
 <b>Department of Children &amp; Family Services</b> <i>Building a Stronger Louisiana</i>	<b>Division/Section</b>	Family Support
	<b>Chapter No./Name</b>	Louisiana Child Support Enforcement (CSE) State Plan
	<b>Part No./Name</b>	Attachments 3.3A List of Statutes and Regulations
	<b>Section No./Name</b>	5 Criminal Provisions
	<b>Document No./Name</b>	5-3 Louisiana Revised Statutes
	<b>Effective Date</b>	January 1, 2019

## **R.S. 14§74: CRIMINAL NEGLECT OF FAMILY**

- A. (1) Criminal neglect of family is the desertion or intentional nonsupport:
- (a) By a spouse of his or her spouse who is in destitute or necessitous circumstances; or
- (b) By either parent of his minor child who is in necessitous circumstances, there being a duty established by this Section for either parent to support his child.
- (2) Each parent shall have this duty without regard to the reasons and irrespective of the causes of his living separate from the other parent. The duty established by this Section shall apply retrospectively to all children born prior to the effective date of this Section.
- (3) For purposes of this Subsection, the factors considered in determining whether "necessitous circumstances" exist are food, shelter, clothing, health, and with regard to minor children only, adequate education, including but not limited to public, private, or home schooling, and comfort.
- B. (1) Whenever a husband has left his wife or a wife has left her husband in destitute or necessitous circumstances and has not provided means of support within thirty days thereafter, his or her failure to so provide shall be only presumptive evidence for the purpose of determining the substantive elements of this offense that at the time of leaving he or she intended desertion and nonsupport. The receipt of assistance from the Family Independence Temporary Assistance Program (FITAP) shall constitute only presumptive evidence of necessitous circumstances for purposes of proving the substantive elements of this offense. Physical incapacity which prevents a person from seeking any type of employment constitutes a defense to the charge of criminal neglect of family.
- (2) Whenever a parent has left his minor child in necessitous circumstances and has not provided means of support within thirty days thereafter, his failure to so provide shall be only presumptive evidence for the purpose of determining the substantive elements of this offense that at the time of leaving the parent intended desertion and nonsupport. The receipt of assistance from the Family Independence Temporary Assistance Program (FITAP) shall constitute only presumptive evidence of necessitous circumstances for the purpose of proving the substantive elements of this offense. Physical incapacity which prevents a person from seeking any type of employment constitutes a defense to the charge of criminal neglect of family.
- C. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this Section. Husband and wife are competent witnesses to testify to any relevant matter.
- D. (1) Whoever commits the offense of criminal neglect of family shall be fined not more than five hundred dollars or be imprisoned for not more than six months, or both, and may be placed on probation pursuant to R.S. 15:305.
- (2) If a fine is imposed, the court shall direct it to be paid in whole or in part to the spouse or to the tutor or custodian of the child, to the court approved fiduciary of the spouse or child, or to the Louisiana Department of Children and Family Services in a FITAP or Family Independence Temporary Assistance Program case or in a non-FITAP or Family Independence Temporary Assistance Program case in which the said department is rendering services, whichever is applicable; hereinafter, said payee shall be referred to as the "applicable payee." In addition, the court may issue a support order, after considering the circumstances and financial ability of the defendant, directing

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the defendant to pay a certain sum at such periods as the court may direct. This support shall be ordered payable to the applicable payee. The amount of support as set by the court may be increased or decreased by the court as the circumstances may require.

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

E. For the purposes of this Section, "spouse" shall mean a husband or wife.

Amended by Acts 1950, No. 164, §1; Acts 1952, No. 368, §1; Acts 1968, No. 233, §1; Acts 1968, No. 647, §1; Acts 1968, Ex.Sess., No. 14, §1; Acts 1975, No. 116, §1, eff. July 1, 1975; Acts 1976, No. 559, §1; Acts 1978, No. 443, §1; Acts 1979, No. 614, §1; Acts 1980, No. 764, §§4, 5; Acts 1981, No. 812, §3, eff. Aug. 2, 1981; Acts 1981, Ex.Sess., No. 36, §3, eff. Nov. 19, 1981; Acts 1984, No. 453, §§1 and 2; Acts 1997, No. 1402, §1.

## **R.S. 14§75: FAILURE TO PAY CHILD SUPPORT OBLIGATION**

A. This law may be cited as the "Deadbeat Parents Punishment Act of Louisiana".

B. It shall be unlawful for any obligor to intentionally fail to pay a support obligation for any child who resides in the state of Louisiana, if such obligation has remained unpaid for a period longer than six months or is greater than two thousand five hundred dollars.

C. (1) For a first offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than five hundred dollars or imprisonment for not more than six months, or both.

(2) For a second or subsequent offense, the penalty for failure to pay a legal child support obligation shall be a fine of not more than twenty-five hundred dollars or imprisonment with or without hard labor for not more than two years, or both.


(3) Upon a conviction under this statute, the court shall order restitution in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

(4) In any case in which restitution is made prior to the time of sentencing except for a second or subsequent offense, the court may suspend all or any portion of the imposition or execution of the sentence otherwise required in this Subsection.

(5) The penalty for failure to pay a legal child support obligation when the amount of the arrears is more than fifteen thousand dollars and the obligation has been outstanding for at least one year shall be a fine of not more than twenty-five hundred dollars, or imprisonment with or without hard labor for not more than two years, of both.

D. With respect to an offense under this Section, an action may be prosecuted in a judicial district court in this state in which any child who is the subject of the support obligation involved resided during a period during which an obligor failed to meet that support obligation; or the judicial district in which the obligor resided during a period described in Subsection B of this Section; or any other judicial district with jurisdiction otherwise provided for by law.

E. As used in this Section, the following terms mean:

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(1) "Obligor" means any person who has been ordered to pay a support obligation in accordance with law.

(2) "Support obligation" means any amount determined by a court order or an order of an administrative process pursuant to the law of the state of Louisiana to be due from a person for the support and maintenance of a child or children.

F. It shall be an affirmative defense to any charge under this Section that the obligor was financially unable to pay the support obligation during and after the period that he failed to pay as ordered by the court.

Acts 2004, No. 801, §1; Acts 2008, No. 336 §1, eff. August 15, 2008; Acts 2010, No. 689, §2, eff. June 29, 2010.

### **R.S. 14§125.1: FALSE SWEARING IN PATERNITY CASES**

A. False swearing in paternity cases is the intentional making of a written or oral statement, known to be false, under sanction of oath or equivalent statement, where such oath or affirmation is given for use in any judicial proceeding filed by or on behalf of the state of Louisiana to establish paternity.

B. Whoever commits the crime of false swearing in paternity cases shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both.

Acts 1992, No. 722, §1.

### **R.S. 14§125.2: FALSE STATEMENTS CONCERNING PATERNITY**

A. It shall be unlawful for any person to willfully and knowingly make a written or oral false statement concerning the following:

(1) Biological paternity in or in support of a certificate, record, or report required by the provisions of Chapter 2 of Title 40 of the Louisiana Revised Statutes of 1950; or

(2) The surrender of parental rights pursuant to the provisions of Title XI of the Louisiana Children's Code.

B. Whoever violates this Section shall be fined not more than ten thousand dollars, or imprisoned for not more than five years, or both.

Acts 2001, No. 953, §1.


### **R.S. 15§191: PLACE OF TRIAL OF CRIMINAL NEGLECT OF FAMILY CASES**

When any person shall desert or intentionally not support his family in violation of R.S. 14:74, the offense may be prosecuted and punished:

(1) In the parish where the person owing the duty of support resides or is found, or

(2) In the parish where the last matrimonial domicile was established, or

(3) In the parish where the person (or persons) to whom the duty of support is owed establishes a bona fide residence, provided that this provision shall be effective only if the person to whom the duty of support was owed was justified in establishing a separate residence.

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Acts 1966, No. 311, §2, eff. Jan. 1, 1967.