

House Committee on Administration of Criminal Justice

Minutes of Meeting
2018 Regular Session
April 4, 2018

I. CALL TO ORDER

Representative Sherman Q. Mack, chairman of the House Committee on Administration of Criminal Justice, called the meeting to order at 9:03 a.m. in Room 6, in the state capitol in Baton Rouge, Louisiana.

II. ROLL CALL

MEMBERS PRESENT:

Representative Sherman Q. Mack, chairman
Representative Tony Bacala
Representative John H. Bagneris
Representative Barbara W. Carpenter
Representative Raymond J. Crews
Representative Stephen C. Dwight
Representative Lowell C. "Chris" Hazel
Representative Valarie Hodges
Representative Frank A. Howard
Representative Edward C. "Ted" James, II
Representative Terry C. Landry, Sr.
Representative C. Denise Marcelle
Representative Joseph A. Marino, III
Representative Nicholas Muscarello
Representative Barbara M. Norton
Representative Steve E. Pylant, vice chairman
Representative John M. Stefanski

MEMBERS ABSENT:

Representative Randal L. Gaines

STAFF MEMBERS PRESENT:

Kelly C. Fogleman, attorney
Alicia Spivey, secretary
Michelle D. Fontenot, director

ADDITIONAL ATTENDEES PRESENT:

Jordan Zeringue, clerk
Desiree Cotton, clerk
Angela McKnight, sergeant at arms
Myrtis Jarrell, sergeant at arms

III. DISCUSSION OF LEGISLATION

Representative Pylant in the chair.

House Bill No. 79 by Representative Mack

Representative Mack presented House Bill No. 79, which creates the crime of abuse of persons with infirmities through electronic means and provides for criminal penalties and exceptions.

Ellison Travis, Louisiana Department of Justice, 1885 North 3rd Street, Baton Rouge, LA 70802, (985) 320-0006, spoke for information only on House Bill No. 79.

Representative Mack offered amendments to:

- (1) Modify the elements of the offense to specify that a person commits the crime of abuse of persons with infirmities through electronic means when the person transfers an image obtained by specified means and for specified purposes set forth in proposed law, when the person transfers the image by specified means set forth in proposed law, and when the person transfers the image with specific intent set forth in proposed law.
- (2) Add a definition for "person with an infirmity".
- (3) Add an exception to the offense of any healthcare provider through its use of any camera, videotape, photo-optical, photo-electric, unmanned aircraft system, or any other image recording device within the facility.

Representative Mack offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 13 yeas and 0 nays. Representatives Mack, Carpenter, Crews, Dwight, Hodges, Howard, Terry Landry, Marcelle, Marino, Muscarello, Norton, Pylant, and Stefanski voted yeas.

Representative Marcelle offered a motion to report House Bill No. 79 with amendments. Without objection, House Bill No. 79 was reported with amendments by a vote of 15 yeas and 0 nays.

Representatives Mack, Bacala, Carpenter, Crews, Dwight, Hazel, Hodges, Howard, Terry Landry, Marcelle, Marino, Muscarello, Norton, Pylant, and Stefanski voted yea.

Witness cards submitted by individuals who did not speak are as follows: 4 in support. Witness cards are included in the committee records.

House Bill No. 88 by Representative Mack

Representative Mack presented House Bill No. 88, which creates the crime of government benefits fraud.

Ellison Travis, Louisiana Department of Justice, 1885 North 3rd Street, Baton Rouge, LA 70802, (985) 320-0006, spoke for information only on House Bill No. 79.

Representative James offered an amendment to include an incentive expenditure program in proposed law. Representative James offered a motion to adopt the proposed amendment, to which Representative Mack objected. The secretary called the roll, and the motion failed to pass by a vote of 6 yeas and 11 nays. Representatives Bagneris, Carpenter, James, Terry Landry, Marcelle, and Norton voted yea. Representatives Mack, Bacala, Crews, Dwight, Hazel, Hodges, Howard, Marino, Muscarello, Pylant, and Stefanski voted nay.

Representative Marino offered amendments to remove the penalties that would apply if the offense involves any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with any federal or state major disaster declaration or declared state of emergency. Representative Marino offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 17 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Hodges, Howard, James, Terry Landry, Marcelle, Marino, Muscarello, Norton, Pylant, and Stefanski voted yea.

Representative Hodges offered a motion to report House Bill No. 88 with amendments, to which Representative Marcelle objected. The secretary called the roll, and House Bill No. 88 was reported with amendments by a vote of 10 yeas and 6 nays. Representatives Mack, Crews, Dwight, Hazel, Hodges, Howard, Marino, Muscarello, Pylant, and Stefanski voted yea. Representatives Bagneris, Carpenter, James, Terry Landry, Marcelle, and Norton voted nay.

Witness cards submitted by individuals who did not speak are as follows: 1 in support and 2 in opposition. Witness cards are included in the committee records.

House Bill No. 111 by Representative Mack

Representative Mack presented House Bill No. 111, which provides relative to the payment of restitution to the victim of a crime.

Representative Marcelle offered a motion to report House Bill No. 111 favorably. Without objection, House Bill No. 111 was reported favorably by a vote of 12 yeas and 0 nays. Representatives Mack, Bagneris, Crews, Dwight, Hazel, Hodges, Terry Landry, Marcelle, Marino, Muscarello, Norton, and Pylant voted yea.

Witness cards submitted by individuals who did not speak are as follows: 8 in support and 3 for information only. Witness cards are included in committee records.

House Bill No. 167 by Representative Mack

Representative Mack presented House Bill No. 167, which provides relative to the La. Public Defender Fund.

Reggie McIntyre, 21st Public Defender District, Amite, LA 70422, (985) 320-5373, spoke in support of House Bill No. 167.

Robert Noel, Public Defender Association, 2901 Evangeline Street, Monroe, LA 71201, (318) 388-1706, spoke in support of House Bill No. 167.

Representative Mack offered amendments to:

- (1) Remove the requirement that the funds be dedicated and disbursed by August 15th each year and instead require the funds to be fully distributed in the first 45 days of the fiscal year based on an objective plan published by the board no later than April 30th of each calendar year.
- (2) Provide that an additional 5% of the entirety of the board's annual budget and its funds in the La. Public Defender Fund shall be reserved by the board for contingencies that may arise in the districts, to be used only for district assistance.

Representative Mack offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 13 yeas and 0 nays. Representatives Mack, Bagneris, Crews, Dwight, Hazel, Hodges, Howard, Terry Landry, Marino, Muscarello, Norton, Pylant, and Stefanski voted yea.

Representative Howard offered a motion to report House Bill No. 167 with amendments. Without objection, House Bill No. 167 was reported with amendments by a vote of 13 yeas and 0 nays. Representatives Mack, Bagneris, Crews, Dwight, Hazel, Hodges, Howard, Terry Landry, Marino, Muscarello, Norton, Pylant, and Stefanski voted yea.

Representative Marino offered a motion to reconsider the motion to report House Bill No. 167 with amendments. Without objection, the motion to reconsider the motion to report House Bill No. 167

with amendments was adopted by a vote of 13 yeas and 0 nays. Representatives Mack, Bagneris, Crews, Dwight, Hazel, Howard, James, Terry Landry, Marino, Muscarello, Norton, Pylant, and Stefanski voted yea.

Kyla Romanach, 525 Florida Street, Suite 310, Baton Rouge, LA 70801, (225) 338-0235, spoke in opposition to House Bill No. 167.

E. King Alexander, Jr., Defender Districts 14th & 38th, 600 Julius Street, Lake Charles, LA 70605, (337) 436-1718, spoke in opposition to House Bill No. 167.

Emily Maw, Innocence Project New Orleans, 4051 Ulloa Street, New Orleans, LA 70119, (504) 943-1902, spoke in opposition to House Bill No. 167.

S. Christie Smith, Louisiana Association of Criminal Defense Lawyers, no address or phone number provided, spoke in opposition to House Bill No. 167.

James T. Dixon, Jr., Louisiana Public Defender Board, 301 Main Street, Suite 700, Baton Rouge, LA 70825, (225) 219-9305, spoke for information only on House Bill No. 167.

Representative Crews offered a motion to reconsider the motion to adopt amendments to House Bill No. 167, to which Representative Mack objected. The secretary called the roll, and the motion failed to pass by a vote of 7 yeas and 9 nays. Representatives Bagneris, Carpenter, Crews, James, Terry Landry, Marino, and Norton voted yea. Representatives Mack, Bacala, Dwight, Hazel, Hodges, Howard, Muscarello, Pylant, and Stefanski voted nay.

Representative Stefanski offered a motion to report House Bill No. 167 with amendments. Without objection, House Bill No. 167 was reported with amendments by a vote of 16 yeas and 0 nays. Representatives Mack, Bagneris, Carpenter, Crews, Dwight, Hazel, Hodges, Howard, James, Terry Landry, Marcelle, Marino, Muscarello, Norton, Pylant, and Stefanski voted yea.

Witness cards submitted by individuals who did not speak are as follows: 1 in support, 6 in opposition, and 1 for information only. Witness cards are included in the committee records.

Representative Mack in the chair.

House Bill No. 836 by Representative Emerson

Representative Emerson presented House Bill No. 836, which provides relative to concealed carry on college campuses.

Ben Smith, Louisiana Students for Concealed Carry, 1956 Linwood Drive, Baton Rouge, LA 70808, (225) 226-8448, spoke in support of House Bill No. 836.

Christian Christoffersen, Louisiana Students for Concealed Carry, 222 East Boyd Drive, Apt. 204, Baton Rouge, LA 70808, spoke in support of House Bill No. 836 and provided signatures of support from current college students, Exhibit A, which is included in the committee records.

Lena Wilson, Louisiana Campus Carry Coalition, 4020 West Lakeshore Drive, Baton Rouge, LA 70808, (925) 207-6901, spoke in support of House Bill No. 836.

Jaice Dubose, Louisiana Students for Concealed Carry, 1741 Brightside Lane, Apt. D7, Baton Rouge, LA 70808, spoke in support of House Bill No. 836.

On behalf of Representative Emerson, Representative Mack offered a motion to voluntarily defer action on House Bill No. 836. Without objection, action on House Bill No. 836 was voluntarily deferred by a vote of 15 yeas and 0 nays. Representatives Mack, Bagneris, Carpenter, Crews, Dwight, Hodges, Howard, James, Terry Landry, Marcelle, Marino, Muscarello, Norton, Pylant, and Stefanski voted yea.

Witness cards submitted by individuals who did not speak are as follows: 20 in support and 10 in opposition. Witness cards are included in the committee records.

House Bill No. 543 by Representative Emerson

On behalf of Representative Emerson, Representative Mack offered a motion to voluntarily defer action on House Bill No. 543, which provides relative to concealed carry of firearms for qualified retired law enforcement officers. Without objection, action on House Bill No. 543 was voluntarily deferred by a vote of 15 yeas and 0 nays. Representatives Mack, Bagneris, Carpenter, Crews, Dwight, Hodges, Howard, James, Terry Landry, Marcelle, Marino, Muscarello, Norton, Pylant, and Stefanski voted yea.

House Bill No. 212 by Representative Jackson

On behalf of Representative Jackson, Commissioner Mike Strain, Louisiana Department of Agriculture and Forestry, 900 North 3rd Street, 3rd Floor, Baton Rouge, LA 70802, (225) 342-7270, presented House Bill No. 212, which creates the crimes of theft of livestock and theft of timber.

Representative Howard offered a motion to report House Bill No. 212 favorably. Without objection, House Bill No. 212 was reported favorably by a vote of 16 yeas and 0 nays. Representatives Mack, Bagneris, Carpenter, Crews, Dwight, Hazel, Hodges, Howard, James, Terry Landry, Marcelle, Marino, Muscarello, Norton, Pylant, and Stefanski voted yea.

Witness cards submitted by individuals who did not speak are as follows: 2 in support. Witness cards are included in the committee records.

House Bill No. 271 by Representative Garofalo

Representative Garofalo presented House Bill No. 271, which provides for the carrying of a concealed handgun on school property by certain teachers or administrators.

Representative Mack offered an amendment to clarify where the handgun will be stored and who will have access to it. Representative Mack offered a motion to adopt the proposed amendment, to which Representative Terry Landry objected. The secretary called the roll, and the amendments were adopted by a vote of 8 yeas and 7 nays. Representatives Mack, Crews, Dwight, James, Marino, Muscarello, Pylant, and Stefanski voted yea. Representatives Bagneris, Carpenter, Hazel, Howard, Terry Landry, Marcelle, and Norton voted nay.

Representative Garofalo presented information in the form of a power point presentation, Exhibit B, which is included in the committee records.

Dan Zelenke, Louisiana Shooting Association, 11 Carolina Court, Covington, LA 70433, (504) 421-1323, spoke in support of House Bill No. 271.

Ken Rachal, 504 Blake Court, Thibodaux, LA 70301, (985) 859-3461, spoke in support of House Bill No. 271.

Pat Gresham, 119 Amelia Lane, Covington, LA 70433, (318) 663-1968, spoke in support of House Bill No. 271.

Ryan Gresham, 115 Rene Street, Madisonville, LA 70447, (985) 951-9714, spoke in support of House Bill No. 271.

Tom Gresham, 119 Amelia Lane, Covington, LA 70433, (318) 663-1358, spoke in support of House Bill No. 271.

Debbie Meaux, President, Louisiana Association of Educators, 8322 One Calais Avenue, Baton Rouge, LA 70800, (225) 343-9243, spoke in opposition to House Bill No. 271 and provided a copy of a resolution adopted by the organization, Exhibit C, which is included in the committee records.

Victoria Coy, LVRC, 323 Tricou Street, New Orleans, LA 70117, no number provided, spoke in opposition to House Bill No. 271.

Lori Maraist, Moms Demand Action, 208 W. Brentwood, Lafayette, LA 70506, (337) 993-3328, spoke in opposition to House Bill No. 271.

Jean Menard, 1745 Higginbotham Highway, Church Point, LA 70525, (337) 250-8530, spoke in opposition to House Bill No. 271.

Christine Leichty, 4072 Highway 182, Opelousas, LA 70570, (337) 290-1549, spoke in opposition to House Bill No. 271.

Representative Pylant offered a motion to report House Bill No. 271 with amendments, to which Representative James objected. The secretary called the roll, and the motion failed to pass by a vote of 7 yeas and 9 nays. Representatives Bacala, Crews, Hodges, Howard, Muscarello, Pylant, and Stefanski voted yea. Representatives Bagneris, Carpenter, Dwight, Hazel, James, Terry Landry, Marcelle, Marino, and Norton voted nay.

Witness cards submitted by individuals who did not speak are as follows: 16 in support and 21 in opposition. Witness cards are included in the committee records.

House Bill No. 726 by Representative Bouie

Representative Bouie presented House Bill No. 726, which provides relative to the membership of the Juvenile Justice Reform Act Implementation Commission.

Representative Mack offered a motion to report House Bill No. 726 favorably. Without objection, House Bill No. 726 was reported favorably by a vote of 17 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Hodges, Howard, James, Terry Landry, Marcelle, Marino, Muscarello, Norton, Pylant, and Stefanski voted yea.

Witness cards submitted by individuals who did not speak are as follows: 5 in support. Witness cards are included in the committee records.

House Bill No. 702 by Representative Bouie

On behalf of Representative Bouie, Representative Mack offered a motion to voluntarily defer action on House Bill No. 702, which adds former members of the legislature to the list of persons who are excepted from the crime of illegal carrying of weapons. Without objection, action on House Bill No. 702 was voluntarily deferred by a vote of 17 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Hodges, Howard, James, Terry Landry, Marcelle, Marino, Muscarello, Norton, Pylant, and Stefanski voted yea.

House Bill No. 307 by Representative Thomas

Representative Thomas presented House Bill No. 307, which provides for the rights of certain crime victims.

Representative Marino offered technical amendments to refer to the entirety of the present law Public Records Law, as opposed to one provision in the Public Records Law. Representative Marino offered a motion to adopt the proposed amendments. Without objection, the amendments were

adopted by a vote of 15 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Hodges, Howard, Marcelle, Marino, Muscarello, Norton, Pylant, and Stefanski voted yea.

Representative Pylant offered a motion to report House Bill No. 307 with amendments. Without objection, House Bill No. 307 was reported with amendments by a vote of 15 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Hodges, Howard, Marcelle, Marino, Muscarello, Norton, Pylant, and Stefanski voted yea.

Witness cards submitted by individuals who did not speak are as follows: 7 in support. Witness cards are included in the committee records.

House Bill No. 440 by Representative Hodges

Representative Hodges presented House Bill No. 440, which expands the Department of Public Safety and Corrections substance abuse probation program to include treatment for mental health issues.

Natalie LaBorde, Department of Public Safety and Corrections, 504 Mayflower Street, Baton Rouge, LA 70801, (337) 654-6718, spoke for information only on House Bill No. 440.

Representative Hodges offered amendments to:

- (1) Provide that the substance abuse program shall provide counseling and treatment for defendants with substance abuse disorders, or defendants with co-occurring mental illness and substance abuse disorders, who are sentenced to substance abuse probation.
- (2) Authorize the Department of Public Safety and Corrections to enter into cooperative endeavors or contracts with local governmental entities, instead of the Louisiana Department of Health, to provide for substance abuse treatment and counseling and mental health treatment for defendants participating in the program.
- (3) Change references from "mental health condition" to "mental health disorder".

Representative Hodges offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 15 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Hodges, Howard, James, Terry Landry, Marino, Muscarello, Norton, and Pylant voted yea.

Representative Norton offered a motion to report House Bill No. 440 with amendments. Without objection, House Bill No. 440 was reported with amendments by a vote of 15 yeas and 0 nays.

Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Hodges, Howard, James, Terry Landry, Marino, Muscarello, Norton, and Pylant voted yea.

Witness cards submitted by individuals who did not speak are as follows: 3 in support. Witness cards are included in the committee records.

House Bill No. 495 by Representative Hazel

Representative Hazel presented House Bill No. 495, which provides relative to concealed carry of firearms for qualified retired law enforcement officers.

Darrell Basco, Louisiana Fraternal Order of Police, P.O. Box 1479, Abita Springs, LA 70420, (318) 401-0421, spoke in support of House Bill No. 495.

Representative Norton offered a motion to report House Bill No. 495 favorably. Without objection, House Bill No. 495 was reported favorably by a vote of 15 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Hodges, Howard, James, Terry Landry, Marino, Muscarello, Norton, and Pylant voted yea.

Witness cards submitted by individuals who did not speak are as follows: 5 in support and 2 in opposition. Witness cards are included in the committee records.

House Bill No. 240 by Representative Stagni

Representative Stagni and Representative Marino presented House Bill No. 240, which provides relative to the crime of illegally supplying a felon with a firearm.

Representative Mack offered a motion to report House Bill No. 240 favorably. Without objection, House Bill No. 240 was reported favorably by a vote of 15 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Hodges, Howard, James, Terry Landry, Marino, Muscarello, Norton, and Pylant voted yea.

Witness cards submitted by individuals who did not speak are as follows: 6 in support. Witness cards are included in the committee records.

House Bill No. 261 by Representative Marino

Representative Marino presented House Bill No. 261, which provides relative to the use of telecommunications devices as a form of harassment.

Darren Allemand, LDAA, 200 Derbigny Street, Gretna, LA 70053, (504) 368-1020, spoke in support of House Bill No. 261.

Jody Fortunato, LDAA, 200 Derbigny Street, Gretna, LA 70053, (504) 368-1020, spoke in support of House Bill No. 261.

Representative Crews offered an amendment to remove from the offense repeated communications in a manner reasonably expected to annoy another person. Representative Crews offered a motion to adopt the proposed amendment. Without objection, the amendment was adopted by a vote of 14 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Howard, James, Marcelle, Marino, Muscarello, Norton, and Pylant voted yea.

Representative Hazel offered a motion to report House Bill No. 261 with amendments. Without objection, House Bill No. 261 was reported with amendments by a vote of 13 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Howard, James, Marcelle, Marino, Muscarello, and Pylant voted yea.

Witness cards submitted by individuals who did not speak are as follows: 5 in support. Witness cards are included in the committee records.

House Bill No. 44 by Representative Terry Brown

On behalf of Representative Terry Brown, Representative Mack offered a motion to voluntarily defer action on House Bill No. 44, which provides an exception to the crime of illegal carrying of weapons for clerks of court and tax assessors. Without objection, action on House Bill No. 44 was voluntarily deferred by a vote of 13 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Howard, James, Marcelle, Marino, Muscarello, and Pylant voted yea.

House Bill No. 200 by Representative Wright

On behalf of Representative Wright, Representative Mack offered a motion to voluntarily defer action on House Bill No. 200, which repeals the prohibition on the manufacture, ownership, possession, custody, or use of certain knives and similar instruments. Without objection, action on House Bill No. 200 was voluntarily deferred by a vote of 13 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Howard, James, Marcelle, Marino, Muscarello, and Pylant voted yea.

House Bill No. 357 by Representative Marcelle

On behalf of Representative Marcelle, Representative Mack offered a motion to voluntarily defer action on House Bill No. 357, which prohibits a person convicted of a hate crime from possessing a firearm or carrying a concealed weapon. Without objection, action on House Bill No. 357 was voluntarily deferred by a vote of 13 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Howard, James, Marcelle, Marino, Muscarello, and Pylant voted yea.

House Bill No. 389 by Representative Gary Carter

On behalf of Representative Gary Carter, Representative Mack offered a motion to voluntarily defer action on House Bill No. 389, which increases penalties for the crime of sexual assault of persons with infirmities and provides enhanced penalties under certain circumstances. Without objection, action on House Bill No. 389 was voluntarily deferred by a vote of 14 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Howard, James, Terry Landry, Marcelle, Marino, Muscarello, and Pylant voted yea.

House Bill No. 448 by Representative Gary Carter

On behalf of Representative Gary Carter, Representative Mack offered a motion to voluntarily defer action on House Bill No. 448, which provides for the seizure of firearms of persons who pose a risk of imminent personal injury to self or others. Without objection, action on House Bill No. 448 was voluntarily deferred by a vote of 14 yeas and 0 nays. Representatives Mack, Bacala, Bagneris, Carpenter, Crews, Dwight, Hazel, Howard, James, Terry Landry, Marcelle, Marino, Muscarello, and Pylant voted yea.

IV. OTHER BUSINESS

There was no other business.

V. ANNOUNCEMENTS

There were no announcements.

VI. ADJOURNMENT

The meeting was adjourned at 2:19 p.m.

Respectfully submitted,

Chairman Sherman Q. Mack
House Committee on Administration of Criminal Justice

Date adopted: