

Regular Session, 2012

HOUSE CONCURRENT RESOLUTION NO. 90

BY REPRESENTATIVE SEABAUGH

A CONCURRENT RESOLUTION

To direct the Criminal Code Committee of the Louisiana State Law Institute to study the issue of post-conviction relief, specifically with regard to the costs associated with providing such relief, and to issue a report of its findings and recommendations on the feasibility of assessing certain fees for applications for post-conviction relief to the Legislature of Louisiana.

WHEREAS, pursuant to Louisiana law, once a criminal defendant has exhausted all possible appeals of his conviction and sentence, the defendant may then file an application for post-conviction relief, which is a petition filed by the defendant seeking to have the conviction and sentence set aside; and

WHEREAS, in the case of *State ex rel. Glover v. State*, 93-2330 (La. 1995), 660 So.2d 1189, the Louisiana Supreme Court discussed the constitutionality of a provision of the Code of Criminal Procedure which provides time limitations for filing an application for post-conviction relief, and the court, relying on support from decisions by the United States Supreme Court, stated that states are not required by the constitution to provide post-conviction relief; and

WHEREAS, in the same case, the Louisiana Supreme Court cited a United States Supreme Court case in which Justice Rehnquist, writing for a four justice plurality, stated that "[t]he Due Process Clause ... does not establish any right to an appeal ... and certainly does not establish any right to collaterally attack a final judgment of conviction." *Glover*, 660 So.2d at 1194 (citing *United States v. MacCollom*, 426 U.S. 317, 96 S.Ct. 2086, 48 L.Ed.2d 666 (1976)); and

WHEREAS, the court stated further in the *Glover* decision that "[o]ne of the goals of Louisiana's system of justice is to provide the accused and the state fair and prompt trials, appeals, and further proceedings to correct error," but that this system of justice should also

reflect the "legitimate concern ... that this process should also end within a reasonable period of time." *Glover*, 660 So.2d at 1196; and

WHEREAS, it is necessary in choosing to provide criminal defendants with access to post-conviction relief, that certain interests also be considered, including but not limited to equal access to the courts, efficiency of the judicial and criminal justice system, costs associated with providing such access, and finality of court determinations, including criminal convictions and sentencing.

THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby direct the Criminal Code Committee of the Louisiana State Law Institute to study the issue of post-conviction relief, specifically with regard to the costs associated with providing such relief, and to issue a report to the Legislature of Louisiana no later than March 1, 2013, which shall include its findings and recommendations on the feasibility of imposing certain fees for applications for post-conviction relief.

BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted to the Criminal Code Committee of the Louisiana State Law Institute.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE