

State and Local Government
in Louisiana: An Overview
2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part B. Public Safety and Corrections

Overview

The Louisiana Department of Public Safety and Corrections was created in 1983 when the Department of Corrections merged with the Department of Public Safety. The department has many statutory duties and functions relating to the security and safety of Louisiana citizens. Those duties can be broken down into three major divisions: Public Safety Services, Corrections Services, and Youth Services.

Public Safety Services

Louisiana State Police (www.lsp.org)

(1) Office of State Police

The office of state police is responsible for: (1) the enforcement of the criminal and traffic laws of the state; (2) maintenance of intelligence and investigative operations; (3) the issuance of concealed handgun permits; (4) gaming enforcement; and (5) maintenance of the Sex Offender Registry.

(2) Criminal Background Information/Expungements

The Bureau of Criminal Identification and Information, within the office of State Police, is responsible for maintaining the Automated Fingerprint and Identification System (AFIS) and the Louisiana Computerized Criminal History System (LACCH). These systems function as a centralized location for criminal history information and incarceration information within the state. The bureau also functions as an interface with the National Crime Information Center.

The criminal history information maintained by the bureau is available to law enforcement agencies and certain statutorily designated agencies. The same information is also used with consent of the applicant for employment screening functions.

The bureau is also responsible for administering court-ordered expungements. "Expungement" means removal of a record from public access but does not mean destruction of the record. An expunged record is confidential, but remains available for use by law enforcement agencies, criminal justice agencies, the Louisiana State Board of Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board of Dentistry, the Louisiana State Board of Examiners of Psychologists, the Louisiana State Board of Social Work Examiners, the Emergency Medical Services Certification Commission, the Louisiana Attorney Disciplinary Board, Office of Disciplinary Counsel, or the Louisiana

Supreme Court Committee on Bar Admissions, or any person or entity requesting a record of all criminal arrests and convictions pursuant to R.S. 15:587.1. (R.S. 44:9(G))

Louisiana law provides for expungement of records of arrest and prosecution in three circumstances: (1) the offender was arrested and not convicted; (2) the offender had his conviction set aside and his prosecution dismissed pursuant to the provisions of Code of Criminal Procedure Articles 893 or 894; or (3) the offender was arrested and convicted of certain misdemeanor offenses and a specified amount of time has elapsed between the date of the expungement request and the completion of any sentence, deferred adjudication, or period of probation or parole.

Recent Legislative Activity: Recent legislative interest in this area has focused on reducing costs of certain expungements and expanding the types of offenses which may be expunged.

(3) Concealed Handgun Permits

R.S. 40:1379.3 provides for the criteria for the issuance of concealed handgun permits and grants the authority of administering this program to the deputy secretary of public safety services of the Department of Public Safety and Corrections (colonel of Louisiana State Police).

Louisiana law requires that Louisiana residents shall be issued a Louisiana concealed handgun permit in order to carry a concealed handgun in this state. The concealed handgun permit has a five-year term and shall contain a permit number, expiration date, photograph, and the name, address, and date of birth of the permittee.

"Handgun" is defined as a type of firearm commonly referred to as a pistol or revolver originally designed to be fired by the use of a single hand and which is designed to fire or is capable of firing fixed cartridge ammunition. The term "handgun" shall not include shotguns or rifles that have been altered by having their stocks or barrels cut or shortened.

Louisiana law provides that a permit issued in another state is valid in Louisiana if the issuing state honors concealed handgun permits issued by Louisiana. Currently, Louisiana has reciprocity agreements with 40 states, with one request pending. The states of Oregon, California, Wisconsin, Illinois, New Jersey, New York, Rhode Island, Maryland, and Massachusetts do not have reciprocity agreements with Louisiana regarding concealed handgun permits.

Recent legislative activity: Recent legislation has focused on the use of out-of-state permits by Louisiana residents to carry concealed handguns in Louisiana, the term of permits and requirements regarding education and training prior to issuance of a concealed handgun permit.

(4) Gaming Enforcement

Louisiana State Police, Gaming Enforcement Division, provides for the regulation and control of statutorily authorized gaming activities. The division works in conjunction with the Louisiana Gaming Control Board (also within the DPS&C). The Gaming Control Board is responsible for the investigation, licensing, and enforcement, and all power incidental or necessary to such regulatory authority, control, and jurisdiction over all aspects

of the operation of video draw poker devices, slot-machine gaming at live horse racing facilities, riverboat gaming activities, and the operation of the land-based casino in Orleans Parish.

(5) Sex Offender Registry

The Bureau of Criminal Identification and Information, within the office of State Police is also responsible for the development and maintenance of the State Sex Offender and Child Predator Registry.

In 1992, the Louisiana legislature enacted provisions requiring sex offenders to register with local law enforcement and to notify certain persons in their communities of their status as convicted sex offenders.

In July of 2006, the federal Adam Walsh Child Protection and Safety Act was signed into law. This law provides a comprehensive set of minimum standards for sex offender registration and notification in the United States. This act, on which Louisiana's sex offender registration and notification requirements are based, defines three "tiers" or categories of sex offenders which have an impact on three areas of the sex offender registration and notification requirements: (1) the duration of the registration and notification requirements; (2) the required frequency of in-person appearances by sex offenders to verify registration information; and (3) the extent of website disclosure for certain sex offenders.

Based upon the federal system of classification, Louisiana provides for a three-tier classification system for sex offenders who are required to register in this state. The first tier, which requires lifetime registration and in-person registration renewals every three months, is comprised of any person convicted of an aggravated offense. The second tier, which requires registration for a period of 25 years and in-person registration renewals every six months, is comprised of any person convicted of a sexual offense against a victim who is a minor. Finally, the third tier, which requires registration for a period of 15 years and annual in-person registration renewals, is comprised of any person convicted of a sex offense who does not fall into tiers 1 or 2 described above. (R.S. 15:541(24))

Office of Motor Vehicles

The Office of Motor Vehicles (OMV) is responsible for vehicle registrations, driver's license matters, compulsory motor vehicle liability security (vehicle insurance), recordation of liens against motor vehicles, and the collection of appropriate fees and sales tax.

The OMV administrative office is located in Baton Rouge. There are eighty-three OMV locations statewide. The OMV website (expresslane.org) provides a complete listing of office locations and services provided at each location.

In the event that a parish is in need of additional funds to operate OMV offices, R.S. 32:429(A) provides that the governing authority of any local governmental subdivision can levy, by resolution, a fee for each service or transaction carried out as an operation of an office of motor vehicles field office that is not fully funded by the state. Currently, forty-seven offices across the state assess this fee.

The fee is not to exceed three dollars per service or transaction. The fee can be collected on

driver's licenses, motor vehicle registrations, suspension and revocation transactions. The fee shall not apply to obtaining or renewing a motor vehicle registration license. This fee can only be used to defray the cost of operations of a local field office, including but not limited to facility rental, utilities, and maintenance thereby allowing local governments to work with OMV to provide greater service for their area.

The office of motor vehicle offers the following services:

Driver's Services

- Driver's license renewal
- Identification card renewal
- Official driving records
- Commercial driving schools
- Third party road testers

Vehicle Services

- Louisiana duplicate registration
- Mobile home immobilization status inquiry
- Notice of lease termination
- Notice of vehicle transfer
- Personalized plate inquiry
- Salvage yard auto hulk
- Special plates
- Special plates viewer

Dealer Services

- Temporary tags

Reinstatement Services

- Reinstatement of driving privileges

Online Services

- The office of motor vehicles offers many of its services and forms, study guides, and applications for download through its website at www.expresslane.org.

Corrections Services

La. Department of Public Safety and Corrections (www.corrections.state.la.us)

The Department of Public Safety and Corrections, corrections services provides public safety and protection to the citizens of Louisiana through three primary mechanisms: (1) secure incarceration of offenders; (2) probation/parole supervision; and (3) rehabilitation and reentry.

(1) Housing of Convicted Offenders

- (a) State Correctional Facilities: Any individual subject to confinement in a state adult penal or correctional institution shall be committed to the Department of Public Safety and Corrections and not to any particular institution within the jurisdiction of the department. The secretary shall assign each newly committed inmate to an appropriate penal or correctional facility. The secretary may transfer an inmate from one such facility to another, insofar as the transfer is consistent with the commitment and in accordance with treatment, training and security needs established by the department. (R.S. 15:824(A)) (See the next page.)

Adult Correctional Institutions

- (1) Allen Correctional Center (ALC), located in Kinder.
- (2) Avoyelles Correctional Center (AVC), located in Cottonport.
- (3) B.B. "Sixty" Rayburn Correctional Center (RCC), located in Angie.
- (4) C. Paul Phelps Correctional Center (CPPCC), located in DeQuincy.
- (5) David Wade Correctional Center (DWCC), located in Homer.
- (6) Dixon Correctional Institute (DCI), located in Jackson.
- (7) Elayn Hunt Correctional Center (EHCC), located in St. Gabriel.
(The Adult Reception and Diagnostic Center, to which all male adult offenders committed to Corrections are sent for processing, is located here).
- (8) Forcht-Wade Correctional Center (FWCC), located in Keithville.
- (9) J. Levy Dabadie Correctional Center (DCC), located in Pineville.
- (10) Louisiana Correctional Institute for Women (LCIW), located in St. Gabriel.
- (11) Louisiana State Penitentiary (LSP), located in Angola.
- (12) Winn Correctional Center (WNC), located in Winnfield.

- (b) Parish Jails: A judge may sentence an offender to a parish jail for confinement if the offender is convicted of a relative felony. Additionally, for reasons including lack of available facilities, the DPS&C may reach an agreement with the sheriff to house inmates assigned to the custody of the department. In cases where inmates assigned to the department are housed in local jails, the department shall pay to each parish sheriff, or to the governing authority of those parishes in which the governing authority operates the parish jail, for keeping and feeding the individual in the parish jail the sum of \$24.39 per day.

Parole and Probation

- (a) Supervision: DPS&C, division of probation and parole is responsible for providing supervision for the following:
- Inmates granted parole by the parole board - Inmates who have been granted parole by the parole board are placed upon supervised parole by the division of probation and parole within the DPS&C for the remainder of their sentence.
 - Inmates who have been released by virtue of diminution of sentence for good behavior - Inmates who have been released from incarceration by virtue of reaching their "good time" release date are placed upon supervised parole by the division of probation and parole within the DPS&C for the remainder of their sentences.
 - Defendants who have been convicted of felony offenses and have had their sentences suspended or deferred and are placed upon probation by the court (mandatory supervision) - Individuals who have been convicted of a felony offense and have had their sentences either suspended or deferred and are placed on probation by the court are supervised by the division of probation and parole within the DPS&C for the period of probation.

- Defendants who have been convicted of a misdemeanor offense and have had their sentences suspended or deferred and are placed upon probation for more than six months (discretionary supervision) - Individuals who have been convicted of a misdemeanor offense and have had their sentences either suspended or deferred and are placed on probation for more than six months by the court and are ordered by the court to be supervised by the division of probation and parole within the DPS&C for the period of probation.

(b) Statistical Information

- The Division of Probation and Parole has 21 offices located throughout the state of Louisiana. The offices vary in size depending upon the area they serve and range from 4 officers to 49 officers.
- There are 526 officers allocated to supervise more than 65,000 probationers and parolees in the community, 99% which are felons. Officers also conducted investigations for the court (pre-sentences), Parole Board (pre-paroles) and Pardon Board (clemencies). The division monitored work release or cooperative endeavor agreement compliance on twelve work release facilities with a capacity of 1,271 inmates.
- Approximately 2,598 of the 65,000 offenders are convicted sex offenders, many of whom require specialized supervision, treatment, and compliance with registration and notification laws.
- Probation and parole officers also arrested 5,934 offenders last year for violation of the conditions of supervision, and approximately 878 violators were returned from out of state.
- The average caseload is 125 offenders per officer. Officers who supervise specialist cases, for example, sex offenders, carry a reduced caseload, which means other officers may carry 150 or more cases.

(c) Technical Violations: To reduce the increasing costs of incarcerating adult offenders while continuing to provide safety for the community, certain non-violent/non-sex offenders who violate the technical conditions of their supervision (i.e. they are not arrested for a new felony) are referred to the Don Francois Alternative Center. This program lasts 90 days and addresses the rehabilitation needs of the offender, including but not limited to substance abuse treatment and anger management. Offenders are returned to supervision once they complete the program.

(d) GPS Monitoring: The Division also launched a global positioning satellite (GPS) electronic monitoring program in 2007. Approximately 100 of the highest risk sex offenders are monitored using the GPS system.

Recent legislative activity: Recent legislation has focused on modifying technical violations criteria to reduce costs of probation and parole, adjusting parole eligibility requirements, reducing the ratio of persons supervised by each probation/parole officer.

Reentry - Rehabilitation

DPS&C is responsible for equipping offenders for reentry and reintegration into society.

Offenders are provided the opportunity to participate in a variety of educational, vocational, faith-based, and therapeutic programming to aid their reentry efforts. The goal of these efforts is to improve public safety, reduce recidivism, decrease victimization, and reduce the financial burden of Louisiana's correctional system.

Every eligible offender releasing from a DPS&C facility or a local reentry center receives a complete reentry curriculum consisting of 100 hours of instruction in various topics. The programs are designed to include key elements which have been proven to reduce recidivism. Those elements include: basic education, job skills training, vocational training, anger management, substance abuse treatment, values development, and community involvement.

DPS&C works in conjunction with community resources and programs to facilitate the greatest possibility that the offender will not return to the criminal justice system.

Youth Services

Office of Juvenile Justice

Youth Services is one of the three major components of the Department of Public Safety and Corrections. But unlike the other two, the Office of Juvenile Justice (OJJ) reports directly to the governor of Louisiana. OJJ is responsible for the care, custody, security, and treatment of children adjudicated delinquent and children of families adjudicated in need of services (FINS) committed to its custody or placed under its supervision.

The mission of OJJ is to protect the public by providing safe and effective individualized services to youth, who will become productive, law-abiding citizens, and to provide a quality system of care which embraces partnerships with families, communities, and stakeholders to assist youth in redirecting their lives toward responsible citizenship.

(1) Shift from Detention in Secure Care Facilities to Community-Based Therapeutic Treatment

During the 1990s a great deal of attention was focused on juvenile justice concerns in Louisiana. These concerns, studied, and validated by the Annie E. Casey Foundation and other organizations, centered on the state's reliance on detention in secure care in large industrial-school types of facilities, the increasing recidivism rates, the increasing number of children in the adult system of corrections, and the fact that Louisiana had the highest juvenile incarceration rate in the country.

Recognizing the need for change, advocates, legislators, and other juvenile justice stakeholders became extremely active in stating their concerns and identifying problems with Louisiana's juvenile justice system. In 2003, lawmakers, judges, and other stakeholders visited the state of Missouri to learn more about their approach to juvenile justice, also known as the "Missouri Model", which was touting low recidivism rates by emphasizing individualized rehabilitation in small group, community-based settings.

In 2003, the Louisiana Legislature passed Act No. 1225, which initiated a statewide reform of Louisiana's juvenile justice system in an attempt to achieve the same successes achieved by the "Missouri Model". In the following years, working with the Annie E. Casey Foundation, the state of Missouri, and the John D. and Catherine T. MacArthur Foundation, OJJ began to make sweeping reforms in the treatment of youth in this state,

transforming the system from a detention and punishment-based model to an individualized, therapeutic model of care. In addition, OJJ began to shift funding to reflect its reduced reliance on large numbers of youth in secure care. Instead, OJJ focused its funding on the creation and development of regional facilities and programming to provide individualized, evidence-based, and therapeutic treatment where the child's family and community are directly involved.

Today, OJJ's policies call for youth to receive services in the least restrictive placement setting. Most youth who come in contact with OJJ can be best served in their own community, while receiving supervision services from probation and parole officers who serve as coordinators of services for these youth and their families, while holding the youth accountable to the court-ordered conditions of probation.

For youth who require more intensive treatment and/or supervision, the courts may recommend placement in a non-secure treatment facility, referred to as Residential Placement, which offers a more structured setting than the child's home environment may offer.

If the youth is considered a threat to public safety or has had limited success in the services provided in his community, only then is the youth required to receive the most intensive treatment in Secure Care Placement. The three secure care facilities for males in Louisiana are Bridge City Center for Youth, Jetson Center for Youth, and Swanson Center for Youth. Female secure care is provided at Ware Youth Center in Coushatta. Youth housed in these facilities, while being closely monitored, have access to various reentry programs, vocational training, and medical, dental, and mental health treatment.

In July of 2011, OJJ announced the construction of a new therapeutic secure care facility in Bunkie, Louisiana. The \$20 million facility will be able to house 72 youth and will provide them with intensive therapy in a secure environment.

(2) Juvenile Offenders vs. Adult Offenders: Recent Developments on the Issue of Juveniles Sentenced to Life Without Parole

Louisiana has long recognized a need for special procedures for juvenile offenders. The Louisiana Constitution and the Louisiana Children's Code both provide for special procedures for juvenile offenders and further provide that jurisdiction over juvenile delinquency proceedings lies exclusively within juvenile court. (La. Const. Art. V, §19; La. Ch.C. Art. 303.)

However, for some of the most violent crimes, Louisiana law provides an certain exception to the exclusive jurisdiction of the juvenile court and allows, and sometimes requires, these juveniles to be tried as adults in criminal court. (Ch.C. Articles 305 and 857.) Furthermore, current Louisiana law allows juveniles offenders who were under the age of 17 at the time of the commission of the offense to be sentenced to life imprisonment without the benefit of parole for certain crimes including first degree murder, second degree murder, aggravated rape, and aggravated kidnapping. Over the past few years, some legislators have attempted, without success, to distinguish juvenile offenders from adult offenders with regard to life sentences by amending the law to allow for parole eligibility for these juveniles offenders.

However, in 2010, the United States Supreme Court ruled in the case *Graham v. Florida*, 982

So.2d 43 (2010), that it was unconstitutional, in violation of the 8th Amendment, for a juvenile to be sentenced to life imprisonment for non-homicide (aggravated rape and aggravated kidnapping) crimes without a meaningful opportunity for release. In response to this Supreme Court ruling, the Louisiana Legislature, in SCR 37, directed the Louisiana State Law Institute to appoint and convene a task force made up of juvenile justice stakeholders to evaluate Louisiana law for compliance with the Supreme Court's ruling, and to report its findings and recommendations to the legislature as to whether it is necessary to amend Louisiana's juvenile sentencing laws to comply with the ruling in the case. The legislature asked that the Law Institute report its findings no later than January 1, 2012.

