

Regular Session, 2014

HOUSE RESOLUTION NO. 156

BY REPRESENTATIVE CONNICK

A RESOLUTION

To urge and request the Louisiana Supreme Court to study extending the prescriptive periods for delictual actions, to compile data relative to Louisiana's monetary threshold for a civil jury trial, and to submit a written report of its findings to the House Committee on Civil Law and Procedure and the Senate Committee on Judiciary A not later than ten days prior to the beginning of the 2015 Regular Session of the Legislature of Louisiana.

WHEREAS, Civil Code Article 3492 subjects delictual actions to a liberative prescription of one year, commencing to run from the day the injury or damage is sustained; and

WHEREAS, two states in the country have a six year prescriptive period for such actions; three states in the country have a four year prescriptive period for such actions; seventeen states in the country have a three year prescriptive period for such actions; twenty-four states in the country have a two year prescriptive period for such actions; and two states in the country, in addition to Louisiana, have a one year prescriptive period for such actions; and

WHEREAS, litigation expenses may be unduly burdensome for some parties and may prevent access to the courts; and

WHEREAS, parties in these matters may be able to resolve issues and settle these matters without the necessity of filing a lawsuit if the parties have additional time within which to commence a lawsuit; and

WHEREAS, a benefit may exist for parties when there is a finality of knowing whether any potential claims exist against them; and

WHEREAS, Code of Civil Procedure Article 1732 places limitations on trials by jury, including suits where the amount of no individual petitioner's cause of action exceeds fifty thousand dollars exclusive of interest and costs; and

WHEREAS, the majority of states in the country have no monetary threshold for a civil jury trial and Louisiana has a fifty thousand dollar threshold; and

WHEREAS, the current monetary jury threshold for certain types of civil cases was increased in 1993 to conform to the federal jurisdictional level of fifty thousand dollars; and

WHEREAS, the current federal jurisdictional level has since been raised to seventy five thousand dollars; and

WHEREAS, certain factors are unique to Louisiana, such as our civilian law system and our manner of funding civil jury trials by charging costs to the litigants; and

WHEREAS, unlike other states with lower jury thresholds, civil jury trials are unavailable to Louisiana litigants, regardless of the monetary threshold, in a suit on an unconditional obligation to pay a specific sum of money, summary and executory proceedings, probate and partition cases, workers' compensation, emancipation, tutorship, interdiction, curatorship, filiation, annulment of marriage, or divorce proceedings and many other types of civil cases; and

WHEREAS, there has been little examination or analysis of the impact of increasing Louisiana's civil jury trial threshold to fifty thousand dollars since the Legislature of Louisiana raised the amount in 1993; and

WHEREAS, the Legislature of Louisiana would benefit from a comparison of the impact of a reduction in the jury threshold, an increase in the jury threshold, and maintaining the monetary jury threshold at its present level of fifty thousand dollars.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana Supreme Court to study the current prescriptive periods for delictual actions and to consider what different effects or impacts on the civil judicial system extending Louisiana's current prescriptive period to two years might have.

BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana Supreme Court to compile public data for a sufficient period of time to provide a comprehensive picture of civil jury trials in Louisiana, but not less than the three most recent years available relative to other states liberative prescriptive periods and

Louisiana's threshold for a civil jury trial in consultation with the Louisiana Clerks of Court Association, the Louisiana District Attorney Association, the Louisiana District Judges Association, the Department of Insurance, the Louisiana Association of Justice, and the Louisiana Association of Defense Attorneys that includes but is not limited to the following:

(1) The number of civil lawsuits filed in Louisiana below the fifty thousand dollar threshold for a civil jury trial, by court of jurisdiction.

(2) The number of civil lawsuits filed in Louisiana for the last six years.

(3) The number of persons receiving notice to serve on a jury, the number of persons responding to a notice to serve on a jury, the percentage of eligible jurors actually impaneled, and the average length of service, by court of jurisdiction.

(4) The last six years' total budget for each judicial district court, clerk of court, and sheriff and the percent of that budget that is intended and utilized to secure jurors for jury trials.

(5) The average estimated cost to public entities to commission and impanel a jury for the duration of a trial, by court of jurisdiction and by parish.

(6) The average jury bond or cash deposit paid by the requesting party for a civil jury trial and the number of instances and average amount of any refunds of unexpended amounts as required by law, by court of jurisdiction.

(7) The number of civil cases filed *in forma pauperis*, by court of jurisdiction.

(8) The total amount owed to each court of jurisdiction due to *in forma pauperis* cases where records of all costs are required to be kept by law.

(9) The number of civil cases transferred from courts of limited jurisdiction to judicial district court due to a request for a trial by jury pursuant to Civil Code of Procedure Article 4872.

(10) The funding sources used by other states to pay for civil jury trials.

(11) The financial implications to state and local governmental authorities of reducing the jury trial threshold, maintaining the jury trial threshold at its current level, and increasing the jury trial threshold.

(12) The factors unique to Louisiana's civil justice system and the impact those factors have on the jury threshold.

(13) The public purpose and reasons why most other states have delictual prescriptive periods beyond one year.

BE IT FURTHER RESOLVED that the Louisiana Supreme Court submit a written report of its findings regarding extending the prescriptive period for delictual actions and the jury trial threshold to the House Committee on Civil Law and Procedure and the Senate Committee on Judiciary A not later than ten days prior to the beginning of the 2015 Regular Session of the Legislature of Louisiana.

BE IT FURTHER RESOLVED that in compiling data, the Louisiana Supreme Court may engage, collaborate with, and obtain information and perspectives from stakeholder groups with an interest in Louisiana's civil jury trial threshold.

BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted to the judicial administrator of the Louisiana Supreme Court.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES