

2022 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 2

BY REPRESENTATIVE MCCORMICK

CRIMINAL/PENALTIES: Suspends criminal penalties for emergency order violations

1 A CONCURRENT RESOLUTION

2 To suspend until sixty days after final adjournment of the 2023 Regular Session of the
 3 Legislature of Louisiana criminal penalties and restrictions related to the free
 4 exercise of religion, including but not limited to R.S. 14:329.6(A)(3), R.S. 29:724(E)
 5 and 727(G), and any other criminal penalty or restriction that could be imposed on
 6 religious assembly provided for in Title 14, Title 29, or any other Title or Code of
 7 the Louisiana Revised Statutes of 1950 that provides a criminal penalty for violations
 8 of any COVID-19 proclamation or declaration of emergency order or any other order
 9 declared by any state or local official that is related to the free exercise of religion
 10 guaranteed by the Constitution of Louisiana and the Constitution of the United States
 11 of America.

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

15 WHEREAS, this House Concurrent Resolution is intended to follow the form and
 16 precedent set forth in *Louisiana Chem. Ass'n v. State through Louisiana Dep't of Revenue*,
 17 2016-0501 (La. App. 1 Cir. 4/7/17), 217 So. 3d 455, writ denied, 2017-0761 (La. 9/22/17),
 18 227 So. 3d 826 affirming the legislature's constitutional role to suspend the application of
 19 certain laws related to certain categories of individuals in House Concurrent Resolution No.
 20 8 of the 2015 Regular Session of the Legislature of Louisiana; and

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

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

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

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

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

27 WHEREAS, even a technical violation of R.S. 14:329.6, R.S. 29:721, or R.S. 29:727,
28 et seq. can impose fines, or imprisonment, or both on any person who violates a governor's,
29 mayor's, or parish president's executive order declaring an emergency or disaster, and a two

1 year time limitation on prescription would apply to any violation thereof, pursuant to Code
2 of Criminal Procedure Article 572; and

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

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

20 BE IT FURTHER RESOLVED that this suspension shall become effective upon
21 adoption of this Resolution and shall extend through the sixtieth day after final adjournment
22 of the 2023 Regular Session of the Legislature of Louisiana.

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 2 Original

2022 Regular Session

McCormick

Suspends until 60 days after final adjournment of the 2023 R.S. the enforcement of criminal penalties relative to religious assembly for violation of R.S. 14:329.6(A)(3), R.S. 29:724(E), R.S. 29:727(G), and all others as they relate to emergency proclamations and violations of emergency proclamations.

Present law (R.S. 14:329.6(A)(3)) provides that during a state of emergency and following a proclamation by the governor, the chief law enforcement officer of the political subdivision

affected by the proclamation may, in order to protect life and property and to bring the emergency situation under control, promulgate orders affecting any part or all of the territorial limits of the municipality or parish, which includes regulating and closing of places of amusement and assembly.

Present law (R.S. 29:724(E)) provides that in the event of an emergency declared by the governor, any person or representative of any firm, partnership, or corporation violating any promulgated order, rule, or regulation shall be fined not more than \$500 or confined in the parish jail for not more than six months, or both. Provides that no executive order, proclamation, or regulation shall create or define a crime or fix penalties.

Present law (R.S. 29:727(G)) provides that in the event of an emergency declared by the parish president, any person or representative of any firm, partnership, or corporation violating any promulgated order, rule, or regulation shall be fined not more than \$500 or confined in the parish jail for not more than six months, or both.

(Suspends R.S. 14:329.6(A)(3) and R.S. 29:724(E) and 727(G))