

2020 Second Extraordinary Session

HOUSE BILL NO. 9

BY REPRESENTATIVES MCCORMICK, AMEDEE, BACALA, CARRIER, CORMIER, COUSSAN, CREWS, EDMONDS, EDMONSTON, EMERSON, FIRMENT, FRIEMAN, GAROFALO, HARRIS, HODGES, HORTON, MACK, MIGUEZ, CHARLES OWEN, SCHAMERHORN, SEABAUGH, AND TARVER

PUBLIC HEALTH: Provides relative to the free exercise of religion during a public health emergency (Items #2, 28, and 60)

1 AN ACT

2 To enact R.S. 29:738.1, relative to the applicability of certain limitations of liability during  
3 declarations of emergencies; to provide for protections for the free exercise of  
4 religion; to provide for legislative findings; to clarify certain provisions of  
5 emergency powers; to provide for legislative interpretation; to provide relative to  
6 criminal penalties; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 29:738.1 is hereby enacted to read as follows:

9 §738.1. Emergency powers may not be extended to violate religious liberty

10 A.(1) The legislature finds and declares that the emergency powers in this  
11 Chapter and the emergency powers in Chapter 9 of this Title were not intended to  
12 violate the religious liberty guaranteed in Article I, Section 8 of the Constitution of  
13 Louisiana and the First Amendment of the Constitution of the United States of  
14 America.

15 (2) The legislature further finds and declares that in 1993, when the  
16 emergency powers were first enacted pursuant to this Chapter, the legislature stated  
17 with specificity in R.S. 29:736(D) that the emergency powers were never  
18 contemplated as powers which would be interpreted to diminish the rights

1 guaranteed to all persons under the Declaration of Rights of the Louisiana  
2 Constitution or the Bill of Rights of the United States Constitution. Those same  
3 constitutional limitations were again reiterated by the legislature in R.S. 29:772 when  
4 it enacted the public health emergency powers in 2003. Article I, Section 8 of the  
5 Constitution of Louisiana is part of the Declaration of Rights and provides that no  
6 law shall be enacted respecting an establishment of religion or prohibiting the free  
7 exercise thereof.

8 (3) The legislature further finds that in addition to providing for the spiritual  
9 needs of individuals, churches and other religious organizations:

10 (a) Provide food, clothing, and household items to the poor and those in need  
11 due to hurricanes and other emergency disaster events.

12 (b) Conduct or facilitate addiction recovery meetings which decrease the  
13 number of suicides and drug overdoses in the community.

14 B. Nothing in this Chapter or in Chapter 9 of this Title shall authorize any  
15 government official, government agency, or other entity to utilize any emergency  
16 power to impose a criminal penalty including confining a person to the parish jail or  
17 other correctional facility, imposing a fine, or imposing any other monetary penalty  
18 under any of the following circumstances:

19 (1) Attending or conducting a church service or similar religious assembly.

20 (2) Providing or distributing food, clothing, or household items at a church  
21 or other religious facility to the poor or hungry or delivering those items to the  
22 needy.

23 (3) Conducting or attending an addiction recovery meeting at a church or  
24 other religious facility.

25 C. Notwithstanding any provision of law to the contrary, no natural or  
26 juridical person shall be liable for any criminal penalty, fine, or other monetary  
27 penalty and shall not be confined to the parish jail or other correctional facility for  
28 conducting any activity as provided in Subsection B of this Section during a declared  
29 state of emergency pursuant to this Chapter or Chapter 9 of this Title.

1 Section 2. The provisions of this Act are intended to clarify the provisions of the  
 2 emergency powers provided by the Louisiana Homeland Security and Emergency Assistance  
 3 and Disaster Act and the emergency powers provided by the Louisiana Health Emergency  
 4 Powers Act. The provisions of this Act are interpretive as provided by Civil Code Article  
 5 6 and are therefore remedial in nature and shall apply to all actions, charges, or claims  
 6 pending on or filed after the effective date of this Act.

7 Section 3. This Act shall become effective upon signature by the governor or, if not  
 8 signed by the governor, upon expiration of the time for bills to become law without signature  
 9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 10 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 11 effective on the day following such approval.

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#### 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)]

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HB 9 Reengrossed

2020 Second Extraordinary Session

McCormick

**Abstract:** Provides for protections for the free exercise of religion.

Proposed law provides for legislative findings by declaring that emergency powers in present law were not intended to violate the religious liberty guaranteed in Article I, Section 8 of the Constitution of La. and the First Amendment of the Constitution of the U.S.

Proposed law provides that the legislature finds that in addition to providing for the spiritual needs of individuals, churches and other religious organizations:

- (1) Provide food, clothing, and household items to the poor and those in need due to hurricanes and other emergency disaster events.
- (2) Conduct or facilitate addiction recovery meetings which decrease the number of suicides and drug overdoses in the community.

Proposed law prohibits any government official, government agency, or other entity to utilize any emergency power to impose a criminal penalty including confining a person to the parish jail or other correctional facility, imposing a fine, or imposing any other monetary penalty under any of the following circumstances:

- (1) Attending or conducting a church service or similar religious assembly.
- (2) Providing or distributing food, clothing, or household items at a church or other religious facility to the poor or hungry or delivering those items to the needy.
- (3) Conducting or attending an addiction recovery meeting at a church or other religious facility.

Proposed law further provides that no natural or juridical person shall be liable for any criminal penalty, fine, or other monetary penalty and shall not be confined to the parish jail or other correctional facility for conducting any activity as provided in proposed law during a declared state of emergency pursuant to present law.

Provides that proposed law shall be remedial in nature and shall apply to all actions, charges, or claims pending on or filed after the effective date of proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 29:738.1)

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Remove proposed law provisions which provide for immunity from civil liability and criminal prosecution for assembling to exercise religious freedom during a public health emergency.
2. Add legislative findings.
3. Add a prohibition of any government official, government agency, or other entity from utilizing any emergency power to impose a criminal penalty under certain circumstances.
4. Add an exemption from any criminal penalty, fine, other monetary penalty, or confinement in the parish jail or other correctional facility.
5. Add provision for applicability to all actions, charges, or claims pending on or filed after the effective date of proposed law.