

2019 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 87

BY REPRESENTATIVE MAGEE

A CONCURRENT RESOLUTION

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

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

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

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

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

WHEREAS, studies have shown that, on average, persons who are sentenced to probation will end their period of supervision owing large amounts of restitution to victims,

and the person's ability to pay this restitution suffers, due in large part to the obligation of paying other court-related fines, fees, and costs that are not directed to victims; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) The author of Act No. 260 of the 2017 Regular Session of the Legislature, who shall serve as co-chair of the commission.
- (2) The governor or his designee.
- (3) The chief justice of the Louisiana Supreme Court or her designee.
- (4) The speaker of the House of Representatives or his designee.
- (5) The president of the Senate or his designee.
- (6) The chair of the House Committee on Administration of Criminal Justice.
- (7) The chair of the House Committee on Judiciary.
- (8) The chair of the Senate Committee on Judiciary B.
- (9) The chair of the Senate Committee on Judiciary C.

(10) The attorney general or his designee.

(11) The secretary of the Department of Public Safety and Corrections or his designee.

(12) A representative from the division of administration appointed by the commissioner of administration. This representative shall serve as co-chair of the commission.

(13) The president of the Louisiana Sheriffs' Association or his designee.

(14) A probation and parole officer appointed by the Louisiana Probation and Parole Association.

(15) Two district attorneys appointed by the president of the Louisiana District Attorneys Association.

(16) A public defender appointed by the State Public Defender Board.

(17) Two district court judges, one appointed by the chief justice of the Louisiana Supreme Court and one appointed by the Louisiana District Judges Association.

(18) The president of the Louisiana Clerks of Court Association or his designee.

(19) Two representatives from Louisianans for Prison Alternatives.

(20) Two representatives from the Louisiana Smart on Crime Coalition.

BE IT FURTHER RESOLVED that a majority of the membership of the commission shall constitute a quorum and shall meet at the call of the chairperson, or upon an affirmative vote of a majority of the commission members. All members shall be notified in writing of all meetings at least five days before the date on which a meeting of the commission is scheduled.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

BE IT FURTHER RESOLVED that the commission shall provide a report of its initial findings and recommendations to the governor and the Legislature of Louisiana no

later than February 1, 2020, and any further reports or recommendations thereafter as requested by the governor, the legislature, or advised by the commission.

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

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE