

SENATE RESOLUTION NO. 22

BY SENATOR FOIL

A RESOLUTION

To urge and request the Louisiana State Law Institute to study and recommend legislation relative to the division of retirement benefits of a former spouse in the partition of community property.

WHEREAS, R.S. 9:2801 provides for the partition of community property and settlement claims arising from matrimonial regimes; and

WHEREAS, the Louisiana Supreme Court in *Sims v. Sims*, 358 So.2d 919 (La. 1978) determined in a partition of community assets following the dissolution of the community property regime as the result of a divorce, a divorced spouse has an interest in a former spouse's pension rights, insofar as the benefits are attributable to his employment during the existence of the community; and

WHEREAS, in *Sims*, the Louisiana Supreme Court held that the divorced spouse was entitled to have recognized an interest in the pension funds or rights of the former spouse, when the benefits become actually payable to, or for the other, in the proportion that they are attributable to the former spouse's employment during the community; and

WHEREAS, the Louisiana Supreme Court determined that the following formula by fraction, known as the "Sims Formula" is the proper formula to apply for the division of retirement benefits attributable to employment during the existence of the community, the numerator of which is the years of creditable service during the existence of the community, divided by the denominator of which is the total years of creditable service, multiplied by one-half; and

WHEREAS, the Sims Formula is established by jurisprudence and applies to the division of retirement benefits, as the result of a divorce, in all retirement systems in the state of Louisiana; and

WHEREAS, the Louisiana State Law Institute has the capability and expertise to study and make recommendations for potential changes relative to the laws governing the division of retirement benefits and applicable to the partition of community property as the result of a divorce.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to study and recommend legislation relative to the division of retirement benefits of a former spouse in the partition of community property as the result of a divorce.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute report its findings and recommendations to the legislature on or before March 1, 2027.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the director of the Louisiana State Law Institute.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall submit one printed copy and one electronic copy of any report produced pursuant to this Resolution to the David R. Poynter Legislative Research Library as required by R.S. 24:772.

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PRESIDENT OF THE SENATE