

2019 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 109

BY REPRESENTATIVE CARPENTER

A CONCURRENT RESOLUTION

To urge and request Voice of the Experienced to study the collateral consequences of a criminal conviction in Louisiana and the extent to which defendants are notified of such consequences prior to entering a guilty plea, and to report its findings to the Louisiana Legislature no later than February 1, 2020.

WHEREAS, roughly ninety-five percent of felony convictions are obtained through plea agreements in Louisiana's criminal legal system; and

WHEREAS, a guilty plea is a waiver of certain constitutional rights that is only valid if, under *Boykin v. Alabama*, 395 U.S. 238 (1969), it is a voluntary, knowing, and intelligent waiver of rights; and

WHEREAS, the United States Supreme Court, in *Padilla v. Kentucky*, 559 U.S. 356 (2010), mandated that defendants be advised of potential impacts on immigration status, and in *Missouri v. Frye*, 556 U.S. 134 (2012), mandated that defendants be informed of all plea offers from the state; and

WHEREAS, a felony conviction has immediate and certain impacts on the fundamental constitutional rights to vote and to keep and bear arms; and

WHEREAS, a felony conviction has certain and potential impacts on the ability to hold a Louisiana driver's license, which is often essential to the ability to work and care for a family; and

WHEREAS, a felony conviction has certain lifetime impacts on a person's eligibility for employment, professional licensing, and educational opportunities; and

WHEREAS, a felony conviction has certain lifetime impacts on housing, including public housing, and some convictions may result in immediate eviction for a person and, potentially, their entire family; and

WHEREAS, a person sentenced to a prison term should know if and when they are parole eligible, and should be informed of the terms and conditions of probation, including opportunities for early termination and a clearly defined sanction process for violations; and

WHEREAS, Voice of the Experienced (VOTE) is a Louisiana membership organization by and for persons who are directly impacted by the criminal legal system, including incarcerated persons and their family members, persons under community supervision, and persons living with the lifetime impacts of criminal convictions.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby urge and request Voice of the Experienced to study the breadth and depth of information provided to defendants prior to entering a guilty plea in the Louisiana criminal legal system.

BE IT FURTHER RESOLVED that Voice of the Experienced develop a best practices guidance that satisfies a knowing and intelligent waiver of rights, with regard to the full scope of punishments, exclusions, and other consequences under the laws and policies of Louisiana.

BE IT FURTHER RESOLVED that, in this regard, Voice of the Experienced may work with and receive information from various stakeholders in the criminal legal system, including but not limited to representatives of the Louisiana Clerks of Court Association, the Louisiana District Judges Association, the Louisiana Public Defender Board, the Louisiana District Attorneys Association, the office of motor vehicles of the Department of Public Safety and Corrections, the secretary of state, and local public housing authorities.

BE IT FURTHER RESOLVED that Voice of the Experienced may also study relevant case law and national practices to better understand other approaches of ensuring knowing and intelligent waivers of rights prior to entering a guilty plea in a court of law.

BE IT FURTHER RESOLVED that Voice of the Experienced report its findings to the Louisiana Legislature no later than February 1, 2020.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to Voice of the Experienced.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE