

House Committee on Civil Law and Procedure

Minutes of Meeting
2022 Regular Session
April 18, 2022

I. CALL TO ORDER

Representative Gregory A. Miller, chairman of the House Committee on Civil Law and Procedure, called the meeting to order at 9:09 a.m. in Room 4, in the state capitol in Baton Rouge, Louisiana.

II. ROLL CALL

MEMBERS PRESENT:

Representative Gregory A. Miller, chairman
Representative Beryl A. Amedée
Representative Chad Brown
Representative Robby Carter
Representative Michael Charles Echols
Representative Julie Emerson
Representative Lawrence "Larry" Frieman
Representative Raymond E. Garofalo, Jr.
Representative Valarie Hodges
Representative Patrick O. Jefferson
Representative Sam L. Jenkins, Jr.
Representative Michael T. Johnson, vice chairman
Representative Danny McCormick
Representative Nicholas Muscarello, Jr.
Representative Richard James Nelson
Representative Alan Seabaugh

MEMBERS ABSENT:

Representative Delisha Boyd
Representative Wilford Dan Carter, Sr.

STAFF MEMBERS PRESENT:

Annie Smith, attorney
Amy Pirtle, attorney
Megan Sanders, committee administrative assistant

ADDITIONAL ATTENDEES PRESENT:

Michael McCain, clerk
Rebecca Marshall, sergeant at arms
Angela McKnight, sergeant at arms

III. DISCUSSION OF LEGISLATION**House Bill No. 142 by Representative Schlegel**

Representative Schlegel presented House Bill No. 142, which provides for liability for publishers and distributors of material harmful to minors.

On behalf of the author, Representative Gregory Miller offered amendments to:

- (1) Add that the website must be comprised of a substantial portion of materials harmful to minors.
- (2) Define "substantial portion".
- (3) Exempt internet service providers from being held liable under proposed law.
- (4) Make technical changes.

Representative Gregory Miller offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 12 yeas and 0 nays. Representatives Gregory Miller, Amedee, Echols, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, McCormick, Muscarello, Nelson, and Seabaugh voted yea.

Alton Ashy, LA Wallet, 218 Laurel St., Baton Rouge, LA 70802, (225) 936-1700, spoke in support of House Bill No. 142.

Robert Schroeder, Envoc, 540 Beau Chene Dr., Mandeville, LA 70471, (985) 778-6682, spoke in support of House Bill No. 142.

Gene Mills, Louisiana Family Forum, 655 St. Ferdinand, Baton Rouge, LA 70802, (225) 344-8533, spoke in support of House Bill No. 142.

Dr. Will Hall, Louisiana Baptist Office of Public Policy, 1250 MacArthur Dr., Alexandria, LA 71309, (318) 449-4348, spoke in support of House Bill No. 142.

Representative Mike Johnson offered a motion to report House Bill No. 142 with amendments. Without objection, House Bill No. 142 was reported with amendments by a vote of 11 yeas, 0 nays, and 1 abstention. Representatives Amedee, Emerson, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, McCormick, Muscarello, Nelson, and Seabaugh voted yea. Representative Gregory Miller abstained.

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

Statements submitted in accordance with House Rule 14.33 in lieu of appearing before the committee are as follows: 1 in opposition. Copies of these statements are included in the committee records.

House Bill No. 636 by Representative Orgeron

Representative Orgeron presented House Bill No. 636, a constitutional amendment, which provides relative to the disposition of funds derived from alternative energy production in the coastal area.

Russell Caffery, Governor's Office of Coastal Activities, 1053 N. Third St., Baton Rouge, LA 70802, no telephone number provided, spoke for information only on House Bill No. 636.

Chip Kline, CPRA, 1081 N. Third St., Baton Rouge, LA 70802, (225) 342-4367, spoke for information only on House Bill No. 636.

Chairman Gregory Miller offered a motion to adopt the House Rule 6.8(A) Report to House Bill No. 636, which stated that the measure could not be accomplished statutorily and would, therefore, require a constitutional amendment. Without objection, the House Rule 6.8(A) Report to House Bill No. 636 was adopted by a vote of 11 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Echols, Emerson, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, McCormick, and Seabaugh voted yea. Representative Gregory Miller abstained.

Representative Seabaugh offered an amendment to make technical changes. Representative Seabaugh offered a motion to adopt the proposed amendment. Without objection, the amendment was adopted by a vote of 11 yeas, 0 nays, and 1 abstention. Representatives Amedee, Robby Carter, Echols, Emerson, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, McCormick, and Seabaugh voted yea. Representative Gregory Miller abstained.

Representative Garofalo offered a motion to report House Bill No. 636 with amendments, to which Representative McCormick objected. The administrative assistant called the roll, and the motion to report House Bill No. 636 with amendments was reported by a vote of 12 yeas, 1 nay, and 1 abstention. Representatives Amedee, Robby Carter, Echols, Emerson, Frieman, Garofalo, Hodges,

Jenkins, Mike Johnson, Muscarello, Nelson, and Seabaugh voted yea. Representative McCormick voted nay. Representative Gregory Miller abstained.

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

House Bill No. 57 by Representative Hollis

This is a continuation of the discussion on House Bill No. 57 from an earlier meeting held on April 11, 2022. Please check for the prior action to complete the record of discussion and motions on House Bill No. 57.

Representative Hollis presented House Bill No. 57, which provides relative to homeowners association privileges.

On behalf of Representative Hollis, Representative Robby Carter offered amendments to:

- (1) Create a one-year period for homeowner association privileges for charges assessed to the owner for alleged violations of community documents.
- (2) Provide a thirty-day period after delivery of the written demand for the owner to deliver payment to the association.
- (3) Provide for attorney fees and costs of court to the prevailing party for actions brought pursuant to proposed law.
- (4) Remove provisions related to mortgage cancellation in proposed law.
- (5) Make technical changes.

Representative Robby Carter offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 13 yeas, 0 nays, and 1 abstention. Representatives Amedee, Brown, Robby Carter, Echols, Emerson, Garofalo, Hodges, Jenkins, Mike Johnson, McCormick, Muscarello, Nelson, and Seabaugh voted yea. Representative Gregory Miller abstained.

Gary Patureau, Tara Crime District, 1827 Roseneath, Baton Rouge, LA 70806, (225) 205-0470, spoke in opposition to House Bill No. 57.

Jim Bradford, HOA 2022 Legislative Task Force including the Federation of Greater Baton Rouge Civic Association, 227 Hwy. 21, Madisonville, LA 70447, (985) 871-0800, spoke in opposition to House Bill No. 57.

Jeff Harmon, Community Management LLC, 25852 Royal Birkdale, Denham Springs, LA 70726, (225) 278-9593, spoke in opposition to House Bill No. 57.

Representative Robby Carter offered a motion to report House Bill No. 57 with amendments. Without objection, House Bill No. 57 was reported with amendments by a vote of 12 yeas, 0 nays, and 1 abstention. Representatives Amedee, Brown, Robby Carter, Echols, Emerson, Garofalo, Jenkins, Mike Johnson, McCormick, Muscarello, Nelson, and Seabaugh voted yea. Representative Gregory Miller abstained.

Witness cards submitted for individuals who did not speak are as follows: 3 in support, 13 in opposition, and 2 for information only. Witness cards are included in the committee records.

Statements submitted in accordance with House Rule 14.33 in lieu of appearing before the committee are as follows: 1 in support and 8 in opposition. Copies of these statements are included in the committee records.

House Bill No. 360 by Representative Hilferty

On behalf of Representative Hilferty, Karen Hallstrom, reporter, Louisiana State Law Institute, Room W127, LSU Law Center, 1 E. Campus Dr., Baton Rouge, LA 70802, (225) 578-0200, presented House Bill No. 360, which provides for the continuous revision of the Children's Code.

Richard Pittman, Louisiana Public Defender Board, 301 Main St., Ste. 700, Baton Rouge, LA 70802, (225) 229-7493, spoke for information only on House Bill No. 360.

Representative Gregory Miller offered amendments to:

- (1) Change the phrase "welfare and safety" to "health, welfare, and safety".
- (2) Provide for uniform use of the term "suitable relative" and "suitable individual".
- (3) Change the definition of "safety" to allow the determination to be based on the particular facts and circumstances of each case.
- (4) Change the definition of "threat of danger" to require that the danger be in the near future rather than imminent.
- (5) Remove provisions allowing for a parent or child to file a motion for a continued safety plan hearing following issuance of an instant safety plan order.
- (6) Provide that a hearing on an instant order shall be held within three rather than seven days.

- (7) Allow, rather than require, the court to deem the Department of Children and Family Services reasonable in its efforts to prevent or eliminate the need for removal in continued custody determinations.
- (8) Limit the possibility of a reasonableness determination of the Department of Children and Family Services to times when the department's first contact with the family occurred during an emergency.

Representative Gregory Miller offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 11 yeas and 0 nays. Representatives Gregory Miller, Amedee, Brown, Emerson, Frieman, Garofalo, Jenkins, Mike Johnson, Muscarello, Nelson, and Seabaugh voted yea.

Representative Gregory Miller offered a motion to report House Bill No. 360 with amendments. Without objection, House Bill No. 360 was reported with amendments by a vote of 13 yeas and 0 nays. Representatives Gregory Miller, Amedee, Brown, Robby Carter, Echols, Emerson, Frieman, Garofalo, Jenkins, McCormick, Muscarello, Nelson, and Seabaugh voted yea.

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

House Bill No. 850 by Representative Frieman

Representative Frieman presented House Bill No. 850, which provides relative to medical malpractice claims.

Vice Chairman Mike Johnson in the chair.

Representative Frieman offered amendments to:

- (1) Remove provisions amending the definition of "malpractice".
- (2) Provide an amendment to the definition of "proof of financial responsibility".
- (3) Provide for a stay in civil proceedings while there is a pending medical review panel involving the same alleged injuries to a patient.

Jim Tucker, CommCare Management Co., 950 W. Causeway Approach, Mandeville, LA 70471, (504) 554-8337, spoke in support of House Bill No. 850.

Chairman Miller in the chair.

Representative Frieman offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 9 yeas, 0 nays, and 1 abstention. Representatives Amedee, Brown, Robby Carter, Echols, Frieman, Garofalo, Hodges, Jenkins, and Muscarello voted yea. Representative Gregory Miller abstained.

Representative Frieman offered a motion to report House Bill No. 850 with amendments. Without objection, House Bill No. 850 was reported with amendments by a vote of 12 yeas, 0 nays, and 1 abstention. Representatives Brown, Robby Carter, Echols, Emerson, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, Muscarello, Nelson, and Seabaugh voted yea. Representative Gregory Miller abstained.

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

House Bill No. 257 by Representative Landry

Representative Landry presented House Bill No. 257, which provides relative to lease termination in certain conditions.

On behalf of the author, Representative Jenkins offered amendments to:

- (1) Remove references to age and limit application of proposed law to lessees with a physical or mental condition that requires relocation for a time greater than 90 days.
- (2) Provide requirements of written documentation required from an attending physician.
- (3) Provide for early termination of lease agreement for multiple lessees when early termination is requested by one or more lessees.
- (4) Alter definition of "attending physician" and changes "attending physician" to "attending healthcare provider".

Representative Jenkins offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 13 yeas, 0 nays, and 1 abstention. Representatives Amedee, Brown, Robby Carter, Echols, Emerson, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, Muscarello, Nelson, and Seabaugh voted yea. Representative Gregory Miller abstained.

Hannah Adams, Southeast LA Legal Services, 1340 Poydras St., Ste. 600, New Orleans, LA 70112, (504) 529-1000, spoke for information only on House Bill No. 257.

Maxwell Ciardullo, Louisiana Fair Housing Action Center, 1340 Poydras St., Ste. 710, New Orleans, LA 70112, (504) 708-8172, spoke in support of House Bill No. 257.

Stacey Schott, Apartment Association of Louisiana, no address provided, (504) 885-4885, spoke in opposition to House Bill No. 257.

Representative Robby Carter offered a motion to report House Bill No. 257 with amendments, to which Representative Garofalo objected. The administrative assistant called the roll, and the motion failed to pass by a vote of 3 yeas, 11 nays, and 1 abstention. Representatives Brown, Robby Carter, and Jenkins voted yea. Representatives Amedee, Echols, Emerson, Frieman, Garofalo, Hodges, Mike Johnson, McCormick, Muscarello, Nelson, and Seabaugh voted nay. Representative Gregory Miller abstained.

Representative Gregory Miller offered a motion to involuntarily defer action on House Bill No. 257. Without objection, action on House Bill No. 257 was involuntarily deferred by a vote of 14 yeas, 0 nays, and 1 abstention. Representatives Amedee, Brown, Robby Carter, Echols, Emerson, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, McCormick, Muscarello, Nelson, and Seabaugh voted yea. Representative Gregory Miller abstained.

Witness cards submitted for individuals who did not speak are as follows: 8 in support and 25 in opposition. Witness cards are included in the committee records.

Statements submitted in accordance with House Rule 14.33 in lieu of appearing before the committee are as follows: 1 in support. Copies of these statements are included in the committee records.

House Bill No. 402 by Representative Hughes

Representative Hughes presented House Bill No. 402, which provides relative to the prescriptive period for certain actions for abuse of a minor.

Morgan Lamandre, Sexual Trauma Awareness & Response, 5615 Corporate Blvd., Ste. 200, Baton Rouge, LA 70808, (225) 615-7093, spoke in support of House Bill No. 402.

On behalf of the author, Representative Gregory Miller offered amendments to provide for the revival of claims until June 14, 2024, rather than three years following the effective date of the Act. Representative Gregory Miller offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 11 yeas and 0 nays. Representatives Gregory Miller, Amedee, Brown, Robby Carter, Emerson, Frieman, Garofalo, Jenkins, Mike Johnson, Muscarello, and Nelson voted yea.

Representative Jenkins offered a motion to report House Bill No. 402 with amendments. Without objection, House Bill No. 402 was reported with amendments by a vote of 14 yeas and 0 nays. Representatives Gregory Miller, Amedee, Brown, Robby Carter, Emerson, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, McCormick, Muscarello, Nelson, and Seabaugh voted yea.

Witness cards submitted for individuals who did not speak are as follows: 8 in support and 1 in opposition. Witness cards are included in the committee records.

House Bill No. 560 by Representative Freeman

Representative Freeman presented House Bill No. 560, which provides for consistency in the Domestic Abuse Assistance Act in the Children's Code.

Karen Hallstrom, reporter, Louisiana State Law Institute, Room W127, LSU Law Center, 1 E. Campus Dr., Baton Rouge, LA 70802, (225) 578-0200, spoke for information only on House Bill No. 560.

Representative Gregory Miller offered amendments to make technical changes. Representative Gregory Miller offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 14 yeas and 0 nays. Representatives Gregory Miller, Amedee, Brown, Robby Carter, Emerson, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, McCormick, Muscarello, Nelson, and Seabaugh voted yea.

Angie Thomas, Louisiana Right to Life, 200 Allen Toussaint, New Orleans, LA 70125, (504) 296-0323, spoke in opposition to House Bill No. 560.

Cynthia Collins, Speak Hope and Life Freedom Alliance, 550 Gause Blvd., Slidell, LA 70458, (985) 774-4610, spoke in opposition to House Bill No. 560.

Jeanine M. Holmes, Operation Outcry, 206 Wildwood Dr., Hammond, LA 70401, (985) 969-2305, spoke in opposition to House Bill No. 560.

Everett C. Baudean, Louisiana Shooting Association, 704 S. Foster Dr., Baton Rouge, LA 70806, (504) 237-6543, spoke in opposition to House Bill No. 560.

Dr. Will Hall, Louisiana Baptist Office of Public Policy, 1250 MacArthur Dr., Alexandria, LA 71309, (318) 449-4348, spoke in opposition to House Bill No. 560.

Kristie Cross, LFF, 655 St. Ferdinand, Baton Rouge, LA 70802, (225) 344-8533, spoke in opposition to House Bill No. 560.

At the request of the author, Representative Gregory Miller offered a motion to voluntarily defer action on House Bill No. 560. Without objection, action on House Bill No. 560 was voluntarily deferred by a vote of 14 yeas and 0 nays. Representatives Gregory Miller, Amedee, Brown, Echols, Emerson, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, McCormick, Muscarello, Nelson, and Seabaugh voted yea.

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

Further action was taken by the committee on House Bill No. 560 at a meeting held on April 28, 2022. Please check for subsequent action to complete the record of discussion and motions on House Bill No. 560.

House Bill No. 885 by Representative Mike Johnson

On behalf of the author, Representative Gregory Miller offered a motion to voluntarily defer action on House Bill No. 885, which provides for the use of prehearing videotape as evidence in administrative appeals of justified reports of child abuse or neglect.. Without objection, action on House Bill No. 885 was voluntarily deferred by a vote of 14 yeas and 0 nays. Representatives Gregory Miller, Amedee, Brown, Echols, Emerson, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, McCormick, Muscarello, Nelson, and Seabaugh voted yea.

House Bill No. 561 by Representative Freeman

Representative Freeman presented House Bill No. 561, which provides relative to civil liability for sexual assault.

Michelle Johnson, no address given, provided victim testimony in support of House Bill No. 561.

Vice Chairman Mike Johnson in the chair.

Morgan Lamandre, Sexual Trauma Awareness & Response, 5615 Corporate Blvd., Ste. 200, Baton Rouge, LA 70808, (225) 615-7093, spoke in support of House Bill No. 561.

Chairman Gregory Miller in the chair.

Representative Gregory Miller offered amendments to:

- (1) Expressly provide an exception to the proposed law prescriptive period for cases covered by R.S. 9:2800.9.
- (2) Provide that the suspension of prescription and the provision for exemplary damages only apply to actions against the direct perpetrator of sexual assault.
- (3) Provide for comparative fault.

Representative Gregory Miller offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 10 yeas and 0 nays. Representatives Gregory

Miller, Amedee, Brown, Emerson, Garofalo, Hodges, Jenkins, McCormick, Muscarello, and Seabaugh voted yea.

Jim Patterson, Louisiana Association of Business and Industry, 500 Main St., Baton Rouge, LA 70802, (225) 928-5388, spoke in opposition to House Bill No. 561.

Representative Jenkins offered a motion to report House Bill No. 561 with amendments, to which Representative Seabaugh objected. The administrative assistant called the roll, and the motion failed to pass by a vote of 3 yeas and 10 nays. Representatives Brown, Hodges, and Jenkins voted yea. Representatives Amedee, Echols, Emerson, Frieman, Garofalo, Mike Johnson, McCormick, Muscarello, Nelson, and Seabaugh voted nay.

Representative Gregory Miller offered a motion to involuntarily defer action on House Bill No. 561. Without objection, action on House Bill No. 561 was involuntarily deferred by a vote of 14 yeas and 0 nays. Representatives Gregory Miller, Amedee, Brown, Echols, Emerson, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, McCormick, Muscarello, Nelson, and Seabaugh voted yea.

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

House Bill No. 250 by Representative Magee

Representative Gregory Miller offered a motion to voluntarily defer action on House Bill No. 250, a constitutional amendment, which provides for appropriations from the Education Excellence Fund. Without objection, action on House Bill No. 250 was voluntarily deferred by a vote of 12 yeas and 0 nays. Representatives Gregory Miller, Amedee, Robby Carter, Echols, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, McCormick, Muscarello, and Seabaugh voted yea.

House Bill No. 1026 by Representative Amedee

Representative Amedee presented House Bill No. 1026, which provides relative to domestic violence.

Representative Amedee offered amendments to:

- (1) Remove numerous provisions defining and assigning use of the terms domestic violence and domestic abuse
- (2) Provide for evidentiary findings and due process protections in the issuance of permanent injunctions or protective orders in domestic abuse cases

Representative Amedee offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 12 yeas, 0 nays, and 1 abstention. Representatives Amedee, Brown, Echols, Emerson, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, McCormick, Nelson, and Seabaugh voted yea. Representative Gregory Miller abstained.

Representative Gregory Miller offered a motion to voluntarily defer action on House Bill No. 1026. Without objection, action on House Bill No. 1026 was voluntarily deferred by a vote of 13 yeas and 0 nays. Representatives Gregory Miller, Amedee, Brown, Echols, Emerson, Frieman, Garofalo, Hodges, Jenkins, Mike Johnson, McCormick, Nelson, and Seabaugh voted yea.

Witness cards submitted for individuals who did not speak are as follows: 1 in support, 7 in opposition, and 1 for information only. Witness cards are included in the committee records.

Statements submitted in accordance with House Rule 14.33 in lieu of appearing before the committee are as follows: 8 in opposition. Copies of these statements are included in the committee records.

IV. OTHER BUSINESS

There was no other business.

V. ANNOUNCEMENTS

There were no announcements.

VI. ADJOURNMENT

The meeting was adjourned at 1:49 p.m.

Respectfully submitted,

Chairman Gregory A. Miller
House Committee on Civil Law and Procedure