

2021 Regular Session

SENATE CONCURRENT RESOLUTION NO. 45

BY SENATOR MCMATH

CRIME/PUNISHMENT. Creates the Survivor Informed Task Force.

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A CONCURRENT RESOLUTION

To create the Survivor Informed Task Force to study the link between trauma, abuse, and subsequent incarceration, including secondary survivors of domestic or intimate partner violence, and to make recommendations to the legislature.

WHEREAS, survivors of domestic and intimate partner violence, childhood trauma, and sexual and physical abuse are often criminalized and incarcerated for acting in self-defense, for protecting their loved ones, and for committing a crime under coercion by an abuser; and

WHEREAS, reliable data regarding the number of incarcerated Louisiana residents who are survivors of this type of trauma is currently unknown; and

WHEREAS, survivors of trauma can suffer physical and mental health problems, changes in behavior, and ultimately, incarceration; and

WHEREAS, research from Operation Restoration shows that Louisiana has the seventh highest rate of incarcerated women in the world, 198 per 100,000, while the United States average is 127 per 100,000; and

WHEREAS, a study by *The Advocate* shows that approximately one quarter of all women in Louisiana who have been sentenced to life in prison for murder are victims of domestic violence; and

1 WHEREAS, the majority of incarcerated women in Louisiana are below the poverty
2 line and have low rates of education, and are overwhelmingly people of color; and

3 WHEREAS, a report from the Violence Policy Center ranks Louisiana fifth among
4 every state in the nation in the number of domestic violence homicides, with black women
5 disproportionately affected by interpersonal violence; and

6 WHEREAS, African-American women experience domestic violence at a rate
7 thirty-five percent higher than white women, and two and one-half times the rate of women
8 of other races, with the COVID-19 pandemic only having increased these rates; and

9 WHEREAS, prison is no place for survivors of trauma and abuse, as incarceration
10 only perpetuates a cycle of violence in those communities most affected by domestic and
11 intimate partner violence and other forms of trauma; and

12 WHEREAS, a study of the circumstances facing survivors of trauma and abuse, and
13 how these might be positively affected by legislation, is needed to ensure that victims of
14 domestic violence, especially black victims, are not criminalized for merely trying to
15 survive; and

16 WHEREAS, legal remedies that would improve the criminal justice system should
17 be studied and informed by those people who are and have been directly affected, so as to
18 reflect the growing awareness of the impact of trauma and abuse on those survivors who go
19 on to commit harm; and

20 WHEREAS, New York's Domestic Violence Survivors Justice Act gives judges the
21 flexibility to sentence domestic violence survivors convicted of offenses related to their
22 abuse to shorter terms of imprisonment or to alternative-to-incarceration programs, and gives
23 those sentenced prior to the law's enactment the opportunity to apply for resentencing; and

24 WHEREAS, exploring a similar solution for Louisiana would help restore humanity
25 and justice to the manner in which we treat survivors of trauma and abuse who act to protect
26 themselves and their loved ones, and would bring long overdue relief to survivors who have
27 been incarcerated for many years.

28 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby
29 create the Survivor Informed Task Force to study the link between trauma, abuse, and
30 subsequent incarceration, including secondary survivors of domestic or intimate partner

1 violence, and to make recommendations to the legislature.

2 BE IT FURTHER RESOLVED that the task force shall be composed of the
3 following members:

4 (1) The author of this resolution, or his designee.

5 (2) The governor, or his designee.

6 (3) The president of the Senate, or his designee.

7 (4) The speaker of the House of Representatives, or his designee.

8 (5) The chief justice of the Louisiana Supreme Court, or his designee.

9 (6) The secretary of the Department of Public Safety and Corrections, or his
10 designee.

11 (7) The president of the Louisiana Sheriffs' Association, or his designee.

12 (8) A district attorney appointed by the Louisiana District Attorneys Association.

13 (9) The executive director of the Louisiana Commission on Law Enforcement and
14 Administration of Criminal Justice, or his designee.

15 (10) The executive director of Sexual Trauma Awareness and Response (STAR), or
16 his designee.

17 (11) The executive director of the Louisiana Foundation Against Sexual Assault
18 (LaFASA), or his designee.

19 (12) The executive director of the Louisiana Coalition Against Domestic Violence
20 (LCADV), or his designee.

21 (13) The executive director of Voice of The Experienced (VOTE), or his designee.

22 (14) The executive director of Louisiana Survivors for Reform (LSR), or his
23 designee.

24 (15) The executive director of Operation Restoration, or his designee.

25 (16) A representative from the staff of the Louisiana Public Defender Board.

26 (17) A public defender appointed by the Louisiana Public Defender Board.

27 (18) A representative from Right on Crime.

28 BE IT FURTHER RESOLVED that the first meeting of the task force shall be called
29 by the senator representing Senate District No. 11 and shall take place no later than
30 August 1, 2021.

1 BE IT FURTHER RESOLVED that the task force shall meet at least three times and
2 at such other times as may be determined by its chair, which meetings shall take place either
3 at the Louisiana State Capitol or by commercial internet-based video conferencing service.

4 BE IT FURTHER RESOLVED that at its first meeting, the task force shall select a
5 chair and may elect a vice chair and other officers as deemed necessary by the task force.

6 BE IT FURTHER RESOLVED that the members of the task force shall serve
7 without compensation, except per diem or expenses reimbursement to which they may be
8 individually entitled to as members of their constituent agencies or organizations.

9 BE IT FURTHER RESOLVED that a majority of the total membership shall
10 constitute a quorum of the task force and any official action by the task force shall require
11 an affirmative vote of a majority of the quorum present and voting.

12 BE IT FURTHER RESOLVED that the duties of the task force shall include but are
13 not limited to the following:

14 (1) Analyzing the current scope of incarcerated trauma and abuse survivors in
15 prisons, jails, and juvenile detention centers in Louisiana.

16 (2) Analyzing the current procedures utilized by law enforcement, district attorneys,
17 public defenders, and criminal court judges to screen for trauma and abuse.

18 (3) Recommending legislation relative to capturing data on trauma and abuse among
19 persons in the custody of the Department of Corrections in order to facilitate the
20 implementation of policies that provide alternatives to incarceration for criminalized
21 survivors of domestic and intimate partner violence, childhood trauma, and sexual and
22 physical abuse.

23 (4) Recommending legislation to provide pathways to relief for victims who acted
24 in self-defense against their abusers, who acted in defense of others, who were coerced into
25 committing a crime by an abuser, or who were secondary survivors of domestic violence,
26 and are now incarcerated.

27 (5) Recommending legislation to build and sustain a more trauma-informed criminal
28 legal system.

29 (6) Acknowledging and documenting any fiscal impact, including savings or costs,
30 associated with the enactment of recommended legislation.

1 BE IT FURTHER RESOLVED that the task force may request and collect relevant
2 and necessary data and information to accomplish its purposes from state and local
3 governmental agencies, including courts, subject matter experts, and survivors.

4 BE IT FURTHER RESOLVED that the entities and court systems from which such
5 information and data is requested shall, to the extent feasible, provide such information and
6 data to the task force at no cost.

7 BE IT FURTHER RESOLVED that the task force shall be staffed and provided
8 qualified technical assistance and support through Louisiana Survivors for Reform, a project
9 of the Promise of Justice Initiative.

10 BE IT FURTHER RESOLVED that the task force shall prepare and issue a report
11 of its findings, conclusions, and recommendations to the governor, the president of the
12 Senate, and the speaker of the House of Representatives no later than January 15, 2022, on
13 which date the task force shall terminate.

14 BE IT FURTHER RESOLVED that the report of the task force shall include but not
15 be limited to its findings and conclusions regarding the usefulness of resentencing as a tool
16 for supporting survivors, its recommendations for standardized screenings for domestic
17 violence and intimate partner violence to be utilized by law enforcement and district
18 attorneys, both prospectively and for those already incarcerated, and recommendations for
19 legislation to address the definition of self-defense in the context of reasonable belief of
20 imminent harm in instances of intimate partner violence.

21 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to each
22 of the task force members and the appointing entities as provided for in this Resolution.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Alden A. Clement Jr.

SCR 45 Original

DIGEST
2021 Regular Session

McMath

Creates the Survivor Informed Task Force to study the link between trauma, abuse, and subsequent incarceration, including secondary survivors of domestic or intimate partner violence, and to report findings and make a report of findings and recommendations to the governor and the legislature by 1/15/22.