

LOUISIANA STATE LAW INSTITUTE

THE MEETING OF THE COUNCIL

December 16-17, 2016

Friday, December 16, 2016

Persons Present:

Bellanger, Kathryn	Levy, H. Mark
Bergstedt, Thomas	Mengis, Joseph W.
Boudreaux, Bernard E., Jr.	Miller, David D.
Braun, Jessica	Mohamed, Ahmed M.
Breard, L. Kent	Morris, Glenn G.
Burrell, Roy	Morel, Stephen
Carroll, Andrea	Morvant, Camille A.
Claitor, Dan	Norman, Rick J.
Crawford, William E.	Odinet, Christopher
Cromwell, L. David	Richardson, Sally
Curry, Kevin C.	Riviere, Christopher H.
Davidson, James J., III	Robert, Deidre D.
DiGiulio, John E.	Scalise, Ronald J., Jr.
Dimos, Jimmy N.	Sole, Emmett C.
Doguet, Andre	Stuckey, James A.
Forrester, William R., Jr.	Suprenant, Monica T.
Garrett, J. David	Talley, Susan G.
Gregorie, Isaac M. "Mack"	Tate, George Jr.
Hamilton, Leo C.	Thibeaux, Robert P.
Hargrove, Joseph L., Jr.	Title, Peter S.
Hayes, Thomas M., III	Tucker, Zeldia W.
Haymon, Cordell H.	Uschold, Jim
Hester, Mary C.	Waller, Mallory Chatelain
Hogan, Lila T.	Weems, Charles S., III
Holdridge, Guy	White, H. Aubrey, III
Jackson, Katrina R.	Wilson, Evelyn
Jewell, John Wayne	Ziober, John David
Kostelka, Robert "Bob" W.	
Leefe, Richard K.	

President David Ziober began the December 2016 Council meeting by reminding the Council that this would be its final meeting at the Hotel Monteleone in New Orleans. He explained that beginning next month, meetings of the Council would be held at the Lod Cook Alumni Center in Baton Rouge in the spring and at the Louisiana Supreme Court in New Orleans in the fall. The President then asked the Council to congratulate Professors J. Randall Trahan and Christopher K. Odinet on their appointments as commissioners to the Uniform Law Commission. He also announced that the Membership and Nominating Committee would be meeting over lunch to discuss its report to the Council. After asking the Council members to briefly introduce themselves, the President called on Mr. Stephen G. Sklamba, Reporter of the Tax Sales Committee, to begin his presentation.

Tax Sales Committee

Mr. Sklamba began by reminding the Council that he had recently presented and obtained approval of Sections 25(A), (B), and (C)(1) during the August and September Council meetings. He also explained that the Tax Sales Committee had reviewed the Council's suggestions with respect to the remaining provisions and made several changes to address their concerns. With that in mind, the Reporter asked the Council to consider proposed Section (C)(2), on page 4 of the materials. The Reporter explained that under the existing provisions of the Constitution, a judgment annulling a tax sale does not take effect until all taxes, interest, and costs are paid as provided by law, and that the Committee recommended retaining this language in its own provision. It was then moved and seconded to adopt Section (C)(2) as presented, and the motion passed with no objection. The adopted proposal reads as follows:

(C)(2) No judgment annulling a tax auction shall have effect until the payment of all taxes, interest, and costs as provided by law. However, this shall not apply to auctions annulled because the taxes were paid prior to the date of auction.

At this time, one Council member questioned the discrepancy between Section C, on actions for annulment, and Section D, on actions to terminate interests and convert ownership. The Council member explained that under Section D, details were provided concerning the proper parties, venue, etc. for the termination and conversion action, but such details were not provided for the annulment action under Section C, and the member questioned whether they should be. The Reporter responded that such details are not usually provided for in the Constitution, which is why they were not included Section C, but that the Committee wanted to be as specific as possible with respect to the termination and conversion action under Section D, since the defendant is being deprived of his or her property during that proceeding. At this time, another Council member questioned why the annulment action provided for in Section C is necessary at all, expressing concern that perhaps courts could make an end-run around the important revisions contained in Section D by allowing annulment under Section C. However, the Council members ultimately agreed that they would defer to the Committee's judgment rather than make a motion to reconsider Section C.

The Reporter then directed the Council's attention to Section D, on pages 4-6 of the materials, and explained that in light of the Council's suggestions to incorporate the rules of the Code of Civil Procedure concerning issues such as prematurity, the Committee had made a number of changes to these provisions. It was then moved and seconded to adopt proposed Section (D)(1), on pages 4-5 of the materials. One Council member questioned how the tax certificate purchaser would know which time period applies if the determination of whether the property is blighted or abandoned occurs after rather than before the tax auction. The Reporter explained that the determination with respect to whether the property is blighted or abandoned should occur during the termination and conversion action, at which point if the property is not blighted or abandoned, the action will be premature, and the tax certificate purchaser will have to wait the additional period of time. The President then questioned whether the property is really secured by the tax certificate as stated, and the Reporter accepted his suggestion to change "secured by" to "securing" on line 4 of page 5. The motion to adopt Section (D)(1) as amended was then approved with no objection, and the adopted proposal reads as follows:

(D) Quieting Tax Title Terminating interests and converting ownership. The manner of notice and form of proceeding to quiet tax titles shall be provided by law. (1) Upon the expiration of thirty months from recordation of the tax certificate, or twelve months in the case of blighted or abandoned immovable property, the tax certificate purchaser may file a petition to terminate interests and convert ownership in the district court for the parish in which the immovable property securing the tax certificate is located. The petition shall name as defendants those persons whose interests in the immovable property the tax certificate purchaser seeks to terminate.

The Council then considered proposed Section (D)(2), on page 5 of the materials. The Reporter explained that the Committee wanted to impose a definite time period in the action to terminate interests and convert ownership during which the tax debtor may reconvene to attempt to annul the tax auction or assert any other defense he may have. After the requisite period of time has elapsed, the tax certificate purchaser can proceed to obtain a final judgment to terminate interests and convert ownership. The Reporter explained that this provision allowing the tax certificate purchaser to obtain a final judgment after a certain period of time is important because the property has been taken out of commerce for years and any uncertainty of title causes issues for both title examiners and title insurers. It was moved and seconded to adopt Section (D)(2), at which time one Council member pointed out the inconsistency between the first sentence of this provision, which requires the tax debtor to pay the redemption price or file a responsive pleading within six months of service, and the first sentence of Section (C)(1), which states that a suit to annul a tax auction may be brought at any time as long as it is before the rendition of a final judgment in a termination and conversion action. He then questioned whether this meant that the tax debtor could not file a suit to annul the tax auction once six months had elapsed from service of notice of the termination and conversion action, to which the Reporter responded that the tax debtor must reconvene within six months under Section (D)(2), but if the tax debtor failed to do so, he may still bring a separate annulment action any time prior to rendition of the final judgment under Section (C)(1).

The Council then engaged in a great deal of discussion with respect to this inconsistency, and several members expressed the need for one of these provisions to control. At this time, a member of both the Committee and Council explained that the Committee's intent was for the six-month time period in Section (D)(2) to serve as the minimum amount of time that must pass before the tax certificate purchaser can proceed with obtaining the judgment as provided. He also explained that it would be impossible to take away a tax debtor's constitutional right to allege that he never received notice of the tax auction and that the auction must be annulled under Section (C)(1), so the statement that a suit to annul a tax auction can be brought at any time prior to rendition of the final judgment should remain. In other words, both Committee and Council members agreed that the tax debtor may assert any ground to annul the tax auction at any time prior to the rendition of a final judgment but shall have at least six months within which to do so before the final judgment may be

rendered. Another Committee member suggested changing "shall" to "may" on line 8 of page 5, since the Committee's intent was not to foreclose the opportunity to annul the tax auction or pay the redemption price after this period of time, but rather to require that the defendant have at least six months to do so. At this time, another Council member suggested replacing "redemption price" with "redemption payment" throughout the provision, and the Reporter agreed.

It was then moved and seconded to amend Section (D)(2) to provide that the defendant may make the redemption payment or file a responsive pleading at any time prior to final judgment, but if he fails to do so within six months of service, the tax certificate purchaser may proceed to obtain a final judgment terminating interests and converting ownership. One Council member then questioned whether the language concerning any of the defendant's claims or rights under federal or state law should be included, and the consensus was that it should. The motion to amend Section (D)(2) as stated then passed with no objection, and it was moved and seconded to adopt Section (D)(2) as amended. One Council member then suggested replacing "secured by" with "securing" on line 17 of page 5 as was done in Section (D)(1), and the Reporter agreed. The motion to adopt Section (D)(2) as amended then passed with no objection, and the adopted proposal reads as follows:

(D)(2) The defendant may pay the redemption payment or file a responsive pleading including any claim or right under federal or state law to annul the auction at any time prior to the rendition of a final judgment. If the defendant files a responsive pleading, the proceeding shall be conducted as an ordinary proceeding. If the defendant fails to pay the redemption payment or file a responsive pleading within six months from the date of service on the defendant, the tax certificate purchaser may proceed in accordance with applicable law to obtain a judgment terminating the defendant's interest and converting the defendant's ownership interest in the immovable property to the tax certificate purchaser. The judgment shall also order cancellation of any mortgage, lien, or privilege held by a defendant served with notice of the termination and conversion action, but only insofar as the mortgage, lien, or privilege encumbers the property securing the tax certificate.

Next, the Council turned to proposed Section (D)(3), on page 5 of the materials, and the Reporter explained that this provision would require the judgment to be recorded in the mortgage and conveyance records and would provide that the judgment is res judicata on all defendants. It was moved and seconded to adopt Section (D)(3), at which time one Council member suggested clarifying that the judgment shall be res judicata on all defendants served with notice. However, another Council member pointed out that a judgment terminating interests and converting ownership could not be obtained against a person who was never served with notice. The Reporter explained that the

Committee proposed this language because of the *Webeland* case, in which the judge found in favor of the plaintiff but nevertheless allowed the defendant to file a separate action to annul the tax sale as if the principle of res judicata did not apply. Another Council member then expressed concern that the drafting of this provision suggested that the concept of res judicata is in some way tied to the recordation of the judgment, which is not the case. As a result, several Council members suggested amending the provision to separate these two sentences and provide that (1) the judgment shall be res judicata and (2) it shall be recorded in the mortgage and conveyance records. A motion to amend was made and seconded, at which time another Council member suggested that the reference to res judicata should not be made in the Constitution, but rather that the provision should state that the judgment shall be conclusive between the parties.

At this time, another Council member questioned whether this language was necessary at all in light of the fact that it may be that no provision in the Constitution could or would change how the courts are going to hold. Several other questions were then raised, including what would happen in the event of an unknown missing heir who was never served with notice. Another Council member explained that the Louisiana Supreme Court has held that failure to give notice of the tax sale to even one defendant invalidates the tax sale as to all defendants, even those who were served. It was then moved and seconded to amend Section (D)(3) to provide that (1) the judgment shall be res judicata on all defendants served with notice and (2) it shall be recorded in the mortgage and conveyance records. Another suggestion was then made to provide that the judgment shall be res judicata as to all parties named in the judgment, after which a Council member questioned whether the language requiring recordation of the judgment was necessary and, if so, what would be the effect of failing to record the judgment. The Reporter responded that there would be no consequence as between the parties, and that any consequence as to third persons would be governed under the Public Records Doctrine. It was then moved and seconded to amend Section (D)(3) to provide only that the judgment shall be res judicata as to all parties named in the judgment, and the motion passed with no objection. The adopted proposal reads as follows:

(D)(3) The judgment shall be res judicata as to all parties named in the judgment.

The Reporter then asked the Council to consider proposed Section (D)(4), on page 6 of the materials, and explained that this Section would provide that the termination and conversion action is the exclusive procedure to enforce the privilege evidenced by the tax certificate. It was moved and seconded to adopt Section (D)(4) as presented, and the motion passed with no objection. The adopted proposal reads as follows:

(D)(4) The termination and conversion action shall be the exclusive procedure available to the tax certificate purchaser to enforce the privilege evidenced by the tax certificate. A defendant shall have no personal obligation to reimburse the tax certificate purchaser.

Next, the Council considered proposed Section (D)(5), on page 6 of the materials, and the Reporter explained that the purpose of this provision is to

create certainty of title in the event that the tax certificate purchaser fails to file a termination and conversion action within ten years from recordation of the tax certificate. It was moved and seconded to adopt Section (D)(5), at which time one Council member questioned the relationship between this provision and Section H, on page 7 of the materials. After some discussion, the Council member was unconvinced that there is a meaningful difference between these provisions and suggested substituting Section H for the first sentence of Section (D)(5). Another Council member then expressed concern with respect to the odd phrasing of this sentence, questioning whether the intent was really to provide that the tax certificate purchaser can no longer bring the action to terminate interests and convert ownership. At this time, it was suggested that "the tax certificate purchaser shall no longer be entitled to collect the amount owed on the certificate" be replaced with "any action by the tax certificate purchaser to convert ownership shall be preempted" on lines 7 and 8 of page 6. Nevertheless, another Council member suggested that this provision had become too detailed and made a substitute motion to delete the language in Section (D)(5) and instead use the language in Section H, on page 7 of the materials. This substitute motion was seconded, and after discussion, the Council agreed to substitute "The claim evidenced by the tax certificate and the action" for "A tax certificate and the right" on line 13 of page 7. The motion to amend Section (D)(5) then passed with no objection, and the adopted proposal reads as follows:

(D)(5) The claim evidenced by the tax certificate and the
action to terminate interests and convert ownership shall preempt
ten years from the date of recordation of the tax certificate in the
mortgage records.

Next, the Council turned to page 7 of the materials, and it was moved and seconded to adopt proposed Section G. One Council member then questioned why it is necessary to include this language in the Constitution, and other members agreed. Another Council member then suggested replacing "a cause of" with "an" on line 10 of page 7 and redesignating this provision as Section (D)(6). Nevertheless, he also questioned the meaning of this provision in general as well as what exactly the tax debtor is supposed to file within one year of the amendment's effective date. Others then suggested that perhaps this would be filed as a declaratory judgment challenging the constitutionality of the amendment. Council members then suggested retaining the first sentence of Section G but deleting the second sentence, since the details of the procedural aspects of filing this action should not and would not be included in the Constitution. Another Council member then questioned whether this retroactivity clause would be applicable only to the provisions concerning the termination and conversion action or to the revision as a whole.

The Council then recessed for lunch at 12:15 p.m.

LUNCH

President John David Ziober introduced Reporter, Professor Andrea B. Carroll, representing the Disabled Adult Children Committee, the Surrogacy Committee, and the Marriage-Persons Committee.

Disabled Adult Children Committee

Professor Carroll reminded the Council that after lengthy study and analysis, the Institute recommended and the legislature adopted Act 379 in 2015 designed to ensure that disabled adult children in Louisiana would be entitled to

financial support from their parents. SCR No. 100 of the 2016 legislative session asked the Law Institute to consider a revision of the law that would “account for the financial burden a continuing child support award for adult children with disabilities places on elderly parents.”

The Disabled Adult Children Committee reviewed the present law on the subject and concluded that no legislative changes are necessary at this time. A number of statutory provisions protect elderly parents in the child support context, and permit for both their particular considerations and solutions to the problem of indefinite support. The Reporter did note that the Committee will continue to watch how the Act is applied because it just became effective August 1, 2016. They will pay close attention to the mandatory minimum requirement in child support and will come back to the Council if change is warranted.

With no further discussion, the Council adopted the report.

Membership and Nominating Committee

Following Professor Carroll's presentation, Mr. Emmett C. Sole, Chairman of the Membership and Nominating Committee, presented the Committee's report to the Council, a copy of which is attached. A motion was made and seconded to adopt the report as presented, and the motion passed with no objection.

Surrogacy Committee

The Reporter, Professor Carroll, gave a brief history of the Law Institute projects related to surrogacy and Act 494 which was not recommended by the Law Institute, but passed the legislature and became effective August 1, 2016. Section 8 of Act 494 directed the Institute to prepare comments to the Act. The Surrogacy Committee met to do so and is also proposing a few modest revisions to the new law. The Reporter also noted that the Committee may propose more substantive revisions in 2018.

Turning to the materials, the Council reviewed R.S. 9:2718.1 and the definition of “compensation.” The legislature added expenses and payments to allowable compensation therefore the Committee wishes to cross reference that provision in this definition. With little discussion, R.S. 9:2718.1 was approved. The Council next quickly reviewed and approved the comments and technical revisions to R.S. 9:2719 and 2720.

In R.S. 9:2720.2, the Committee proposes using civilian terminology for a valid will, and the Council voted to substitute “authentic act” for “succession plan” and to make the introductory sentences to Subsections A and B parallel.

In R.S. 9:2720.3, the Committee is proposing one substantive revision in addition to the comments. The Reporter explained that Subsections B(4) and (5) are offensive in that they victimize women and are an invasion of privacy. The Council approved the deletion without discussion. In addition and at the direction of the Council, the Reporter will add a comment addressing the fact that persons may proceed with an in utero embryo transfer without first obtaining court approval of a gestational carrier contract, but they may not be protected by this Act.

The Council in globo approved the comments to R.S. 9:2720.5, 2720.8, 2720.9, 2720.10, 2720.11, 2720.12, 2720.14, and 2720.15. The Reporter next directed the Council to the issues resulting from the enactment of new birth certificate laws and new surrogacy laws at the same time. Both bills were

moving through the legislature and both independently provided for surrogacy situations. However, their approval caused a few inconsistencies in the law that need to be corrected. The Committee is recommending the repeal of R.S. 40:46.10 which provides for the completion of a birth certificate when a child is born to a surrogate birth parent because the gestational surrogacy laws address this. The Council approved without discussion.

Marriage-Persons Committee

Professor Carroll thanked the Council for expanding the Marriage-Persons Committee jurisdiction to include community property and began presenting the Committee's recommendations in this area.

The first issue is the duty to preserve community property in existing C.C. Art. 2369.3. The Reporter explained that limited liability companies are legal entities which removes them from the duty to preserve a community enterprise. Often these LLC's consist of only one spouse as the shareholder. If that spouse is mismanaging the business, the other spouse has to file a derivative action which results in another lawsuit. The Reporter noted that other articles better address community enterprises and this language would provide better guidance if it appeared earlier in C.C. Art. 2350. The Committee also recommends comments to ensure it is not their intention to change the law. After discussion, the Reporter agreed to change "legal entity" to "juridical person" and provide a cross reference to C.C. Art. 2347. The Council approved.

The next proposal addresses a gap in C.C. Art. 2374 regarding community property when the parties have reconciled. The Reporter explained that present law provides for the effect of a reconciliation if the parties file a petition for divorce, live separate and apart for thirty days, and obtain a judgment of separation of property. However, there is no law applicable when the parties live separate and apart, file a petition for divorce, then obtain a judgment of separation of property. The Committee does not believe this is an intentional gap in the law and they propose the following amendments and comment to address the issue. The Council approved the additional language to clarify that the regime is retroactively established to the day of termination, the comment, and the remainder of the proposal.

Tax Sales Committee

Following Professor Carroll's presentations, the Council took a brief break, after which the President called on Mr. Stephen G. Sklamba to continue his presentation of proposals from the Tax Sales Committee.

Mr. Sklamba reminded the Council members that before lunch, they were considering proposed Section G, on page 7 of the materials. He explained that this provision regarding retroactivity is necessary to include in the Constitution because under current law, many tax titles are being annulled as absolute nullities which, as the Council members are aware, means that the actions are imprescriptible. As a result, title insurers do not want to assume the risk that such an action can be filed at any time, rendering title to these properties unmerchantable. As a result, the Committee proposed precluding someone who has a right that has been deprived by the amendment from filing an action alleging such right after one year from the effective date of the amendment. With respect to the suggested replacement of "a cause of" to "an" on line 10 of page 7, one Council member questioned what type of action would be filed, to which the Reporter responded that the Committee's intent was to limit the ability to have the tax auction and subsequent termination and conversion action declared an absolute nullity.

At this time, one Council member expressed concern with the fact that these detailed provisions would be included in the Constitution and would therefore be out of reach in the event that future amendments became necessary. He explained that because voter approval would need to be obtained in such a situation, and because this amendment changes many of the procedures currently followed in the context of tax sales, perhaps the proposal as a whole should be recommitted. Other Council members agreed, and it was moved and seconded to recommit Section 25 of the Constitution to the Tax Sales Committee with the proviso that the Committee should draft a very general Constitutional provision relegating the procedural details to be provided by law. One Council member then questioned the manner in which this revision came to the Law Institute, to which the Reporter responded that Senate Resolution No. 40 of 2013 requested the Law Institute to study the revision of tax sale procedures in both the Constitution and statutes. The Council then engaged in some debate with respect to whether it would be preferable to protect against the ability of special interest groups to engage in piecemeal amendments of the revision over time on the one hand, but prevent ourselves from doing the same in the event that glitches arise after the revision is enacted on the other hand. However, the majority of the Council members expressed their preference for a simple, conceptual provision in the Constitution that cannot be disturbed and that enables the legislature to prescribe the detailed procedures for tax auctions in Louisiana. The motion to recommit Section 25 then passed with no objection, and the Friday session of the December 2016 Council meeting was adjourned.

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Saturday, December 17, 2016

Persons Present:

Adams, E. Pete
Bergstedt, Thomas
Boudreaux, L. Kent
Breard, L. Kent
Castille, Preston J., Jr.
Chetta, Chloe
Claitor, Dan
Crawford, William E.
Davidson, James J., III
Dawkins, Robert G.
DiGiulio, John E.
Dimos, Jimmy N.
Garrett, J. Davis
Gregorie, Isaac M. "Mack"
Hamilton, Leo C.
Hayes, Thomas M., III
Hester, Mary C.
Hogan, Jane
Hogan, Lila T.
Holdridge, Guy
Jackson, Katrina R.

Jewell, John Wayne
Kostelka, Robert "Bob" W.
Levy, H. Mark
Maw, Emily
McWilliams, Ford
Mengis, Joseph W.
Mohamed, Ahmed M.
Morrison, Robert
Morvant, Camille A.
Norman, Rick J.
Riviere, Christopher H.
Scardulla, Anna "Annie" F.
Sole, Emmett C.
Tate, George J.
Thibeaux, Robert P.
Tucker, Zelda W.
Waller, Mallory Chatelain
Wilson, Evelyn L.
Ziober, John David

President David Ziober called the Saturday session of the December 2016 Council meeting to order at 9:00 AM. He began by reminding members that the 2017 Council meetings would be held at Lod Cook in Baton Rouge in the spring and at the Louisiana Supreme Court in New Orleans in the fall. He then introduced the Co-Chairman of the Code of Criminal Procedure Committee, Judge Robert Morrison, III, to begin the Committee's presentation.

Code of Criminal Procedure Committee

Judge Morrison presented the Council with a brief history of how the Committee's postconviction project began, first under the guidance of Justice Knoll and the Louisiana Supreme Court, who then involved the Law Institute in conjunction with two resolutions from the legislature, HCR 90 of 2012 and SCR 100 of 2015. Judge Morrison also explained that although these matters were initially assigned to the Code of Criminal Procedure Committee, that Committee formed a Subcommittee on Postconviction Relief in order to adequately address the complex issues that are involved in both capital and noncapital

postconviction relief litigation. At this time, Judge Morrison then introduced Acting Reporter Judge Guy Holdridge and turned the presentation over to him.

Judge Holdridge began his presentation by suggesting that first, the Council consider the Code of Criminal Procedure Committee's report to the legislature in response to HR 148 of the 2015 Regular Session, which directed the Law Institute to study the issue of adding assault on and battery of a school teacher to the offenses enumerated as crimes of violence in R.S. 14:2(B). The Acting Reporter explained that the Committee discussed several issues with respect to its response to this resolution, including that there are certainly situations in school settings during which a teacher may be the victim of an accidental or unintentional assault or battery, such as when the teacher is trying to break up a fight between students. In those instances, Committee members unanimously agreed that the offenses should not be considered crimes of violence, especially when there are other, more serious crimes that are not specifically enumerated in the statute. As a result, the Committee ultimately concluded that the crimes of assault on and battery of a school teacher should not be added to the list of crimes of violence enumerated in R.S. 14:2(B), and therefore that no proposed changes should be suggested to the legislature. At this time, it was moved and seconded to adopt the report as presented, and after several Council members expressed their support of the Committee's position, the motion to adopt passed with no objection.

Judge Holdridge then directed the Council's attention to the Committee's proposed revisions to the noncapital postconviction relief articles of the Code of Criminal Procedure. He explained that although the Committee's initial goal was to present this legislation during the 2017 Regular Session, the Committee is still considering a number of unresolved issues that require further discussion. Nevertheless, the Acting Reporter and several Committee members agree that some of these revisions have an immediate usefulness, such as the proposed changes to Article 923. As a result, the Committee is currently considering whether to recommend revisions to certain uncontroversial provisions this year, or to delay until 2018 in order to propose the entire package of legislation all at once.

The Acting Reporter also explained that both the Committee and its Postconviction Relief Subcommittee had highlighted a number of important issues with respect to the current state postconviction relief in Louisiana, some of which are still being debated. The first of these issues is the amount of time involved in postconviction relief litigation, with some of these initial cases remaining pending on appeal for years. Another related matter involves the excessive number of repetitive filings for postconviction relief, which are admittedly not a priority for judges when they must sift through dozens of pages in order to determine whether the applicant has alleged some new fact or decision of law. A more heavily debated issue at both the Committee and Subcommittee levels is whether to incorporate a ground of actual innocence based on new evidence in the provisions on postconviction relief or in the article on motions for new trial. Judge Holdridge expressed to the Council that the Committee was currently working to try to narrowly tailor such a ground for relief based on new evidence of actual innocence that would extend beyond only those cases in which there is DNA evidence, but that specific language had not yet been agreed upon.

Judge Holdridge then directed the Council's attention to the proposed revisions to Article 924, on pages 1 and 2 of the materials. He explained that throughout the provisions, the Committee had recommended replacing "petition" with "application" and "petitioner" with "applicant." It was then moved and seconded to adopt Article 924(1), on page 1 of the materials. One Council member questioned whether there should be a reference to noncapital cases in the definitional article, since the revision before the Council only applies to noncapital postconviction relief. The Acting Reporter explained that although the initial approach was to delegate the formulation of rules on capital postconviction

proceedings to the Louisiana Supreme Court, since it has exclusive jurisdiction over capital postconviction relief cases, both the district attorneys and the defense bar objected, instead expressing their preference for drafting articles that govern all of postconviction relief. Another member then asked whether the noncapital provisions would be proposed as legislation without the capital provisions, to which the Acting Reporter responded by stating that the Committee would probably bring both sets of legislation together, but otherwise capital postconviction cases would simply be excepted from the revision and governed by prior law. The motion to adopt Article 924(1) as presented then passed with no objection.

Next, the Council turned to Subparagraphs (2) and (5) of Article 924, on page 1 of the materials, since these two definitions are intended to be read together. It was moved and seconded to adopt Article 924(2) and (5). One Council member questioned the difference between “the criminal offense” on line 15 and “a conviction” on line 30, to which Committee and Subcommittee member Judge Susan Chehardy responded by explaining that an application for postconviction relief cannot be filed based on an old conviction, but rather must be the offense for which the defendant is in custody. She also explained that one of the main goals of the revision from both the Committee’s and Subcommittee’s perspectives was to draft these articles in a way that would be easy for pro se litigants to read and understand. The motion to adopt Article 924(2) and (5) as presented then passed with no objection.

Since Subparagraph (3) of Article 924 was not changed by the Committee, the Acting Reporter skipped to Article 924(4), on page 1 of the materials, and it was moved and seconded to adopt this provision. When one Council member questioned the source of this provision, the staff attorney directed his attention to page 3 of the materials, explaining that the definition had previously been incorporated in Article 930.8. Another Council member then asked why the interests of justice language from Article 930.8(A)(1) was not included in the definition, to which the staff attorney responded by explaining that an interests of justice exception was created in proposed Article 926(A)(1)(b) to apply to cases in which an applicant may not satisfy due diligence but nevertheless has some compelling reason for why he should be granted relief. Another question was then asked with respect to whether the Committee’s intent in failing to include a bright-line time requirement for due diligence was to provide flexibility to the court, to which the Acting Reporter responded that this was precisely the case, especially when the claim is based on ineffective assistance of counsel that an applicant could not have known. The motion to adopt Article 924(4) as presented then passed with no objection.

Since Article 924(5) had previously been adopted, the Acting Reporter directed the Council’s attention to Article 924(6), on page 1 of the materials, explaining in response to a question concerning the meaning of “properly filed” on line 32 that this definition of particularized need was taken directly from the Supreme Court’s opinion in *State ex rel. Bernard*. It was moved and seconded to adopt Article 924(6). One member then asked how an applicant would ever have the knowledge needed to show particularized need in order to obtain documents containing the information that they seek. The Acting Reporter explained that this had been the subject of much discussion at both the Committee and Subcommittee meetings, but that applicants would still be able to make a public records request for the documents in the event that they could not make the requisite showing of particularized need. The member then questioned the policy decision behind not simply giving the applicant all of the documents for free, to which the Acting Reporter responded by stating that representatives from the State opposed being required to front the cost of providing these documents. When another member questioned the State’s obligation to produce exculpatory evidence, discussion ensued with respect to the United States Supreme Court’s case of *Brady v. Maryland*, violations of that holding, and the expectation that an applicant’s request for documents should be reasonable as opposed to a fishing expedition. Ultimately, the Council concluded that this substantive discussion

would be better suited when it considered the provision requiring a showing of particularized need itself rather than the term's definition. As a result, the motion to adopt Article 924(6) as presented passed with no objection.

The Council then considered Article 924(7), on page 1 of the materials, and it was moved and seconded to adopt this provision. The President questioned whether failure to use the proper uniform application for postconviction relief would be considered a procedural objection. The Acting Reporter responded that it would not, and that Article 927(B) sets out a procedure by which the clerk will return an improperly filed application with the correct form, which will then relate back to the initial filing as long as it is timely filed. The Acting Reporter also noted to the Council that the Committee is working with the Louisiana Supreme Court to revise and update the uniform application for postconviction relief as well as draft a new form motion for leave of court to file a second or subsequent application. The motion to adopt Article 924(7) as presented then passed with no objection. The Council also considered Article 924(8) and the Comment to Article 924 as a whole, on pages 1 and 2 of the materials. It was moved and seconded to adopt Article 924(8) and the Comment and presented, and the motion passed with no objection. The adopted proposals read as follows:

Article 924. Definitions

As used in this Title:

(1) ~~An "application~~ "Application for post-conviction postconviction relief" means a ~~petition pleading that complies with Article 927~~ filed by a person in custody after sentence following conviction for the commission of an offense seeking to have the a criminal conviction and sentence set aside.

(2) "Custody" means involuntary detention or confinement, or probation or parole supervision, after sentence following conviction for the commission of an the criminal offense.

(3) "DNA testing" means any method of testing and comparing deoxyribonucleic acid that would be admissible under the Louisiana Code of Evidence.

(4) "Due diligence" means that the applicant has made reasonable efforts after conviction to discover in a timely manner any postconviction claims and the facts and evidence upon which those claims may be based. An inquiry by the court as to whether an applicant has exercised "due diligence" shall consider all factors, including but not limited to the circumstances of the applicant, the educational background of the applicant, the applicant's access to counsel, the financial resources of the applicant, the age of the applicant, and the mental abilities of the applicant. The court shall also consider any information properly sought or received from the State.

(5) "Imprisoned" means involuntarily detained or confined in an institution without freedom to leave pursuant to a conviction.

(6) "Particularized need" means specific claims of constitutional errors that require the requested documentation for support and have been set out by an applicant in a properly filed application for postconviction relief.

(7) "Procedural objection" means an assertion by the State of a procedural bar, which, if granted would preclude the court from considering a claim in an application for postconviction relief.

~~(4)~~(8) "Unknown sample" means a biological sample from an unknown donor constituting evidence of the commission of an offense or tending to prove the identity of the perpetrator of an offense.

Comment – 2017

(a) The interests of the State in postconviction proceedings may be represented by the District Attorney or Attorney General, or both. "The State" will mean either the District Attorney or the Attorney General and should be applicable to whomever is currently representing the interests of the State in the proceedings.

(b) Inmates who are "imprisoned" as provided in Subparagraph (5) of this Article are a subset of people who are in custody as defined in Subparagraph (2) of this Article.

(c) "Particularized need" as provided in Subparagraph (6) of this Article was defined by the Louisiana Supreme Court in *State ex rel. Bernard v. Cr.D.C.*, 94-2274 (La. 4/28/95), 653 So. 2d 1174.

(d) As used in this Title, and in accordance with Article 5 of this Code, the word "shall" means mandatory.

(e) Nothing in this Title shall preclude a court from raising a procedural bar on its own motion.

The Acting Reporter then directed the Council's attention to the proposed revisions to Article 923, on page 16 of the materials. He explained that the Committee's intent behind these revisions was to provide inmates with their entire appellate record upon request once they are convicted and incarcerated. Judge Chehardy informed the Council about the mechanics of the operation, noting that the project had been the joint effort of the Committee, the Louisiana Supreme Court, and the prison officials at Angola. She detailed that once the inmate requests his appellate record, the applicable court of appeals will send a copy of the record electronically to the prison, which will then print an entire copy of the record on a printer purchased by the Louisiana Supreme Court and provide this copy to the inmate. The Acting Reporter then explained that this proposed revision was one of the only matters about which both the district attorneys and the defense bar agreed. It was then moved and seconded to adopt Paragraphs A, which was not changed, and B of the provision.

At this time, one Council member questioned whether the Council should implement a time period within which the clerk or the court must respond by sending a copy of the record. Another Council member expressed concern over the lack of any requirement that the Department of Corrections adhere to these provisions, to which Judge Chehardy responded by explaining that during their meetings over the past several months, the Department agreed to provide the paper on which these inmates' appellate records would be printed using funds generated through the Angola Rodeo. Nevertheless, the Committee did not include any sort of requirement that the Department of Corrections comply with these provisions because it concluded that there may be constitutional issues with such a requirement. Additionally, Judge Chehardy noted that not all of the courts of appeals have switched to electronic records, and even fewer district courts are presently scanning documents in electronically. For these reasons, requiring the courts of appeal to send the appellate record within any sort of universal timeline would be problematic, since the electronic capability of these courts varies greatly throughout the state. She also explained that even though this provision would likely not be amended until 2018, some of the courts are participating in a pilot program beginning January 1, 2017, which will provide the Committee with an opportunity to work out some of these minor details and

address other issues. Another Council member then questioned the program's applicability to institutions other than Angola throughout the state, to which Judge Chehardy responded that once the program was running at Angola and any issues that arose during the pilot program were addressed, the initiative would then move elsewhere. The motion to adopt Paragraphs A and B as presented then passed with no objection.

Next, the Acting Reporter discussed the Committee's proposed Paragraph C, and it was moved and seconded to adopt this provision. One Council member then questioned whether the Department of Corrections should be included in this provision, since Paragraph B does not impose any sort of substantive requirement upon the Department. The Council member suggested removing "or the Department of Corrections" from line 14 of page 16, and the Reporter accepted that change. Another member questioned the applicability of the last sentence, on lines 17 and 18 of the same page, permitting the provisions of Paragraph B to be enforced by a writ of mandamus. The Council then engaged in a great deal of discussion with respect to the concept of enforcement by a writ of mandamus, since the language referencing the Department of Corrections was now removed from Paragraph C and the court of appeals cannot mandamus itself. Some Council members expressed their desire for the provision to have some sort of "teeth," especially if the failure to abide by the article's requirements does not extend the time for filing an application for postconviction relief, while others expressed concern over putting "teeth" in a statute that is essentially voluntary on the part of the Department of Corrections.

At this time, one Council member moved to recommit Paragraph C for further discussion by the Committee, and that motion was seconded. However, when a Subcommittee member suggested that perhaps the court of appeal could mandamus its clerk, the motion to recommit was withdrawn. Rather, the Council discussed adding "clerk of the" before "applicable" on line 10 of page 16 and again before "court" on line 14 of the same page. The President informed the Council that a motion to reconsider Paragraph B would be necessary in order to accomplish this task, and such motion was made and seconded. The motion to reconsider Article 924(B) passed with no objection. It was then moved and seconded to add "clerk of the" before "applicable" on line 10 of page 16 and again before "court" on line 14 of the same page, and that motion passed with no objection. The motion to adopt Paragraph C of Article 924 as amended then passed with no objection as well.

The Council then turned to Paragraph D of Article 924, and it was moved and seconded to adopt the provision. When one Council member questioned the meaning of the phrase "in the first instance" on line 26 of page 16, the Reporter agreed to delete that language. Another member then questioned the scope of the phrase "aggrieved party" on line 24 of the same page, and the Acting Reporter responded that it would apply to the victim, the State, and the defendant, but that these types of motions for redaction are common. Another member ensured the Council that every district attorney has one or more victims assistance coordinators, whose job is to notify victims of additional litigation with respect to their cases. One Council member suggested replacing "aggrieved party" with "interested party" on line 24, and although the reference to constitutional rights of "a person or the public" is much broader than a specific group of people, the Council ultimately decided not to make this change out of concern that unintended consequences would result, such as newspapers being considered interested parties.

At this time, a guest of the Council expressed her concern that if further redaction of the defendant's appellate record is required, a motion is filed pursuant to that effect, and a hearing is conducted for purposes of receiving evidence and ruling on the motion, the time period within which the defendant must file his application for postconviction relief nevertheless continues to run. Judge Holdridge responded by recognizing that this may happen in extreme cases but also pointing out that for the most part, this type of motion practice is

handled rather quickly. Additionally, defendants are subject to the same two-year time period under present law, but they do not have the added benefit of receiving their entire appellate record upon request. Nevertheless, one Subcommittee member expressed an interest in drafting a Comment stating that a motion filed and hearing held pursuant to Article 923(D) does not extend the time period within which the defendant's application must be filed, but that the defendant's timely request of his appellate record under this provision would satisfy the due diligence exception to the two-year time limitation. The motion to adopt Article 923(D) as amended then passed with no objection, and the adopted proposals read as follows:

Article 923. Duty of clerk as to final decisions in appellate court

A. When a decision of an appellate court becomes final, the clerk of court shall transmit a certified copy of the decree to the court from which the appeal was taken. When the judgment is received by the lower court, it shall be filed and executed.

B. After the defendant's conviction and sentence becomes final pursuant to Article 922, the clerk of the applicable court of appeal shall send an electronic copy of the appellate record free of cost to any defendant who is imprisoned as defined in Article 924 and has requested a copy of his record.

C. The failure of the clerk of the court of appeal to comply with any of the requirements of Paragraph B of this Article does not extend the time to file an application for postconviction relief or constitute a cause of action, grounds to vacate the conviction or sentence, or grounds to remand the case for the purpose of resentencing. The provisions of Paragraph B may be enforced by a writ of mandamus.

D. Prior to the transmission of the record, the court of appeal shall redact all information not subject to public disclosure pursuant to R.S. 46:1844(W). The court of appeal shall also redact the names, addresses, and identities of the jurors who participated in the case. If the safety of a person or the public requires further redaction, or if a redaction would violate a constitutional right belonging to the defendant, the aggrieved party may file a motion with the court of appeal. The court of appeal may remand the motion to the district court for the purpose of receiving evidence and ruling on the motion. A ruling on the motion by the court of appeal or district court may be reviewed by writ application only, unless the ruling results in a declaration that a statute is unconstitutional.

Next, the Acting Reporter directed the Council's attention to the proposed revisions to Article 924.1, on page 2 of the materials. It was moved and seconded to adopt Article 924.1 as presented, and the motion passed with no objection. The adopted proposal reads as follows:

Article 924.1. Effect of appeal

An application for ~~post-conviction~~ postconviction relief shall not be ~~entertained~~ considered if the ~~petitioner~~ applicant may appeal the conviction and sentence ~~which~~ that he seeks to challenge, or if an appeal is pending.

The Council then turned to a consideration of Article 925, on page 2 of the materials. It was moved and seconded to adopt Article 925 as presented, and the motion passed with no objection. The adopted proposal reads as follows:

Article 925. Venue

Applications for ~~post-conviction~~ postconviction relief shall be filed in the district court in the parish in which the ~~petitioner~~ applicant was convicted.

The Acting Reporter then explained to the Council that because the Committee was still discussing important issues with respect to both Articles 926 and 927, he wished to defer consideration of those provisions until a later date. As a result, he asked that members turn to Article 927.1, on pages 6 and 7 of the materials. The Acting Reporter explained that both the Committee and Subcommittee wanted to clarify the rules pertaining to service, especially with respect to the district attorney and attorney general, since both can represent the interests of the State in a postconviction relief proceeding. He also explained that counsel for both the applicant and the opposing party need to be served with a copy of all filings in the postconviction relief litigation, and that such service can be made in open court or by mail or electronic means. At this time, it was moved and seconded to adopt Article 927.1. One Council member suggested replacing "their entry" with "the filing" on line 2 of page 7, and the Reporter accepted that change. The motion to adopt Article 927.1 as amended then passed with no objection, and the adopted proposal reads as follows:

Article 927.1. Service

A. The State may be represented by the district attorney for the district in which the applicant was convicted, the Attorney General, or both. Initial service of an application for postconviction relief shall be made on the District Attorney unless the Attorney General is representing the State. All subsequent filings or orders shall be served on whoever represents the State in the postconviction litigation.

B. If counsel appears for the applicant in the postconviction litigation, service of filings and orders on the applicant shall be made to both the applicant and his counsel, unless such service is waived by the applicant in writing.

C. Unless otherwise provided, all filings made during the course of the postconviction litigation shall be served by the filing party on the opposing party.

D. All service on the applicant or his counsel shall be made by mail, in open court, or by electronic means, if available. Within fifteen days of the filing, the clerk of court shall serve all orders, notices, and dispositions on the applicant by mail at the institution where he is imprisoned or, if represented by counsel, through counsel for the applicant. The clerk shall simultaneously serve counsel for the State.

Next, the Council considered Article 927.2, on page 7 of the materials. The Acting Reporter explained that after a great deal of debate, both the Committee and Subcommittee ultimately decided not to qualify the burden of proof set forth in this provision as either by a preponderance of the evidence or by clear and convincing evidence. It was then moved and seconded to adopt Article 927.1 as presented, and the motion passed over one objection. The adopted proposal reads as follows:

Article ~~930.2~~ 927.2. Burden of proof

The ~~petitioner~~ applicant in an application for ~~post-conviction~~ postconviction relief shall have the burden of proving that relief should be granted.

Next, the Acting Reporter expressed that because the addition of a ground for relief based on actual innocence was still being debated by the Committee, as well as the requirement of showing particularized need for purposes of obtaining documents contained in the State's file, the Council should defer consideration of those provisions. As a result, Council members turned to Article 927.5, on page 10 of the materials. Judge Holdridge explained that the Committee felt that it was important to include this provision, which states that the attorney-client privilege is waived for purposes of responding to allegations of ineffective assistance of counsel or other breach of duty claims, in the postconviction relief articles for the benefit of pro se litigants, even though this provision already exists in the Code of Evidence. It was then moved and seconded to adopt Article 927.5. One Council member suggested changing "allegation" to "claim" on line 13 of page 10, and the Reporter accepted that suggestion. Another Council member suggested replacing "on behalf of" with "by" on line 11 of the same page, and the Reporter accepted that change as well. The motion to adopt Article 927.5 as amended then passed with no objection, and the adopted proposal reads as follows:

Article 927.5. Privilege waiver

If an application for postconviction relief is based in whole or in part upon a claim of ineffective assistance of counsel or breach of duty by an attorney for the applicant, the attorney-client privilege is waived for the limited information necessary to respond to the claim.

At this time, Judge Holdridge concluded his presentation on behalf of the Code of Criminal Procedure Committee, and the December 2016 Council meeting was adjourned.



Mallory Waller 4/11/2017
Date



Jessica G. Braun 4-11-17
Date

12.19.16

**MEMBERSHIP AND NOMINATING COMMITTEE REPORT
December 16, 2016**

This committee respectfully makes the following nominations of officers and members to fill vacancies on the Council of the Louisiana State Law Institute for 2017 as follows:

OFFICERS OF THE INSTITUTE-2017

As Chair:

James C. Crigler, Jr.; 1808 Roselawn Avenue, Monroe, Louisiana, 71201.

Chair Emeriti:

J. David Garrett; 526 Cumberland Drive, Shreveport, Louisiana, 71106.

James A. Gray, II; 1010 Common Street, Suite 2560, New Orleans, Louisiana, 70112-2406.

Charles S. Weems, III; 2001 MacArthur Drive, P.O. Box 6118, Alexandria, Louisiana, 71307-6118.

Cordell H. Haymon; 725 Main Street, Baton Rouge, Louisiana, 70802-5594.

Marilyn C. Maloney; First City Tower, 1001 Fannin, Suite 1800, Houston, Texas, 77002.

Thomas M. Bergstedt; P.O. Drawer 3004, Lake Charles, Louisiana, 70602.

Emmett C. Sole; One Lakeside Plaza, P.O. Box 2900, Lake Charles, Louisiana, 70602-2900.

Max Nathan, Jr.; Place St. Charles, 201 St. Charles Avenue, Suite 3815, New Orleans, Louisiana, 70170.

Robert L. Curry, III; P.O. Drawer 4768, Monroe, Louisiana, 71211.

As President:

John David Ziober; 320 Somerulos Street, Baton Rouge, Louisiana, 70802.

As Vice-Presidents:

Susan G. Talley; 546 Carondelet Street, New Orleans, Louisiana, 70130.

Rick J. Norman; 145 East Street, Lake Charles, Louisiana, 70601.

L. David Cromwell; P.O. Box 1786, Shreveport, Louisiana, 71166-1786.

Thomas M. Hayes, III; P.O. Box 8032, Monroe, Louisiana, 71211-8032.

As Director:

William E. Crawford; Room W127, University Station, Baton Rouge, Louisiana, 70803-1016.

As Secretary:

Thomas C. Galligan, Jr.; Paul M. Hebert Law Center, Room 350, University Station, Baton Rouge, Louisiana, 70803.

As Assistant Secretary:

Robert "Bob" W. Kostelka; 1216 Stubbs Avenue, Monroe, Louisiana, 71201.

As Treasurer:

Joseph W. Mengis; P.O. Drawer 83260, Baton Rouge, Louisiana, 70884.

As Assistant Treasurer:

Glenn Morris; Paul M. Hebert Law Center, Room 348, University Station, Baton Rouge, Louisiana, 70803.

EXECUTIVE COMMITTEE:

For one-year terms, expiring December 31, 2017

Andrea B. Carroll; Paul M. Hebert Law Center, Room 450, University Station, Baton Rouge, Louisiana, 70803.

Robert P. Thibeaux; Energy Centre, 1100 Poydras Street, Suite 3100, New Orleans, Louisiana, 70163.

Guy Holdridge; 1600 N. Third Street, Baton Rouge, Louisiana, 70802.

PRACTICING ATTORNEYS ELECTED AS MEMBERS:

For four-year terms expiring December 31, 2020

Marguerite "Peggy" L. Adams; 701 Poydras Street, 50th Floor, New Orleans, Louisiana, 70139.

Dorrell J. Brister; 2001 MacArthur Drive, P.O. Box 6118, Alexandria, Louisiana, 71307-6118.

Christopher H. Riviere; 103 West 3rd Street, Thibodaux, Louisiana, 70301.

Zelda W. Tucker; 3324 Line Avenue, Shreveport, Louisiana, 71104-4212.

H. Aubrey White; P.O. Box 2900, Lake Charles, Louisiana, 70602.

REPRESENTATIVE OF THE YOUNG LAWYERS SECTION:

For two-year terms expiring December 31, 2018

Graham H. Ryan; 201 St. Charles Avenue, Suite 5100, New Orleans, Louisiana, 70170.

OBSERVERS OF THE YOUNG LAWYERS SECTION:

For one-year terms expiring December 31, 2017

Brilliant P. Clayton; 2386 Oak Alley Drive, Port Allen, Louisiana, 70767.

Anthony Gambino; 4210 Bluebonnet Boulevard, Baton Rouge, Louisiana, 70820.

REPRESENTATIVE, LOYOLA UNIVERSITY SCHOOL OF LAW

For a four-year term expiring, December 31, 2020

David W. Gruning; 72047 Kustenmacher Road, Abita Springs, Louisiana, 70420.

REPRESENTATIVE, PAUL M. HEBERT LAW CENTER

For a four-year term expiring, December 31, 2020

Melissa T. Lonegrass; Paul M. Hebert Law Center, Room 318, University Station, Baton Rouge, Louisiana, 70803.

REPRESENTATIVE, TULANE UNIVERSITY SCHOOL OF LAW

For a four-year term expiring, December 31, 2020

Sally Brown Richardson; Tulane University School of Law, Weinmann Hall, 6329 Freret Street, New Orleans, Louisiana, 70118.

THREE HONOR GRADUATES OF EACH LAW SCHOOL NOMINATED FOR JUNIOR HONORARY MEMBERSHIP IN THE INSTITUTE:

For one year terms, expiring December 31, 2017

PAUL M. HEBERT LAW CENTER

Kristen D. Amond; 500 Poydras Street, New Orleans, Louisiana, 70113

Mahogane D. Reed; 1314 Pickett Avenue, Baton Rouge, Louisiana, 70808.

Alex T. Robertson; 4612 Green Acres Court, Metairie, Louisiana, 70003.

LOYOLA UNIVERSITY SCHOOL OF LAW

Chynna M. Anderson; 615 Atherton Drive, Metairie, Louisiana, 70001.

Amanda R. James; 2327 Ridgeway Drive, NW, Bremerton, Washington, 98312.

H. Rick Yelton, III; 3322 Baudin Street, New Orleans, Louisiana, 70119.

SOUTHERN UNIVERSITY LAW CENTER

Rachael Cox; One American Place, 301 Main Street, Suite 1300, Baton Rouge, Louisiana, 70802.

Christopher Kubacki; 2404 Warwick Avenue, Flower Mound, Texas, 75028.

Elizabeth O'Quin; 18232 Manchac Place, South, Prairieville, Louisiana, 70769.

TULANE UNIVERSITY SCHOOL OF LAW

Jeanne Amy; Law Clerk to the Honorable W. Eugene Davis, 800 Lafayette Street, Suite 5100, Lafayette, Louisiana, 70501.

Lillian M. Grappe; 365 Canal Street, Suite 2000, New Orleans, Louisiana, 70130-6534.

Janelle Sharer; Law Clerk to the Honorable Eldon E. Fallon, United States District Court, Eastern District of Louisiana, 500 Poydras Street, Room C456, New Orleans, Louisiana, 70130.

APPOINTMENTS BY OPERATION OF LAW

ANY LOUISIANA MEMBER OF THE BOARD OF GOVERNORS OF THE NATIONAL BAR ASSOCIATION

For one-year term, expiring July 28, 2017

Christopher B. Hebert; 4552 Winnebago Street, Baton Rouge, Louisiana, 70805.

A LOUISIANA MEMBER OF THE NATIONAL BAR ASSOCIATION TO BE APPOINTED BY THE PRESIDENT OF THE ORGANIZATION

For a one-year, expiring July 15, 2017

Arlene D. Knighten; Louisiana Department of Insurance, P.O. Box 9412, Baton Rouge, Louisiana, 70804.

THE PRESIDENT OF THE STATE CHAPTER OF THE LOUIS A. MARTINET SOCIETY OR HIS DESIGNEE

For one-year term, expiring December 31, 2017

Quintillis Kenyatta Lawrence; 300 North Boulevard, Suite 2201, Baton Rouge, Louisiana, 70801.

THE STATE PUBLIC DEFENDER OR HIS DESIGNEE

For one-year term, expiring December 31, 2017

John E. DiGiulio; 8075 Jefferson Highway, Baton Rouge, Louisiana, 70809.

TWO JUDGES WHO ARE MEMBERS OF THE LOUISIANA COUNCIL OF JUVENILE AND FAMILY COURT JUDGES APPOINTED BY THE PRESIDENT OF THE COUNCIL OF JUVENILE AND FAMILY COURT JUDGES OR THEIR DESIGNEE

For four-year terms, expiring December 31, 2020

Grace B. Gasaway; 303 East Thomas Street, Hammond, Louisiana, 70401.

Lisa Woodruff-White; 300 North Boulevard, Suite 4101, Baton Rouge, Louisiana, 70801.

REPRESENTATIVE, COURT OF APPEAL

For a four-year term, expiring October 28, 2020

Ulysses Gene Thibodeaux; P.O. Box 16577, Lake Charles, Louisiana, 70616.

LAW INSTITUTE DELEGATE TO THE JUDICIAL COUNCIL

For a three-year term, expiring December 31, 2019

Leo C. Hamilton; One American Place, 301 Main Street, Suite 2300, Baton Rouge, Louisiana, 70825.

MEMBER, HOUSE OF DELEGATES, ABA

For two-year terms, expiring August, 2018

Kristen L. Burge; 145 Robert E. Lee Boulevard, Suite 408, New Orleans, Louisiana, 70124.

Preston J. Castille, Jr.; P.O. Box 2471, Baton Rouge, Louisiana, 70821-2471.

Dana M. Douglas; 701 Poydras Street, Suite 5000, New Orleans, Louisiana, 70139.

Michael W. McKay; 201 Main Street, Suite 1150, Baton Rouge, Louisiana, 70801.

John H. Musser, IV; 70439 Courtano Drive, Covington, Louisiana, 70433.

Frank X. Neuner, Jr. 1001 West Pinhook Road, Suite 200, Lafayette, Louisiana, 70503.

Dona K. Renegar; 2 Flagg Place, Lafayette, Louisiana, 70508.

Respectfully submitted,

L. David Cromwell

Kevin C. Curry

Leo C. Hamilton

Thomas M. Hayes, III

Emmett C. Sole

Monica T. Surprenant

Susan G. Talley

John David Ziober

MEMBERSHIP AND NOMINATING COMMITTEE

By:



Emmett C. Sole, Chair