

2019 Regular Session

SENATE RESOLUTION NO. 254

BY SENATOR WALSWORTH

LEGISLATIVE AGENCIES. Requests the Louisiana State Law Institute to conduct a review and study of Louisiana's *in forma pauperis* and related statutes as applied by Louisiana courts in civil judicial proceedings.

1 A RESOLUTION

2 To urge and request the Louisiana State Law Institute to conduct a review and study of  
3 Louisiana's *in forma pauperis* and related statutes as applied by Louisiana courts in  
4 civil judicial proceedings for possible revision to clarify and limit misinterpretation  
5 of existing law and to ensure consistent application in all Louisiana courts.

6 WHEREAS, a foundation of the Louisiana legal system is to ensure all citizens have  
7 equal access to the courts to address their grievances, regardless of their station in life,  
8 language, or their ability to pay; and

9 WHEREAS, Louisiana has ensured access to justice for all, as Article I, Section 22  
10 of the Constitution of Louisiana provides that:

11 "All courts shall be open, and every person shall have an adequate remedy  
12 by due process of law and justice, administered without denial, partiality, or  
13 unreasonable delay, for injury to him in his person, property, reputation, or  
14 other rights."; and

15 WHEREAS, Louisiana allows indigent individuals to petition the court for redress  
16 of grievances; and

17 WHEREAS, except as specifically provided by law elsewhere, Louisiana statutes set  
18 forth procedures for indigents in civil judicial proceedings to file *in forma pauperis* codified

1 in the Code of Civil Procedure Article 5181 though Article 5188, which allows indigents to  
2 proceed with their action without advance payment of costs; and

3 WHEREAS, in the opinion rendered in the case of *Benjamin v. National*  
4 *Supermarkets, Inc.*, 351 So. 2d 138 (La. 1977), the Louisiana Supreme Court affirmed the  
5 correctness of the following from the opinion of the Court of Appeal, Third Circuit in *Roy*  
6 *v. Gulf States Utilities Co.*, 307 So. 2d 758, 760 (La. App. 3d Cir. 1975):

7 "The legislative intent, we believe, was for that privilege (to litigate in forma  
8 pauperis) to be restricted to those who are clearly entitled to it so that the  
9 statute will not be abused, but that a liberal construction should be applied in  
10 close or questionable cases to make sure that a litigant who is entitled to such  
11 a privilege is not deprived of it."; and

12 WHEREAS, a survey of public interest attorneys regarding Louisiana court practices  
13 found variations in interpretation of the *in forma pauperis* statutes which decreases an  
14 indigent's access to the legal system and puts at jeopardy this underlying principle of access  
15 to justice; and

16 WHEREAS, as a result of inconsistent interpretation and misapplication of the *in*  
17 *forma pauperis* statutes, individuals receive different outcomes based on a court system's  
18 interpretation of the statutes; and

19 WHEREAS, Louisiana has instituted the Louisiana State Law Institute to consider  
20 needed improvements in the law and study civil law to discover defects and inequities and  
21 recommend needed reforms; and

22 WHEREAS, the Louisiana State Bar Association, through its Access to Justice  
23 Committee, with representatives from the Louisiana Judiciary, private bar attorneys, and  
24 Louisiana civil legal aid providers, have expressed support of the referral of this issue to the  
25 Louisiana State Law Institute to study *in forma pauperis* laws and courts' pervasive  
26 misapplications and determine whether a revision or updated guidance of substantive or  
27 procedural law is needed to enhance consistent application in all Louisiana courts.

28 THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana  
29 does hereby urge and request the Louisiana State Law Institute to review and study  
30 Louisiana's *in forma pauperis* and related statutes as applied by Louisiana courts to

