

SENATE RESOLUTION NO. 145

BY SENATOR BARROW

A RESOLUTION

To create and provide for the Task Force on Expert Testimony for Justification Defense.

WHEREAS, the Legislature of Louisiana has committed to preventing the wrongful conviction of survivors of domestic violence, intimate partner violence, and sexual violence; and

WHEREAS, society and the legal system have historically lagged in understanding the dynamics of domestic violence; and

WHEREAS, instead, there is a stereotype perpetuated against these victims that they must fight back in order to be a "victim" under the law; and

WHEREAS, the Louisiana Supreme Court, in *State v. Curley*, exonerated a woman on defense counsel's failure to investigate and present expert testimony of "battered woman's syndrome"; and

WHEREAS, survivors of domestic and intimate partner violence, childhood trauma, sexual violence, and human trafficking are often criminalized and incarcerated for acting in self-defense, for protecting their loved ones, and for actions they take under the coercion of an abuser; and

WHEREAS, there are survivors wrongfully incarcerated in Louisiana prisons whose arrests, prosecutions, and convictions were based upon stereotypes about survivors and outdated and discredited ideas about intimate partner violence; and

WHEREAS, research from Operation Restoration shows that Louisiana has the seventh highest incarceration rate for women in the world at 198 per 100,000, while the average in the United States as a whole is lower, at 127 per 100,000; and

WHEREAS, changes in sentencing of domestic violence survivors in Louisiana would help restore humanity and justice to survivors of trauma and abuse who act to protect themselves and their loved ones, and would bring long-overdue relief to survivors who have

been incarcerated for many years; and

WHEREAS, the findings of the Survivor Informed Task Force created by Senate Concurrent Resolution No. 45 of the 2021 Regular Session of the Legislature confirmed the need for presentation of facts and availability of a defense for criminalized survivors in the criminal justice system; and

WHEREAS, Senate Bill No. 251 of this 2022 Regular Session of the Legislature produced informative conversations and a political will to take further action towards codifying legal defenses for survivors of violence and abuse who are prosecuted for crimes when they act under duress or coercion; and

WHEREAS, Louisiana laws do not take into account the dynamics of intimate partner violence where an abuser coerces a victim to participate in criminal activity after long-term abuse and manipulation; and

WHEREAS, survivors are then left without a meaningful choice whether to participate in the criminal activity, but the appropriate defense is also unavailable to them; and

WHEREAS, the Survivor Informed Task Force, a multi-disciplinary organization, issued a report, but did not fully explore how to enact laws to allow victims to present a sufficient defense in criminal cases.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby establish and provide for the Task Force on Expert Testimony for Justification Defense to study the admissibility of expert testimony relative to a victim-defendant whose actions were the result of intimate partner violence, sexual violence, human trafficking, or domestic violence, and to propose recommendations, together with specific proposals for legislation.

BE IT FURTHER RESOLVED that the task force should include in its study consideration of introduction of expert testimony by a defendant who is also a victim of intimate partner violence, human trafficking, domestic violence, or sexual violence.

BE IT FURTHER RESOLVED that the task force shall consist of the following members:

- (1) The senator for Senate District 15, who shall serve as chairperson of the task

force.

(2) The executive director of the Louisiana District Attorneys Association, or his designee.

(3) The state public defender, or his designee.

(4) A representative of the Louisiana Association of Criminal Defense Lawyers, appointed by the president of the board of directors.

(5) A representative of Sexual Trauma Awareness and Response, designated by the president of the organization.

(6) A representative of Voice of the Experienced (V.O.T.E.), appointed by the executive director.

(7) A representative of the Promise of Justice Initiative, designated by the president of the board of directors.

(8) A member from the Justice and Accountability Center of Louisiana, appointed by the board of directors.

(9) A representative of the judicial community, appointed by the chief justice of the Louisiana Supreme Court.

(10) A representative of the Louisiana Foundation Against Sexual Assault, appointed by the president of the board of directors.

(11) A representative of Operation Restoration, appointed by the executive director.

(12) A representative of the Human Trafficking Prevention Commission Advisory Board.

(13) A representative of TentMakers of Louisiana, appointed by the director.

BE IT FURTHER RESOLVED that each designating authority shall submit the names of designees to the task force to the chairperson, no later than July 1, 2022.

BE IT FURTHER RESOLVED the task force shall convene for its first meeting no later than September 1, 2022, at the call of the chairperson, and at the first meeting, the members shall elect other officers as the task force may deem appropriate.

BE IT FURTHER RESOLVED that a majority of the task force shall constitute a quorum for the transaction of business, and all official actions of the task force shall require the affirmative vote of a majority of the members.

BE IT FURTHER RESOLVED that the members of the task force shall serve without compensation, except per diem or expenses reimbursement to which they may be individually entitled as members of their constituent organizations.

BE IT FURTHER RESOLVED that the task force shall receive staff support from one or more of the entities from which the task force membership is designated or appointed, at the discretion of the task force members.

BE IT FURTHER RESOLVED that the task force shall make a written report of its findings and recommendations, together with any specific proposals for legislation, to the Senate, and the to the David R. Poynter Legislative Research Library as required by R.S. 24:771 and 772, no later than March 15, 2023.

BE IT FURTHER RESOLVED that the task force shall terminate on the date of the submission of its report or March 15, 2023, whichever occurs first.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Louisiana District Attorneys Association, the State Public Defender Board, the Louisiana Association of Criminal Defense Lawyers, Sexual Trauma Awareness and Response, Voice of the Experienced, the Promise of Justice Initiative, the Justice and Accountability Center of Louisiana, the Louisiana Supreme Court, Louisiana Foundation Against Sexual Assault, Operation Restoration, and the Human Trafficking Prevention Commission Advisory Board.

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PRESIDENT OF THE SENATE