HLS 18RS-3148 **ORIGINAL** 

2018 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 54

BY REPRESENTATIVE JACKSON

CRIMINAL/MENTAL CAPACITY: Urge and request 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   |
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| 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, Louisiana Mental Health Advocacy Service, and other                   |
| 5  | parties as may be determined, to study jointly the language of the Louisiana Code of          |
| 6  | Criminal Procedure Article 648 and to report their study findings to the House                |
| 7  | Committee on Health and Welfare, the Senate Committee on Health and Welfare, the              |
| 8  | House Committee on Criminal Justice, and Senate Judiciary A Committee at least                |
| 9  | sixty days prior to the convening of the 2019 Regular Session of the Legislature.             |
| 10 | WHEREAS, the Legislature of Louisiana finds that if a defendant lacks the mental              |
| 11 | capacity to proceed to trial, he may be in need of competency restoration and that the        |
| 12 | Louisiana Department of Health is authorized to provide such competency restoration; and      |
| 13 | WHEREAS, the legislature finds that competency restoration may be provided                    |
| 14 | within jail, on an outpatient basis within the community, or on an inpatient basis at Eastern |
| 15 | Louisiana Mental Health System; and   |
| 16 | WHEREAS, the legislature finds that the nature of the crime and the time to                   |
| 17 | complete the competency restoration should be an indication as to whether jail-based,         |
| 18 | outpatient, or inpatient competency restoration is appropriate; and                           |

| 1  | WHEREAS, the legislature finds that if the defendant is unlikely to be restored                   |
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| 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, Louisiana Mental Health Advocacy                |
| 17 | Service, and other parties as may be determined, is the appropriate body to conduct a study       |
| 18 | relative to the goal set out herein and to submit a report on its findings to the legislature for |
| 19 | 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, Louisiana Mental Health Advocacy Service, and other              |
| 24 | parties as may be determined, specifically study the requirements of Code of Criminal             |
| 25 | Procedure Article 648, how it is being applied, the effects of such application, and the need     |
| 26 | for possible amendments to the law to include best practices for competency restoration           |
| 27 | efforts when working to restore a defendant to competency, as well as judicial civil              |
| 28 | commitments of those defendants who are unable to be restored to competency.                      |
| 29 | BE IT FURTHER RESOLVED that the Louisiana Department of Health jointly with                       |
| 30 | the Louisiana District Judges Association, Louisiana District Attorneys Association,              |

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

## **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)]

HCR 54 Original

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, Louisiana Mental Health Advocacy Service, and other parties as may be determined, to study jointly the language of the Louisiana Code of Criminal Procedure Article 648 and how it is being applied and the effects of such application of the current law, 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.