



State of Louisiana
Louisiana Department of Health
Health Standards Section

Criminal Convictions that Bar Employment of Unlicensed Persons and Ambulance Personnel

It is the responsibility of all employers that employ nonlicensed persons or ambulance personnel to know which convictions bar employment. Louisiana Revised Statute 40:1203.3 covers criminal convictions that bar an employer from hiring a nonlicensed person or ambulance personnel. Those criminal convictions are listed in the following table:

General Convictions	
RS 14:28.1	Solicitation for murder
RS 14:30	First degree murder
RS 14:30.1	Second degree murder
RS 14:31	Manslaughter
RS 14:32.6	First degree feticide
RS 14:32.12	Suicide
RS 14:34	Aggravated battery
RS 14:34.1	Second degree battery
RS 14:34.7	Aggravated second degree battery
RS 14:35.2	Simple battery of the infirm
RS 14:37	Aggravated assault
RS 14:37.1	Assault by drive-by shooting
RS 14:37.4	Aggravated assault with a firearm
RS 14:38.1	Mingling harmful substances
RS 14:42	Aggravated rape
RS 14:42.1	Forcible rape
RS 14:43	Simple rape
RS 14:43.1	Sexual battery
RS 14:43.2	Second degree sexual battery
RS 14:43.3	Oral sexual battery
RS 14:43.5	Intentional exposure to aids virus
RS 14:44	Aggravated kidnapping
RS 14:44.1	Second degree kidnapping
RS 14:46.2	Human trafficking
RS 14:51	Arson and use of explosives
RS 14:60	Burglary
RS 14:62.1	Simple burglary of a pharmacy
RS 14:64	Armed robbery
RS 14:64.1	First degree robbery
RS 14:64.4	Second degree robbery
RS 14:66	Extortion
RS 14:89	Crime against nature
RS 14:89.1	Aggravated crime against nature
RS 14:93.3	Cruelty to the infirmed
RS 14:93.4	Exploitation of the infirmed
RS 14:93.5	Sexual battery of the infirm
RS 14:67	Felony theft
RS 14:67.21	Theft of assets of an aged person or person with a disability in excess of \$500 (or) a previous conviction for theft at R.S.14:67 or R.S. 14:67.21 regardless of the amount. *
(See further guidance below for convictions of theft)	
Distribution or possession with the intent to distribute controlled dangerous substances as listed in Schedules I through V of the Uniform Controlled Dangerous Substances Act. Statutory references for these convictions are as follows:	
40:966	Penalty for distribution or possession with intent to distribute narcotic drugs listed in Schedule I
40:967	Prohibited acts – Schedule II penalties
40:968	Prohibited acts – Schedule III penalties
40:969	Prohibited acts – Schedule IV penalties
40:970	Prohibited acts - Schedule V penalties
40:971	Prohibited acts – all schedules

If the employer provides care or services to any person under the age of 21, convictions of the following offenses are applicable:

RS 14:44.2 Aggravated kidnapping of a child
RS 14:80.1 Misdemeanor carnal knowledge of a juvenile
RS 14:81.2 Molestation of a juvenile or a person with a physical or mental disability
RS 14:93 Cruelty to juveniles

Theft - Additional Guidance

Under the law, convictions of theft may be deemed a felony or a misdemeanor depending upon the value placed on the funds, assets or property stolen. The criminal back ground check may show a conviction at R.S. 14:67 or R.S. 14:67.21 but not specify whether the conviction was a felony or misdemeanor. A felony conviction of theft would bar employment while a single conviction of misdemeanor theft would not. It is incumbent upon the employer to do their due diligence to assure that they follow through to determine what the conviction of theft was for prior to making an offer of employment.

Employment would be barred for any of the following:

- (1) One conviction of felony theft.
- (2) One conviction of theft of assets of an aged person or a person with a disability over \$500.
- (3) Any previous conviction of theft that is not a felony.

This means that if an individual already has a conviction of theft of any amount such as a misdemeanor on their record and they are convicted a second time for theft regardless of the amount, they would be barred from employment.

If a criminal back ground check shows a conviction at R.S. 14:67 or R.S. 14:67.21 and it is unclear what the conviction is for, the employer must determine if the conviction for theft would be one that would bar employment. Ask the person applying for employment to produce additional evidence regarding the conviction.

The addition of criminal convictions of theft that bar employment was signed into law effective June 4, 2014. The law is applicable to all unlicensed persons or ambulance personnel applying for employment on or after June 4, 2014. Employees with a conviction of theft on their record who were working for an employer prior to June 4, 2014 can continue to work for that employer however, if they seek employment with another employer, the new employer would be restricted from hiring them.

Exception to the Law

In previous years, the criminal back ground law allowed the employer to use discretion and “waive” a conviction that barred employment due to mitigating circumstances at the time the crime was committed. The mitigating circumstances were specified in the law. **There are no longer any provisions in the law that allow an employer to use discretion to waive a conviction.** The **only** exception now provided for is as follows:

A nonlicensed person or licensed ambulance personnel who are working under a waiver granted under the law that was in effect prior to August 15, 2010, may continue to work so long as that person continues to be employed by the employer who granted the waiver and the person began employment for the employer prior to August 15, 2010.

The provisions of the law that bar employment also do not apply to a person who has received a pardon of the conviction or has had his conviction expunged from his record. Documented court evidence of pardon or expungement should be kept in the employee’s personnel file.