

2019 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 87

BY REPRESENTATIVE MAGEE

BOARDS/COMMISSIONS: Provides for the Louisiana Commission on Justice System Funding

1    A CONCURRENT RESOLUTION

2 To authorize and direct the creation of the Louisiana Commission on Justice System  
3 Funding to study and determine optimal methods of supporting and funding the  
4 Louisiana court system in a way that would allow for the implementation of changes  
5 made in Act No. 260 of the 2017 Regular Session of the Legislature.

6        WHEREAS, the purpose of imposing financial obligations on a person who is  
7 convicted of a criminal offense is to hold the offender accountable for his actions, to  
8 compensate victims for any pecuniary loss or costs incurred in connection with a criminal  
9 prosecution, to defray the cost of court operations, and to provide services to offenders and  
10 victims; and

11        WHEREAS, imposition of these financial obligations, including fines, fees,  
12 restitution, and court costs, in excess of what a person can reasonably pay undermine the  
13 primary purpose of the criminal justice system which is to deter criminal behavior and  
14 encourage compliance with the law; and

15        WHEREAS, persons released from incarceration or on community supervision often  
16 carry thousands of dollars in financial obligations related to their conviction including fines,  
17 fees, court costs, and restitution; and the current structure for imposition and collection of  
18 these financial obligations has left thousands of individuals in significant debt, has created  
19 an insurmountable barrier to the individual's successful reentry into society, and threatens  
20 the goals of the criminal justice system to enhance public safety and support victims; and

21        WHEREAS, large financial obligations for individuals who are attempting to  
22 successfully reenter society create problems, not only for the individual, but also for victims  
23 of crime and society in general; and

1           WHEREAS, studies have shown that, on average, persons who are sentenced to  
2 probation will end their period of supervision owing large amounts of restitution to victims,  
3 and the person's ability to pay this restitution suffers, due in large part to the obligation of  
4 paying other court-related fines, fees, and costs that are not directed to victims; and

5           WHEREAS, studies have shown large government-ordered financial obligations such  
6 as fines, fees, and other costs can create instability with housing, food, and child support  
7 payments, and can also lead individuals back to obtaining resources by illegal means,  
8 creating more crime and less public safety; and

9           WHEREAS, in 2017, the Louisiana Legislature took a significant step in reforming  
10 current financial obligations with the passage of Act No. 260 of the 2017 Regular Session  
11 of the Legislature; and

12           WHEREAS, with regard to the financial obligations of criminal offenders, Act No.  
13 260 does all of the following:

14           (1) Requires a court to determine if the aggregate amount of all financial obligations  
15 imposed upon a defendant would cause substantial financial hardship to the defendant or  
16 those who depend upon the defendant.

17           (2) Authorizes the court to waive financial obligations or order a payment plan if  
18 financial hardship is found, creating an incentive to pay financial obligations.

19           (3) Requires half of any monthly payment to go toward victim restitution.

20           (4) Disallows the use of jail or revocation of a person's driver's license as  
21 punishment unless it is determined that the individual is able but has willfully refused to pay;  
22 and

23           WHEREAS, the changes made by Act No. 260 of the 2017 Regular Session help to  
24 ensure that criminal justice financial obligations do not become a significant barrier to  
25 successful reentry while ensuring victims of crime are a focus of repayment; and

26           WHEREAS, in 2018, Act Nos. 137 and 668 delayed the effective date of these  
27 changes due to concerns regarding the impact of the implementation of Act No. 260 of the  
28 2017 Regular Session on the Louisiana criminal justice system; and

1           WHEREAS, a significant portion of Louisiana's criminal justice system is funded  
2 through fines, fees, restitution, and other court costs, to be paid by defendants and those  
3 convicted of criminal offenses; and

4           WHEREAS, relying on the financial obligations of persons convicted of criminal  
5 offenses to significantly fund Louisiana's criminal justice system creates an unnecessary and  
6 perverse incentive; and

7           WHEREAS, the criminal justice system is a core function of government and should  
8 be appropriately funded by the legislature; and

9           WHEREAS, Louisiana does not currently have a means to uniformly or  
10 systematically track where criminal fines, fees, and court costs are directed, nor does  
11 Louisiana track the extent to which the criminal justice system in each parish is funded by  
12 financial obligations of criminal defendants; and

13           WHEREAS, it would be beneficial to the people of this state to have more openness  
14 and transparency when it comes to the sources of funding of Louisiana court systems and  
15 to have a court system funded through a means that provides stability and fairness.

16           THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby  
17 authorize and direct the creation of the Louisiana Commission on Justice System Funding  
18 to study current financial obligations of criminal defendants and how those financial  
19 obligations are used to fund and subsidize core functions of the Louisiana court system, and  
20 to study and determine optimal methods of supporting and funding the Louisiana court  
21 system in a way that would allow for the implementation of changes made in Act No. 260  
22 of the 2017 Regular Session of the Legislature.

23           BE IT FURTHER RESOLVED that the commission shall be composed of the  
24 following members:

25           (1) The author of Act No. 260 of the 2017 Regular Session of the Legislature, who  
26 shall serve as co-chair of the commission.

27           (2) The governor or his designee.

28           (3) The chief justice of the Louisiana Supreme Court or her designee.

29           (4) The speaker of the House of Representatives or his designee.

30           (5) The president of the Senate or his designee.

1 (6) The chair of the House Committee on Administration of Criminal Justice.

2 (7) The chair of the House Committee on Judiciary.

3 (8) The chair of the Senate Committee on Judiciary B.

4 (9) The chair of the Senate Committee on Judiciary C.

5 (10) The attorney general or his designee.

6 (11) The secretary of the Department of Public Safety and Corrections or his  
7 designee.

8 (12) A representative from the division of administration appointed by the  
9 commissioner of administration. This representative shall serve as co-chair of the  
10 commission.

11 (13) The president of the Louisiana Sheriffs' Association or his designee.

12 (14) A probation and parole officer appointed by the Louisiana Probation and Parole  
13 Association.

14 (15) Two district attorneys appointed by the president of the Louisiana District  
15 Attorneys Association.

16 (16) A public defender appointed by the State Public Defender Board.

17 (17) Two district court judges, one appointed by the chief justice of the Louisiana  
18 Supreme Court and one appointed by the Louisiana District Judges Association.

19 (18) The president of the Louisiana Clerks of Court Association or his designee.

20 (19) One representative from Louisianans for Prison Alternatives.

21 (20) Two representatives from the Louisiana Smart on Crime Coalition.

22 (21) One representative from Operation Restoration.

23 (22) One representative from Power Coalition for Equity and Justice.

24 BE IT FURTHER RESOLVED that a majority of the membership of the commission  
25 shall constitute a quorum and shall meet at the call of the chairperson, or upon an affirmative  
26 vote of a majority of the commission members. All members shall be notified in writing of  
27 all meetings at least five days before the date on which a meeting of the commission is  
28 scheduled.

1 BE IT FURTHER RESOLVED that meetings of the commission shall take place at  
2 the Louisiana State Capitol and the first meeting of the commission shall take place no later  
3 than September 1, 2019.

4 BE IT FURTHER RESOLVED that the duties of the commission shall include but  
5 not be limited to all of the following:

6 (1) Track the history of methods of funding the Louisiana court system.

7 (2) Estimate the extent to which the Louisiana court system is funded through funds  
8 received from the collection of fines, fees, restitution, and other court costs.

9 (3) Estimate the cost of a court system that is fully funded by state and local  
10 governments.

11 (4) Research, study, and recommend alternative methods of funding the Louisiana  
12 court system.

13 (5) Recommend a comprehensive plan for the implementation of the changes  
14 provided in Act No. 260 of the 2017 Regular Session of the Legislature.

15 (6) Determine the resources and training court systems will need in implementing  
16 and complying with Act No. 260 of the 2017 Regular Session of the Legislature.

17 (7) Determine the appropriate entity, or recommend the establishment of a new  
18 entity, to provide oversight and track budget impacts of the implementation of Act No. 260  
19 of the 2017 Regular Session of the Legislature and to recommend changes as needed.

20 (8) Collect necessary data to accomplish these purposes as set forth in this  
21 Resolution.

22 BE IT FURTHER RESOLVED that the commission may request and collect relevant  
23 and necessary data and information to accomplish its purposes from state and local  
24 government entities including at least five judicial district court systems throughout the state  
25 that, to the extent possible, represent the geographic diversity of this state and diversity in  
26 population of the parishes served by the judicial district court system.

27 BE IT FURTHER RESOLVED that the entities and court systems from which such  
28 information and data is requested may, to the extent feasible, provide such information and  
29 data to the commission at no cost.

1 BE IT FURTHER RESOLVED that the commission shall request and secure  
2 qualified technical assistance and support through the establishment of an academic  
3 partnership or from public or private stakeholders and entities with qualified expertise in the  
4 commission's focus areas.

5 BE IT FURTHER RESOLVED that the division of administration and the office of  
6 the judicial administrator of the Louisiana Supreme Court shall provide administrative  
7 assistance and staffing as may be necessary in order to enable the commission to conduct its  
8 meetings and accomplish its duties.

9 BE IT FURTHER RESOLVED that the commission shall provide a report of its  
10 initial findings and recommendations to the governor and the Legislature of Louisiana no  
11 later than February 1, 2020, and any further reports or recommendations thereafter as  
12 requested by the governor, the legislature, or advised by the commission.

13 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to each  
14 of the commission members and the appointing entities provided in this Resolution.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HCR 87 Engrossed

2019 Regular Session

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Directs the creation of the La. Commission on Justice System Funding to study and determine optimal methods of supporting and funding the La. court system in a way that would allow for the implementation of changes made in Act No. 260 of the 2017 R.S.

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Add the president of the Louisiana Clerks of Court Association or his designee, one representative from Operation Restoration, and one representative from Power Coalition for Equity and Justice to the composition of the members of the commission.
2. Reduce the amount of representatives of the Louisianans for Prison Alternatives from two to one.
3. Make technical changes.