

2017 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 79

BY REPRESENTATIVE WHITE

A CONCURRENT RESOLUTION

To urge and request the Louisiana State Law Institute to study state laws governing domestic abuse, domestic violence, and stalking.

WHEREAS, Louisiana is ranked second in the nation for domestic violence homicides; and

WHEREAS, the Louisiana Legislature has enacted or amended over 50 provisions of law relative to domestic violence, family violence, and stalking since the 2014 Regular Session to assist and protect victims; and

WHEREAS, the majority of the laws enacted have been proposed by the United Against Domestic Violence Coalition, comprised of the Public Policy Committee of United Way of Southeast Louisiana, the Louisiana Coalition Against Domestic Violence, and the New Orleans Family Justice Center Alliance; and

WHEREAS, the Louisiana Commission to Prevent Domestic Violence was formed in 2014 to solicit recommendations for legislation that it deems necessary and appropriate upon approval by a two-thirds vote of the commission members present; and

WHEREAS, the Louisiana Commission to Prevent Domestic Violence has worked closely with the United Against Domestic Violence Coalition to make recommendations to the Louisiana Legislature since its inception, with recommendations and advocacy undertaken by the coalition; and

WHEREAS, there remains a need for a consistent and comprehensive definition of "domestic abuse" in Louisiana statutes, with the understanding that domestic violence is a physical manifestation of domestic abuse, and which further recognizes that domestic abuse

is a pattern of assaultive or coercive behaviors, including but not limited to physical, sexual, and psychological threats and attacks, and financial control; and

WHEREAS, a revision of the domestic abuse battery statute (R.S. 14:35.3) should be reviewed, as the statute currently is not recognized as a crime of violence in Louisiana; and

WHEREAS, R.S. 14:35.3 should also be reviewed with the goal of providing consistency in sentencing, particularly with respect to sentencing enhancements for those criminal acts involving strangulation, pregnancy, burning, and child endangerment; and

WHEREAS, there exists no crime of domestic abuse which takes into consideration the non-physical element of coercive control inherent in domestic abuse; and

WHEREAS, there may be a need for revision of the criminal stalking statute (R.S. 14:40.2) which separates harassment and bullying provisions from actual acts of stalking, differentiates between stalking an intimate partner from stalking a stranger, and recognizes that stalking an intimate partner is a precursor to domestic homicide; and

WHEREAS, it is of the utmost importance to evaluate orders of protection for victims of intimate partner violence, including domestic abuse, sexual abuse, and stalking, which will prohibit a defendant from directing a third party to perform prohibited acts and which will protect a victim from a convicted stalker until that person is found to present threat of harm to the victim; and

WHEREAS, there exists a need for definitions of "physical abuse" and "sexual abuse" and for clarification of the types of civil and criminal protective orders and other orders which will qualify for a divorce based upon Civil Code Article 104(4) or (5); and

WHEREAS, the need for consistency in the assessment of costs and attorney fees, including appeals, against an abuser in the Domestic Abuse Assistance Act, the Post Separation Family Violence Relief Act, and obligations incurred in an action for divorce should be considered; and

WHEREAS, there exists a need to assess whether custodial parents denied visitation with children pursuant to a protective order should have expedited hearings in courts; and

WHEREAS, these needs should be considered in the context of the historical domestic violence laws passed unanimously by this legislature in 2014 and thereafter.

THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that the Louisiana State Law Institute study the laws of domestic violence to address the need for any revisions and recommendations to this area of law.

BE IT FURTHER RESOLVED that the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to work in conjunction with the United Against Domestic Violence Coalition and any other agencies or associations deemed appropriate by the working group regarding this study.

BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted to the director of the Louisiana State Law Institute and that the Louisiana State Law Institute report its findings and recommendations to the Legislature of Louisiana on or before February 1, 2018.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE