

SENATE RESOLUTION NO. 254

BY SENATOR WALSWORTH

A RESOLUTION

To urge and request the Louisiana State Law Institute to conduct a review and study of Louisiana's *in forma pauperis* and related statutes as applied by Louisiana courts in civil judicial proceedings for possible revision to clarify and limit misinterpretation of existing law and to ensure consistent application in all Louisiana courts.

WHEREAS, a foundation of the Louisiana legal system is to ensure all citizens have equal access to the courts to address their grievances, regardless of their station in life, language, or their ability to pay; and

WHEREAS, Louisiana has ensured access to justice for all, as Article I, Section 22 of the Constitution of Louisiana provides that:

"All courts shall be open, and every person shall have an adequate remedy by due process of law and justice, administered without denial, partiality, or unreasonable delay, for injury to him in his person, property, reputation, or other rights."; and

WHEREAS, Louisiana allows indigent individuals to petition the court for redress of grievances; and

WHEREAS, except as specifically provided by law elsewhere, Louisiana statutes set forth procedures for indigents in civil judicial proceedings to file *in forma pauperis* codified in the Code of Civil Procedure Article 5181 through Article 5188, which allows indigents to proceed with their action without advance payment of costs; and

WHEREAS, in the opinion rendered in the case of *Benjamin v. National Supermarkets, Inc.*, 351 So. 2d 138 (La. 1977), the Louisiana Supreme Court affirmed the correctness of the following from the opinion of the Court of Appeal, Third Circuit in *Roy v. Gulf States Utilities Co.*, 307 So. 2d 758, 760 (La. App. 3d Cir. 1975):

"The legislative intent, we believe, was for that privilege (to litigate in forma pauperis) to be restricted to those who are clearly entitled to it so that the statute will not be abused, but that a liberal construction should be applied in close or questionable cases to make sure that a litigant who is entitled to such a privilege is not deprived of it."; and

WHEREAS, a survey of public interest attorneys regarding Louisiana court practices found variations in interpretation of the *in forma pauperis* statutes which decreases an indigent's access to the legal system and puts at jeopardy this underlying principle of access to justice; and

WHEREAS, as a result of inconsistent interpretation and misapplication of the *in forma pauperis* statutes, individuals receive different outcomes based on a court system's interpretation of the statutes; and

WHEREAS, Louisiana has instituted the Louisiana State Law Institute to consider needed improvements in the law and study civil law to discover defects and inequities and recommend needed reforms; and

WHEREAS, the Louisiana State Bar Association, through its Access to Justice Committee, with representatives from the Louisiana Judiciary, private bar attorneys, and Louisiana civil legal aid providers, have expressed support of the referral of this issue to the Louisiana State Law Institute to study *in forma pauperis* laws and courts' pervasive misapplications and determine whether a revision or updated guidance of substantive or procedural law is needed to enhance consistent application in all Louisiana courts.

THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana does hereby urge and request the Louisiana State Law Institute to review and study Louisiana's *in forma pauperis* and related statutes as applied by Louisiana courts to determine the need to clarify and limit misinterpretation of existing law and make recommendations for proposed legislation to ensure consistent application in all Louisiana courts.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute shall submit a report detailing the results of its study and its recommendation for proposed legislation to the legislature no later than January 1, 2020.

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

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PRESIDENT OF THE SENATE