



**SELECTED LEGISLATION**  
from the  
**2009 Regular Session**  
of the  
Louisiana Legislature

**Prepared by**

**House Legislative Services  
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## 2009 REGULAR SESSION

### **I. CIVIL LAW AND PROCEDURE**

#### **A. SUBSTANTIVE, LIABILITY, AND DAMAGES**

##### **1. Landry (HB 554)**

**Act No. 295**

Provides that any person, in coordination with the state or its political subdivisions, who gratuitously and voluntarily renders any **disaster relief** or recovery services shall **not be civilly liable** for causing death or injury to a person or property, unless the damage was intentional or caused by a grossly negligent act of the provider.

However, this shall not apply to any unlicensed person providing care for which a license is required.

Effective August 15, 2009. (Adds R.S. 29:735.3.1)

##### **2. Cheek (SB 106)**

**Act No. 231**

Provides a **limitation of liability** for any **health care provider** or health care personnel who renders or fails to render health care services, first aid, ambulatory assistance or transportation anywhere in the state in the course of and resulting from an evacuation, sheltering, transportation, or repopulation of a health care provider facility or a failed evacuation, sheltering, transportation or repopulation of a health care provider facility or care delivery provided during an evacuation, sheltering, transportation, or repopulation of a health care provider facility, during and as a result of a declared state of emergency, unless the damages are caused by gross negligence or willful and wanton misconduct.

Defines "**declared state of emergency**" as the initial declaration of the governor or parish president or any other declaration of a state of emergency by a military or governmental authority and for no more than one 30 day renewal thereof.

Defines "during a declared state of emergency" as during the time period set forth in the initial declaration and shall also be retroactive to the precipitating event requiring the initial declaration of disaster or public emergency and for a period of 30 days following the end of the initial declared state of emergency.

Defines "health care personnel" as all employees and volunteers of a health care provider facility licensed under Louisiana law, a mobile medical unit, and the officers, directors, shareholders, partners, members or managers of legal entities, who own or operate a health care provider facility, or as a health care licensee, who participate and assist in the evacuation, sheltering, care delivery, transportation, or repopulation of a health care provider facility.

Effective July 1, 2009. (Adds R.S. 29:735.5)

### 3. Edwards (HB 755)

Act No. 382

Provides that in addition to general damages a **victim of child pornography** may be awarded **exemplary damages** upon proof that the injuries were caused by the wanton and reckless disregard for the rights and safety of the person through an act of pornography involving juveniles, regardless of whether the defendant was prosecuted for his acts.

Requires law enforcement, after the filing of an indictment or bill of information, for the crime of pornography involving juveniles, to forward copies of any visual reproductions to the Internet crimes against children division of the attorney general's office and requires them to forward the reproductions and certain other information to the National Center for Missing and Exploited Children.

Provides that the failure to comply shall not invalidate any sentence, plea, conviction, or other final disposition.

Effective August 15, 2009. (Amends R.S. 14:81.1(F); Adds C.C. Art. 2315.3)

## B. MEDICAL MALPRACTICE

### 1. Willmott (HB 671)

Act No. 14

Adds **nurse practitioner and clinical nurse specialist** to the definition of "health care provider" under both the state and private medical malpractice acts.

Effective August 15, 2009. (Amends R.S. 40:1299.39(A)(1)(a)(ii)(intro.para.) and 1299.41(A)(10))

### 2. LeBas (HB 517)

Act No. 372

Authorizes a person to **elect not to provide certain health care services that violate his conscience**, to the extent that patient access to health care is not compromised. Further protects persons from punitive measures such as liability, discrimination, adverse employment action, prejudice, or general damage for refusing to provide certain health care services.

An employer or patient shall not be prohibited from inquiring whether a person declines to participate in certain health care services. When a patient requests certain health care services, a person, shall identify in writing, his declination to provide those services.

Provides that all persons who have a **sincerely held religious belief** or moral conviction and who seek employment at a health care facility shall notify the prospective employer of the existence of such belief. Any health care facility that employs a person with a sincerely held religious belief or moral conviction shall ensure that the facility has sufficient staff to provide patient care.

A person shall notify his employer in writing as soon as practicable of any health care service which violates his conscience. A person shall notify any patient before providing any consultation or service to the patient.

Defines "conscience" as a sincerely held religious belief or moral conviction.

Defines "health care service" as being limited to abortion, dispensation of abortifacient drugs, human embryonic stem cell research, human embryo cloning, euthanasia, or physician-assisted suicide.

Effective August 15, 2009. (Adds R.S. 40:1299.35.9)

## C. PRESCRIPTION AND PEREMPTION

### 1. Kostelka (SB 60)

Act No. 107

Adds to the list of actions which have a liberative prescription of 5 years, an action for damages for the **harvesting of timber** without the consent of the owner.

Effective August 15, 2009. (C. C. Art. 3497; Adds R.S. 3:4278.1(G) and 4278.2(G))

## D. PROCEDURAL LAW

### 1. Connick (HB 261)

Act No. 201

Increases the **homestead exemption from seizure** from \$25,000 to \$35,000, and prohibits the seizure of a homestead, if the judgment upon which seizure is based is a judgment for **credit card charges**.

Defines "a judgment for consumer credit card charges" as a judgment for the payment of money consisting solely of amounts due from a consumer for unsecured consumer loans incurred through the use of a lender credit card or seller credit card, as those terms are defined in R.S. 9:3516, and related interest, fees, charges, attorney fees, and court costs.

Effective June 30, 2009. (Amends R.S. 20:1(A)(2); Adds R.S. 13:3851.1)

### 2. Ellington (HB 566)

Act No. 13

Requires all **suits filed against the state**, any state agency, or against an officer or employee thereof for conduct arising out of the discharge of his official duties or within the **course and scope of his employment**, to be instituted before the district court of the judicial district in which the state capitol is located or in the district court having jurisdiction in the parish in which the cause of action arises.

Effective August 15, 2009. (Amends R.S. 13:5104(A))

## **E. EVIDENCE**

### **1. Richardson (HB 256)**

**Act No. 7**

Adds to the list of **hearsay exceptions** when the declarant is unavailable, a statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

Effective August 15, 2009. (Adds C.E. Art. 804(B)(7))

## **F. CONTRACTS / CONSUMER PROTECTION**

### **1. Cortez (HB 620)**

**Act No. 426**

Retains the **Medical Assistance Programs Integrity Law** (MAPIL) which was enacted to combat and prevent fraud and abuse committed by some health care providers participating in the medical assistance programs, but makes modifications to conform MAPIL to federal requirements.

Prohibits persons from knowingly engaging in misrepresentation or making or using a false record or statement to obtain payment for a false claim from the medical assistance program's funds.

Allows a qui tam plaintiff to recover a civil monetary penalty, even if the secretary or attorney general intervenes or the court determines that the allegations are based on information from sources other than the qui tam plaintiff.

Provides that a qui tam action shall not be instituted later than six years after the violation was committed or more than three years after the facts are known or should have been known, but never more than 10 years after the commission of the violation.

Provides that if certain actions are taken against an employee for acts committed in furtherance with a qui tam action, the employee shall be entitled to relief, including reinstatement, two times back pay, interest on back pay, and special damages.

Provides that if a person planned or initiated the violation, the court may reduce his share of the proceeds and provides that the percentage of the share awarded to the qui tam plaintiff is based on the total amount of the award or settlement.

Effective August 15, 2009. (Amends R.S. 46:438.3(B), 439.1, 439.2(A)(2)(b), 439.3, and 439.4(A)(1) and (3), (C)(1), (D), and (G))

## **2. Arnold (HB 810)**

**Act No. 522**

Provides for licensing fees, licensure requirements, exemptions, and surety bonds of mortgage loan originators, mortgage lenders, and mortgage brokers.

Requires mortgage loan originators, mortgage lenders, and mortgage brokers to be licensed and registered through the Nationwide Mortgage Licensing System and Registry (NMLS&R) and for this purpose the commissioner may establish such application information requirements and any other information as he deems necessary to participate in the NMLS&R.

Provides that a residential mortgage lender, broker, and a natural person who is a residential mortgage loan originator shall comply with the licensing provisions of the La. Secure & Fair Enforcement (S.A.F.E.) Residential Mortgage Lending Act.

Provides that any person licensed under La. Consumer Credit Law shall not engage in the business of originating, lending, or brokering any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential immovable property upon which is constructed or intended to be constructed a dwelling, unless such person has also obtained a license pursuant to the La. S.A.F.E. Residential Mortgage Lending Act.

Effective July 31, 2009. (Amends R.S. 6:1081, 1082, 1083(3.1)(intro. para.), (3.2), (4)(intro. para.), (5), (6), (9), (11), and (12), 1086, 1087(E) and (F), 1088, 1088.1(A)(4) and (C), 1089, 1090(A), (C), (D), (E), (F), and (H), 1091, 1092(A)(intro. para.), (1), (5), (6), (B), (C), (D), (E), (G), (I), and (K), 1092.2, 1093(B), 1094(A) and (B), 1096(I)(1), 1098(C), and 1099, and R.S. 7 9:3511(F); Adds R.S. 6:1083(6.1), (13), (14), (15), (16), (17), (18), (19), and (20), 1087(D) and (G), 1088.1(A)(9) and (E), 1088.2, 1088.3, 1088.4, 1094.1, 1096(J), and 1097(C) and R.S. 9:3557(C); Repeals R.S. 6:1092(A)(17), and R.S. 9:3560(A)(10))

## **3. Riser (SB 29)**

**Act No. 105**

Enacts the "**Anti-Caller ID Spoofing Act**," which is intended to protect Louisiana citizens from caller ID scams which have led to financial loss, the loss of personal information, harassment, and to potentially threatening telephone calls.

Provides for private civil actions seeking injunctive relief and money damages, and authorizes the attorney general or a district attorney to seek civil money penalties against violators and specifically states that criminal sanctions are not precluded.

Effective August 15, 2009. (Adds R.S. 51:1741.1-1741.5)

#### 4. Talbot (HB 617)

Act No. 512

Adds the definition for "**designated emergency area**" relative to declared states of emergency.

Provides that the governor may reduce the time period for a declared state of emergency in a designated emergency area as circumstances improve to reduce or terminate the declared state of emergency.

Provides that the **price gouging** prohibition is effective for an initial 30-day period pursuant to the initial declared state of emergency and shall be renewed by subsequent proclamations renewing the declared state of emergency.

Provides that the designated emergency area shall be limited to the actual affected local area or parish or parishes as designated in an executive order or proclamation of the governor or parish president.

Effective August 15, 2009. (Amends R.S. 29:723, 724(B), and 732)

#### 5. Heitmeier (SB 272)

Act No. 494

During a **state of a declared emergency**, authorizes **price increases** if the price of the seller is attributable to fluctuation in the applicable commodity markets, applicable regional or national market trends.

Provides that prohibited price gouging during a gubernatorially declared state of emergency or catastrophe applies to gasoline of any grade or formula sold or offered for sale within the designated emergency area for ultimate use in the operation of motor vehicles, generators, power tools, or small engines.

Effective August 15, 2009. (Amends R.S. 14:329.6(A)(9); Adds R.S. 29:732(E) and (F) and R.S. 51:422.1(C)(5))

#### 6. Marionneaux (SB 110)

Act No. 76

Requires **credit repair service organizations**, salespersons, agents or representatives of a credit repair services organization to register with the attorney general instead of the office of financial institutions.

Eliminates the requirement that a surety bond must be maintained for two years after the date the credit services organization ceases operations or the date of the filed notice with the attorney general, whichever is later.

Eliminates the authority of the attorney general to assess civil money penalties.

Effective August 15, 2009. (Amends R.S. 9:3573.3(5), 3573.4(F), 3573.6(B), and 3573.11(B); Repeals R.S. 9:3573.11(C))

Requires that on January 1, 2011, all existing one or two-family dwellings that are sold or leased shall have a 10-year, sealed lithium battery smoke detector.

Effective January 1, 2010. (Amends R.S. 40:1573(2) and 1581(A); Adds R.S. 40:1581(C) and (D))

## **II. SUCCESSIONS AND TRUSTS**

### **1. Murray (SB 184)**

**Act No. 81**

The Code of Civil Procedure provides for **small successions** having a gross value of \$50,000 or less. On and after Jan. 1, 2010, the gross value shall be \$75,000 or less.

Provides that it is not necessary to judicially open the small succession of a person who died intestate leaving no immovable property other than an ownership interest in small succession immovable property, and whose sole heirs are as set forth in law.

Defines "**small succession immovable property**" as (1) immovable property, comprised of a single lot or contiguous lots, on which is situated a single building that, together with any ancillary buildings, contains not more than four dwelling units, each of which has its primary use as a residence, and in a portion of which either the deceased or the surviving spouse resided or a portion of which was the last place of residence of either the deceased or the surviving spouse if neither the deceased nor the surviving spouse was residing in that residence on the date of death because of illness, incapacity, natural disaster or destruction; or (2) any cemetery spaces.

Provides that a person appointed as public administrator by the governor may use the affidavit procedure to take possession of the estate, provided there is no surviving spouse or other heir present or represented in the state and provided that the estate does not include any immovable property other than small succession immovable property, and provided he has advertised one time in the official journal and verifies that he has received no notice of opposition.

Provides that when it is not necessary to judicially open a small succession, at least two persons, including the surviving spouse, if any, and one or more competent major heirs of the deceased, may execute one or more multiple originals of an affidavit, duly sworn to and acknowledged before any officer or person authorized to administer oaths, setting forth:

- (1) The date of death of the deceased, and his domicile at the time thereof;
- (2) The deceased died intestate;

- (3) The marital status of the deceased, the location of the last residence of the deceased, and the name of the surviving spouse, if any, and the surviving spouse's address, domicile, and location of last residence;
- (4) The names and last known addresses of the heirs of the deceased, their relationship to the deceased, and the statement that an heir not signing the affidavit (a) cannot be located after the exercise of reasonable diligence, or (b) was given ten days notice by U.S. mail of the affiants' intent to execute an affidavit for small succession and did not object;
- (5) The deceased left no immovable property other than small succession immovable property;
- (6) A description of the property, including whether it is community or separate, and which in the case of immovable property must be sufficient to identify the property for purposes of transfer;
- (7) A showing of the value of each item of property, and the aggregate value of all property, at the time of the death of the deceased;
- (8) A statement describing the respective interests in the property which each heir has inherited and whether a legal usufruct of the surviving spouse attaches to the property;
- (9) An affirmation that, by signing the affidavit, the affiant, if an heir, has accepted the succession of the deceased; and
- (10) An affirmation that, by signing the affidavit, the affiants swear under penalty of perjury that the information contained in the affidavit is true, correct and complete to the best of their knowledge, information, and belief.

Provides that if no surviving spouse, the affidavit must be signed by at least two heirs. If no surviving spouse and only one heir, the affidavit must also be signed by a second person who has actual knowledge of the matters stated therein. Also provides that in addition to the powers of a natural tutor otherwise provided by law, a natural tutor may also execute the affidavit on behalf of a minor child without the necessity of filing a petition.

Provides that a multiple original of the affidavit shall be sufficient authority for the payment or delivery of any money or property described in the affidavit to the heirs and the surviving spouse in community, if any, in the percentages listed therein, by any bank, financial institution, trust company, warehouseman, or other depository, or by any person having such property in his possession or under his control. Further provides that a multiple original of the affidavit shall be sufficient authority for the transfer to the heirs, and surviving spouse in community, if any, or to their assigns, of any stock or registered bonds in the name of the deceased and described in the affidavit, by any domestic or foreign corporation. Also provides that receipt constitutes a full release and discharge for the payment of money or delivery of property.

Provides that a multiple original of the affidavit, to which has been attached a certified copy of the deceased's death certificate, shall be recorded in the conveyance records in the office of the clerk of court where any small succession immovable property described is situated, after at least 90 days have elapsed from the date of the decedent's death. Further provides that such affidavit or a certified copy shall be admissible as evidence in any action involving small succession immovable property to which it relates or is affected by the instrument, and shall be prima facie evidence of the facts stated therein, including the relationship to the deceased of the parties recognized as heirs, surviving spouse in community or usufructuary as the case may be, and of their rights in the immovable property of the deceased.

Provides that an action against a third person who has acquired an interest in the small succession immovable property by a person who is not recognized in the affidavit and who is asserting an interest as a successor in the immovable property formerly owned by the deceased, is **prescribed in two years** from the date of the recording of the affidavit.

Effective June 18, 2009. (Amends C.C.P. Arts. 3421, 3431, 3432, and 3434; Repeals C.C.P. Art. 3433)

## **2. Arnold (HB 145)**

**Act No. 499**

Provides that funds from a "**payable upon death**" bank or credit union account shall belong to one or more named beneficiaries upon the depositor's death.

Provides that any savings bank may offer payment on death accounts.

Requires that a depositor submit an affidavit to a bank, credit union, or an association stating the names of the beneficiaries.

Effective August 15, 2009. (Amends R.S. 6:314(A), 653.1(A), and 766.1(A); Adds R.S. 6:1255(D); Repeals R.S. 6:314(C), 653.1(C), and 766.1(C))

### III. FAMILY LAW

#### A. MARRIAGE, DIVORCE, AND DOMESTIC MATTERS

##### 1. Aubert (HB 363)

Act No. 204

Upon recommendation of the Louisiana State Law Institute, resolves a split in the circuit courts of appeal as to whether Civil Code Article 2358, regarding **reimbursement against the other spouse upon termination of the regime**, referred to when a claim could be made or the timing of the use of the property on which the reimbursement claim was based, by providing that the reimbursement claim may be asserted only after termination of the community property regime.

Clarifies that actions other than divorce may terminate the community property regime and that attorney fees in actions incidental to the divorce are also community obligations.

Clarifies that an obligation incurred after termination of a community property regime is technically not a separate or community obligation since it has no impact on the community property regime.

Provides that an obligation arising from an intentional wrong not perpetrated for the benefit of the community is a separate obligation to the extent that it does not benefit both spouses, the family, or the other spouse.

Clarifies that a reimbursement claim may be asserted when community property or former community property has been used to satisfy a separate obligation of a spouse or has been used for the benefit of separate property.

Resolves a split in the circuit courts of appeal as to whether reimbursement is available for the use of separate property to satisfy a community debt after termination of the legal regime but before partition by providing that post-termination, pre-partition uses of separate property to satisfy community debts are subject to a reimbursement claim.

Adds rules for reimbursement claims for the use of separate property to satisfy a community debt on movable property required by law to be registered (i.e., a vehicle) such that the reimbursement claim is reduced in proportion to the value of the claimant's use and by providing that the value of the use and the amount of the claim is presumed to be equal.

Clarifies that Civil Code Article 2367 regulates reimbursement rights between the parties for the use of separate property or the making of buildings or other constructions permanently attached to the ground, and plantings, only when the use or making is done during the existence of the legal regime. The rights of the former spouses for expenses and works made after termination of the regime are governed by the rules of co-ownership in Civil Code Articles 804 and 806.

Provides that full reimbursement is owed by the spouse benefitted when one spouse uses separate property to improve, benefit, use, or acquire the other spouse's separate property,

and that full reimbursement is owed when one spouse uses separate property to satisfy the other spouse's separate obligation.

Authorizes the court to use the same rental reimbursement rules when a spouse occupies a residence other than the family residence, such as a hunting camp or vacation home.

Effective August 15, 2009. (Amends C.C. Arts. 2358, 2362.1-2364, and 2365-2367.2 and R.S. 9:374; Adds C.C. Art. 2367.3; Repeals C.C. Art. 2364.1)

## **2. Martiny (SB 27)**

**Act No. 15**

Authorizes a federal court judge whose official duty station includes Orleans Parish to perform marriage ceremonies within Orleans Parish from October 1, 2009 through October 31, 2009.

Effective August 15, 2009. (Adds R.S. 9:203(E)(7))

## **3. Stiaes (HB 834)**

**Act No. 311**

For **licensure as a marriage and family therapist**, the applicant shall submit certified transcripts evidencing completion of courses in the following areas:

- (1) Two or three semester courses, each course consisting of at least three hours, in Marriage and Family Therapy Foundations which includes course work in the following areas: historical development, theoretical and empirical foundations, and contemporary conceptual directions of the field of marriage and family therapy. These areas shall provide a comprehensive survey and substantive understanding of the major models of marriage and family therapy. Students should be able to conceptualize and distinguish the critical epistemological issues in the profession of marriage and family therapy. If the applicant has five Marriage and Family Clinical practice semester courses, each course consisting of at least three hours, then he is only required to obtain two semester courses, each course consisting of at least three hours, in the aforementioned Marriage and Family Therapy Foundations.
- (2) Four or five semester courses, each course consisting of at least three hours, in Marriage and Family Therapy Clinical Practice which includes course work at a minimum, in the following areas: relational and systematic perspectives, psychopharmacology, physical health and illness, traditional psychodiagnostic categories, the assessment and treatment of major health issues and a wide variety of presenting problems.
- (3) Two semester courses, each course consisting of at least three hours, in Individual Development and Family Relations which includes course work in the following areas: individual development across the lifespan and family development across the lifespan.

- (4) One semester course, such course consisting of at least three hours, in Professional Identity and Ethics which includes course work in the following areas: professional identity, professional socialization, scope of practice, membership in professional organizations, licensure, and certification, confidentiality issues, legal and ethical responsibilities of the profession, and record keeping. A generic course in ethics does not meet this requirement.
- (5) One semester course, such course consisting of at least three hours, in Marriage and Family Therapy Research which includes course work in the following areas: research in marriage and family therapy while addressing research methodology, data analysis, and the evaluation of both quantitative and qualitative methods.
- (6) One semester course, such course consisting of at least three hours, in additional learning relevant to the field of Marriage and Family Therapy which includes course work that augments student's specialized interest and background in individual and family therapy. Such course work may be selected from a variety of disciplines.

Effective August 15, 2009. (Amends R.S. 37:1103(12) and 1116(C)(1))

#### **4. Landry (HB 629)**

**Act No. 427**

Provides, relative to **domestic abuse cases**, that if a temporary restraining order is granted without notice, the matter shall be set within 21 days (changed from 15) for a rule to show cause why the protective order should not be issued, at which time the petitioner must prove the allegations of abuse by a preponderance of the evidence.

Provides that any continuance of the rule to show cause shall not exceed 15 days (changed from 10).

Effective August 15, 2009. (Amends R.S. 46:2135(B) and (E) and Ch.C. Art. 1569(B) and (E))

#### **5. Murray (SB 254)**

**Act No. 245**

Redefines **domestic abuse battery** as the intentional use of force or violence committed by one household member upon the person of another household member and deletes "without the consent of the victim." Redefines household member by deleting the words "minor" and "biological minor."

Effective July 1, 2009. (Amends R.S. 14:35.3(A) and (B)(2))

## B. CHILD SUPPORT AND CUSTODY

### 1. Johnson (HB 600)

Act No. 378

Based upon recommendations from the Child Support Guideline Review Committee in 2008, provides that **when income is concealed or underreported** for the purpose of calculating child or spousal support, the court shall admit evidence of redirected income, deferred income, and the standard of living and assets of the obligor.

Provides that the court may admit as evidence the wage and earnings survey distributed by the government for attributing income to the obligor.

Additionally provides that when an obligor in a child or spousal support proceeding has an ownership interest in a business, suitable documentation includes such items as income tax returns, Schedule K-1 and W-2 forms, 1099 forms, profit and loss statements, balance sheets, financial statements, tax reports, and bank account statements.

Effective August 15, 2009. (Amends R.S. 9:315.2(A); Adds R.S. 9:315.1.1 and 326)

### 2. Shaw (SB 230)

Act No. 241

Authorizes DSS to obtain **health insurance enrollment data** currently being provided in accordance with federal law and state law through data sharing agreements between DSS and certain health insurers, or through an interagency agreement with DHH, at the discretion of DSS, and maintains the exception for certain types of insurance.

Requires as a condition of conducting business in Louisiana, that health insurers permit and participate in data matching with DSS to assist in determining the availability of other sources of health care insurance or coverage for beneficiaries of the child support program.

Specifically requires health insurers that are not providing data through DHH to provide to DSS an electronic listing of all individuals who may be covered by a health insurer and the nature of coverage that is provided, for purposes of identifying coverage and enforcing medical child support orders administered by the department.

Provides for notice of payment when a court orders income to be withheld and orders the income to be paid to the state disbursement unit within DSS.

Provides for the redirection of payments when DSS issues a notice to the obligor, obligee, and employer that income withheld for child support shall be paid to the state disbursement unit. A copy of the notice will be filed with the court.

The notice may be used by DSS to redirect child support payments from the state disbursement unit of this state to the state disbursement unit of another state.

Requires that a certified child support payment record produced by the state disbursement unit be admissible as self-authenticating and is prima facie proof of such payment.

Requires the state disbursement unit, upon request, to provide to an obligor or obligee a copy of the record of child support payments maintained by the unit and further requires the record to include the amounts and dates of all payments received from or on behalf of the obligor and disbursed to the obligee.

Authorizes an obligor or obligee to request that DSS investigate any alleged discrepancy between the child support payment record provided by the unit and the payment records maintained by the requestor and requires the obligor or obligee to provide documentation of any alleged discrepancy.

Effective August 15, 2009. (Amends R.S. 46:236.1.11(A); Adds R.S. 46:236.11.1- 236.11.4)

### **3. Landry (HB 628)**

**Act No. 379**

In an **incidental order of temporary custody** and injunctive relief during the pendency of an action for **divorce**, extends the period of expiration of an ex parte order of custody and assignment for hearing from 15 days to 30 days.

In accordance with Civil Code Article 136, a parent's **addiction** to a controlled dangerous substance is an extraordinary circumstance to be considered by the court in determining visitation rights of a relative, by blood or affinity, or a former stepparent or stepgrandparent, not granted custody of the child.

Effective August 15, 2009. (Amends C.C.P. Art. 3945(C)(1) and (2) and (D) and C.C. Art. 136(C); Adds C.C. Art. 136(D))

### **4. Claitor (SB 260)**

**Act No. 83**

Existing law provides that notwithstanding law giving **exclusive continuing jurisdiction to certain courts in Jefferson Parish and East Baton Rouge Parish**, in cases receiving support enforcement services from the Department of Social Services, upon the motion to transfer by the district attorney or DSS, a support order payable to DSS shall be transferred for subsequent enforcement and modification to the appropriate juvenile court within the parish wherein the support order was rendered or last registered.

Additionally provides that in East Baton Rouge Parish, a support order may be transferred to the juvenile court or family court.

Effective August 15, 2009. (Amends R.S. 46:236.2(A)(2))

## C. ADOPTION, CHILD IN NEED OF CARE, JUVENILES

### 1. Chaney (HB 140)

Act No. 3

Upon recommendation of the Louisiana State Law Institute, defines **filiation** as the legal relationship between a parent and child and it is established by proof of maternity, paternity, or adoption.

Provides that when a child is adopted, the adopting parent becomes the parent for all purposes and specifies that the adopted child and his descendants do retain the right to inherit from the former legal parents and relatives. Provides that the adoption of minors is additionally governed by the Children's Code.

Adds revision comments to Civil Code Article 186 regarding presumptions and provides for retroactive application of Civil Code Articles 199 and 200.

Effective June 9, 2009. (Adds C.C. Arts. 178, 179, 199, and 200)

### 2. Katz (HB 784)

Act No. 47

Requires the Department of Social Services (DSS) to conduct a search of the **state central registry of justified abuse** or neglect prior to hiring employees if the potential employee's name is on the registry and poses a risk to children. If the potential employee is listed on the central registry and is found by a risk evaluation panel to pose a risk to children, DSS is prohibited from hiring the potential employee. Requires DSS to terminate a current employee whose duties relate to children if the employee's name has been recorded on the central registry, unless the risk evaluation panel has determined in writing that the employee does not pose a risk to children. Provides for an administrative appeals process within DSS. Requires DSS to conduct an assessment of the impact and cost of utilizing the information in the central registry to prohibit individuals from owning, operating, being employed, or volunteering at child care and child residential facilities and to submit a report to the legislature.

Effective June 14, 2009. (Amends R.S. 46:51.2(A) and R.S. 49:992(D)(1); Adds R.S. 49:992(D)(9))

### 3. Thibaut (HB 221)

Act No. 158

Existing law provides that a child may be **photographed or fingerprinted** in connection with being taken into custody for the commission of either a **felony-grade delinquent act or a misdemeanor-grade delinquent act**. Also requires that fingerprints and photographs be maintained and indexed separately from those of adults and submitted to the central fingerprint repository of the La. Bureau of Criminal Identification and Information.

Deletes the requirement that upon reaching the age of 17, if the child does not have a felony conviction in adult court and has not been adjudicated for a felony-grade delinquent act, the fingerprint card shall be destroyed with the juvenile records in accordance with law.

Effective August 15, 2009. (Amends Ch.C. Art. 818(C))

#### **4. Ernst (HB 565)**

**Act No. 213**

Requires the consent of the district attorney for the court to utilize teen or youth court programs and increases the total informal adjustment period from one year to two years.

Effective August 15, 2009. (Amends Ch.C. Arts. 839(C) and 840(C))

#### **5. Katz (HB 703)**

**Act No. 221**

Expands the list of persons for which DSS may receive **criminal history record information** on to include those receiving services from the office of community services and to potential DSS employees whose duties include investigations of child abuse or neglect, the supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys.

Requires DSS to conduct **background checks of potential employees** whose duties include the investigation of child abuse or neglect, supervisory or disciplinary authority over children, direct care of a child, or performance of licensing surveys. Also authorizes DSS to utilize the National Crime Information Center for background checks.

Prevents DSS from releasing the results of a national criminal background check unless it is permitted under federal law.

Requires DSS to conduct a survey to assess the impact and cost of expanding national criminal history records checks and arrest records checks, and requires DSS to develop a statewide implementation plan prior to requesting funds from the legislature. Makes implementation of national criminal background checks on such potential owners, operators, employees, and volunteers contingent upon the appropriation of funds.

Requires the Bureau of Criminal Identification and Information to facilitate national criminal history record checks of potential owners, operators, employees, or volunteers of child care or child residential facilities licensed by DSS.

Effective January 1, 2010. (Amends R.S. 15:587(A)(2)(a) and (b) and 587.1(A)(1)(a), (B), and (D) and R.S. 46:51.2(A)(1), (D), and (F)(intro. para.); Adds R.S. 15:587.1(I) and R.S. 46:51.2(G) and (H))

**6. Heitmeier (SB 61)**

**Act No. 230**

Provides that subsequent to a finding that a child is **incompetent to proceed** pursuant to a felony charge, upon a showing of good cause that the child presents a **danger of flight**, the court may authorize DHH to use appropriate restraints on the person of a child during transport, until further order of the court. Requires the use of restraints to comply with the DHH policy on seclusion and restraints.

Effective July 1, 2009. (Adds Ch. C. Art. 837(I))

**7. Gray Evans (SB 229)**

**Act No. 349**

Prohibits any charges or fees to be levied or collected for the issuance of driver's license or identification cards to any child who is in foster care.

Effective July 1, 2009. (Amends R.S. 32:403, 412.1(A)(intro. para.), 413(B), and R.S. 40:1321(C); Adds R.S. 32:412(J), 412.1(D), and 429(C))

## **IV. PROPERTY**

**1. Cortez (HB 502)**

**Act No. 290**

Authorizes the city of **Youngsville** to expropriate by a declaration of taking (**quick-take**) property needed for the Chemin Metairie Phase II Project.

Effective July 1, 2009. (Adds R.S. 19:139-139.7)

**2. Robideaux (HB 182)**

**Act No. 19**

Authorizes the city of **Lafayette** and the parish of Lafayette to expropriate by a declaration of taking (**quick-take**) property needed for the Kaliste Saloom Road Widening Project.

Effective June 12, 2009. (Adds R.S. 19:139-139.7)

**3. Girod Jackson (HB 65)**

**Act No. 86**

Adds unclaimed cashier's checks, teller's checks, or other official bank-issued checks as property that shall be subject to the custody of the state, if abandoned pursuant to the **Uniform Unclaimed Property Act**.

Effective August 15, 2009. (Amends R.S. 9:156(7))

#### 4. Hoffmann (HB 381)

Act No. 502

Provides that any person or firm contracted by a state, parish, or municipal tax authority to perform mass appraisal assignments is exempt from the **real estate appraiser licensing requirements**.

Establishes the **La. Appraisal Management Company Licensing and Regulation Act**, and provides for the licensing and regulation of appraisal management companies.

Authorizes the board to levy fines or impose civil penalties not to exceed \$50,000 for certain violations.

Provides that the board may impose a \$5,000 fine if an appraisal management company practices in Louisiana without a license.

Effective January 1, 2010. (Amends R.S. 37:3393(H)(5), (6), and (7); Adds R.S. 37:3393(H)(8) and 3415.1-3415.21)

## V. MORTGAGES, SECURITY DEVICES, AND PRIVILEGES

#### 1. Foil (HB 403)

Act No. 207

Upon recommendation of the Louisiana State Law Institute, updates the section of the **Louisiana Uniform Commercial Code** relative to warehouses and documents of title including **warehouse receipts, destination bills, and bills of lading**, rules of negotiability of bills of lading and documents of title, liens of carriers, a carrier's duty of care, and lost or missing documents of title; establishes conforming amendments to other sections of the Louisiana Uniform Commercial Code.

Effective January 1, 2010. (Amends R.S. 10:1-201(b)(5), (6), (15), (16), (21), and (42), 4-104(c)(intro. para.), 4-210(c)(intro. para.), 7-101-7-105, 7-201-7-210, 7-301-7-309, 7-401-7-404, 7-501-7-509, 7-601-7-604, and 7-701, 9-102(a)(30), (b), and (d)(7), 9-203(b)(intro. para.) and (3)(D), 9-207(c), 9-208(b)(5) and (6), 9-301(3), 9-310(b)(5) and (8), 9-312(e), 9-313(a), 9-314(a) and (b), 9-317(b) and (d), 9-338, and 9-601(b); Adds R.S. 10:8-103(g) and 9-208(b)(7))

## VI. LABOR AND WORKER'S COMPENSATION

### 1. Riser (SB 303)

Act No. 254

Provides for establishment and promulgation of a **medical treatment schedule** to be used in the medical care, services, and treatment in workers' compensation matters.

Provides that such medical treatment schedule shall be based upon guidelines which:

- (1) Rely on specified, comprehensive, and ongoing systematic medical literature review;
- (2) Contain published criteria for rating studies and for determining the overall strength of the medical evidence;
- (3) Are current and the most recent version produced;
- (4) Are interdisciplinary and address the frequency, duration, intensity, and appropriateness of treatment modalities for all disciplines commonly involved in the care, services, or treatment provided to injured workers; and
- (5) Are adopted by rule or statute.

Provides that the medical treatment schedule provided for shall not be considered evidence of a medical provider's legal standard of care as contemplated by Louisiana medical malpractice statutes.

Specifies that any dispute regarding a variance in medical treatment from the medical treatment schedule which arises after September 30, 2010 shall be submitted to the OWCA medical director within 15 calendar days of the decision by the payor and the medical director shall render a decision as soon as is practicable, but within thirty calendar days, at a maximum.

Effective August 15, 2009. (Adds R.S. 23:1203.1)

## VII. CRIMINAL JUSTICE

### A. NEW CRIMES

#### 1. M. Guillory (HB 541)

Act No. 373

Allows **guide dogs** in training access to public areas if they are accompanied by a qualified guide dog trainer.

Anyone who denies a guide dog in training entrance into public areas shall be deemed guilty of a misdemeanor and fined not more than \$500, imprisoned in parish jail for no more than 90 days, or both.

Effective August 15, 2009. (Amends R.S. 21:52)

#### 2. Hardy (HB 155)

Act No. 199

Provides that negligent homicide includes the **killing of a human being by a dog** or other animal when the owner is reckless and criminally negligent in confining or restraining the dog or other animal and provides that negligent injuring is the inflicting of any injury upon the person of another by a dog or other animal when the owner is criminally negligent in confining or restraining the dog or other animal.

There are exceptions for law enforcement dogs, dogs involved in search and rescue, guide and service dogs, dogs inside a dwelling, place of business, or motor vehicle who attack a person who is attempting or who has made an unlawful entry, and attacks made by livestock.

Prohibits the denial of liability insurance coverage when the activity is due to the criminally negligent ownership or handling of a dog.

Effective August 15, 2009. (Amends R.S. 14:32(A) and 39; Adds R.S. 14:32(C)(3), (D), and (E) and R.S. 22:1320)

#### 3. Connick (HB 476)

Act No. 210

Prohibits **sexual conduct between educator and student** when the student is 17 years of age or older, but less than 21 years where there is an age difference of greater than four years and clarifies that such provision applies only to secondary schools.

Prohibits sexually violent predators from residing within 1000 ft. of day care centers, child care facilities, group homes, residential homes, and family child day care homes.

Creates the crime of unlawful participation in a child-related business. Prohibits convicted sex offenders whose offense involved a person under the age of 13 from owning, operating, or participating in the governance of those child care facilities or family child day care homes. Penalties include a fine of up to \$1,000, imprisonment with or without hard labor up to one year, or both.

Creates the crime of contributing to the endangerment of a minor, which includes:

- (1) The employment of a sex offender in a day care center, residential home, community home, group home child care facility, or family child day care home.
- (2) The permitting of a sex offender to have physical access to a day care center, residential home, community home, group home child care facility, or family child day care home.

Penalties include a fine of up to \$1,000, imprisonment up to six months, or both.

Effective September 1, 2009. (Amends R.S. 14:81.4(A), (B)(2), and (4), and (E)(1), 91.1(A)(2), 91.2(B), (C) and (D) and R.S. 15:538(A), (D)(1)(b) and (c), and (6)(b) and (c); Adds R.S. 14:91.2(E), 91.3 and 91.4)

## **B. OTHER CRIMINAL MATTERS**

### **1. Amedee (SB 143)**

**Act No. 401**

Provides that an **application for any warrant** or signature utilized by the judicial branch not be denied legal effect or enforceability solely because it is in **electronic form**. Requires that an electronic record satisfy a legal requirement that an application for any warrant be in writing and that if the law requires a signature, then an electronic signature is sufficient.

Effective August 15, 2009. (Adds R.S. 9:2603.1)

### **2. Baldone (HB 445)**

**Act No. 288**

Provides that when a person **refuses to submit** to a chemical test when pulled over for suspicion of **driving under the influence**, that his driver's license will be **suspended for one year and two years upon a second or subsequent refusal** occurring within five years of the date of a refusal to submit to the test.

Provides that when a person refuses to submit to a chemical test when pulled over for suspicion of driving under the influence and a fatality or serious bodily injury has occurred, his driver's license will be suspended for one year, without benefit of eligibility for a hardship license, and two years, without benefit of eligibility for a hardship license, upon a second or subsequent refusal occurring within five years of the date of a refusal to submit to the test.

Requires the trier of fact to determine the person's intoxication was the contributing factor to the fatality or serious bodily injury when the person's license is being suspended for a period of time without benefit of eligibility for a hardship license.

Effective September 1, 2009. (Amends R.S. 32:667(B)(2); Repeals R.S. 32:667(B)(1)(a) and (4))

### 3. M. Jackson (HB 725)

Act No. 147

Enacts the "**Colin Goodier Protection Act**" which requires motorists, when overtaking and **passing a bicycle**, to leave a safe distance between the vehicle and bicycle of not less than three feet and should maintain clearance until safely past the overtaken bicycle. Requires the Department of Public Safety and Corrections, office of motor vehicles, to include a summary of this law in instructional publications for drivers, and requires the Department of Transportation and Development to erect signage notifying motorists of the need to share roads with bicyclists. Makes it unlawful to harass persons riding a bicycle and imposes a penalty for doing so.

Effective August 15, 2009. (Adds R.S. 32:76.1 and 201)

### 4. Leger (HB 33)

Act No. 263

Creates the "**Witness Protection Services Act**" to provide the following services for witnesses and immediate family members of witnesses:

- (1) Any necessary armed protection or escort, marked or unmarked surveillance, or periodic visits or contact by law enforcement officials prior, during, or subsequent to a criminal proceeding.
- (2) Physical relocation to an alternate shelter, housing, or residence.
- (3) Reasonable housing expenses.
- (4) Transportation or storage of personal possessions.
- (5) Basic living expenses.
- (6) Assistance in assumption of a new identity and relocation.
- (7) Petition for a protective order against any individual identified as a threat to a critical witness.

Effective August 15, 2009. (Amends R.S. 44:4.1(B)(7); Adds R.S. 15:1601-1614 and R.S. 36:4(O); Repeals R.S. 15:262)

### 5. Chandler (HB 58)

Act No. 152

Increases the fine and sentence when a person has executed a security agreement on movable property and disposes of the encumbered property.

Effective August 15, 2009. (Amends R.S. 14:72.4(B))

## 6. Willmott (HB 76)

Act No. 268

Provides that whoever commits the crime of **home improvement fraud** shall be fined up to \$20,000 and shall be imprisoned, with or without hard labor, for not more 10 years, depending upon the amount of the contract or the amount to repair damage and if it is a first, second or third offense. Provides that restitution shall be ordered by the court.

Effective August 15, 2009. (Amends R.S. 14:202.1(D) and (E); Adds R.S. 14:202.1(F) and (G))

## 7. Henry Burns (HB 119)

Act No. 272

Authorizes the following persons to **testify by simultaneous transmission through audiovisual equipment**, if such technology is available in the courtroom, during any criminal proceeding, juvenile or family court proceeding which is of a criminal nature, and any civil forfeiture proceeding arising from alleged criminal activity:

- (1) Employees of criminalistics laboratories.
- (2) Coroners.
- (3) Forensic pathologists.
- (4) Any other person practicing in the field of knowledge and expertise in the gathering, examination, and analysis of evidence by scientific means.

However, the use of a subpoena to compel these witnesses to physically appear and testify is not prohibited.

Effective August 15, 2009. (Adds R.S. 15:502)

## 8. LaFonta (HB 147)

Act No. 156

When any person violates the provisions of law regarding engaging in the business of **contracting without a license**, the penalties for a violation when the damage is in excess of \$300 are a fine not less than \$500 nor more than \$5,000, or not less than six months but not more than five years in prison, or both.

Also increases the civil penalty from not more than 3% to not more than 10%.

Effective August 15, 2009. (Amends R.S. 37:2160(C) and 2162(I); Adds R.S. 37:2158(E) and 2160(D))

## 9. Hazel (HB 266)

Act No. 90

Clarifies that the minimum sentences for those who commit **domestic abuse battery** against a pregnant woman are as follows:

- (1) 3rd offense - imprisonment with or without hard labor for one to five years, with a minimum of two years served with or without hard labor without benefit of probation, parole, or suspension of sentence.
- (2) 4th or subsequent offense - imprisonment with hard labor for 10 to 30 years, with a minimum of four years served at hard labor without benefit of probation, parole, or suspension of sentence.

Effective August 15, 2009. (Amends R.S. 14:35.3(K))

#### **10. Montoucet (HB 688)**

**Act No. 302**

Provides that unlawful **disruption of the operation of a school** is the commission of any of the following acts by a person who is not authorized to be on school premises, which would foreseeably cause any of the following:

- (1) Intimidate or harass a teacher or student by threat of force or force.
- (2) Placing teachers or students in sustained fear for their health, safety, or welfare.
- (3) Disrupting, obstructing or interfering with the operation of the school.

Provides a penalty of 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 15, 2009. (Adds R.S. 14:40.6)

#### **11. Monica (HB 499)**

**Act No. 166**

Requires that all occupants in a motor vehicle wear a **seat belt** unless they are 13 years of age or younger and required to be in a special child passenger restraint system.

Effective August 15, 2009. (Amends R.S. 32:295.1(B))

#### **12. Henderson (HB 855)**

**Act No. 190**

Provides that **no vehicle shall be driven in the left-hand lane** on any multilane highway except when directed otherwise, preparing for a left turn at an intersection or private road or driveway, overtaking or passing another vehicle proceeding in the same direction, or when right-hand lanes are congested.

Provides that no vehicle being driven in the left lane except when directed otherwise or preparing for a left turn at an intersection, private road, or driveway shall impede any other vehicle that is traveling in the same lane and behind that vehicle.

Provides that no vehicle traveling in the left-hand lane shall be driven at a speed slower than any vehicle traveling to its right on the same roadway.

Effective August 15, 2009. (Amends R.S. 32:71(B)(1); Adds R.S. 32:71(C), (D), and (E))

**13. McPherson (SB 313)**

**Act No. 408**

Prohibits the **body of a deceased person** from being disturbed from the position in which it is found without authorization from a coroner, or his designee, when death occurs and a moving conveyance is involved. Makes an exception to this prohibition for an investigating law enforcement agency in order to obtain identification of the deceased, to preserve the body from loss or destruction, or to maintain the flow of traffic on a highway or railroad.

Provides that in all cases of death when organs are to be used in a transplant, it is not mandatory that an additional physician, who is not a member of the transplant team, make the pronouncement of death.

Effective August 15, 2009. (Adds R.S. 32:154)

**14. Jane Smith (HB 118)**

**Act No. 271**

Removes the requirement that when a **district attorney is recused**, the judge shall appoint another attorney from the same judicial district as the district attorney.

Effective August 15, 2009. (Amends C.Cr.P. Art. 682)

**15. Richardson (HB 202)**

**Act No. 364**

Retains the existing **confidentiality of crime victims** who are minors and victims of sex offenses, but provides for the confidentiality regardless of the date of commission of the offense.

Authorizes crime victims who were under the age of 18 years at the time of the offense to waive confidentiality.

Provides that either prior to or at the time a request for information is made, the public official, officer or public agency shall take measures to prevent the public disclosure of the victim's identity, which may include the use of initials, abbreviations, or any other form of concealing the victim's identity.

Effective August 15, 2009. (Amends R.S. 46:1844(W)(1)(a) and (3))

## VIII. INSURANCE

### 1. Cortez (HB 185)

Act No. 324

Prohibits insurers from refusing to bind or sell **collision/comprehensive coverage on a newly purchased motor vehicle**, at the time of purchase of the automobile from a duly licensed motor vehicle dealer, to one of the insurer's existing automobile policyholders who is an otherwise qualified purchaser, when there is possible pending tropical storm or hurricane exposure.

Effective August 15, 2009. (Adds R.S. 22:1289.1)

### 2. Roy (HB 580)

Act No. 333

Requires **notice** to be given to a mortgagee of any **change to or cancellation of a homeowners' insurance policy**.

Effective April 1, 2010. (Amends R.S. 22:887(A)(intro. para.) and (4); Adds R.S. 22:887(A)(5))

### 3. Kleckley (HB 333)

Act No. 134

Provides the following for all **homeowners' insurance policies** or other policies insuring one- or two-family owner occupied premises for fire and allied lines issued or renewed by authorized insurers on or after January 1, 2010:

- (1) Provides that any separate deductible that applies in place of any other deductible to loss or damage resulting from a named storm or hurricane shall be applied on an annual basis to all named-storm or hurricane losses that are subject to the separate deductible during the calendar year.
- (2) Provides that if an insured incurs named-storm or hurricane losses from more than one named storm or hurricane during a calendar year that are subject to such separate deductible, the insurer may apply a deductible to the succeeding named storms or hurricanes that is equal to the remaining amount of the separate deductible or the amount of the deductible that applies to all perils other than a named storm or hurricane, whichever is greater.

Effective June 25, 2009. (Adds R.S. 22:1337)

**4. Morrish (SB 214)**

**Act No. 488**

Authorizes the commissioner of insurance to promulgate a rule to extend the 30-day period that an insurer has to initiate a **property damage claim** if the damage arises from a presidentially or gubernatorially **declared emergency or disaster**. Provides that after the initial extension which occurs under the rule promulgated by the commissioner, only one additional extension is allowed and requires that this extension be approved by both legislative Committees on Insurance, voting separately.

Effective August 15, 2009. (Amends R.S. 22:1892(A)(3))

**5. Arnold (HB 572)**

**Act No. 332**

Allows any person or entity responsible for making a specific loan or extension of credit to receive a reasonable **referral fee for an insurance referral** of a customer who is required to provide insurance for that loan or extension of credit.

Effective August 15, 2009. (Amends R.S. 22:1598(C) and 1624(C))

## **IX. JUDICIAL AFFAIRS**

### **A. GENERAL PROVISIONS**

**1. Richardson (HB 279)**

**Act No. 202**

Provides that the **clerk of court for East Baton Rouge Parish**, with approval of the court, may appoint deputy clerks **who are not employees** of the clerk of court, and they shall be authorized to issue subpoenas, affix the seal of the clerk, administer oaths, make affidavits, and exercise powers and authority granted to deputy clerks only to the extent to fulfill the duties required by law of the clerk and only after the deputy clerk completes training.

Effective August 15, 2009. (Amends R.S. 13:910)

**2. Connick (HB 866)**

**Act No. 312**

Provides that a weekly publication may be selected to publish judicial advertisements and legal notices in **Jefferson Parish** when the publication has maintained a public business office in the parish for at least five consecutive months prior to June 1, 2006, and maintained a total circulation of at least 25,000 for at least three years immediately prior to being selected.

Provides that in Jefferson Parish, the circulation of every publication shall be proved annually by an experienced publication auditing firm, and the results of the audit shall be submitted as an attachment to any proposal by a publication to publish judicial advertisements and legal notices in Jefferson Parish.

Effective August 15, 2009. (Adds R.S. 43:201(D) and (E))

### **3. Murray (SB 70)**

**Act No. 118**

Provides for an increase in certain fees for **notarial archive records** the clerk of the 41<sup>st</sup> JDC shall charge, resulting in the following change:

1. From \$10 to \$20 for each act, contract, or other instrument.
2. From \$20 to \$30 for each sketch, blue print, or survey.

Provides that \$5 from each fee collected is dedicated to microfilm or other imaging projects with the remainder to be deposited for the notarial archives division of the clerk's office to be used for expenses and maintenance.

Effective June 23, 2009. (Adds R.S. 44:181.7)

### **4. Stiaes (HB 148)**

**Act No. 125**

Changes the **effective date for consolidation of the civil and criminal sheriffs** in the parish of Orleans from 2014 to 2010.

Effective June 25, 2009. (Amends §23(C) and (D) of Act No. 621 of the 2006 R.S., as amended by Act No. 873 of the 2008 R.S.; Adds §23(E) of Act No. 621 of the 2006 R.S., as amended by Act No. 873 of the 2008 R.S.)

### **5. Hardy (HB 70)**

**Act No. 267**

Provides that in state district courts with criminal jurisdiction, court costs of a sum not to exceed \$1 shall be imposed to support the **witness protection fund**, provided for in R.S. 15:262.

Effective October 1, 2009, if the Judicial Council approves the fee increase. (Adds R.S. 13:10.4)

### **6. Martiny (SB 116)**

**Act No. 77**

Provides that no law regarding **transcribing fees for reporters in all cases on appeal**, shall be construed to make the governing authority of the parish of Jefferson responsible for the expenses or costs associated with the preparation of transcripts for an indigent defendant in a criminal proceeding.

Provides that in all in forma pauperis civil cases the governing authority of the parish of Jefferson shall pay the court reporters of the 24<sup>th</sup> Judicial District for the transcribing of testimony, when an appeal is taken or upon order of the judge, such amounts as would otherwise be required to be paid by the party who is proceeding in forma pauperis.

Effective 15 days after publication of notice of fee is made in the Louisiana Register upon approval by the Judicial Council. (Amends R.S. 13:967(C)(1), (J) and (L); Adds R.S. 13:967(M))

## **7. Richmond (HB 574)**

**Act No. 215**

Authorizes the judges of **any judicial district court**, by rule adopted by a majority vote of the judges sitting en banc, to designate certain divisions or sections of the court to a **specialized division or section** having criminal, civil, drug court, driving while intoxicated court, mental health court, juvenile, violent crimes or homicides, or other division or section having specialized subject matter jurisdiction

Provides that if a special division or section of court is designated as a violent crimes or homicide division, the court may provide the district attorney an opportunity to request an expedited docket to more quickly hear cases involving homicides and crimes of violence that are committed with a dangerous weapon and specifies criteria that should be followed in cases granted expedited status.

Provides that no rule adopted by the court may designate any division or section, without its consent, as a specialized division or section for longer than a three-year period.

Effective June 30, 2009. (Adds R.S. 13:587.4 and 1344)

## **8. Carmody (HB 219)**

**Act No. 200**

Authorizes sheriffs and ex officio tax collectors of the various parishes, including the director of finance for the city of New Orleans, to accept **payment by electronic check** for all traffic fines, criminal fines, occupational license fees, ad valorem taxes, bonds, and any other payment legally collected by a sheriff or tax collector or the director of finance for the city of New Orleans.

Additionally authorizes the clerk of a city court or the marshal to accept payment by electronic check for all fines, forfeitures, penalties, and costs.

Effective August 15, 2009. (Amends R.S. 13:1898(C) and R.S. 33:1423.1(A))

## **B. COURTS OF LIMITED JURISDICTION**

### **1. Ritchie (HB 125)**

**Act No. 26**

Increases the fees the **marshal of the city of Bogalusa** is entitled to collect in civil matters from \$9 to an amount not to exceed \$18, from \$10 to an amount not to exceed \$18, and from \$14 to an amount not to exceed \$50, respectively.

Effective October 1, 2009, if the Judicial Council approves the fee increase. (Amends R.S. 33:1704.4)

### **2. Gary Smith (HB 712)**

**Act No. 222**

Creates the **Attorney General's Arrest Warrants Course for Justices of the Peace** and provides that after December 31, 2010, a justice of the peace shall not have the authority to sign and issue a warrant for arrest unless he has completed the course. Requires the attorney general to begin implementation of the course and maintain a record of all those completing the course.

Provides for certification upon completion and requires justices of the peace to attend the course every other year to maintain certification.

Effective August 15, 2009. (Adds C.Cr.P. Art. 202(E) and R.S. 49:251.4)

### **3. Lambert (HB 111)**

**Act No. 180**

Authorizes each duly elected constable of a **justice of the peace court in Ascension Parish** to appoint one deputy constable, for whose acts the constable shall be responsible.

Requires each deputy constable to have the same qualifications as required by law for a constable of a justice of the peace court and be a resident of Ascension Parish.

Effective August 15, 2009. (Adds R.S. 13:2583.4)

### **4. Danahay (HB 160)**

**Act No. 127**

Provides that the **mayor of the city of DeQuincy** may appoint one or more attorneys to serve as the presiding officer of the mayor's court.

Creates the Mayor's Court of the Village of Ida and provides that the territorial jurisdiction shall extend though the village.

Effective June 25, 2009. (Amends R.S. 33:441.15; Adds R.S. 33:441.32)

**5. Doerge (HB 197)**

**Act No. 88**

Requires each judge, in the **City Court of Minden** and in the **City Court of Springhill**, to assess an additional fee in juvenile delinquency matters not to exceed \$30.

Requires the proceeds to be deposited into a separate and distinct special account which shall be used to defray operational expenses or to purchase of law enforcement equipment.

Effective October 1, 2009, if the fee increase is approved by the Judicial Council. (Adds R.S. 13:1899(L))

## **X. MISCELLANEOUS**

### **1. Ellington (HB 782)**

**Act No. 531**

Provides for a prepaid **wireless telecommunications 911 service charge** of 2% of the amount of the per retail transaction.

Provides that the prepaid wireless 911 service charges collected by sellers shall be remitted to the Department of Revenue quarterly and the return shall be filed on or before the twentieth day of the first month of the next succeeding quarter.

Provides that a seller shall be permitted to deduct and retain the entirety of the 2010 first quarter's fees and thereafter he can deduct and retain 4% of prepaid wireless 911 service charges that are collected by the seller from consumers.

Provides that the department shall pay all remitted prepaid wireless 911 service charges to eligible communications districts. The department may retain up to 2% of remitted service charges to reimburse its direct costs of administering the collection and remittance of prepaid wireless 911 service charges.

Effective January 1, 2010. (Adds R.S. 33:9109.1)

### **2. Donahue (SB 261)**

**Act No. 491**

Establishes the **Commission on Streamlining Government** to examine each agency's constitutional and statutory activities, functions, programs, services, powers, duties, and responsibilities, and to determine which of them can be eliminated, streamlined, consolidated, privatized, or outsourced in an effort to reduce the size of state government. Requires the commission to report to the House and Senate Governmental Affairs Committees beginning in December of 2009. Requires the commission to submit a reorganization plan by January 4, 2010.

Effective July 10, 2009. (Adds R.S. 24:101-109)

### **3. Amedee (SB 278)**

**Act No. 495**

Revises the current **public records exemption for the office of the governor** to provide that the public records law shall not apply to records having been used, being in use, possessed, or retained for use by the governor in the usual course of the duties and business of his office relating to the deliberative process of the governor, intra-office communications of the governor and his internal staff, the governor's security and schedule, or communications with or the security and schedule of the governor's spouse or children. Further provides that pre-decisional advice and recommendations to the governor concerning budgeting in the custody of any agency or department headed by an unclassified gubernatorial appointee shall be privileged for six months from the date the record is prepared.

Effective August 15, 2009. (Amends R.S. 44:5)

**4. Walsworth (SB 279)**

**Act No. 353**

Provides that **in the event of an emergency**, public facilities, including schools, postsecondary education facilities, and other facilities owned or leased by the state or local governments which are suitable for use as public **evacuation shelters** will be made available at the request of the director of the parish office of homeland security and emergency preparedness.

Effective July 6, 2009. (Adds R.S. 29:726.2)

**5. Cromer (HB 520)**

**Act No. 187**

Provides that a person who has a valid Louisiana driver's license or special identification card may apply to **register to vote or make changes to his existing registration** by completing and submitting an electronic voter registration application on the secretary of state's website.

Effective April 1, 2010. (Amends R.S. 18:103(A), 104(A)(15), and 105(A); Adds R.S. 18:115.1)

**6. Templet (HB 880)**

**Act No. 229**

Authorizes DPS&C to charge a **convenience fee** on any transaction when the person appears and pays with a **credit, debit, or charge card**. The amount of the fee must be disclosed to the customer prior to completion of the transaction.

Effective June 30, 2009. (Amends R.S. 40:1322(B))

**7. Duplessis (SB 151)**

**Act No. 80**

Requires the secretary of state to develop and administer a program to provide for the registration and reporting of persons **who provide notary examination preparatory education and instruction**.

Requires each provider to submit an annual registration statement to the secretary of state on or before January 1st of each year beginning January 1, 2010.

Requires each provider to annually post a bond guaranteed by a commercial surety licensed to do business in this state with the secretary of state in the amount of \$25,000, except an educational institution that operates under the oversight of the Board of Regents, Board of Supervisors for the University of Louisiana System, Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, Board of Supervisors of Southern University and Agricultural and Mechanical College or Board of Supervisors of Community and Technical Colleges.

Requires each provider, beginning in 2010, to submit a semi-annual report to the secretary of state on or before June 30th and December 31st listing the name and address of each

person who received a course or courses of instruction or study for the training and instruction for the Louisiana notary public examination.

Authorizes the secretary of state to impose a penalty of not more than \$1,000 per day against a provider who is noncompliant with the requirements, and if the penalty is not timely paid by a provider within 30 days of imposition, the attorney general is to institute proceedings to collect the penalty.

Exempts a provider from the licensing requirements of proprietary schools pertaining to such educational programs or instruction.

Authorizes the secretary of state to establish and require an annual professional development and education program for providers and to promulgate rules and regulations in accordance with the APA.

Effective August 15, 2009. (Adds R.S. 35:191.4)

# XI. CONSTITUTIONAL AMENDMENTS

## OCTOBER 2, 2010 BALLOT

### 1. Riser (SB 5)

Act No. 537

**Moves the convening of regular legislative sessions** in even-numbered years from noon on the last Monday in March, to noon of the second Monday in March.

Moves the convening of regular legislative sessions in odd-numbered years from noon on the last Monday in April to noon of the second Monday in April.

Effective January 1, 2012. (Amends Const. Art. III, Secs. 2(A)(3)(a) and (4)(a) and 19)

### 2. Walsworth (SB 209)

Act No. 538

Provides that the director, deputy director and all employees of the **Governor's Office of Homeland Security and Emergency Preparedness** shall be in the unclassified service of the state civil service.

(Amends Const. Art. X, Sec. 2(B)(11) and (12); Adds Const. Art. X, Sec. 2 (B)(13))

## NOVEMBER 2, 2010 BALLOT

### 1. Leger (HB 509)

Act No. 540

Removes the authority of the collector to sell the **least quantity of the tax debtor's property** at ad valorem property tax sales, and provides that if authorized by the state or local tax collector, any bidder may elect to bid down **in increments of .01%, the 5% penalty** provided in La. Const. Art. VII, §25(B)(1).

Requires the payment of penalties in addition to taxes, interest, and costs.

(Amends Const. Art. VII, §25(A)(1) and (E))

### 2. Gallot (HB 765)

Act No. 541

Retains present provisions that 1/5 of the **severance tax on all natural resources** other than sulphur, lignite, or timber shall be remitted to the governing authority of the parish in which severance or production occurs, that the initial maximum amount remitted to the parish in which severance or production occurs shall not exceed \$850,000, and provides that effective April 1, 2012, the provisions of proposed constitutional amendment shall be implemented if and when the last official forecast for a fiscal year which is adopted before the start of such fiscal year contains an estimate of severance tax collections on natural resources other than sulphur, lignite, or timber that exceeds the actual amount of such severance taxes collected

in Fiscal Year 2008-2009, then the following change in allocation to parishes and deposit into the Atchafalaya Basin Conservation Fund shall occur.

- (1) In the first year of implementation, the maximum amount which shall be remitted to the parish in which severance or production occurs is increased from \$850,000 to \$1,850,000. In the following year, and all fiscal years thereafter, the limit shall be \$2,850,000 per fiscal year.
- (2) Further requires that at least 50% of the excess severance tax remitted to a parish in a fiscal year be used only within the parish for the same purposes as money received from the Parish Transportation Fund. The term "excess severance tax" shall mean the amount of severance tax remitted to a parish in excess of the amount of severance tax remitted to the parish in Fiscal Year 2011-2012.
- (3) Provides that, after the allocations of severance tax to the Bond Security and Redemption Fund, to the parishes, to the Conservation Fund to and the Coastal Protection and Restoration Fund have been satisfied, an amount equal to 50% of the revenues received from severance taxes collected on state lands within the Atchafalaya Basin, not to exceed \$10 million, is to be deposited into the Atchafalaya Basin Conservation Fund. The money in the fund shall be used exclusively to fund projects contained in the state or federal Basin master plans or an annual Basin plan or to provide match for the Atchafalaya Basin Floodway System, Louisiana Project. Each year's plan for expenditure of monies appropriated from the fund shall be subject to the approval of the appropriate standing committees of the legislature.

Further provides that with respect to monies appropriated from the fund, at least 85% must be used for water management, water quality, or access projects within the Atchafalaya Basin, and the remaining 15% may be used to complete ongoing projects and for projects that are in accordance with the mission statement of the state master plan. No more than 5% may be allocated for operational costs.

Effective April 1, 2012. (Adds Const. Art. VII, §4(D)(4))

### **3. Arnold (HB 903)**

**Act No. 542**

Limits the power of **unelected tax authorities to increase millage rates without voter approval** to annual increases which do not exceed 2.5% of the property tax collections for the immediately preceding calendar year, but excludes fire districts, ports, port harbor, and terminal districts, and millages levied by certain levee districts under authority granted by Const. Art. VI, Sec. 39(A).

Effective January 1, 2011. (Amends Const. Art. VII, Sec. 23(C))

Specifies that a **salary increase for statewide elected officials or members of the legislature** shall not become effective until the commencement of the subsequent term for that office following the adoption or enactment of the increase.

Specifies that an increase in salary provided by law for the public service commission shall not become effective for a member of the commission until the commencement of the term of office for the member of the commission following the enactment of the increase.

(Amends Const. Art. IV, §4; Adds Const. Art. III, §4(G) and Art. IV, §21(F))

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