

ACT No. 59

2015 Regular Session

HOUSE BILL NO. 197

BY REPRESENTATIVES SHADOIN AND ABRAMSON

1 AN ACT

2 To amend and reenact R.S. 37:221(A), (B)(1) and (2), and (C)(1) and (2), relative to the
3 Judges and Lawyers Assistance Program of the Louisiana State Bar Association; to
4 provide for a statement of public policy; to provide relative to privilege and
5 confidentiality; to provide relative to civil immunity; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:221(A), (B)(1) and (2), and (C)(1) and (2) are hereby amended
9 and reenacted to read as follows:

10 §221. Bar Committee on Alcohol and Drug Abuse; Judges and Lawyers Assistance
11 Program; privilege, confidentiality, and immunity

12 A. Statement of public policy.

13 (1) ~~Alcoholism and drug addiction in the judiciary and among the members~~
14 ~~of the Louisiana State Bar Association poses serious health and ethical problems for~~
15 ~~the people of the state of Louisiana. One prominent characteristic of alcoholism and~~
16 ~~drug addiction is denial, which is the delusion of the alcoholic or drug addict that he~~
17 ~~or she will be able to control the use of alcohol or drugs. Successful treatment can~~
18 ~~be initiated only when the delusion of self-control is broken and the alcoholic or drug~~
19 ~~addict admits the hopelessness of his or her condition.~~ Judges and lawyers are no
20 less susceptible than any other citizen of Louisiana to mental health issues, including
21 but not limited to alcoholism, drug addiction, depression, burnout, and dementia.
22 These impairments pose serious health and ethical issues for members of the
23 Louisiana State Bar Association.

1 (2) ~~The delusion of self-control can be broken, and successful treatment~~
2 Successful treatment for mental health issues can be initiated years earlier than might
3 otherwise be possible, by the use of counseling by peers ~~and/or~~ or an intervention
4 process. ~~Successful treatment~~ Intervention in cases of alcoholism and drug addiction
5 involves peer counseling and confronting the ~~alcoholic or drug addict~~ person with
6 specific instances of misconduct or abnormal behavior caused by alcohol or drug
7 use, as recited to the subject of the intervention by fact reporters such as: family
8 members, peers, friends, coworkers, employers, or other concerned individuals who
9 have first-hand knowledge of such incidents and who are acting under the guidance
10 of a trained intervenor.

11 (3) ~~The Louisiana State Bar Association has recognized the danger to the~~
12 ~~public of Louisiana arising through substance abuse by its members, the judiciary,~~
13 ~~prospective attorneys, and law students. In order to combat substance abuse among~~
14 ~~the judges, lawyers, prospective lawyers and law students of Louisiana,~~ Recognizing
15 that members of the judiciary and Louisiana State Bar Association have a strong
16 interest in securing the competent administration of justice for citizens of Louisiana,
17 and in upholding the dignity and respect of the judicial branch of government and
18 legal profession, the Louisiana State Bar Association has created the Judges and
19 Lawyers Assistance Program, Inc., and the Committee on Alcohol and Drug Abuse
20 for the purpose of providing counseling and intervening with respect to intervention
21 services for judges, lawyers, law students, and prospective lawyers who may have
22 ~~alcohol or drug abuse problems~~ other members of the legal profession who may
23 suffer from mental health issues. Members of the legal profession and the judiciary
24 are encouraged to seek out the counseling and intervention services of the Judges and
25 Lawyers Assistance Program, Inc., and shall feel confident that their participation
26 in the Judges and Lawyers Assistance Program, Inc. will be confidential and
27 privileged in all respects and shall not be divulged to the public in any way.

28 (4) It is hereby declared to be the public policy of the state of Louisiana to
29 promote and encourage the use of counseling by peers and the intervention process
30 in order to initiate successful treatment of ~~alcoholism and drug addiction among the~~

1 ~~judiciary, members of the Louisiana State Bar Association, law students, and~~
2 ~~prospective lawyers~~ mental health issues among members of the legal profession.

3 The intent of this Section is to further this goal by providing for a privilege,
4 confidentiality of information, and tort immunity for the Louisiana State Bar
5 Association, the Louisiana State Bar Association's Committee on Alcohol and Drug
6 Abuse, ~~Lawyer's~~ the Judges and Lawyers Assistance Program, Inc., the Louisiana
7 Bar Foundation, their officers, directors, agents and employees, and persons who
8 furnish information and who participate ~~in the counseling and intervention program~~
9 ~~of the Louisiana State Bar Association's Committee on Alcohol and Drug Abuse and~~
10 ~~Lawyer's Assistance Program, Inc., a nonprofit corporation whose activities are~~
11 ~~determined by the Committee on Alcohol and Drug Abuse~~ as volunteers in the
12 programming offered by the Judges and Lawyers Assistance Program, Inc.

13 B. Privilege and confidentiality.

14 (1) Any information, report, or record, whether written or oral, that the
15 Committee on Alcohol and Drug Abuse of the Louisiana State Bar Association,
16 ~~Lawyer's~~ the Judges and Lawyers Assistance Program, Inc., or any member, or
17 employee, or agent of either generates, receives, gathers, or maintains is confidential
18 and privileged. No member of the Committee on Alcohol and Drug Abuse, or agent,
19 or employee of ~~Lawyer's~~ the Judges and Lawyers Assistance Program, Inc., may
20 disclose that information, report or record without written approval of the subject
21 judge, lawyer, law student, or ~~prospective lawyer~~ other member of the legal
22 profession. No person shall be required to disclose, by way of testimony or
23 otherwise, privileged information or to produce, under subpoena, any records,
24 documentary evidence, opinions, or decisions relating to such privileged
25 information:

26 (a) In connection with any civil or criminal case or proceeding.

27 (b) By way of any discovery procedure.

28 (2) Nothing herein shall prohibit members of the Committee on Alcohol and
29 Drug Abuse or any employee or agent of ~~Lawyer's~~ the Judges and Lawyers
30 Assistance Program, Inc., from sharing among themselves information, reports, or

1 records about a judge, lawyer, law student, or ~~prospective lawyer~~ other member of
 2 the legal profession for the purpose of helping the judge, lawyer, law student, or
 3 ~~prospective lawyer~~ other member of the legal profession recover from problems of
 4 ~~alcohol and/or drug abuse~~ with alcohol, drug abuse, or any other mental health issue.

5 * * *

6 C. Civil immunity.

7 (1) Any licensed lawyer, and his supporting staff, shall be immune from civil
 8 liability for, or resulting from, any act, decision, omission, communication, writing,
 9 report, finding, opinion, or conclusion, done by or made in good faith while engaged
 10 in efforts to assist judges, lawyers, law students, or ~~prospective lawyers~~ other
 11 members of the legal profession in connection with substance abuse or mental health
 12 counseling or intervention pursuant to the programs of the Louisiana State Bar
 13 Association's Committee on Alcohol and Drug Abuse or ~~Lawyer's~~ the Judges and
 14 Lawyers Assistance Program, Inc., or in the performance of his or her duties as a
 15 member or agent of the Committee on Alcohol and Drug Abuse of the Louisiana
 16 State Bar Association or agent or as an agent, employee, or officer or director of
 17 ~~Lawyer's~~ the Judges and Lawyers Assistance Program, Inc., which function primarily
 18 to provide assistance in the form of counseling and intervention for any judge,
 19 lawyer, law student, or ~~prospective lawyer~~ other member of the legal profession
 20 suspected of having an impaired ability to function professionally because of his or
 21 her abuse of the use of alcohol or other drug, or due to any other mental health issue.

22 The Louisiana State Bar Association, its Committee on Alcohol and Drug Abuse, the
 23 Louisiana Bar Foundation, and ~~Lawyer's~~ the Judges and Lawyers Assistance
 24 Program, Inc., and their officers, directors, committees, employees, servants, and
 25 agents shall also be immune from civil liability for any acts or omissions made or
 26 done or resulting from any of the following:

- 27 (a) The program of the Louisiana State Bar Association's Committee on
- 28 Alcohol and Drug Abuse or ~~Lawyer's~~ the Judges and Lawyers Assistance Program,
- 29 Inc.

1 (b) Any act, decision, omission, communication, writing, report, finding,
 2 opinion, or conclusion of the Committee on Alcohol and Drug Abuse, or ~~Lawyer's~~
 3 the Judges and Lawyers Assistance Program, Inc., or any of their members, agents,
 4 or employees.

5 (c) The establishment of programs or activities of such committee or
 6 corporation or the Louisiana Bar Foundation.

7 (2) A person who in good faith reports information or takes action in
 8 connection with any program of the Committee on Alcohol and Drug Abuse or
 9 ~~Lawyer's~~ the Judges and Lawyers Assistance Program, Inc. is immune from civil
 10 liability for reporting information or taking any action set forth in Paragraph ~~C(1)~~
 11 (C)(1) or participating therein and in particular any counseling or intervention effort
 12 under the auspices of the Committee on Alcohol and Drug Abuse or ~~Lawyer's~~ the
 13 Judges and Lawyers Assistance Program, Inc. This immunity shall not protect a
 14 person who makes a report known to be false, or with reckless disregard for the truth.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____