

2018 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 54

BY REPRESENTATIVE JACKSON

CRIMINAL/MENTAL CAPACITY: Urges and requests the Louisiana Department of Health and other parties to study jointly the language in the Louisiana Code of Criminal Procedure Article 648

1 A CONCURRENT RESOLUTION

2 To urge and request the Louisiana Department of Health, the Louisiana District Judges  
3 Association, Louisiana District Attorneys Association, Louisiana Public Defender  
4 Board, Advocacy Center of Louisiana, Louisiana Mental Health Advocacy Service,  
5 and other parties as may be determined by the study committee, to study jointly the  
6 requirements and application of the Louisiana Code of Criminal Procedure Article  
7 648 and to report their study findings to the House Committee on Health and  
8 Welfare, the Senate Committee on Health and Welfare, the House Committee on  
9 Criminal Justice, and Senate Judiciary A Committee at least sixty days prior to the  
10 convening of the 2019 Regular Session of the Legislature.

11 WHEREAS, the Legislature of Louisiana finds that if a defendant lacks the mental  
12 capacity to proceed to trial, he may be in need of competency restoration and the Louisiana  
13 Department of Health is authorized to provide such competency restoration; and

14 WHEREAS, the legislature finds that competency restoration may be provided  
15 within jail, on an outpatient basis within the community, or on an inpatient basis at Eastern  
16 Louisiana Mental Health System; and

17 WHEREAS, the legislature finds that the nature of the crime and the time to  
18 complete the competency restoration should be an indication as to whether jail-based,  
19 outpatient, or inpatient competency restoration is appropriate; and

1           WHEREAS, the legislature finds that if the defendant is unlikely to be restored  
2 within the foreseeable future, the defendant shall either be released or remanded to the  
3 Louisiana Department of Health for judicial civil commitment or to be discharged; and

4           WHEREAS, the legislature finds that a study is necessary to review how this law is  
5 being applied and the effects of such application; and

6           WHEREAS, the legislature finds that a study is necessary regarding what additional  
7 circumstances should be considered when determining if jail-based, outpatient, or inpatient  
8 competency restoration is to be ordered, and to consider the available resources when  
9 making such a determination; and

10           WHEREAS, the legislature finds that a study is necessary regarding the appropriate  
11 scope of the court’s authority and the department’s authority under this law regarding release  
12 and discharge of the defendant when the defendant is found to unlikely be restored within  
13 the foreseeable future; and

14           WHEREAS, the legislature finds that the Louisiana Department of Health, jointly  
15 with the Louisiana District Judges Association, Louisiana District Attorneys Association,  
16 Louisiana Public Defender Board, Advocacy Center of Louisiana, Louisiana Mental Health  
17 Advocacy Service, and other parties as may be determined, is the appropriate body to  
18 conduct a study relative to the goal set out herein and to submit a report on its findings to the  
19 legislature for consideration.

20           THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby  
21 urge and request that the Louisiana Department of Health in consultation with the Louisiana  
22 District Judges Association, Louisiana District Attorneys Association, Louisiana Public  
23 Defender Board, Advocacy Center of Louisiana, Louisiana Mental Health Advocacy  
24 Service, and other parties as may be determined by the study committee, specifically study  
25 the requirements of Code of Criminal Procedure Article 648, how it is being applied, the  
26 effects of such application, and the need for possible amendments to the law to include best  
27 practices for competency restoration efforts when working to restore a defendant to  
28 competency, as well as judicial civil commitments of those defendants who are unable to be  
29 restored to competency.

1 BE IT FURTHER RESOLVED that the Louisiana Department of Health jointly with  
2 the Louisiana District Judges Association, Louisiana District Attorneys Association,  
3 Louisiana Public Defender Board, Advocacy Center of Louisiana, Louisiana Mental Health  
4 Advocacy Service, and other parties as may be determined, shall submit a summary of their  
5 findings to the House Committee on Health and Welfare, the Senate Committee on Health  
6 and Welfare, and the House Committee on Criminal Justice, and Senate Judiciary A  
7 Committee, at least sixty days prior to the convening of the 2019 Regular Session of the  
8 Legislature.

9 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the  
10 secretary of the Louisiana Department of Health, Louisiana District Judges Association,  
11 Louisiana District Attorneys Association, Louisiana Public Defender Board, Advocacy  
12 Center of Louisiana, and Louisiana Mental Health Advocacy Service.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HCR 54 Reengrossed

2018 Regular Session

Jackson

Request the Louisiana Department of Health, the Louisiana District Judges Association, Louisiana District Attorneys Association, Louisiana Public Defender Board, Advocacy Center of Louisiana, Louisiana Mental Health Advocacy Service, and other parties as may be determined, to study jointly the requirements and application of Louisiana Code of Criminal Procedure Article 648, and to report their study findings to the House Committee on Health and Welfare, the Senate Committee on Health and Welfare, the House Committee on Criminal Justice, and Senate Judiciary A Committee at least 60 days prior to the convening of the 2019 R.S.

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Make technical changes.