

2015 Regular Session

HOUSE BILL NO. 197

BY REPRESENTATIVES SHADOIN AND ABRAMSON

1 AN ACT

2 To amend and reenact R.S. 37:221(A), (B)(1) and (2), and (C)(1) and (2), relative to the  
3 Judges and Lawyers Assistance Program of the Louisiana State Bar Association; to  
4 provide for a statement of public policy; to provide relative to privilege and  
5 confidentiality; to provide relative to civil immunity; and to provide for related  
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:221(A), (B)(1) and (2), and (C)(1) and (2) are hereby amended  
9 and reenacted to read as follows:

10 §221. Bar Committee on Alcohol and Drug Abuse; Judges and Lawyers Assistance  
11 Program; privilege, confidentiality, and immunity

12 A. Statement of public policy.

13 (1) ~~Alcoholism and drug addiction in the judiciary and among the members~~  
14 ~~of the Louisiana State Bar Association poses serious health and ethical problems for~~  
15 ~~the people of the state of Louisiana. One prominent characteristic of alcoholism and~~  
16 ~~drug addiction is denial, which is the delusion of the alcoholic or drug addict that he~~  
17 ~~or she will be able to control the use of alcohol or drugs. Successful treatment can~~  
18 ~~be initiated only when the delusion of self-control is broken and the alcoholic or drug~~  
19 ~~addict admits the hopelessness of his or her condition.~~ Judges and lawyers are no  
20 less susceptible than any other citizen of Louisiana to mental health issues, including  
21 but not limited to alcoholism, drug addiction, depression, burnout, and dementia.  
22 These impairments pose serious health and ethical issues for members of the  
23 Louisiana State Bar Association.

1           (2) ~~The delusion of self-control can be broken, and successful treatment~~  
 2           Successful treatment for mental health issues can be initiated years earlier than might  
 3           otherwise be possible, by the use of counseling by peers ~~and/or~~ or an intervention  
 4           process. ~~Successful treatment~~ Intervention in cases of alcoholism and drug addiction  
 5           involves peer counseling and confronting the ~~alcoholic or drug addict~~ person with  
 6           specific instances of misconduct or abnormal behavior caused by alcohol or drug  
 7           use, as recited to the subject of the intervention by fact reporters such as: family  
 8           members, peers, friends, coworkers, employers, or other concerned individuals who  
 9           have first-hand knowledge of such incidents and who are acting under the guidance  
 10          of a trained intervenor.

11           (3) ~~The Louisiana State Bar Association has recognized the danger to the~~  
 12          ~~public of Louisiana arising through substance abuse by its members, the judiciary,~~  
 13          ~~prospective attorneys, and law students. In order to combat substance abuse among~~  
 14          ~~the judges, lawyers, prospective lawyers and law students of Louisiana,~~ Recognizing  
 15          that members of the judiciary and Louisiana State Bar Association have a strong  
 16          interest in securing the competent administration of justice for citizens of Louisiana,  
 17          and in upholding the dignity and respect of the judicial branch of government and  
 18          legal profession, the Louisiana State Bar Association has created the Judges and  
 19          Lawyers Assistance Program, Inc., and the Committee on Alcohol and Drug Abuse  
 20          for the purpose of providing counseling and intervening with respect to intervention  
 21          services for judges, lawyers, law students, and prospective lawyers who may have  
 22          ~~alcohol or drug abuse problems~~ other members of the legal profession who may  
 23          suffer from mental health issues. Members of the legal profession and the judiciary  
 24          are encouraged to seek out the counseling and intervention services of the Judges and  
 25          Lawyers Assistance Program, Inc., and shall feel confident that their participation  
 26          in the Judges and Lawyers Assistance Program, Inc. will be confidential and  
 27          privileged in all respects and shall not be divulged to the public in any way.

28           (4) It is hereby declared to be the public policy of the state of Louisiana to  
 29          promote and encourage the use of counseling by peers and the intervention process  
 30          in order to initiate successful treatment of ~~alcoholism and drug addiction among the~~

1            ~~judiciary, members of the Louisiana State Bar Association, law students, and~~  
2            ~~prospective lawyers~~ mental health issues among members of the legal profession.

3            The intent of this Section is to further this goal by providing for a privilege,  
4            confidentiality of information, and tort immunity for the Louisiana State Bar  
5            Association, the Louisiana State Bar Association's Committee on Alcohol and Drug  
6            Abuse, ~~Lawyer's~~ the Judges and Lawyers Assistance Program, Inc., the Louisiana  
7            Bar Foundation, their officers, directors, agents and employees, and persons who  
8            furnish information and who participate ~~in the counseling and intervention program~~  
9            ~~of the Louisiana State Bar Association's Committee on Alcohol and Drug Abuse and~~  
10           ~~Lawyer's Assistance Program, Inc., a nonprofit corporation whose activities are~~  
11           ~~determined by the Committee on Alcohol and Drug Abuse~~ as volunteers in the  
12           programming offered by the Judges and Lawyers Assistance Program, Inc.

13                    B. Privilege and confidentiality.

14                    (1) Any information, report, or record, whether written or oral, that the  
15                    Committee on Alcohol and Drug Abuse of the Louisiana State Bar Association,  
16                    ~~Lawyer's~~ the Judges and Lawyers Assistance Program, Inc., or any member, or  
17                    employee, or agent of either generates, receives, gathers, or maintains is confidential  
18                    and privileged. No member of the Committee on Alcohol and Drug Abuse, or agent,  
19                    or employee of ~~Lawyer's~~ the Judges and Lawyers Assistance Program, Inc., may  
20                    disclose that information, report or record without written approval of the subject  
21                    judge, lawyer, law student, or ~~prospective lawyer~~ other member of the legal  
22                    profession. No person shall be required to disclose, by way of testimony or  
23                    otherwise, privileged information or to produce, under subpoena, any records,  
24                    documentary evidence, opinions, or decisions relating to such privileged  
25                    information:

26                            (a) In connection with any civil or criminal case or proceeding.

27                            (b) By way of any discovery procedure.

28                    (2) Nothing herein shall prohibit members of the Committee on Alcohol and  
29                    Drug Abuse or any employee or agent of ~~Lawyer's~~ the Judges and Lawyers  
30                    Assistance Program, Inc., from sharing among themselves information, reports, or

1 records about a judge, lawyer, law student, or ~~prospective lawyer~~ other member of  
 2 the legal profession for the purpose of helping the judge, lawyer, law student, or  
 3 ~~prospective lawyer~~ other member of the legal profession recover from problems of  
 4 ~~alcohol and/or drug abuse~~ with alcohol, drug abuse, or any other mental health issue.

5 \* \* \*

6 C. Civil immunity.

7 (1) Any licensed lawyer, and his supporting staff, shall be immune from civil  
 8 liability for, or resulting from, any act, decision, omission, communication, writing,  
 9 report, finding, opinion, or conclusion, done by or made in good faith while engaged  
 10 in efforts to assist judges, lawyers, law students, or ~~prospective lawyers~~ other  
 11 members of the legal profession in connection with substance abuse or mental health  
 12 counseling or intervention pursuant to the programs of the Louisiana State Bar  
 13 Association's Committee on Alcohol and Drug Abuse or ~~Lawyer's~~ the Judges and  
 14 Lawyers Assistance Program, Inc., or in the performance of his or her duties as a  
 15 member or agent of the Committee on Alcohol and Drug Abuse of the Louisiana  
 16 State Bar Association or agent or as an agent, employee, or officer or director of  
 17 ~~Lawyer's~~ the Judges and Lawyers Assistance Program, Inc., which function primarily  
 18 to provide assistance in the form of counseling and intervention for any judge,  
 19 lawyer, law student, or ~~prospective lawyer~~ other member of the legal profession  
 20 suspected of having an impaired ability to function professionally because of his or  
 21 her abuse of the use of alcohol or other drug, or due to any other mental health issue.

22 The Louisiana State Bar Association, its Committee on Alcohol and Drug Abuse, the  
 23 Louisiana Bar Foundation, and ~~Lawyer's~~ the Judges and Lawyers Assistance  
 24 Program, Inc., and their officers, directors, committees, employees, servants, and  
 25 agents shall also be immune from civil liability for any acts or omissions made or  
 26 done or resulting from any of the following:

- 27 (a) The program of the Louisiana State Bar Association's Committee on  
 28 Alcohol and Drug Abuse or ~~Lawyer's~~ the Judges and Lawyers Assistance Program,  
 29 Inc.

