

2019 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 87

BY REPRESENTATIVE MAGEE

BOARDS/COMMISSIONS: Provides for the Louisiana Commission on Justice System Funding

1 A CONCURRENT RESOLUTION

2 To authorize and direct the creation of the Louisiana Commission on Justice System
3 Funding to study and determine optimal methods of supporting and funding the
4 Louisiana court system in a way that would allow for the implementation of changes
5 made in Act No. 260 of the 2017 Regular Session of the Legislature.

6 WHEREAS, the purpose of imposing financial obligations on a person who is
7 convicted of a criminal offense is to hold the offender accountable for his actions, to
8 compensate victims for any pecuniary loss or costs incurred in connection with a criminal
9 prosecution, to defray the cost of court operations, and to provide services to offenders and
10 victims; and

11 WHEREAS, imposition of these financial obligations, including fines, fees,
12 restitution, and court costs, in excess of what a person can reasonably pay undermine the
13 primary purpose of the criminal justice system which is to deter criminal behavior and
14 encourage compliance with the law; and

15 WHEREAS, persons released from incarceration or on community supervision often
16 carry thousands of dollars in financial obligations related to their conviction including fines,
17 fees, court costs, and restitution; and the current structure for imposition and collection of
18 these financial obligations has left thousands of individuals in significant debt, has created
19 an insurmountable barrier to the individual's successful reentry into society, and threatens
20 the goals of the criminal justice system to enhance public safety and support victims; and

1 WHEREAS, large financial obligations for individuals who are attempting to
2 successfully reenter society create problems, not only for the individual, but also for victims
3 of crime and society in general; and

4 WHEREAS, studies have shown that, on average, persons who are sentenced to
5 probation will end their period of supervision owing large amounts of restitution to victims,
6 and the person's ability to pay this restitution suffers, due in large part to the obligation of
7 paying other court-related fines, fees, and costs that are not directed to victims; and

8 WHEREAS, studies have shown large government-ordered financial obligations such
9 as fines, fees, and other costs can create instability with housing, food, and child support
10 payments, and can also lead individuals back to obtaining resources by illegal means,
11 creating more crime and less public safety; and

12 WHEREAS, in 2017, the Louisiana Legislature took a significant step in reforming
13 current financial obligations with the passage of Act No. 260 of the 2017 Regular Session
14 of the Legislature; and

15 WHEREAS, with regard to the financial obligations of criminal offenders, Act No.
16 260 does all of the following:

17 (1) Requires a court to determine if the aggregate amount of all financial obligations
18 imposed upon a defendant would cause substantial financial hardship to the defendant or
19 those who depend upon the defendant.

20 (2) Authorizes the court to waive financial obligations or order a payment plan if a
21 financial hardship is found, creating an incentive to pay financial obligations.

22 (3) Requires half of any monthly payment to go toward victim restitution.

23 (4) Disallows the use of jail or revocation of a person's driver's license as
24 punishment unless it is determined that the individual is able but has willfully refused to pay;
25 and

26 WHEREAS, the changes made by Act No. 260 of the 2017 Regular Session help to
27 ensure that criminal justice financial obligations do not become a significant barrier to
28 successful reentry while ensuring victims of crime are a focus of repayment; and

1 WHEREAS, in 2018, Act Nos. 137 and 668 delayed the effective date of these
2 changes due to concerns regarding the impact of the implementation of Act No. 260 of the
3 2017 Regular Session on the Louisiana criminal justice system; and

4 WHEREAS, a significant portion of Louisiana's criminal justice system is funded
5 through fines, fees, restitution, and other court costs, to be paid by defendants and those
6 convicted of criminal offenses; and

7 WHEREAS, relying on the financial obligations of persons convicted of criminal
8 offenses to significantly fund Louisiana's criminal justice system creates an unnecessary and
9 perverse incentive; and

10 WHEREAS, the criminal justice system is a core function of government and should
11 be appropriately funded by the legislature; and

12 WHEREAS, Louisiana does not currently have a means to uniformly or
13 systematically track where criminal fines, fees, and court costs are directed, nor does
14 Louisiana track the extent to which the criminal justice system in each parish is funded by
15 financial obligations of criminal defendants; and

16 WHEREAS, it would be beneficial to the people of this state to have more openness
17 and transparency when it comes to the sources of funding of Louisiana court systems and
18 to have a court system funded through a means that provides stability and fairness.

19 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby
20 authorize and direct the creation of the Louisiana Commission on Justice System Funding
21 to study current financial obligations of criminal defendants and how those financial
22 obligations are used to fund and subsidize core functions of the Louisiana court system, and
23 to study and determine optimal methods of supporting and funding the Louisiana court
24 system in way that would allow for the implementation of changes made in Act No. 260 of
25 the 2017 Regular Session of the Legislature.

26 BE IT FURTHER RESOLVED that the commission shall be composed of the
27 following members:

28 (1) The author of Act No. 260 of the 2017 Regular Session of the Legislature, who
29 shall serve as co-chair of the commission.

30 (2) The governor or his designee.

- 1 (3) The chief justice of the Louisiana Supreme Court or her designee.
- 2 (4) The speaker of the House of Representatives or his designee.
- 3 (5) The president of the Senate or his designee.
- 4 (6) The chair of the House Committee on the Administration of Criminal Justice.
- 5 (7) The chair of the House Committee on Judiciary.
- 6 (8) The chair of the Senate Committee on Judiciary B.
- 7 (9) The chair of the Senate Committee on Judiciary C.
- 8 (10) The attorney general or his designee
- 9 (11) The secretary of the Department of Public Safety and Corrections or his
10 designee.
- 11 (12) A representative from the division of administration appointed by the
12 commissioner of administration. This representative shall serve as co-chair of the
13 commission.
- 14 (13) The president of the Louisiana Sheriffs' Association or his designee.
- 15 (14) A probation and parole officer appointed by the Louisiana Probation and Parole
16 Association.
- 17 (15) Two district attorneys appointed by the president of the Louisiana District
18 Attorneys Association.
- 19 (16) A public defender appointed by the State Public Defender Board.
- 20 (17) Two district court judges, one appointed by the chief justice of the Louisiana
21 Supreme Court and one appointed by the Louisiana District Judges Association.
- 22 (18) Two representatives from Louisianans for Prison Alternatives.
- 23 (19) Two representatives from the Louisiana Smart on Crime Coalition.
- 24 BE IT FURTHER RESOLVED that a majority of the membership of the commission
25 shall constitute a quorum and shall meet at the call of the chairperson, or upon an affirmative
26 vote of a majority of the commission members. All members shall be notified in writing of
27 all meetings at least five days before the date on which a meeting of the commission is
28 scheduled.

1 BE IT FURTHER RESOLVED that meetings of the commission shall take place at
2 the Louisiana State Capitol and the first meeting of the commission shall take place no later
3 than September 1, 2019.

4 BE IT FURTHER RESOLVED that the duties of the commission shall include but
5 not be limited to all of the following:

6 (1) Track the history of methods of funding the Louisiana court system.

7 (2) Estimate the extent to which the Louisiana court system is funded through funds
8 received from the collection of fines, fees, restitution, and other court costs.

9 (3) Estimate the cost of a court system that is fully funded by state and local
10 governments.

11 (4) Research, study, and recommend alternative methods of funding the Louisiana
12 court system.

13 (5) Recommend a comprehensive plan for the implementation of the changes
14 provided in Act No. 260 of the 2017 Regular Session of the Legislature.

15 (6) Determine the resources and training court systems will need in implementing
16 and complying with Act No. 260 of the 2017 Regular Session of the Legislature.

17 (7) Determine the appropriate entity, or recommend the establishment of a new
18 entity, to provide oversight and track budget impacts of the implementation of Act No. 260
19 of the 2017 Regular Session of the Legislature and to recommend changes as needed.

20 (8) Collect necessary data to accomplish these purposes as set forth in this
21 Resolution.

22 BE IT FURTHER RESOLVED that the commission may request and collect relevant
23 and necessary data and information to accomplish its purposes from state and local
24 government entities including at least five judicial district court systems throughout the state
25 that, to the extent possible, represent the geographic diversity of this state and diversity in
26 population of the parishes served by the judicial district court system.

27 BE IT FURTHER RESOLVED that the entities and court systems from which such
28 information and data is requested may, to the extent feasible, provide such information and
29 data to the commission at no cost.

1 BE IT FURTHER RESOLVED that the commission shall request and secure
2 qualified technical assistance and support through the establishment of an academic
3 partnership or from public or private stakeholders and entities with qualified expertise in the
4 commission's focus areas.

5 BE IT FURTHER RESOLVED that the division of administration and the office of
6 the judicial administrator of the Louisiana Supreme Court shall provide administrative
7 assistance and staffing as may be necessary in order to enable the commission to conduct its
8 meetings and accomplish its duties.

9 BE IT FURTHER RESOLVED that the commission shall provide a report of its
10 initial findings and recommendations to the governor and the Legislature of Louisiana no
11 later than February 1, 2020, and any further reports or recommendations thereafter as
12 requested by the governor, the legislature, or advised by the commission.

13 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to each
14 of the commission members and the appointing entities provided in this Resolution.

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 87 Original

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Directs the creation of the La. Commission on Justice System Funding to study and determine optimal methods of supporting and funding the La. court system in way that would allow for the implementation of changes made in Act No. 260 of the 2017 R.S.