

2021 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 5

BY REPRESENTATIVES MCCORMICK AND HODGES

A CONCURRENT RESOLUTION

To suspend until sixty days after final adjournment of the 2022 Regular Session of the Legislature of Louisiana criminal penalties and restrictions related to the free exercise of religion, including but not limited to R.S. 14:329.6(A)(3), R.S. 29:724(E) and 727(G), and any other criminal penalty or restriction that could be imposed on religious assembly provided for in Title 14, Title 29, or any other Title or Code of the Louisiana Revised Statutes of 1950 that provides a criminal penalty for violations of any COVID-19 proclamation or declaration of emergency order or any other order declared by any state or local official that is related to the free exercise of religion guaranteed by the Constitution of Louisiana and the Constitution of the United States of America.

WHEREAS, the Constitution of Louisiana, as provided by Article III, Section 20, authorizes the legislature to suspend a law and fix the period of suspension which shall not extend beyond the sixtieth day after final adjournment of the next regular session; and

WHEREAS, this House Concurrent Resolution is intended to follow the form and precedent set forth in *Louisiana Chem. Ass'n v. State through Louisiana Dep't of Revenue*, 2016-0501 (La. App. 1 Cir. 4/7/17), 217 So. 3d 455, writ denied, 2017-0761 (La. 9/22/17), 227 So. 3d 826 affirming the legislature's constitutional role to suspend the application of certain laws related to certain categories of individuals in House Concurrent Resolution No. 8 of the 2015 Regular Session of the Legislature of Louisiana; and

WHEREAS, on March 11, 2020, the World Health Organization declared the novel coronavirus (COVID-19) outbreak a global pandemic; and

WHEREAS, since March 11, 2020, various executives of the state and local governing authorities have issued proclamations to declare a public health emergency due to COVID-19 as well as various declarations of disaster related to hurricanes and other emergencies; and

WHEREAS, in response to the declarations of public health or other emergencies various states including Louisiana have issued executive orders at the state and local level which restricted attendance to religious services and have directly or indirectly closed churches; and

WHEREAS, the United States Supreme Court in *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63 (2020), struck down the New York governor's COVID-19 executive order that restricted churches so severely that it effectively closed them down while the same executive order allowed secular businesses to operate with few or no restrictions. The court further noted that "Catholics who watch a Mass at home cannot receive communion. . ." and stated that "But even in a pandemic, the Constitution cannot be put away and forgotten. The restrictions at issue here, by effectively barring many from attending religious services, strike at the very heart of the First Amendment's guarantee of religious liberty"; and

WHEREAS, Louisiana pastors, clergy, and other persons met and continue to meet under the assumption that, in America and in Louisiana, their guarantee of religious liberty found in the Constitution of the United States of America and the Constitution of Louisiana protects their free exercise of religion so that they can ultimately succeed if they follow the instruction found in the Holy Bible in Hebrews 10:25 not to engage in "forsaking the assembling of ourselves together, as the manner of some is; but exhorting one another: and so much the more, as ye see the day approaching"; and

WHEREAS, even a technical violation of R.S. 14:329.6, R.S. 29:721, or R.S. 29:727, et seq. can impose fines, or imprisonment, or both on any person who violates a governor's, mayor's, or parish president's executive order declaring an emergency or disaster, and a two year time limitation on prescription would apply to any violation thereof, pursuant to Code of Criminal Procedure Article 572; and

WHEREAS, the legislature declares that it is not the intention of the legislature that any provision of law which would be construed to authorize the arrest, imprisonment, or imposition of a monetary fine against any person in Louisiana for exercising that person's constitutionally guaranteed right of free exercise of religion, including but not limited to the right to attend or conduct a religious service at a church, house of worship, or one's home because such an implementation would violate Article I, Section 8 of the Constitution of Louisiana and the First Amendment of the Constitution of the United States of America and thereby violate the oaths that we took as legislators to uphold the Constitution of Louisiana and the Constitution of the United States of America.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana hereby suspends all criminal penalties and restrictions related to religious assembly including but not limited to R.S. 14:329.6(A)(3), R.S. 29:724(E), R.S. 29:727(G) and any other criminal penalty or restriction on religious assembly provided for in Title 14, Title 29, or any other Title or Code of the Louisiana Revised Statutes of 1950 that provides a criminal penalty for violations of any COVID-19 proclamation or declaration of emergency order or any other order declared by any state or local official that is related to the free exercise of religion guaranteed by the Constitution of Louisiana and the Constitution of the United States of America.

BE IT FURTHER RESOLVED that this suspension shall become effective upon adoption of this Resolution and shall extend through the sixtieth day after final adjournment of the 2022 Regular Session of the Legislature of Louisiana.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE