

2019 Regular Session

HOUSE STUDY REQUEST NO. 1

BY REPRESENTATIVE MAGEE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/VICTIMS: Requests a study and compilation of the various provisions of Louisiana law applicable to survivors of sexual assault and sexual assault cases

1 A STUDY REQUEST

2 To authorize and request the House Committee on the Administration of Criminal Justice,
3 or a subcommittee thereof, to compile all provisions of Louisiana law applicable to
4 victims of sexual assault and sexual assault cases, and to compare and identify
5 differences between provisions of Louisiana law and the provisions of the federal
6 Sexual Assault Survivors' Rights Act and similar laws from other states relative to
7 sexual assault victims.

8 WHEREAS, sexual assault is a serious and widespread problem affecting millions
9 of people each year in the United States with one in three women and one in four men
10 experiencing sexual assault involving physical contact during their lifetimes, and nearly one
11 in five women and one in thirty-eight men experiencing completed or attempted rape; and

12 WHEREAS, researchers know that these numbers underestimate this problem as
13 many cases go unreported because victims may be ashamed, embarrassed, or afraid to report
14 or because victims have been threatened with further harm if they report; and

15 WHEREAS, by enacting laws that enable a victim of sexual assault to feel safe and
16 supported while navigating the medical and legal processes resulting from the assault, it is
17 more likely the victim will report the assault, the perpetrator will be held accountable, and
18 the state will achieve safety for its communities and justice for the victim; and

19 WHEREAS, in 2016 the United States Congress passed the Sexual Assault Survivors'
20 Rights Act, also known as the sexual assault survivors' "bill of rights", which codifies the
21 rights given under federal law to sexual assault victims; and

1 WHEREAS, in the wake of this federal legislation, a number of states have passed
2 similar laws modeled on the federal legislation to help protect the rights of sexual assault
3 victims; and

4 WHEREAS, the rights afforded to sexual assault victims in these "bill of rights" laws
5 include but are not limited to the following:

6 (1) The right to consult with a sexual assault counselor during any medical
7 evidentiary or physical examination, as well as the right to have a support person of the
8 victim's choosing present during any interview by a law enforcement official, prosecutor,
9 or defense attorney.

10 (2) The right to have counsel present during all stages of any medical examination,
11 interview, investigation, or other interaction with representatives from the legal or criminal
12 justice systems within the state.

13 (3) The right to prompt analysis of sexual assault forensic evidence and the right to
14 be informed of the results of the analysis through a secure and confidential message in
15 writing; and

16 WHEREAS, Louisiana law provides similar protections and rights to sexual assault
17 victims as well as protocols for the processing of sexual assault reports and cases throughout
18 various Titles of the Louisiana Revised Statutes and Codes; and

19 WHEREAS, such provisions include a standardized sexual assault collection kit and
20 protocols for forensic medical examinations, including requirements relative to the tracking
21 and reporting of the number of tested and untested collection kits; required procedures for
22 all licensed hospitals and healthcare providers when a person presents for treatment as a
23 victim of sexual assault; and provisions establishing the right of victims of sexual assault to
24 request the presence of a sexual assault advocate during the forensic medical examination
25 or interviews by law enforcement and the right to receive certain services, benefits, and other
26 forms of assistance provided by law; and

27 WHEREAS, although Louisiana law does provide for these protocols, procedures,
28 protections, and rights, it does so in separate provisions throughout various Titles of the
29 Louisiana Revised Statutes and Codes which could contribute to the uncertainty of a sexual

1 assault victim in deciding whether to report the assault and in navigating the medical and
2 legal processes involved; and

3 WHEREAS, to address this issue and to enable a victim of sexual assault to feel safe
4 and supported while going through the medical evaluations and the process of seeking
5 justice for the assault, it is necessary to fully evaluate the Louisiana Revised Statutes and
6 Codes to identify the protections and rights afforded to victims of sexual assault under
7 Louisiana laws and to determine the relevant protocols and procedures applicable in sexual
8 assault cases from the perspective of the victim.

9 THEREFORE, the Legislature of Louisiana requests the House Committee on the
10 Administration of Criminal Justice, or a subcommittee thereof, to compile all provisions of
11 Louisiana law applicable to victims of sexual assault or in sexual assault cases, including but
12 not limited to provisions which do the following:

13 (1) Establish the rights, services, benefits, or other forms of assistance to victims
14 including but not limited to medical treatment, civil causes of action, and protective orders
15 as well as the right to legal counsel and the presence of a sexual assault advocate or other
16 support person throughout various stages of the medical and legal processes.

17 (2) Establish the procedure adhered to by medical professionals when a victim of
18 sexual assault presents for treatment.

19 (3) Establish the procedure for the collection and analysis of sexual assault forensic
20 evidence; the procedure for tracking a sexual assault collection kit beginning at the time of
21 collection of the evidence and including receipt of the evidence by the crime laboratory,
22 testing of the forensic evidence, and completion of analysis by the crime laboratory.

23 THEREFORE, the Legislature of Louisiana further requests that the House
24 Committee on the Administration of Criminal Justice, or a subcommittee thereof, to compare
25 and identify differences between provisions of Louisiana law and the provisions of the
26 federal Sexual Assault Survivors' Rights Act and similar sexual assault survivors' "bill of
27 rights" laws from other states, and to report its findings to the House of Representatives prior
28 to the convening of the 2020 Regular Session of the Legislature.

29 THEREFORE, in undertaking the study, the House Committee on the Administration
30 of Criminal Justice, or a subcommittee thereof, may seek input from various agencies and

- 1 organizations and may request research, documents, or data, conduct public hearings, and
 - 2 take any other actions it deems necessary to carry out its functions.
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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)]

HSR 1 Original

2019 Regular Session

Magee

Requests the House Committee on the Administration of Criminal Justice, or a subcommittee thereof, to compile all provisions of La. law applicable to victims of sexual assault and sexual assault cases, and to compare and identify differences between provisions of La. law and the provisions of the federal Sexual Assault Survivors' Rights Act and similar laws from other states relative to sexual assault victims, and to report its findings prior to the convening of the 2020 R.S.