with or without hard labor, for not more than ten years~~  
19 **twenty-five thousand dollars or more shall be imprisoned at hard labor for not**  
20 **more than twenty years,** or may be fined not more than ~~three~~ **fifty** thousand dollars,  
21 or both.

22 (3) ~~When~~ **Whoever commits the crime of access device application fraud**  
23 **when** the misappropriation or taking amounts to a value of five ~~hundred~~ **thousand**  
24 dollars or more, but less than a value of ~~one~~ **twenty-five** thousand ~~five hundred~~  
25 dollars, the offender shall be imprisoned, with or without hard labor, for not more  
26 than ~~five~~ **ten** years, or may be fined not more than ~~two~~ **ten** thousand dollars, or both.

27 (4) **Whoever commits the crime of access device application fraud when**  
28 **the misappropriation or taking amounts to a value of one thousand dollars or**  
29 **more but less than a value of five thousand dollars shall be imprisoned, with or**

1 without hard labor, for not more than five years, or may be fined not more than  
2 three thousand dollars, or both.

3 (5) When the misappropriation or taking amounts to less than a value of ~~five~~  
4 ~~hundred~~ **one thousand** dollars, the offender shall be imprisoned for not more than  
5 six months, or may be fined not more than five hundred dollars, or both. If the  
6 offender in such cases has been convicted of theft two or more times previously,  
7 upon any subsequent conviction he shall be imprisoned, with or without hard labor,  
8 for not more than two years, or may be fined not more than ~~one~~ **two** thousand  
9 dollars, or both.

10 \* \* \*

11 §70.4. Access device fraud

12 \* \* \*

13 E.(1) A person who commits the crime of access device fraud when the  
14 misappropriation or taking amounts to a value of ~~one~~ **twenty-five** thousand ~~five~~  
15 ~~hundred~~ dollars or more shall be imprisoned, ~~with or without~~ **at** hard labor, for not  
16 more than ~~ten~~ **twenty** years, or fined not more than ~~five~~ **fifty** thousand dollars, or  
17 both.

18 (2) When the misappropriation or taking amounts to a value of ~~at least five~~  
19 ~~hundred~~ **five thousand** dollars **or more**, but less than a value of ~~one thousand five~~  
20 ~~hundred~~ **twenty-five thousand** dollars, the offender shall be imprisoned, with or  
21 without hard labor, for not more than ~~five~~ **ten** years, or fined not more than ~~three~~ **ten**  
22 thousand dollars, or both.

23 (3) When the misappropriation or taking amounts to a value of one  
24 thousand dollars or more, but less than a value of five thousand dollars, the  
25 offender shall be imprisoned, with or without hard labor, for not more than five  
26 years, or may be fined not more than three thousand dollars, or both.

27 (4) When the misappropriation or taking amounts to a value of less than ~~five~~  
28 ~~hundred~~ **one thousand** dollars, the offender shall be imprisoned for not more than  
29 six months or fined not more than five hundred dollars, or both.

1                   ~~(4)~~**(5)** Upon a third or subsequent conviction of a violation of the provisions  
 2 of ~~this Section~~ **theft**, the offender shall be imprisoned, with or without hard labor,  
 3 for not more than ~~ten~~ **two** years, or may be fined not more than ~~ten~~ **two** thousand  
 4 dollars, or both.

\* \* \*

6 §71. Issuing worthless checks

\* \* \*

8                   C.**(1)** Whoever commits the crime of issuing worthless checks, when the  
 9 amount of the check or checks is ~~one thousand five hundred~~ **twenty-five thousand**  
 10 dollars or more, shall be imprisoned, ~~with or without~~ **at** hard labor, for not more than  
 11 ~~ten~~ **twenty** years, or may be fined not more than ~~three~~ **fifty** thousand dollars, or both.

12                   ~~D.~~**(2)** When the amount of the check or checks is five ~~hundred~~ **thousand**  
 13 dollars or more, but less than ~~one~~ **twenty-five** thousand ~~five hundred~~ dollars, the  
 14 offender shall be imprisoned, with or without hard labor, for not more than ~~five~~ **ten**  
 15 years, or may be fined not more than ~~two~~ **ten** thousand dollars, or both.

16                   **(3) When the amount of the check or checks is more than one thousand**  
 17 **dollars, but less than five thousand dollars, the offender shall be imprisoned,**  
 18 **with or without hard labor, for not more than five years, or may be fined not**  
 19 **more than three thousand dollars, or both.**

20                   ~~E.~~**(4)** When the amount of the check or checks is less than ~~five hundred~~ **one**  
 21 **thousand** dollars, the offender shall be imprisoned for not more than six months, or  
 22 may be fined not more than five hundred dollars, or both. If the offender in such  
 23 cases has been convicted of ~~issuing worthless checks~~ **theft** two or more times  
 24 previously, upon any subsequent conviction he shall be imprisoned, with or without  
 25 hard labor, for not more than two years, or **may** be fined not more than ~~one~~ **two**  
 26 thousand dollars, or both.

27                   ~~F.~~**D.** When the offender has issued more than one worthless check within a  
 28 one hundred eighty-day period, the amount of several or all worthless checks issued  
 29 during that one hundred eighty-day period may be aggregated to determine the grade

1 of the offense.

2 ~~G.E.~~ In addition to any other fine or penalty imposed under this Section, the  
3 court shall order as part of the sentence restitution in the amount of the check or  
4 checks, plus a fifteen dollar per check service charge payable to the person or entity  
5 that initially honored the worthless check or checks, an authorized collection agency,  
6 or justice of the peace. In the event the fifteen dollar per check service charge is paid  
7 to a person or entity other than one who initially honored the worthless check or  
8 checks, the court shall also order as part of the sentence restitution equal to the  
9 amount that the bank or other depository charged the person or entity who initially  
10 honored the worthless check, plus the actual cost of notifying the offender of  
11 nonpayment as required in Paragraph ~~A(2)~~ **(A)(2) of this Section.**

12 ~~H.F.~~ In any prosecution for a violation of this Section, the prosecution may  
13 enter as evidence of a violation of this Section any check, draft, or order for the  
14 payment of money upon any bank or other depository which the bank or other  
15 depository has refused to honor because the person who issued the check, draft, or  
16 order did not have sufficient credit with the bank or other depository for the payment  
17 of that check, draft, or order in full upon its presentation.

18 ~~I.G.~~ In addition to the provisions of Subsection ~~H F~~ **F of this Section,** in any  
19 prosecution for a violation of this Section, the prosecution may enter as evidence of  
20 a violation of this Section any tangible copy, facsimile, or other reproduction of the  
21 check, draft, or order, or any electronic reproduction of the check, draft, or order, or  
22 any other form of the record of the check, draft, or order, provided that the tangible  
23 copy, facsimile, or other reproduction, or the electronic reproduction, or the other  
24 form of the record of the check, draft, or order has been made, recorded, stored, and  
25 reproduced in accordance with the requirements of the Louisiana Office of Financial  
26 Institutions, or in accordance with the requirements of the federal agency which  
27 regulates the bank or other depository, and provided that the appropriate officer of  
28 the bank or other depository has certified that the tangible copy, facsimile, or other  
29 reproduction, or the electronic copy, or the other form of the record of the check,

1 draft, or order for the payment of money has been made, stored, and reproduced in  
 2 accordance with the requirements of the Louisiana Office of Financial Institutions,  
 3 or in accordance with the requirements of the federal agency which regulates the  
 4 bank or other depository, and is a true and correct record of the transaction involving  
 5 the check, draft, or order upon which the prosecution is based.

6 \* \* \*

7 §82. Prostitution; definition; penalties; enhancement

8 \* \* \*

9 C.(1)

\* \* \*

10 \* \* \*

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

14 \* \* \*

15 §95.1. Possession of firearm or carrying concealed weapon by a person convicted of  
 16 certain felonies

17 \* \* \*

18 B. Whoever is found guilty of violating the provisions of this Section shall  
 19 be imprisoned at hard labor for not less than ~~ten~~ **five** nor more than twenty years  
 20 without the benefit of probation, parole, ~~or suspension of sentence~~ and be fined not  
 21 less than one thousand dollars nor more than five thousand dollars. Notwithstanding  
 22 the provisions of R.S. 14:27, whoever is found guilty of attempting to violate the  
 23 provisions of this Section shall be imprisoned at hard labor for not more than seven  
 24 and one-half years and fined not less than five hundred dollars nor more than two  
 25 thousand five hundred dollars.

26 \* \* \*

27 §202.1. Residential contractor fraud; penalties

28 \* \* \*

29 C.(1) When the misappropriation or intentional taking amounts to a value of

1 less than ~~five hundred~~ **one thousand** dollars, the offender shall be imprisoned for not  
 2 more than six months, fined not more than one thousand dollars, or both. If the  
 3 offender in such cases has been convicted of theft two or more times previously,  
 4 then upon conviction the offender shall be imprisoned, with or without hard  
 5 labor, for not more than two years, or fined not more than two thousand  
 6 dollars.

7 (2) When the misappropriation or intentional taking amounts to a value of  
 8 ~~five hundred~~ **one thousand** dollars or more, but less than ~~one~~ **five** thousand ~~five~~  
 9 ~~hundred~~ dollars, the offender shall be imprisoned, with or without hard labor, for not  
 10 more than five years, or may be fined not more than ~~two~~ **three** thousand dollars, or  
 11 both.

12 (3) When the misappropriation or intentional taking amounts to a value of  
 13 ~~one~~ **five** thousand ~~five hundred~~ dollars or more **but less than twenty-five thousand**  
 14 **dollars**, the offender shall be imprisoned, with or without hard labor, for not more  
 15 than ten years, or may be fined not more than ~~three~~ **ten** thousand dollars, or both.

16 (4) **When the misappropriation or intentional taking amounts to a value**  
 17 **of twenty-five thousand dollars or more, the offender shall be imprisoned at**  
 18 **hard labor for not more than twenty years, or may be fined not more than fifty**  
 19 **thousand dollars, or both.**

20 (5) In determining the amount of the misappropriation or intentional taking,  
 21 the court shall include the cost of repairing work fraudulently performed by the  
 22 contractor and the cost of completing work for which the contractor was paid but did  
 23 not complete.

24 \* \* \*  
 25 §230. Money laundering; transactions involving proceeds of criminal activity  
 26 \* \* \*  
 27 E.(1) \* \* \*

28 (4) Whoever violates the provisions of this Section, if the value of the funds  
 29 is one hundred thousand dollars or more, shall be imprisoned at hard labor for not

1 less than ~~five~~ **two** years nor more than ~~ninety-nine~~ **fifty** years and may be fined not  
 2 more than fifty thousand dollars.

3 \* \* \*

4 CHAPTER 3. LOUISIANA FELONY CLASS SYSTEM TASK FORCE

5 §601. Louisiana Felony Class System Task Force

6 A. The legislature hereby finds that it is in the best interest of the public  
 7 to have, to the greatest extent possible, a clear, regular, and simple sentencing  
 8 system, whereby nearly every felony offense falls into a class, with sentencing  
 9 to be imposed by designated class, to ensure consistency across crimes of similar  
 10 severity and greater transparency for victims, defendants, and criminal justice  
 11 practitioners. Such a system will henceforth be referred to as a felony class  
 12 system.

13 B. Accordingly, the Legislature of Louisiana hereby authorizes and  
 14 directs the creation of the Louisiana Felony Class System Task Force to study,  
 15 evaluate, and develop a recommendation for a felony class system to the  
 16 legislature before the 2018 Regular Session of the Louisiana Legislature.

17 C.(1) The membership of the task force shall be as follows:

18 (a) Three attorneys designated by the president of Louisiana District  
 19 Attorneys Association.

20 (b) Two attorneys designated by the state public defender.

21 (c) One attorney designated by the chief justice of the Louisiana Supreme  
 22 Court.

23 (d) One attorney designated by the Louisiana Association of Criminal  
 24 Defense Lawyers.

25 (e) Two attorneys designated by the Louisiana District Judges  
 26 Association.

27 (f) One attorney designated by the office of the governor.

28 (g) The chair of the House Committee on Administration of Criminal  
 29 Justice or his designee.

1 (h) The chair of the Senate Committee on Judiciary C or his designee.

2 (i) Each attorney member of the task force shall be an attorney licensed  
3 to practice and who practices in this state.

4 (2)(a) The names of the persons who are to serve on the task force shall  
5 be submitted to the chief justice of the Louisiana Supreme Court on or before  
6 July 1, 2017.

7 (b) The chief justice shall call the first meeting of the task force, which  
8 meeting shall be held on or before July 15, 2017.

9 (c) At the first meeting of the task force, its members shall elect from  
10 their membership a chairman and vice chairman and such other officers as the  
11 task force may deem advisable. The chief justice, or the chief justice's designee,  
12 shall preside over the task force until a chairman is elected.

13 (d) The task force shall meet a minimum of six times between July 15,  
14 2017, and February 1, 2018, and may hold public hearings as part of its  
15 evaluation process. Meetings of the task force shall be held in the state capital.

16 D. The task force shall prepare and submit a final report of its findings  
17 and recommendations, including but not limited to any specific and complete  
18 draft legislation, to the governor, the speaker of the House of Representatives,  
19 the president of the Senate, the chairman of the House Committee on  
20 Administration of Criminal Justice, the chairman of the Senate Committee on  
21 Judiciary C, and the chief justice of the Louisiana Supreme Court, no later than  
22 February 1, 2018. The report shall be made available to the public and the task  
23 force shall be abolished upon submission of the report.

24 E.(1) The task force may apply for, contract for, receive, and expend for  
25 purposes of this Chapter any appropriation or grant from the state, its political  
26 subdivisions, the federal government, or any other public or private source.

27 (2) The books and records of the task force shall be subject to audit by  
28 the legislative auditor pursuant to R.S. 24:513.

29 F. This Chapter shall become null and of no effect on February 2, 2018.

1 Section 2. R.S. 40:966(B), (C), (D), (E), and (F), 967(B) and (C), 968(B), 969(B)  
 2 and (C), and 970(B) and (C) are hereby amended and reenacted and R.S. 40:967(D) is  
 3 hereby enacted to read as follows:

4 §966. Penalty for distribution or possession with intent to distribute narcotic drugs  
 5 listed in Schedule I; possession of marijuana, possession of synthetic  
 6 cannabinoids, possession of heroin

7 \* \* \*

8 ~~B. Penalties for violation~~ **Violations** of Subsection A of this Section. Any  
 9 person who violates Subsection A of this Section with respect to:

10 (1) Except as otherwise provided in ~~Paragraph (4)~~ **Paragraphs (2) and (3)**  
 11 of this Subsection, a substance classified in Schedule I ~~that is a narcotic drug (all~~  
 12 ~~substances in Schedule I preceded by an asterisk "\*" )~~, upon conviction shall be  
 13 sentenced to imprisonment at hard labor for not less than ten nor more than fifty  
 14 years, at least ten years of which shall be served without benefit of probation or  
 15 suspension of sentence, and may, in addition, be required to pay a fine of not more  
 16 than fifty thousand dollars. **for an amount of:**

17 **(a) An aggregate weight of less than twenty-eight grams, shall be**  
 18 **imprisoned, with or without hard labor, for not less than one year nor more**  
 19 **than ten years and may, in addition, be required to pay a fine of not more than**  
 20 **fifty thousand dollars.**

21 **(b) An aggregate weight of twenty-eight grams or more, shall be**  
 22 **imprisoned at hard labor for not less than one year nor more than twenty years**  
 23 **and may, in addition, be required to pay a fine of not more than fifty thousand**  
 24 **dollars.**

25 (2) ~~Except as otherwise provided in Paragraph (3) of this Subsection, any~~  
 26 ~~other controlled dangerous substance classified in Schedule I, shall upon conviction~~  
 27 ~~be sentenced to a term of imprisonment at hard labor for not less than five years nor~~  
 28 ~~more than thirty years, at least five years of which shall be served without benefit of~~  
 29 ~~parole, probation, or suspension of sentence, and pay a fine of not more than fifty~~

1 ~~thousand dollars.~~

2 ~~(3) A substance classified in Schedule I which is marijuana,~~  
3 ~~tetrahydrocannabinols, or chemical derivatives of tetrahydrocannabinols, or synthetic~~  
4 ~~cannabinoids shall upon conviction be sentenced to a term of imprisonment at hard~~  
5 ~~labor for not less than five nor more than thirty years, and pay a fine of not more than~~  
6 ~~fifty thousand dollars. for an amount of:~~

7 ~~(a) An aggregate weight of less than two and one half pounds, shall be~~  
8 ~~imprisoned, with or without hard labor, for not less than one year nor more~~  
9 ~~than ten years, and pay a fine of not more than fifty thousand dollars.~~

10 ~~(b) An aggregate weight of two and one half pounds or more, shall be~~  
11 ~~imprisoned at hard labor for not less than one year nor more than twenty years~~  
12 ~~and pay a fine of not more than fifty thousand dollars.~~

13 ~~(4)(a)(3) A substance classified in Schedule I that is the narcotic drug heroin~~  
14 ~~or a mixture or substance containing a detectable amount of heroin or of its~~  
15 ~~analogues upon conviction of a first offense shall be sentenced to a term of~~  
16 ~~imprisonment at hard labor for not less than ten nor more than fifty years, at least ten~~  
17 ~~years of which shall be served without benefit of probation or suspension of~~  
18 ~~sentence, and may, in addition, be required to pay a fine of not more than fifty~~  
19 ~~thousand dollars. for an amount of:~~

20 ~~(a) An aggregate weight of less than twenty-eight grams, shall be~~  
21 ~~imprisoned at hard labor for not less than one year nor more than twenty years~~  
22 ~~and may, in addition, be required to pay a fine of not more than fifty thousand~~  
23 ~~dollars.~~

24 ~~(b) An aggregate weight of twenty-eight grams or more, shall be~~  
25 ~~imprisoned at hard labor for not less than two years nor more than forty years~~  
26 ~~and may, in addition, be required to pay a fine of not more than fifty thousand~~  
27 ~~dollars.~~

28 ~~(b) A substance classified in Schedule I that is the narcotic drug heroin or a~~  
29 ~~mixture or substance containing a detectable amount of heroin or of its analogues~~

1 ~~upon conviction of a second or subsequent offense shall be sentenced to a term of~~  
2 ~~imprisonment at hard labor for not less than ten nor more than ninety-nine years, at~~  
3 ~~least ten years of which shall be served without benefit of probation or suspension~~  
4 ~~of sentence, and may, in addition, be required to pay a fine of not more than fifty~~  
5 ~~thousand dollars.~~

6 C. Possession. It is unlawful for any person knowingly or intentionally to  
7 possess a controlled dangerous substance classified in Schedule I unless such  
8 substance was obtained directly, or pursuant to a valid prescription or order, from a  
9 practitioner or as provided in R.S. 40:978, while acting in the course of his  
10 professional practice, or except as otherwise authorized by this Part. Any person who  
11 violates this Subsection with respect to:

12 (1) ~~A substance classified in Schedule I which is a narcotic drug (all~~  
13 ~~substances in Schedule I preceded by an asterisk), shall be imprisoned at hard labor~~  
14 ~~for not less than four years nor more than ten years and may, in addition, be required~~  
15 ~~to pay a fine of not more than five thousand dollars. **Except as otherwise provided**~~  
16 ~~**in Paragraphs (2), (3), (4), and (5) of this Subsection, a substance classified in**~~  
17 ~~**Schedule I for an amount of:**~~

18 ~~**(a) An aggregate weight of less than two grams, shall be imprisoned, with**~~  
19 ~~**or without hard labor, for not more than two years and may, in addition, be**~~  
20 ~~**required to pay a fine of not more than five thousand dollars.**~~

21 ~~**(b) An aggregate weight of two grams or more but less than twenty-eight**~~  
22 ~~**grams, shall be imprisoned, with or without hard labor, for not less than one**~~  
23 ~~**year nor more than ten years and may, in addition, be required to pay a fine of**~~  
24 ~~**not more than five thousand dollars.**~~

25 (2) ~~Phencyclidine, shall be sentenced to imprisonment with or without hard~~  
26 ~~labor for not less than five nor more than twenty years and may be sentenced **for an**~~  
27 ~~**amount of an aggregate weight of less than twenty-eight grams, shall be**~~  
28 ~~**imprisoned at hard labor for not less than one year nor more than twenty years,**~~  
29 ~~**or required** to pay a fine of not more than five thousand dollars, or both.~~

1           ~~(3) Any other controlled dangerous substance classified in Schedule I, shall~~  
2           ~~be imprisoned at hard labor for not more than ten years, and may in addition, be~~  
3           ~~required to pay a fine of not more than five thousand dollars.~~

4           D. Other penalties for possession. ~~(1) Except as otherwise authorized in this~~  
5           Part:

6           ~~(a) Any person who knowingly or intentionally possesses twenty-eight grams~~  
7           ~~or more, but less than two hundred grams, of a narcotic drug (all substances in~~  
8           ~~Schedule I preceded by an asterisk "\*"), shall be sentenced to serve a term of~~  
9           ~~imprisonment at hard labor of not less than five years, nor more than thirty years, and~~  
10           ~~to pay a fine of not less than fifty thousand dollars, nor more than one hundred fifty~~  
11           ~~thousand dollars.~~

12           ~~(b) Any person who knowingly or intentionally possesses two hundred grams~~  
13           ~~or more, but less than four hundred grams, of a narcotic drug (all substances in~~  
14           ~~Schedule I preceded by an asterisk "\*"), shall be sentenced to serve a term of~~  
15           ~~imprisonment at hard labor of not less than ten years, nor more than thirty years, and~~  
16           ~~to pay a fine of not less than one hundred thousand dollars, nor more than three~~  
17           ~~hundred fifty thousand dollars.~~

18           ~~(c) Any person who knowingly or intentionally possesses four hundred grams~~  
19           ~~or more of a narcotic drug (all substances in Schedule I preceded by an asterisk "\*"),~~  
20           ~~shall be sentenced to serve a term of imprisonment at hard labor of not less than~~  
21           ~~fifteen years, nor more than thirty years, and to pay a fine of not less than two~~  
22           ~~hundred fifty thousand dollars, nor more than six hundred thousand dollars.~~

23           E.(1) Possession of marijuana.

24           ~~(a) Except as provided in Subsection F of this Section, on a conviction for~~  
25           ~~violation of Subsection C of this Section with regard to marijuana,~~  
26           ~~tetrahydrocannabinol, or chemical derivatives thereof, the offender shall be punished~~  
27           ~~as follows:~~

28           **(3) A substance classified in Schedule I that is marijuana,**  
29           **tetrahydrocannabinol, or chemical derivatives thereof, shall be punished as**

1 **follows:**

2 ~~(i)~~**(a)** On a first conviction, wherein the offender possesses fourteen grams  
3 or less, the offender shall be fined not more than three hundred dollars, imprisoned  
4 in the parish jail for not more than fifteen days, or both.

5 ~~(ii)~~**(b)** On a first conviction, wherein the offender possesses more than  
6 fourteen grams, the offender shall be fined not more than five hundred dollars,  
7 imprisoned in the parish jail for not more than six months, or both.

8 ~~(iii)~~**(c)** Any person who has been ~~convicted of a violation of~~ **sentenced under**  
9 the provisions of ~~Item (i) or (ii) of this Subparagraph~~ **(a) or (b) of this Paragraph**  
10 and who has not been convicted of any other violation of a statute or ordinance  
11 prohibiting the possession of marijuana for a period of two years from the date of  
12 completion of sentence, probation, parole, or suspension of sentence shall not be  
13 ~~eligible to~~ have the conviction used as a predicate conviction for enhancement  
14 purposes. The provisions of this ~~Subparagraph~~ **Paragraph** shall occur only once  
15 with respect to any person.

16 ~~(b) Except as provided in Subsection F of this Section, on a second~~  
17 ~~conviction for violation of Subsection C of this Section with regard to marijuana,~~  
18 ~~tetrahydrocannabinol or chemical derivatives thereof, the offender shall be fined not~~  
19 ~~more than one thousand dollars, imprisoned in the parish jail for not more than six~~  
20 ~~months, or both.~~

21 **(d) On a second conviction the offender shall be fined not more than one**  
22 **thousand dollars, imprisoned in the parish jail for not more than six months, or**  
23 **both.**

24 ~~(c)(i) Except as provided in Subsection F of this Section, on a third~~  
25 ~~conviction for violation of Subsection C of this Section with regard to marijuana,~~  
26 ~~tetrahydrocannabinol or chemical derivatives thereof, the offender shall be sentenced~~  
27 ~~to imprisonment with or without hard labor for not more than two years, shall be~~  
28 ~~fined not more than two thousand five hundred dollars, or both.~~

29 **(e)(i) On a third conviction the offender shall be sentenced to**

1 imprisonment, with or without hard labor, for not more than two years, shall  
2 be fined not more than two thousand five hundred dollars.

3 (ii) If the court places the offender on probation, the probation shall provide  
4 for a minimum condition that he participate in a court-approved substance abuse  
5 program and perform four eight-hour days of court-approved community service  
6 activities. Any costs associated with probation shall be paid by the offender.

7 ~~(d)(i) Except as provided in Subsection F of this Section, on a fourth or~~  
8 ~~subsequent conviction for violation of Subsection C of this Section with regard to~~  
9 ~~marijuana, tetrahydrocannabinol or chemical derivatives thereof, the offender shall~~  
10 ~~be sentenced to imprisonment with or without hard labor for not more than eight~~  
11 ~~years, shall be fined not more than five thousand dollars, or both.~~

12 (f)(i) On a fourth or subsequent conviction the offender shall be  
13 sentenced to imprisonment with or without hard labor for not more than eight  
14 years, shall be fined not more than five thousand dollars, or both.

15 (ii) If the court places the offender on probation, the probation shall provide  
16 for a minimum condition that he participate in a court-approved substance abuse  
17 program and perform four eight-hour days of court-approved community service  
18 activities. Any costs associated with probation shall be paid by the offender.

19 ~~(e)(g)~~ Except as provided in ~~Item (a)(iii)~~ Subparagraph (c) of this  
20 Paragraph, a conviction for the violation of any other statute or ordinance with the  
21 same elements as Subsection C of this Section prohibiting the possession of  
22 marijuana, tetrahydrocannabinol or chemical derivatives thereof, shall be considered  
23 as a prior conviction for the purposes of this Subsection relating to penalties for  
24 second, third, or subsequent offenders.

25 ~~(f)(h)~~ Except as provided in ~~Item (a)(iii)~~ Subparagraph (c) of this  
26 Paragraph, a conviction for the violation of any other statute or ordinance with the  
27 same elements as Paragraph ~~(B)(3)~~ (B)(2) of this Section prohibiting the distributing  
28 or dispensing or possession with intent to distribute or dispense marijuana,  
29 tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall

1 be considered as a prior conviction for the purposes of this Subsection relating to  
2 penalties for second, third, or subsequent offenders.

3 ~~(2) Possession of synthetic cannabinoids. (a) Except as provided in~~  
4 ~~Subsections F and G of this Section, on a first conviction for violation of Subsection~~  
5 ~~C of this Section with regard to synthetic cannabinoids, the offender shall be fined~~  
6 ~~not more than five hundred dollars, imprisoned for not more than six months, or~~  
7 ~~both.~~

8 ~~(b) Except as provided in Subsections F and G of this Section, on a second~~  
9 ~~conviction for violation of Subsection C of this Section with regard to synthetic~~  
10 ~~cannabinoids, the offender shall be fined not less than two hundred fifty dollars nor~~  
11 ~~more than two thousand dollars, imprisoned with or without hard labor for not more~~  
12 ~~than five years, or both.~~

13 ~~(c) Except as provided in Subsections F and G of this Section, on a third or~~  
14 ~~subsequent conviction for violation of Subsection C of this Section with regard to~~  
15 ~~synthetic cannabinoids, the offender shall be sentenced to imprisonment with or~~  
16 ~~without hard labor for not more than twenty years, and may, in addition, be fined not~~  
17 ~~more than five thousand dollars.~~

18 ~~(d) A conviction for the violation of any other provision of law or ordinance~~  
19 ~~with the same elements as Subsection C of this Section prohibiting the possession~~  
20 ~~of synthetic cannabinoids shall be considered a prior conviction for the purposes of~~  
21 ~~this Paragraph relating to penalties for second, third, or subsequent offenses.~~

22 **(4) A substance classified in Schedule I which is a synthetic cannabinoid,**  
23 **the offender shall be punished as follows:**

24 **(a) On a first conviction, the offender shall be fined not more than five**  
25 **hundred dollars, imprisoned for not more than six months, or both.**

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

29 **(c) On a third or subsequent conviction, the offender shall be sentenced**

1 to imprisonment at hard labor for not more than twenty years, and may, in  
2 addition, be fined not more than five thousand dollars.

3 (d) A conviction for the violation of any other provision of law or  
4 ordinance with the same elements as this Subsection prohibiting the possession  
5 of synthetic cannabinoids shall be considered a prior conviction for the purposes  
6 of this Paragraph relating to penalties for second, third, or subsequent offenses.

7 (e) A conviction for the violation of any other provision of law or ordinance  
8 with the same elements as Paragraph ~~(B)(3)~~ **(B)(2)** of this Section prohibiting the  
9 distributing or dispensing or possession with intent to distribute or dispense synthetic  
10 cannabinoids shall be considered a prior conviction for the purposes of this  
11 Paragraph relating to penalties for second, third, or subsequent offenses.

12 (f) If the court places the offender on probation, the probation shall provide  
13 for a minimum condition that he participate in a court-approved substance abuse  
14 program and perform four eight-hour days of court-approved community service  
15 activities. Any costs associated with probation shall be paid by the offender.

16 (5) A substance classified in Schedule I that is the narcotic drug heroin  
17 or a mixture or substance containing a detectable amount of heroin or of its  
18 analogues, or fentanyl or a mixture or substance containing a detectable amount  
19 of fentanyl or its analogues, upon conviction for an amount:

20 (a) An aggregate weight of less than two grams, shall be sentenced to a  
21 term of imprisonment, with or without hard labor, for not less than two years  
22 nor more than four years and may, in addition, be required to pay a fine of not  
23 more than five thousand dollars. If the sentence is suspended pursuant to Code  
24 of Criminal Procedure Article 893.1, then the court shall order treatment as a  
25 condition of probation.

26 (b) An aggregate weight of two grams or more but less than twenty-eight  
27 grams, shall be sentenced to a term of imprisonment, with or without hard  
28 labor, for not less than one year nor more than ten years and may, in addition  
29 be required to pay a fine of not more than five thousand dollars.

1 F. Except as otherwise authorized in this Part:

2 (1) Any person who knowingly or intentionally possesses two and one-half  
3 pounds or more, but less than sixty pounds of marijuana, tetrahydrocannabinol or  
4 chemical derivatives thereof, or synthetic cannabinoids shall be sentenced to serve  
5 a term of imprisonment with or without hard labor of not less than two years, nor  
6 more than ten years, and to pay a fine of not less than ten thousand dollars nor more  
7 than thirty thousand dollars:

8 (2) Any person who knowingly or intentionally possesses sixty pounds or  
9 more, but less than two thousand pounds of marijuana, tetrahydrocannabinol or  
10 chemical derivatives thereof, or synthetic cannabinoids shall be sentenced to serve  
11 a term of imprisonment at hard labor of not less than five years, nor more than thirty  
12 years, and to pay a fine of not less than fifty thousand dollars nor more than one  
13 hundred thousand dollars:

14 (3) Any person who knowingly or intentionally possesses two thousand  
15 pounds or more, but less than ten thousand pounds of marijuana,  
16 tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids shall  
17 be sentenced to serve a term of imprisonment at hard labor of not less than ten years  
18 nor more than forty years, and to pay a fine of not less than one hundred thousand  
19 dollars nor more than four hundred thousand dollars:

20 (4) Any person who knowingly or intentionally possesses ten thousand  
21 pounds or more of marijuana, tetrahydrocannabinol or chemical derivatives thereof,  
22 or synthetic cannabinoids shall be sentenced to serve a term of imprisonment at hard  
23 labor of not less than twenty-five years, nor more than forty years and to pay a fine  
24 of not less than four hundred thousand dollars nor more than one million dollars:

25 G. With respect to any person to whom the provisions of Subsections D and  
26 F of this Section are applicable, the adjudication of guilt or imposition of sentence  
27 shall not be suspended, deferred, or withheld, nor shall such person be eligible for  
28 probation or parole prior to serving the minimum sentences provided by Subsection  
29 D or F of this Section:

1                    **D. If a person knowingly or intentionally possesses a controlled substance**  
2                    **as classified in Schedule I, unless such substance was obtained directly or**  
3                    **pursuant to a valid prescription or order from a practitioner, as provided in**  
4                    **R.S. 40:978, while acting in the course of his professional practice, where the**  
5                    **amount of the controlled substance is equal to or above the following weights,**  
6                    **it shall be considered a violation of Subsection A of this Section:**

7                    **(1) For marijuana, tetrahydrocannabinol, synthetic cannabinoids, or**  
8                    **chemical derivatives thereof, two and one-half pounds.**

9                    **(2) For any other Schedule I controlled substance, twenty-eight grams.**

10                  **H.E.** Notwithstanding any other provision of law to the contrary, unless  
11                  eligible for parole at an earlier date, a person committed to the Department of Public  
12                  Safety and Corrections serving a life sentence for the production, manufacturing,  
13                  distribution, or dispensing or possessing with intent to produce, manufacture, or  
14                  distribute heroin shall be eligible for parole consideration upon serving at least  
15                  fifteen years of imprisonment in actual custody.

16                  **I.F.** Immunity from prosecution. Any person who is a patient of the  
17                  state-sponsored medical marijuana program in Louisiana, and who possesses medical  
18                  marijuana in a form permissible under R.S. 40:1046 for a condition enumerated  
19                  therein, a caregiver as defined in R.S. 15:1503, or any person who is a domiciliary  
20                  parent of a minor child who possesses medical marijuana on behalf of his minor  
21                  child in a form permissible under R.S. 40:1046 for a condition enumerated therein  
22                  pursuant to a legitimate medical marijuana prescription or recommendation, shall not  
23                  be subject to prosecution for possession or distribution of marijuana under this  
24                  Section for possessing medical marijuana or dispensing medical marijuana to his  
25                  minor child who is a patient of the state-sponsored medical marijuana program. This  
26                  defense must be raised in accordance with R.S. 40:991, and the defendant bears the  
27                  burden of proof of establishing that the possession or distribution of the marijuana  
28                  was in accordance with the state-sponsored medical marijuana program.

29                  §967. Prohibited acts-Schedule II, penalties

\* \* \*

B. Penalties for violation Violations of Subsection A. Except as provided in Subsection F, any Any person who violates Subsection A of this Section with respect to:

(1) ~~Except as otherwise provided in Paragraphs (2) and (3) of this Subsection, a~~ substance classified in Schedule II ~~which is an amphetamine or methamphetamine or which is a narcotic drug, except cocaine or cocaine base or a mixture or substance containing cocaine or its analogues as provided in Schedule H(A)(4) of R.S. 40:964 and except oxycodone as provided in Schedule H(A)(1)(c) of R.S. 40:964 and except methadone as provided in Schedule H(B)(11) of R.S. 40:964 shall be sentenced to a term of imprisonment at hard labor for not less than two years nor more than thirty years; and may, in addition, be sentenced to pay a fine of not more than fifty thousand dollars.~~ for an amount of:

(a) An aggregate weight of less than twenty-eight grams, shall be imprisoned, with or without hard labor, for not less than one year nor more than ten years and may, in addition, be fined not more than fifty thousand dollars.

(b) An aggregate weight of twenty-eight grams or more, shall be imprisoned at hard labor for not less than one year nor more than twenty years and may, in addition, be fined not more than fifty thousand dollars.

~~(2) Pentazocine, shall be sentenced to imprisonment at hard labor for not less than two years nor more than ten years, at least two years of which shall be served without benefit of parole, probation, or suspension of sentence, and, in addition, may be sentenced to pay a fine of not more than fifteen thousand dollars.~~

~~(3)~~(a) Production or manufacturing of amphetamine or methamphetamine shall be sentenced to imprisonment at hard labor for not less than ten years nor more than thirty years, at least ten years of which shall be served without benefit of parole, probation, or suspension of sentence, and in addition may be sentenced to pay a fine of not more than five hundred thousand dollars.

1 (b) This Subparagraph 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  
3 Subsection A of this Section that a minor child twelve years of age or younger is  
4 present in the home, mobile home or other inhabited dwelling at the time of the  
5 commission of the offense, the minimum mandatory sentence shall be fifteen years  
6 without benefit of parole, probation, or suspension of sentence.

7 ~~(4)(a)~~**(3)** Production or manufacturing of cocaine or cocaine base or a mixture  
8 or substance containing cocaine or its analogues as provided in Schedule II(A)(4) of  
9 R.S. 40:964 or oxycodone as provided in Schedule II(A)(1)(o) of R.S. 40:964 or  
10 methadone as provided in Schedule II(B)(11) of R.S. 40:964 shall be sentenced to  
11 imprisonment at hard labor for not less than ten nor more than thirty years, at least  
12 ten years of which shall be served without benefit of parole, probation, or suspension  
13 of sentence, and may be fined not more than five hundred thousand dollars.

14 ~~(b) Distribution, dispensing, or possession with intent to produce,  
15 manufacture, distribute, or dispense cocaine or cocaine base or a mixture or  
16 substance containing cocaine or its analogues as provided in Schedule II(A)(4) of  
17 R.S. 40:964 or oxycodone as provided in Schedule II(A)(1)(o) of R.S. 40:964 or  
18 methadone as provided in Schedule II(B)(11) of R.S. 40:964 shall be sentenced to  
19 a term of imprisonment at hard labor for not less than two years nor more than thirty  
20 years, with the first two years of said sentence being without benefit of parole,  
21 probation, or suspension of sentence; and may, in addition, be sentenced to pay a fine  
22 of not more than fifty thousand dollars.~~

23 ~~(5) Any other controlled dangerous substance classified in Schedule II except  
24 pentazocine, amphetamine, methamphetamine, cocaine, or oxycodone, or methadone  
25 shall be sentenced to a term of imprisonment at hard labor for not more than ten  
26 years, and in addition may be sentenced to pay a fine of not more than fifteen  
27 thousand dollars.~~

28 C. Possession. It is unlawful for any person knowingly or intentionally to  
29 possess a controlled dangerous substance as classified in Schedule II unless such

1 substance was obtained directly or pursuant to a valid prescription or order from a  
 2 practitioner, as provided in R.S. 40:978 while acting in the course of his professional  
 3 practice, or except as otherwise authorized by this Part. Any person who violates  
 4 this Subsection with respect to:

5 (1) ~~Any person who violates this Subsection with respect to pentazocine shall~~  
 6 ~~be imprisoned with or without hard labor for not less than two years and for not more~~  
 7 ~~than five years and, in addition, may be sentenced to pay a fine of not more than five~~  
 8 ~~thousand dollars.~~

9 An aggregate weight of less than two grams, shall be imprisoned, with  
 10 or without hard labor, for not more than two years and, in addition, may be  
 11 sentenced to pay a fine of not more than five thousand dollars.

12 (2) ~~Any person who violates this Subsection as to any other controlled~~  
 13 ~~dangerous substance shall be imprisoned with or without hard labor for not more~~  
 14 ~~than five years and, in addition, may be sentenced to pay a fine of not more than five~~  
 15 ~~thousand dollars.~~

16 An aggregate weight of two grams or more but less than twenty-eight  
 17 grams shall be imprisoned, with or without hard labor, for not less than one  
 18 year nor more than five years and, in addition, may be sentenced to pay a fine  
 19 of not more than five thousand dollars.

20 D. If a person knowingly or intentionally possesses a controlled substance  
 21 as classified in Schedule II, unless such substance was obtained directly or  
 22 pursuant to a valid prescription or order from a practitioner, as provided in  
 23 R.S. 40:978 while acting in the course of his professional practice, where the  
 24 amount of the controlled substance is an aggregate weight of twenty-eight grams  
 25 or more, it shall be considered a violation of Subsection A of this Section.

26 \* \* \*

27 §968. Prohibited acts-Schedule III; penalties

28 \* \* \*

29 B. ~~Penalties for violation~~ Violations of Subsection A. Any person who

1 violates Subsection A **of this Section** with respect to any controlled dangerous  
 2 substance classified in Schedule III shall be sentenced to a term of imprisonment, at  
 3 **with or without** hard labor, for not **less than one year nor** more than ten years; and,  
 4 in addition, may be sentenced to pay a fine of not more than fifteen thousand dollars.

5 C. Possession. It is unlawful for any person knowingly or intentionally to  
 6 possess a controlled dangerous substance classified in Schedule III unless such  
 7 substance was obtained directly or pursuant to a valid prescription or order from a  
 8 practitioner, or as provided in R.S. 40:978 or R.S. 40:1239, while acting in the course  
 9 of his professional practice or except as otherwise authorized by this Part. Any  
 10 person who violates this Subsection shall be imprisoned, with or without hard labor,  
 11 for not **less than one year nor** more than five years and, in addition, may be required  
 12 to pay a fine of not more than five thousand dollars.

13 §969. Prohibited acts-Schedule IV; penalties

14 \* \* \*

15 B. ~~Penalties for violation~~ **Violations** of Subsection A. Any person who  
 16 violates Subsection A **of this Section** with respect to:

17 (1) Flunitrazepam shall be sentenced to a term of imprisonment at hard labor  
 18 for not less than ~~five years~~ **one year** nor more than ~~thirty~~ **twenty** years and pay a fine  
 19 of not more than fifty thousand dollars.

20 (2) Any other controlled dangerous substance classified in Schedule IV,  
 21 except flunitrazepam, shall be sentenced to a term of imprisonment, at **with or**  
 22 **without** hard labor, for not **less than one year nor** more than ten years; and, in  
 23 addition, may be sentenced to pay a fine of not more than fifteen thousand dollars.

24 C. Possession. It is unlawful for any person knowingly or intentionally to  
 25 possess a controlled dangerous substance classified in Schedule IV unless such  
 26 substance was obtained directly or pursuant to a valid prescription or order from a  
 27 practitioner, or as provided in R.S. 40:978, while acting in the course of his  
 28 professional practice or except as otherwise authorized by this Part. Any person who  
 29 violates this Subsection with respect to:

1 (1) Flunitrazepam shall be imprisoned, ~~at~~ **with or without** hard labor, for not  
2 **less than one year nor** more than ten years, and may, in addition, be required to pay  
3 a fine of not more than five thousand dollars.

4 (2) Any other controlled dangerous substance shall be imprisoned with or  
5 without hard labor for not **less than one year nor** more than five years and, in  
6 addition, may be required to pay a fine of not more than five thousand dollars.

7 \* \* \*

8 §970. Prohibited acts-Schedule V; penalties

9 \* \* \*

10 B. ~~Penalties for violation~~ **Violations** of Subsection A. Any person who  
11 violates Subsection A **of this Section** with respect to any controlled dangerous  
12 substance classified in Schedule V shall be sentenced to a term of imprisonment, ~~at~~  
13 **with or without** hard labor, for not **less than one year nor** more than five years;  
14 and, in addition, may be sentenced to pay a fine of not more than five thousand  
15 dollars.

16 C. Possession. It is unlawful for any person unknowingly or intentionally  
17 to possess a controlled dangerous substance classified in Schedule V unless such  
18 substance was obtained directly or pursuant to a valid prescription or order from a  
19 practitioner, or as provided in R.S. 40:978, while acting in the course of his  
20 professional practice or except as otherwise authorized by this Part. Any person who  
21 violates this ~~section~~ **Subsection** shall be imprisoned with or without hard labor for  
22 not **less than one year nor** more than five years; and, in addition, may be required  
23 to pay a fine of not more than five thousand dollars.

24 Section 3. R.S. 14:2(B)(8), (25), and (29), 56.1, 56.2, 56.3, 62.1, 62.6, 62.9, 67.1,  
25 67.2, 67.6, 67.7, 67.8, 67.9, 67.10, 67.18, 67.20, 67.21, 67.24, 67.25(E), 67.28, 67.30, 68.5,  
26 71(H) and (I), and 211 and R.S. 40:966(G) and 967(F) and (G) are hereby repealed in their  
27 entirety.

---

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

---

## DIGEST

SB 220 Reengrossed

2017 Regular Session

Alario

Present law provides elements, definitions, and penalties for the following offenses: simple arson, communicating of false information of planned arson, simple criminal damage to property, simple burglary of an inhabited dwelling, home invasion, theft, organized retail theft, theft of a motor vehicle, unauthorized use of a movable, unauthorized use of a motor vehicle, unlawful acts relative to receipts and universal product code labels, illegal possession of stolen things, refund or access device application fraud, access device fraud, issuing worthless checks, prostitution, residential contractor fraud, and money laundering.

Proposed law increases, reduces, or otherwise modifies the penalty provisions for these present law offenses in accordance with the report and recommendations of the Justice Reinvestment Task Force.

Proposed law otherwise retains present law.

Present law provides elements, definitions, and penalties relative to offenses under the Uniform Controlled Dangerous Substances Law.

Proposed law increases, reduces, or otherwise modifies the penalty provisions for these present law offenses in accordance with certain recommendations of the Justice Reinvestment Task Force.

Proposed law otherwise retains present law.

Present law designates certain offenses as "crimes of violence" for purposes of present law and proposed law.

Proposed law deletes the following offenses from present law: mingling harmful substances, extortion, and illegal use of weapons or dangerous instrumentalities.

Proposed law otherwise retains present law.

Present law provides elements, definitions, and penalties for the following offenses: theft of animals; failure to remit payment for sale of forest products; criminal damage to coin-operated devices; criminal damage to a pipeline facility; criminal damage to genetically engineered crops, genetically engineered crop facilities, or genetically engineered crop information; simple burglary of a pharmacy; simple burglary of a religious building; simple burglary of a law enforcement or emergency vehicle; theft of livestock; theft of goods; cheating and swindling; theft of timber; theft of a business record; theft of the assets of a person who is aged or a person with a disability; theft of utility service; theft of petroleum products; theft of oilfield geological survey; theft of oil and gas equipment; theft of utility property; and theft of copper or other metals.

Proposed law deletes these provisions of present law in order to consolidate certain present law offenses and to otherwise conform to certain recommendations of the Justice Reinvestment Task Force.

Proposed law creates the La. Felony Class System Task Force to study, evaluate, and develop a recommendation for a felony class system before the 2018 Regular Session of the legislature.

Proposed law provides relative to the membership and organization of La. Felony Class

System Task Force.

Proposed law provides that the names of the persons who are to serve on the task force are to be submitted to the chief justice of the La. Supreme Court on or before 7/1/17. Proposed law further provides that the chief justice is to call the first meeting of the task force, which meeting is to be held on or before 7/15/17. Proposed law further provides that the task force is to meet a minimum of six times between 7/15/17 and 2/1/18.

Proposed law provides that the task force is to prepare and submit a final report of its findings and recommendations, including any specific and complete draft legislation, to the governor, the speaker of the House of Representatives, the president of the Senate, the chairman of the House Committee on Administration of Criminal Justice, the chairman of the Senate Committee on Judiciary C, and the chief justice of the La. Supreme Court, no later than 2/1/18. Proposed law further provides that the report is to be made available to the public and the task force is abolished upon submission of the report.

Proposed law provides that the task force may apply for, contract for, receive, and expend for purposes of proposed law any appropriation or grant from the state, its political subdivisions, the federal government, or any other public or private source. Proposed law further provides that the books and records of the task force are subject to audit by the legislative auditor pursuant to present law.

Proposed law relative to the task force becomes null and of no effect on 2/2/18.

Effective August 1, 2017.

(Amends R.S. 14:52(B), 54.1(B), 56(B)(1) and (2), 62.2(B), 62.8(B), 67(B), 67.25(D), 67.26(C), 68(B), 68.4(B), 68.7(B)(1), 69(B) and (C), 70.2(C), 70.4(E), 71(C), (D), (E), (F), and (G), 82(C)(3), 95.1(B), 202.1(C), and 230(E)(4) and R.S. 40:966(B), (C), (D), (E), and (F), 967(B) and (C), 968(B), 969(B) and (C), and 970(B) and (C); adds R.S. 14:69(D) and 601 and R.S. 40:967(D); repeals R.S. 14:2(B)(8), (25) and (29), 56.1, 56.2, 56.3, 62.1, 62.6, 62.9, 67.1, 67.2, 67.3, 67.6, 67.7, 67.8, 67.9, 67.10, 67.18, 67.20, 67.21, 67.24, 67.25(E), 67.28, 67.30, 68.5, 71(H) and (I), and 211 and R.S. 40:966(G), (H) and (I) and 967(F) and (G))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Delete all references to a felony class system.
2. Delete certain present law offenses in order to consolidate offenses and to otherwise conform to recommendations of the Justice Reinvestment Task Force.
3. Delete certain offenses from the list of "crimes of violence".
4. Increase, reduce, or otherwise modify penalty provisions for certain present law offenses in accordance with the recommendations of the Justice Reinvestment Task Force.
5. Create and provide relative to the La. Felony Class System Task Force.

Senate Floor Amendments to engrossed bill

1. Increase, reduce, or otherwise modify penalty provisions for certain present law offenses in accordance with the recommendations of the Justice Reinvestment Task Force.
2. Return present law crime of intentional exposure to AIDS virus to the list of crimes of violence.
3. Delete the following present law crimes in order to consolidate offenses and to otherwise conform to recommendations of the Justice Reinvestment Task Force: simple burglary of a pharmacy, simple burglary of a religious building, and simple burglary of a law enforcement or emergency vehicle.
4. Delete proposed law relative to the crimes of illegal use of weapons or dangerous instrumentalities and illegal carrying of weapons.
5. Provide relative to the membership of the La. Felony Class System Task Force.