

# LOUISIANA STATE LAW INSTITUTE

## MEETING OF THE COUNCIL

December 6, 2019

**Friday, December 6, 2019**

### **Persons Present:**

Adams, Marguerite (Peggy) L.  
Alford, Cory  
Bergstedt, Thomas M.  
Braun, Jessica  
Breard, L. Kent  
Carroll, Andrea B.  
Coreil, Jeffrey  
Crigler, John D.  
Curry, Kevin C.  
Davidson, James J. III  
Davrados, Nick  
Dawkins, Robert G.  
Dimos, Jimmy N.  
Doguet, Andre'  
Domingue, Billy J.  
Drury, Lloyd  
Gasaway, Grace B.  
Gregorie, Isaac M. "Mack"  
Hash, Endya L.  
Hayes, Thomas M., III  
Hester, Mary  
Hogan, Lila T.  
Holdridge, Guy  
Janke, Benjamin West  
Knighten, Arlene D.

Lagasse, Kristina  
LaVergne, Luke A.  
Lee, Amy Allums  
Manning, C. Wendell  
Norman, Rick J.  
Price, Donald W.  
Richard, Herschel E., Jr.  
Richardson, Sally Brown  
Riviere, Christopher H.  
Roussel, Randy  
Saloom, Douglas J.  
Scalise, Ronald J., Jr.  
Sole, Emmett C.  
Stuckey, James A.  
Talley, Susan G.  
Tate, George J.  
Thibeaux, Robert P.  
Title, Peter S.  
Tucker, Zelda W.  
Waller, Mallory  
Weems, Charles S., III  
Wilson, Evelyn L.  
Woolard, Jeremy  
Woodruff-White, Lisa  
Ziober, John David

President Susan G. Talley called the December 2019 Council meeting to order at 10:00 a.m. on Friday, December 6, 2019, at the Louisiana Supreme Court in New Orleans. After asking the Council members to briefly introduce themselves, the President called on Mr. Randy Roussel, Reporter of the Common Interest Ownership Regimes Committee, to present materials on the Planned Community Act.

### **Common Interest Ownership Regimes Committee**

Mr. Roussel began his presentation by quickly reminding the Council of the directive in Senate Concurrent Resolution No. 104 of the 2014 Regular Session before directing the Council to Section 2.1(D) on registry and indexing. The Reporter explained that after the discussion during the November Council meeting, the Committee has redrafted this Subsection based on concerns regarding the procedure and the possible consequences for title examiners and extra expenses for developers. The Council discussed the removal of the requirement that the plat be indexed in the name of the declarant and the fact that Section 2.7 covers in greater deal the issue of indexing when boundaries are relocated. The Council added language to ensure any amendments to the plat are filed in the conveyance records and not simply referenced in the declaration with a cross-reference to the plat book. The Council deliberated the illustrative nature of Paragraph (D)(2) because other law likewise addresses this issue, but ultimately agreed that extra guidance for users is important. Proposed Paragraph (D)(3) was changed to Subparagraph (D)(1)(c) to clarify its applicability and the effect on recordation when the declaration, plat, and any amendments are indexed incorrectly. The following was approved:

## **2.1. Creation, alteration, and termination of a planned community**

\* \* \*

D.(1)(a) The recorder shall index the initial declaration and plat in the conveyance records in the names of the declarant, the planned community, each owner of the immovable property subject to the declaration, and the association.

(b) The recorder shall index an amendment to the declaration or the plat in the conveyance records in the names of the declarant, the planned community, and the association. If an amendment relocates the boundary of a lot, incorporates common areas into a lot, adds additional property, or withdraws a lot from the community, the recorder shall also index the amendment in the name of each owner of each lot affected by the amendment.

(c) An indexing error shall not impair the effect of recordation of the document.

(2) The grant of a security right by the association shall comply with registry requirements of law, including filings in accordance with the Uniform Commercial Code-Secured Transactions.

Next, the Council moved to approve the Comment, and the Reporter explained that ownership is assumed when a declaration is filed because there is no requirement to attach a conveyance certificate. Therefore, the Comment draws the reader's attention to other bodies of law regarding title and clarifies that nothing in the Planned Community Act confirms merchantable or marketable ownership. The Reporter noted that it is important to use both terms in this context because title policies use "marketable" and the law uses "merchantable," but the Council was concerned that this wording suggests that one imposes a higher standard than the other. Ultimately, Mr. Roussel asked that the Comment be recommitted for further review.

Moving to Section 2.7, the Council worked through an example whereby a part of a common area may be added to a lot as a mechanism to clean up ownership and possession of the ground if the layout of the planned community changes over time. They also suggested deletion of the Comment because that notion is implicit in the law. The following was adopted:

### **2.7. Relocation of lot boundaries**

A. The boundaries between adjoining lots may be relocated upon the request of the lot owners if the relocation does not alter the size of a lot by more than ten percent.

B. Boundaries between lots and common areas may be relocated to incorporate common areas into a lot upon the request of the affected lot owner and with the approval of a supermajority vote.

C. Upon the request and approval as provided in Subsections A and B of this Section, an amendment to the declaration shall be executed by an authorized officer or agent of the association and filed for registry in accordance with Section 2.1(D). In addition, the requesting lot owners and officer or agent of the association shall execute an act of transfer of ownership, and if applicable, an amended plat. Any expenses incurred by the association in accordance with this Section shall be borne by the requesting lot owners.

The Council then reviewed Section 2.8 regarding the subdivision of lots. The Council questioned the need to allow either an "authorized officer or agent of the association" to execute the amendment and whether the supermajority approval

requirement is mandatory or can be changed in the declaration. The Reporter explained that Section 2.11 creates different standards for residential and nonresidential planned communities and lays out when they may be altered. It was also noted that the higher threshold is necessary to protect lot owner's expectations and investments. The Council approved the proposal as presented.

Next, the Reporter thanked the Council for the policy discussion given at its November meeting regarding Section 2.11 and the approval of more burdensome amendments to the declaration and the voting standards. The Committee redrafted the provision to include a longer period of nonuse, force majeure, and clarity regarding voting percentages. A member suggested that the language specify that these rules do not apply in commercial developments. The Reporter noted that that is the intention and accepted the following amendment:

### **2.11. Amendment to declaration**

A. Except as otherwise provided in this Section, the declaration may only be amended by the vote requirement provided in the declaration. If a voting requirement to amend the declaration is not provided in the declaration, it may only be amended by a two-thirds vote. If the lots are used for residential purposes, the declaration may not provide for less than a two-thirds vote to amend it.

The Council then launched into another extensive debate over the timing of the cessation of the existing use and the effectiveness of the more burdensome restriction. The example contemplated a residential lot being used as a coffee house. The use ceases in January of 2020 and the declaration is amended in November of 2020 to prohibit that use. The proposal states that if the existing use has ceased for twelve consecutive months, the lot shall conform to the more burdensome requirement. The Council wondered whether the twelve-month period began in January of 2020 when the use ceased or in November of 2020 when the declaration was amended to prohibit the use of a lot as a coffee house. The Reporter informed the Council that in accordance with zoning laws around the country, the eleven-month period of nonuse prior to the passage of the more burdensome restriction would count toward the twelve-month cessation period. The Council also questioned if the amendment is effective upon passage by the association or upon filing for registry and whether the proposal requires an actual use or a use that is possible but has not yet commenced. The Reporter admitted that the Committee was somewhat divided on this balancing of property rights.

The Council took a policy vote and directed the Committee to redraft Section 2.11(C) to provide that the adoption of a more burdensome use restriction is effective twelve months after the filing of the amendment. The Council attempted a second policy vote regarding whether the twelve-month rule should apply only to a use that has started or whether it should also apply to any permitted, and perhaps merely contemplated, use. However, members of the Council expressed such strong and various opinions on this issue and whether the law would apply to subsequent owners that the Reporter simply requested that it all be recommitted for further contemplation by the Committee.

At this time, Mr. Roussel concluded his presentation, and the Council adjourned for lunch, during which time there was a meeting of the Membership and Nominating Committee.

### **Membership and Nominating Committee**

After lunch, the President called on Mr. Emmett C. Sole, Chairman of the Membership and Nominating Committee, to present the Committee's report to the Council, a copy of which is attached. It was moved and seconded to adopt the report as presented, and the motion passed with no objection. Mr. Sole then concluded his presentation, and the President called on Professor Andrea B. Carroll, Reporter of the Marriage-Persons Committee, to begin her presentation of materials.

## **Marriage-Persons Committee**

Professor Carroll began her presentation by explaining that House Resolution No. 250 of the 2019 Regular Session urges and requests the Louisiana State Law Institute "to study and issue a report of its findings regarding interference with the custody of a child when there is no court order defining custody of a child, and the child is taken, enticed, or decoyed away by a person who is not identified as a parent on the birth certificate of the child and who reasonably believes himself to be a parent of the child, with intent to detain or conceal such child from the sole parent identified on the birth certificate of the child." She explained that present law, R.S. 14:45.1, defines the crime of interference with the custody of a child narrowly and ties the right of custody to a court order. The Reporter further informed the Council that an attorney doing pro bono work encountered a case whereby a biological father who was not listed on the child's birth certificate took the child to another state, and law enforcement would not act to return the child to his mother without a custody order. The attorney worked on House Bill No. 499 of the 2019 Regular Session to close this gap between the recognition of a legal parent in the civil law and the criminal law requirement, but the proposed legislation was stalled during the process and gave rise to this resolution.

The Committee researched the laws of other states and found that most are narrow just like Louisiana, and no other state requires law enforcement to take action based on the information on a birth certificate. The Reporter emphasized that the Committee was uncomfortable with recommending a birth certificate requirement because many parents in this state are not listed on their children's birth certificates. The Committee noted that as a practical matter, many parents have legal custody by operation of law, such as unmarried parents, not by order of a court. The Committee also recognized that obtaining a court order of custody takes time and is not conducive to the extenuating circumstances often surrounding parental kidnapping. However, the Committee observed that the use of temporary restraining orders and protective orders as provided in present law could timely and efficiently remedy the ill raised by the resolution.

With little discussion following Professor Carroll's presentation, the Council voted to adopt the report containing the Committee's findings for submission to the legislature.

The Reporter then explained that the next directive from the legislature, House Concurrent No. 79 of the 2017 Regular Session, noted the "need for a consistent and comprehensive definition of "domestic abuse" in Louisiana statutes, with the understanding that domestic violence is a physical manifestation of domestic abuse, and which further recognizes that domestic abuse is a pattern of assaultive or coercive behaviors, including but not limited to physical, sexual, and psychological threats and attacks, and financial control." Professor Carroll explained that in responding to this request, the Committee has spent nearly two years reviewing every statute in Louisiana law related to domestic abuse, as well as researching and reviewing the law in all of the other states. The result of that work is a proposed civil definition only. Further, the Criminal Code and Code of Criminal Procedure Committee formed a Domestic Violence Subcommittee that is also working to respond to the resolution through their subject matter expertise.

The Reporter turned the Council's attention to proposed Civil Code Article 3506(9), on page 6 of the materials, which defines domestic abuse. The proposal retains some existing law and offers a narrow expansion to recognize the reality that control and coercion may also rise to the level of domestic abuse. This definition is applicable not only to marital, dating, and romantic relationships, but to parental and sibling relationships as well. The example given was that a parent who takes away a child's electronics for making bad grades has not committed domestic abuse, but if a spouse takes away the other spouse's credit cards to deprive them of the necessary financial means to escape the relationship, domestic abuse may be found. A member expressed support for the expansion of the definition and stated that one of the worst cases of domestic abuse she ever encountered did not involve any physical abuse. The Council asked for examples of revenge that may rise to the level of domestic abuse, and the Reporter noted cases of harming the family pet, destroying possessions, and making harmful social media posts. The Council also acknowledged that often the end of a relationship prompts violence or

coercive behaviors and the need for the definition to apply to both present and former household members.

The Council next discussed Comment (c) and its explanation of Article 3506(9)(b). Members questioned whether the actual language of the Article covers the examples listed in the Comment, and several judges were concerned with vagueness and possible crossover with the commonly understood meaning and application of the terms "resist and escape" in criminal law. The Council noted the intricacies in balancing normal behavior within a relationship, such as taking away credit cards to prevent a depletion of the community, as opposed to taking them away to punish or prevent a person from leaving the relationship. Another reason the Council favored narrow and explicit language is because of the significant ramifications that a finding of domestic abuse can have on child custody and support.

The placement of the definition in Civil Code Article 3506 was raised and debated because the Signification of Terms Committee has proposed, and the Council has adopted, considerable amendments to this Article with the goal of eliminating technical definitions from the Civil Code. The Reporter noted that the Committee debated the issue at length and felt strongly that a definition of such importance and with such far-reaching consequences should be unifying and elevated in the Civil Code for optimal application throughout all of the Titles of the Revised Statutes. By a vote of 19 in favor and 11 opposed, the Council determined that the new definition would be placed in Book I, Title VI as Article 162. Thereafter, the following was adopted:

**BOOK I. OF PERSONS**  
**TITLE VI. ~~OF MASTER AND SERVANT~~ DOMESTIC ABUSE**

**Art. 162. Domestic abuse definition**

The following constitute domestic abuse when committed by one family member, current or former household member, or dating partner against another:

(a) Physical or sexual abuse and any offense against the person, physical or non-physical, as defined in the Criminal Code of Louisiana, or the threat thereof, except negligent injury and defamation, regardless of whether the perpetrator was prosecuted.

(b) Any act or threat to act which is intended to coerce, control, punish, intimidate, or exact revenge on the other party to (1) prevent a victim from reporting to law enforcement or requesting medical assistance or emergency or victim services, or (2) deprive the victim of the means or ability to resist the abuse or escape the relationship.

\* \* \*

**Revision Comment 2020**

(a) For offenses against the person, see R.S. 14:29-50.2.

(b) The singular includes the plural, and vice versa. See Art. 3506 and R.S. 1:7. Accordingly, domestic abuse as defined in this article may be proved by a pattern of behavior or an individual act or threat to act.

(c) Under Paragraph (b), acts such as maintaining financial control over an individual's resources for the purpose of creating dependence, withholding access to money or credit cards, forbidding attendance at school or employment, stealing assets, or withholding physical resources such as food, clothing, necessary medications, or shelter to deprive them the means or ability to resist or escape, may rise to the level of domestic abuse. See, e.g., 19-A MRSA §4002, sub-§3-B.

The Reporter then informed the Council that the remaining changes throughout the materials substitute this new definition into other existing domestic abuse laws, unify some areas of the law, and address cross-references. The Council quickly approved Civil Code Articles 103 and 112 and moved to Article 134. Professor Carroll pointed out that the Committee recommends more substantive changes to this Article because it strongly believes that it was inappropriate to make any one factor the primary consideration in determining the best interest of the child. As a result, the Committee added a Comment noting the importance of the potential for abuse or exposure to abuse but stressing that all relevant factors are important. The Council was concerned that the wording in Paragraph B could prevent the court from even considering the effects of abuse on a parent and therefore amended it before adopting all of the following:

**Art. 134. Factors in determining child's best interest**

A. Except as provided in Paragraph B of this Article, the court shall consider all relevant factors in determining the best interest of the child, including:

(1) The potential for the child to be abused, as defined by Children's Code Article 603, which shall be the primary consideration or to be exposed to domestic abuse.

(2) The existence, effect, and duration of any act of domestic abuse committed by a party.

\* \* \*

(10) ~~The mental and physical health of each party. Evidence that an abused parent suffers from the effects of past abuse by the other parent shall not be grounds for denying that parent custody.~~

\* \* \*

(13) ~~The willingness and ability of each party to facilitate and encourage a close and continuing relationship between the child and the other party, except when objectively substantial evidence of specific abusive, reckless, or illegal conduct has caused one party to have~~ has ~~reasonable concerns for the child's safety or well-being while in the care of the other party.~~

\* \* \*

(15) The responsibility for the care and rearing of the child previously exercised by each party.

~~B. In cases involving a history of committing family violence, as defined in R.S. 9:362, or domestic abuse, as defined in R.S. 46:2132, including sexual abuse, as defined in R.S. 14:403(A)(4)(b), whether or not a party has sought relief under any applicable law, the court shall determine an award of custody or visitation in accordance with R.S. 9:341 and 364. The court may only find a history of committing family violence if the court finds that one incident of family violence has resulted in serious bodily injury or the court finds more than one incident of family violence. Evidence that a parent suffers from the effects of past domestic abuse by the other parent shall not be the sole grounds for denying that parent custody.~~

C. In cases involving domestic abuse, the court shall award custody or visitation in accordance with R.S. 9:364.

**Revision Comments 2020**

(a) The placement of factors related to domestic abuse at the start of this list is deliberate, as the existence of or potential for domestic abuse to occur speaks directly to safety, and therefore, the child’s best interest. Nonetheless, no one factor is to be considered to the exclusion of others, as all of the enumerated factors are significant and bear on the child’s wellbeing. Moreover, the Post Separation Domestic Abuse Relief Act limits custodial and visitation rights of perpetrators of domestic abuse substantially. R.S. 9:361, et seq.

(b) Under Paragraph B, when considering the mental and physical health of the abused party, the judge must consider the effects of past domestic abuse on both mental and physical health.

(c) When domestic abuse is alleged, the court is required to consider relevant statutes, including the Post Separation Domestic Abuse Relief Act, even when those acts are not specifically pled. See, e.g., *Melancon v. Russell*, 258 So. 3d 955 (La. App. 5th Cir. 2018).

The Council next reviewed Civil Code Article 2315.8, on page 9 of the materials, and agreed to remove the added reference to new Article 162 from the text of the Article, instead adding the cross-reference in a Comment. The Council also referred the issue of whether to include dating partners to the Torts and Insurance Committee for consideration. Subsequently all of the following provisions were adopted:

**Art. 2315.8. Liability for damages caused by domestic abuse**

A. In addition to general and special damages, exemplary damages may be awarded upon proof that the injuries on which the action is based were caused by a wanton and reckless disregard for the rights and safety of a family or household member, ~~as defined in R.S. 46:2132~~, through acts of domestic abuse resulting in serious bodily injury or severe emotional and mental distress, regardless of whether the defendant was prosecuted for his or her acts.

\* \* \*

**Art. 2362.1. Obligation incurred in an action for divorce**

\* \* \*

B. The obligation for attorney fees and costs incurred by the perpetrator of domestic abuse or awarded against him in an action for divorce granted pursuant to Article 103(4) or (5) or in an action in which the court determines that a spouse or a child of one of the spouses was the victim of domestic abuse committed by the perpetrator during the marriage, and in incidental actions, shall be a separate obligation of the perpetrator.

**POST SEPARATION FAMILY VIOLENCE DOMESTIC ABUSE RELIEF ACT**

**R.S. 9:361. Legislative findings**

The legislature hereby reiterates its previous findings and statements of purpose set forth in R.S. 46:2121 and 2131 relative to ~~family violence and domestic violence abuse~~. The legislature further finds that the problems of family violence domestic abuse do not necessarily cease when the victimized family is ~~legally~~ separated or divorced. In fact, the ~~violence abuse~~ abuse often escalates, and child custody and visitation become the new forum for the continuation of the abuse. Because current laws relative to child custody and visitation are based on an assumption that even divorcing

parents are in relatively equal positions of power, and that such parents act in the children's best interest, these laws often work against the protection of the children and the abused spouse in families with a history of ~~family violence~~ domestic abuse. Consequently, laws designed to act in the children's best interest may actually effect a contrary result due to the unique dynamics of ~~family violence~~ domestic abuse.

**R.S. 9:362. Definitions**

As used in this Part:

(1) "Abused parent" means the parent who has not committed ~~family violence~~ domestic abuse.

\* \* \*

(3) "Court-monitored domestic abuse intervention program" means a program, comprised of a minimum of twenty-six in-person sessions, that follows a model designed specifically for perpetrators of domestic abuse. The offender's progress in the program shall be monitored by the court. The provider of the program shall have all of the following:

\* \* \*

(c) Training in the causes and dynamics of ~~domestic violence~~ abuse, characteristics of batterers, victim safety, and sensitivity of victims.

~~(4) "Family violence" includes but is not limited to physical or sexual abuse and any offense against the person as defined in the Criminal Code of Louisiana, except negligent injuring and defamation, committed by one parent against the other parent or against any of the children. Family violence does not include reasonable acts of self-defense utilized by one parent to protect himself or herself or a child in the family from the family violence of the other parent.~~

(4) "Domestic abuse" has the same meaning as defined in C.C. Art. 162(a).

(5) "Injunction" means a temporary restraining order or a preliminary or a permanent court ordered injunction, as defined in the Code of Civil Procedure, which prohibits the ~~violent~~ abusive parent from in any way contacting the abused parent or the children except for specific purposes set forth in the injunction, which shall be limited to communications expressly dealing with the education, health, and welfare of the children, or for any other purpose expressly agreed to by the abused parent. All such injunctions shall prohibit the ~~violent~~ abusive parent, without the express consent of the abused parent, from intentionally going within fifty yards of the home, school, place of employment, or person of the abused parent and the children, or within fifty feet of any of their automobiles, except as may otherwise be necessary for court ordered visitation or except as otherwise necessitated by circumstances considering the proximity of the parties' residences or places of employment. Such injunctions shall be issued in the form of a Uniform Abuse Prevention Order and transmitted to the Louisiana Protective Order Registry, as required by this Part.

(6) "Sexual abuse" includes but is not limited to acts which are prohibited by R.S. 14:41, 42, 42.1, 43, 43.1, 43.2, 43.4, ~~78~~, 80, 81, 81.1, 81.2, 89 and 89.1.

(7) "Supervised visitation" means face-to-face contact between a parent and a child which occurs in the immediate presence of a supervising person approved by the court under conditions which prevent any physical

abuse, threats, intimidation, abduction, or humiliation of either the abused parent or the child. The supervising person shall not be any relative, friend, therapist, or associate of the parent perpetrating ~~family violence~~ domestic abuse. With the consent of the abused parent, the supervising person may be a family member or friend of the abused parent. At the request of the abused parent, the court may order that the supervising person shall be a police officer or other competent professional. The parent who perpetrated ~~family violence~~ domestic abuse shall pay any and all costs incurred in the supervision of visitation. In no case shall supervised visitation be overnight or in the home of the ~~violent~~ abusive parent.

**R.S. 9:363. Ordered mediation prohibited**

Notwithstanding any other provision of law to the contrary, in any separation, divorce, child custody, visitation, child support, alimony, or community property proceeding, no spouse or parent who satisfies the court that he or she, or any of the children, has been the victim of ~~family violence~~ domestic abuse perpetrated by the other spouse or parent shall be court ordered to participate in mediation.

The Reporter explained the importance of the Post Separation Family Violence Relief Act (PSFVRA) due to the implications for custody and support in the domestic abuse context. As a result, the Committee recommended changes to R.S. 9:364 that are related to but go beyond simply adding the new definition. Subsection A is a rewording of existing law, and Subsection B addresses the erroneous notion that a presumption shall be overcome, after an initial order of custody, upon completion of certain requirements. The Committee redrafted Subsection B to correctly provide that once the court issues a custody order based on the presumption, that order may be modified if the court finds compliance with those requirements. The Council also discussed the phraseology of Subsection A and the use of the term "incident," but members with expertise in this area stated that the terms are understood in practice and in the case law.

Subsections E and G were moved to R.S. 9:364 from R.S. 9:341, which the Committee recommends repealing. The Reporter accepted amendments to carry forward the same language from Subsection A and all of the following provisions were adopted:

**R.S. 9:364. Child custody; visitation**

~~A. There is created a presumption that no parent who has a history of perpetrating family violence, as defined in R.S. 9:362, or domestic abuse, as defined in R.S. 46:2132, or has subjected any of his or her children, stepchildren, or any household member, as defined in R.S. 46:2132, to sexual abuse, as defined in R.S. 14:403, or has willingly permitted another to abuse any of his children or stepchildren, despite having the ability to prevent the abuse, shall be awarded sole or joint custody of children. The court may find a history of perpetrating family violence if the court finds that one incident of family violence has resulted in serious bodily injury or the court finds more than one incident of family violence. There is a presumption that a parent shall not be awarded joint or sole custody when a court finds that the parent has committed domestic abuse that has resulted in serious bodily injury or more than one incident of domestic abuse, or when a parent has willingly permitted another to abuse any of his children or stepchildren despite having the ability to prevent the abuse.~~

~~B. The presumption shall be overcome~~ After the rendition of a custody order in accordance with Subsection A of this Section, a party may seek modification only if the court finds all of the following by a preponderance of the evidence:

\* \* \*

C. The fact that the abused parent suffers from the effects of the domestic abuse shall not be the sole grounds for denying that parent custody.

D. If the court finds that both parents have a history of perpetrating ~~family violence~~ domestic abuse, custody shall be awarded solely to the parent who is less likely to continue to perpetrate ~~family violence~~ domestic abuse. In such a case, the court shall mandate completion of a court-monitored domestic abuse intervention program by the custodial parent. If necessary to protect the welfare of the child, custody may be awarded to a suitable third person pursuant to Civil Code Article 133, provided that the person would not allow access to ~~a violent~~ an abusive parent except as ordered by the court.

E. If the court finds that a parent has ~~a history of perpetrating family violence~~ committed domestic abuse that has resulted in serious bodily injury or more than one incident of domestic abuse, or when a parent has willingly permitted another to abuse any of his children or stepchildren despite having the ability to prevent the abuse, the court shall allow only supervised ~~child~~ visitation with that parent pursuant to R.S. 9:341. The court shall order supervised visitation only if the abusive parent proves by a preponderance of the evidence that visitation would be in the best interest of the child, and that visitation would not cause physical, emotional, or psychological damage to the child. Should supervised visitation be allowed, the court shall order such restrictions, conditions, and safeguards necessary to minimize any risk of harm to the child. All costs incurred in compliance with the provisions of this Section shall be the responsibility of the abusive parent.

F. If any court finds, by clear and convincing evidence, that a parent has sexually abused ~~his or her~~ the child or children, the court shall prohibit all visitation and contact between the abusive parent and the children pursuant to R.S. 9:341.

G. When visitation has been restricted or prohibited by the court pursuant to Subsection E or F of this Section, and the court subsequently authorizes further restricted visitation, the parent whose visitation has been restricted shall not remove the child from the jurisdiction of the court except for good cause shown and with the prior approval of the court.

#### **Revision Comment 2020**

This revision repeals R.S. 9:341. Portions of that statute are moved here, however, including the second sentence of Subsection E and the entirety of Subsection G.

#### **R.S. 9:365. Qualification of mental health professional**

Any mental health professional appointed by the court to conduct a custody evaluation in a case where ~~family violence~~ domestic abuse is an issue shall have current and demonstrable training and experience working with perpetrators and victims of ~~family violence~~ domestic abuse.

#### **R.S. 9:366. Injunctions**

A. All separation, divorce, child custody, and child visitation orders and judgments in ~~family violence~~ domestic abuse cases shall contain an injunction as defined in R.S. 9:362. Upon issuance of such injunction, the judge shall cause to have prepared a Uniform Abuse Prevention Order as provided in R.S. 46:2136.2(C), shall sign such order, and shall immediately forward it to the clerk of court for filing on the day that the order is issued. The clerk of the issuing court shall transmit the Uniform Abuse Prevention Order to the Judicial Administrator's Office, Louisiana Supreme

Court, for entry into the Louisiana Protective Order Registry, as provided in R.S. 46:2136.2(A), by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court. The clerk of the issuing court shall also send a copy of the Uniform Abuse Prevention Order, as provided in R.S. 46:2136.2(C), or any modification thereof, to the chief law enforcement officer of the parish where the person or persons protected by the order reside by facsimile transmission or direct electronic input as expeditiously as possible, but no later than the end of the next business day after the order is filed with the clerk of court. A copy of the Uniform Abuse Prevention Order shall be retained on file in the office of the chief law enforcement officer until otherwise directed by the court.

\* \* \*

#### **R.S. 9:367. Costs**

In any ~~family violence~~ domestic abuse case, all court costs, attorney fees, costs of enforcement and modification proceedings, costs of appeal, evaluation fees, and expert witness fees incurred in furtherance of this Part shall be paid by the perpetrator of the ~~family violence~~ domestic abuse, including all costs of medical and psychological care for the ~~abused spouse~~ victim of the abuse, or for any of the children, necessitated by the ~~family violence~~ domestic abuse.

#### **R.S. 9:369. Limitations**

No public funds allocated to programs which provide services to victims of domestic ~~violence~~ abuse shall be used to provide services to the perpetrator of domestic ~~violence~~ abuse.

Moving to the Domestic Abuse Assistance Act in Title 46, the Reporter advised the Council that this Act comprises the bulk of Louisiana law regarding domestic abuse, and therefore it is important to repeat the definition here rather than simply adding a cross-reference to the new Civil Code article. The Committee also moved the definition of "dating partner" here from R.S. 46:2151, which it recommends repealing. After the Council expressed concern over whether a dating partner could be a person you took to prom forty years ago, the Reporter agreed to add a modifier to further assist the judge in making the determination. The following were approved:

#### **R.S. 46:2131. Purposes**

The purpose of this Part is to recognize and address the complex legal and social problems created by domestic ~~violence~~ abuse. The legislature finds that existing laws which regulate the dissolution of marriage do not adequately address problems of protecting and assisting the victims of domestic abuse. The legislature further finds that previous societal attitudes have been reflected in the policies and practices of law enforcement agencies and prosecutors which have resulted in different treatment of crimes occurring between family members, household members, or dating partners and those occurring between strangers. It is the intent of the legislature to provide a civil remedy for domestic ~~violence~~ abuse which will afford the victim immediate and easily accessible protection. Furthermore, it is the intent of the legislature that the official response of law enforcement agencies to cases of domestic ~~violence~~ abuse shall stress the enforcement of laws to protect the victim and shall communicate the attitude that ~~violent~~ abusive behavior is not excused or tolerated.

**R.S. 46:2132. Definitions**

As used in this Part:

\* \* \*

(3) "Dating partner" means any person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the nature of such a relationship shall be determined based on a consideration of the following factors:

(a) The length of the relationship.

(b) The type of relationship.

(c) The frequency of interaction between the persons involved in the relationship.

~~(3) (4) "Domestic abuse" includes but is not limited to physical or sexual abuse and any offense against the person, physical or non-physical, as defined in the Criminal Code of Louisiana, except negligent injury and defamation, committed by one family member, household member, or dating partner against another. "Domestic abuse" also includes abuse of adults as defined in R.S. 15:1503 when committed by an adult child or adult grandchild. means the following when committed by one family member, current or former household member, or dating partner against another:~~

(a) Physical or sexual abuse and any offense against the person, physical or non-physical, as defined in the Criminal Code of Louisiana, or the threat thereof, except negligent injury and defamation, regardless of whether the perpetrator was prosecuted.

(b) Any act or threat to act which is intended to coerce, control, punish, intimidate, or exact revenge on the other party to (1) prevent a victim from reporting to law enforcement or requesting medical assistance or emergency or victim services, or (2) deprive the victim of the means or ability to resist the abuse or escape the relationship.

~~(4) "Family members" means spouses, former spouses, parents and children, stepparents, stepchildren, foster parents, and foster children. "Household members" means any person presently or formerly living in the same residence with the defendant and who is involved or has been involved in a sexual or intimate relationship with the defendant and who is seeking protection under this Part. "Dating partner" means any person protected from violence under R.S. 46:2151 who is seeking protection under this Part. If a parent or grandparent is being abused by an adult child, adult foster child, or adult grandchild, the provisions of this Part shall apply to any proceeding brought in district court.~~

**R.S. 46:2133. Jurisdiction; venue; standing**

\* \* \*

B. Venue lies:

\* \* \*

(3) In the parish where the domestic abuse is alleged to have been committed.

\* \* \*

D. An adult may seek relief under this Part by filing a petition with the court alleging domestic abuse by the defendant. Any parent, adult household member, or district attorney may seek relief on behalf of any minor child or any person alleged to be incompetent by filing a petition with the court alleging abuse by the defendant. A petitioner's right to relief under this Part shall not be affected by leaving the residence or household to avoid further abuse.

**R.S. 46:2134. Petition**

A. A petition filed under the provisions of this Part shall contain the following:

(1) The name of each petitioner and each person on whose behalf the petition is filed, and the name, address, and parish of residence of each individual alleged to have committed domestic abuse, if known; if the petition is being filed on behalf of a child or person alleged to be incompetent, the relationship between that person and the petitioner.

\* \* \*

C. If the petition requests a protective order for a spouse and alleges that the other spouse has committed domestic abuse, the petition shall state whether a suit for divorce is pending.

**R.S. 46:2135. Temporary restraining order**

A. Upon good cause shown in an ex parte proceeding, the court may enter a temporary restraining order, without bond, as it deems necessary to protect from domestic abuse the petitioner, any minor children, or any person alleged to be an incompetent. ~~Any person who shows immediate and present danger of~~ A showing of domestic abuse shall constitute good cause for purposes of this Subsection. The court shall consider any and all past history of domestic abuse, or threats thereof, in determining the existence of ~~an immediate and present danger of~~ domestic abuse. There is no requirement that the domestic abuse itself be recent, immediate, or present. The order may include but is not limited to the following:

\* \* \*

The Reporter then asked for the Council's approval of the technical conforming changes to the remaining articles in the Domestic Abuse Assistance Act and to the Domestic Abuse Assistance Act in the Children's Code. Approval was granted without debate. Professor Carroll next pointed out the proposed repeal of R.S. 9:341 and informed the Council that all of the remaining proposals are technical changes in every other area of the law. The Committee is simply changing the term "domestic violence" to "domestic abuse" and correcting cross-references. Without discussion, the Council approved these changes as well.

At this time, Professor Carroll concluded her presentation, and the Friday session of the December 2019 Council meeting was adjourned.

# LOUISIANA STATE LAW INSTITUTE

## MEETING OF THE COUNCIL

December 7, 2019

Saturday, December 7, 2019

### Persons Present:

Adams, Marguerite (Peggy) L.  
Bergstedt, Thomas M.  
Breard, L. Kent  
Comeaux, Conrad  
Dawkins, Robert G.  
Doguet, Andre'  
Domingue, Billy J.  
Hayes, Thomas M., III  
Hester, Mary  
Hogan, Lila T.  
Holdridge, Guy  
Janke, Benjamin West  
Knighten, Arlene D.  
Kunkel, Nick

LaVergne, Luke A.  
Lee, Amy Allums  
Morel, Stephen  
Norman, Rick J.  
Richard, Herschel E., Jr.  
Richardson, Sally Brown  
Sklamba, Stephen  
Sole, Emmett C.  
Talley, Susan G.  
Tate, George J.  
Thibeaux, Robert P.  
Waller, Mallory  
Wilson, Evelyn L.  
Ziober, John David

President Susan G. Talley called the Saturday session of the December 2019 Council meeting to order at 9:00 a.m. on Saturday, December 7, 2019, at the Louisiana Supreme Court in New Orleans. She then called on Mr. Stephen G. Sklamba, Reporter of the Tax Sales Committee, to begin his presentation of materials.

### Tax Sales Committee

After introducing himself and the materials he would be presenting, Mr. Sklamba directed the Council's attention to R.S. 47:2132 on pages 19 and 20 of the materials. He explained that the Council had previously recommitted this provision to allow the Committee a chance to review several issues concerning terminology. First, Mr. Sklamba noted that the Committee had determined that this provision's use of the more specific term "ad valorem taxes" in lieu of "taxes" or "statutory impositions" was correct, as the provision at issue dealt specifically with this more narrow category of impositions. He clarified the Committee's opinion that the use of "statutory impositions" in this context would serve to improperly expand the jurisdiction of the Louisiana Tax Commission. Following this, the Reporter noted that the Committee had replaced instances of "tax commission" with the proper noun "Louisiana Tax Commission" – both in R.S. 47:2132 specifically and throughout the draft – while also hyphenating the previously separated adjective "tax-recipient". Mr. Sklamba confirmed that no substantive changes were made to the provision.

A motion was then made and seconded to approve R.S. 47:2132. The motion carried and the statute was approved as follows:

#### **§2132. Refund of ad valorem taxes erroneously paid**

A. Any person who has a claim against a political subdivision for ad valorem taxes erroneously paid into the funds of that political subdivision may present the claim to the Louisiana Tax Commission within three years of the date of the payment, in such form and together with such proof as the ~~tax commission~~ Louisiana Tax Commission may require by its rules and regulations; however, if a person is claiming a previously unclaimed homestead exemption, it may be presented to the ~~tax commission~~ Louisiana Tax Commission within five years of the date of payment. The ~~tax commission~~ Louisiana Tax Commission shall consult with the assessor of the parish in which the property which is the subject of the claim is located,

and after that assessor advises the ~~tax-commission~~ Louisiana Tax Commission that a refund is due the claimant, the ~~tax-commission~~ Louisiana Tax Commission shall duly examine the merits and correctness of each claim presented to it and shall make a determination thereon within thirty days after receipt of the claim.

B. If the claim is approved, the ~~tax-commission~~ Louisiana Tax Commission shall authorize and direct the collector, when applicable, to correct the assessment on the roll on file in his office and shall authorize and direct, when applicable, the recorder of mortgages to change the inscription of the tax roll. The ~~tax-commission~~ Louisiana Tax Commission shall also authorize and direct the refund and repayment of those taxes found to be erroneously paid as provided in this Section. Provided that when the claim accrues to more than one person, as for example, the heirs and legatees of another, and the claim is determined by the ~~tax-commission~~ Louisiana Tax Commission to be properly due and owed, payment thereof to the party or parties asserting the same shall not be denied because of the failure or refusal of others to join in and assert the claim, but in such event only the portion due such claimant or claimants shall be paid.

C. The collector of ad valorem taxes in each political subdivision, upon receipt of written notice from the ~~tax-commission~~ Louisiana Tax Commission that a particular refund or repayment is owed, shall do one of the following:

(1) If the claim is made for ad valorem taxes erroneously paid on property which is or could be homestead exempt or otherwise exempt, the collector shall immediately notify the affected ~~tax-recipient~~ tax-recipient bodies to remit to him within thirty days their pro rata share of the refund or repayment. Upon receipt of those funds from the tax-recipient bodies, the collector shall have an additional thirty days to remit the payment in full to the tax debtor. Failure by any ~~tax-recipient~~ tax-recipient body or the collector to timely remit such monies shall cause interest at the legal rate to accrue in favor of the tax debtor to be paid by the political subdivision or tax collector failing to so timely remit.

(2) If the claim is made for ad valorem taxes erroneously paid on property which would not qualify for a homestead or other exemption, the collector shall note and record the amount of the refund or repayment owed and shall have full responsibility to ensure that such amount shall operate as a credit against future ad valorem tax liability of that property. No ad valorem taxes shall be due or collected on such property until such time as the collector certifies that a sufficient amount of taxes assessed have been waived to satisfy the refund or repayment ordered by the ~~tax-commission~~ Louisiana Tax Commission. No interest shall accrue or be due on any such refund or repayment.

(3) If the claim is made in a political subdivision which has established an alternative procedure for providing for refunds of ad valorem taxes erroneously paid as authorized by this Section, and if that alternative procedure has been submitted to and approved by the ~~tax-commission~~ Louisiana Tax Commission, such procedure may be utilized in lieu of the provisions of Paragraphs (1) and (2) of this Subsection.

D. An action of the assessor or of the ~~tax-commission~~ Louisiana Tax Commission rejecting or refusing to approve any claim made under the provisions of this Section may be appealed by means of ordinary proceedings to the district court having jurisdiction where the property which is the subject of the claim is located.

The Reporter then asked the Council to briefly turn its attention to R.S. 47:2133, noting that the Council had already approved the provision pending the Committee's research into the applicability of a stay under federal bankruptcy law to the auctions held under the Committee's newly-recommended scheme, given that such scheme would involve the auction of liens as opposed to actual property. Mr. Sklamba confirmed that the stay would indeed apply irrespective of the subject of such auctions. Accordingly, no additional action was required with respect to R.S. 47:2133. Prior to moving on, however, a Council member inquired as to the ranking of such liens for the purposes of bankruptcy. The Reporter explained that state law would determine such ranking and voiced his belief that the lien would be "first in line" in bankruptcy. Several Council members nevertheless noted concern over the issue of ranking liens in bankruptcy, so Mr. Sklamba resolved to reach out to the Council members to review the issues in more detail.

The Reporter then moved to R.S. 47:2134, noting that Subparagraph (B)(2)(c) had been recommitted so that the Committee could draft less awkward language, which it had done. A motion was made and seconded to approve Subparagraph (B)(2)(c), and with no discussion, the provision was approved as follows:

**§2134. Suits to recover ~~taxes~~ statutory impositions paid under protest**

\* \* \*

(c) If a taxpayer timely seeks recovery of statutory impositions in an action ~~suit is timely filed~~ contesting the correctness of the assessment pursuant to R.S. 47:1856, 1857, or 1998, or in an action challenging the validity or correctness of other impositions, and seeking the recovery of the tax paid under protest, then that portion of the taxes statutory impositions paid that are in dispute shall be deemed as paid under protest, and that amount shall be segregated and shall be further held pending ~~the outcome of the suit~~ final judgment.

\* \* \*

Moving ahead to R.S. 47:2135, the Reporter noted that the Committee had considered revised language here to incorporate the Council's prior suggestions but had not yet approved such language. Accordingly, Mr. Sklamba skipped over the provision, asking the Council to turn its attention to the next unapproved provision in the draft, R.S. 47:2153(C).

After reminding the Council that Subsections A and B of R.S. 47:2153 had already been approved, Mr. Sklamba explained that Subsection C was simply a notice provision and noted that most of the proposed revisions were simply instances where outdated terminology was being replaced. He did emphasize, however, one substantive change being made, namely that under the Committee's proposed revisions, there would be only one notice instead of two as under present law. Mr. Sklamba explained that this was a minor change given that only one notice is constitutionally required. Noting the self-explanatory nature of the language at issue, Mr. Sklamba explained that the notice simply stated that the lien will be sold, and the debtor must pay the relevant amount to redeem and avoid forfeiting the property. After reading the additional portions of Subsection C, the Reporter provided logic for the proposed deletions. He noted that the Committee recommended deleting Paragraph (5) because the concept contained therein was abandoned. As for Paragraph (6), Mr. Sklamba reasoned that the language was simply superfluous. Finally, he explained that former Paragraph (1), which had been added in 2012, was deleted because the Committee's research revealed it to be the strictest policy among any state in the country and unnecessary for purposes of the Constitution.

A motion was then made and seconded to approve R.S. 47:2153(C). With the floor open for discussion, a Council member pointed out that the 1% interest and 5% penalty were set out in differing orders at various places throughout pages 26, 27, and 31 of the materials. The Council member suggested that the Committee use a uniform description of the interest and penalty so as to avoid errors in calculation. The Reporter agreed with this suggestion and stated that the Committee would make the revisions necessary to

ensure the recommended uniformity. Another Council member asked whether the purchaser would be required to pay *all* taxes from that point forward or else simply redeem only one year. The Reporter explained that a purchaser would be able to redeem one year's taxes or all taxes, at the purchaser's choice. He further noted that there was no requirement that multiple years' taxes be paid at the same time.

Next, a Council member asked to what, exactly, "the premium" on page 31 referred, highlighting the fact that a seeming term of art had been introduced in the draft without prior explanation of its meaning. The Reporter noted that premium was indeed a term defined in the definitions section and explained that it referred to the amount paid by the certificate purchaser over and above the total amount of the taxes owed. Mr. Sklamba also noted that the premium would count against any potential return on investment. A Council member then highlighted the fact that the terms "taxes" and "statutory impositions" had been used seemingly interchangeably throughout the provision at issue. The Council member also noted that the language "and the lien and privilege securing it" following "the delinquent obligation" was non-uniform. After the Reporter agreed to accept these suggestions as friendly amendments, and to review the entire draft for uniformity as to the issues raised, the Council returned to the motion on the floor. The motion was amended to approve both Subsection C of R.S. 47:2153 and the agreed-upon changes to Subsections A and B of the provision. The motion carried and, subject to the Reporter's review of the language related to the application of interest and penalty, R.S. 47:2153 was approved as follows:

**§2153. Notice of delinquency and tax sale auction**

A.~~(1)~~(a) No later than the first Monday of February of each year, or as soon thereafter as possible, the tax collector shall send a written notice by certified mail, return receipt requested, to each tax notice party when the tax debtor has not paid all the statutory impositions which have been assessed on immovable property. The notice shall inform notifying the person tax notice party that if the statutory impositions on the immovable property shall be are not paid within twenty days after the sending of the notice, or as soon thereafter before the tax sale auction is scheduled, or that tax sale title to the property will be sold according to law the tax collector shall advertise for sale by public auction the delinquent obligation and the lien and privilege securing it, and that he shall issue in favor of the highest bidder and record in the mortgage records an auction certificate. After the property goes to tax sale and within ninety days of the expiration of the redemptive period, the tax collector shall provide written notice by first class mail to each tax notice party that tax sale title to the property has been sold at tax sale and that after the expiration of the redemptive period, the property cannot be redeemed. The notice shall be sufficient if it is in the following form:

"Year	Ward	Sect.	Ass. #	Property #	Notice #
-------	------	-------	--------	------------	----------

\*\*\*\*\*PLEASE NOTE\*\*\*\*\*

[NAME OF POLITICAL  
SUBDIVISION]

\*By law your taxes are delinquent after December thirty-first. The law requires interest be charged as follows: A flat rate of one percent (1%) per month on a non-compounding basis on delinquent ad-valorem taxes statutory impositions. A five percent (5%) penalty is added to the amount due if the statutory impositions remain unpaid after 90 days from the date payment became delinquent. (DEADLINE DATE).

\*If monies for payment of taxes statutory impositions are in escrow, please forward tax notice to your mortgage company.

\*If a receipt is requested, enclose a self-addressed stamped envelope along with your payment.

\*Please notify the sheriff's office or the assessor's office with all address changes.

\*For questions about assessed value or millages contact:

Assessor's Office:

Property Tax Dept:

\*Payment may be made online at

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\*[DATE OF NOTICE]. If taxes statutory impositions are not paid in full within twenty days after this date, the political subdivision will proceed to sell auction the delinquent obligation for payment of taxes and other impositions and the lien and privilege securing the obligation and will issue in favor of the tax auction purchaser an ~~tax~~ auction certificate sale title to the property at [list location of the tax sale auction] beginning on [list first day of sale auction]. The auction certificate shall be prima facie evidence of the validity of the delinquent obligation, the lien and privilege and the assignment to the tax auction purchaser. You will have the right to pay the amounts due until the day before the actual sale auction. If tax sale title to the property the delinquent obligation is sold auctioned, you will have three years [or other applicable redemptive period] from the date of the filing of the tax sale certificate in which to may redeem the property certificate according to law, but in order to redeem, you will be required to pay all delinquent parish and municipal statutory impositions, a five percent (5%) penalty and interest at the rate of one percent (1%) per month on a non-compounding basis computed on the amounts past due statutory impositions together with other costs amounts in accordance with law.

Total Assessed Value Tax Distributions	Millages	Homestead Exemption	Taxes and other Statutory Impositions Due	Assessment Information
--	----------	---------------------	---	------------------------

[add taxing districts]

[add amount of tax due each district] Total Assessed Value

Property Description

Total Statutory Impositions Due  
Interest  
Costs  
Total

[Name of Tax Collector and Address]

Total Statutory Impositions Due  
Interest  
Cost  
Total

[Tax Collector Name]

YEAR WARD SECT ASS.# PROPERTY NOTICE #  
Name of Tax Debtor  
[address]

Make checks payable to:

[Tax Collector Name]

Mail this portion of tax bill and payment to:

[address]"

~~(b) Nothing in this Section shall be construed to prohibit the tax collector from sending more than one notice of sale.~~

~~(c)(i) If the written notice by certified mail is returned for any reason, the tax collector shall demonstrate a reasonable and diligent effort to provide notice of the tax sale to the tax debtor. To demonstrate a reasonable and diligent effort, the tax collector shall attempt to deliver notice of the delinquent taxes and tax sale by first class mail to the last known address of the debtor and take any three of the following additional steps to notify the tax debtor:~~

~~(aa) Perform a computer search of digitized records and databases of the clerk of court or sheriff's office for addresses of other properties that may be owned by the debtor.~~

~~(bb) Contact the tax assessor of the parish in which the property is located for the addresses of other properties that may be owned by the debtor.~~

~~(cc) Examine the mortgage or conveyance records of the parish where the property is located to determine whether there are any other transactions pertaining to the property.~~

~~(dd) Attempt personal or domiciliary service of the notice.~~

~~(ee) Post the notice of tax sale at the property.~~

~~(ii) The notice of the tax sale shall be sent by certified mail or commercial courier to all addresses discovered through the steps set forth in this Subparagraph. The tax collector may recover all reasonable and customary costs actually incurred in complying with these steps.~~

~~(iii) Failure of the debtor to receive actual notice of the tax sale shall not affect the validity of the tax sale when the tax collector demonstrates a reasonable and diligent effort to provide notice of the tax sale as set forth in~~

~~this Subsection. If the debtor is deceased, the notice of tax sale and the reasonable and diligent effort to provide notice of the tax sale shall be sufficient if to the succession representative, if applicable, or to a curator as provided by law.~~

~~(2)(a) No later than the first Monday of March of each year, or as soon thereafter as possible, the tax collector shall search the mortgage and conveyance records of tax sale eligible property to identify its tax sale parties.~~

~~(b) Prior to the tax sale, the tax collector shall send a written notice by certified mail, return receipt requested, to each tax sale party identified pursuant to Subparagraph (a) of this Paragraph. The notice shall advise the person that it is required that the statutory impositions on the immovable property be paid within twenty days after the sending of the notice or the tax sale title to the property will be sold according to law. This notice shall be sufficient if it is in the following form:~~

~~TAX SALE PARTY NOTICE OF TAX SALE~~

~~{Date}  
{Name}  
{Address}  
{City}, {ST} {Zip}  
RE: Tax Bill Number:  
Property: {Property Address}  
{Description of Property Abbr}~~

~~YOU HAVE A PUBLICLY RECORDED INTEREST IN THE ABOVE REFERENCED PROPERTY. PLEASE READ THIS NOTICE CAREFULLY.~~

~~The property taxes for the above referenced property were not paid. In accordance with the notice requirement contained in Article VII, Section 25 of the Louisiana Constitution, you are hereby notified that if the delinquent property taxes are not paid within twenty days of the date of this notice, the property will be sold at tax sale in accordance with law.~~

~~AFTER THE EXPIRATION OF THE REDEMPTIVE PERIOD, THE PROPERTY CANNOT BE REDEEMED. CONTINUED POSSESSION OF THE PROPERTY DOES NOT EXTEND THE REDEMPTIVE PERIOD.~~

~~Please contact [name of tax collector] if you believe that you received this notice in error, have sold or transferred this property, or for further information or assistance.~~

~~Thank you,~~

~~Tax Collector of [name of political subdivision]~~

~~{Tax collector phone number}~~

~~THIS NOTICE CONCERNS ONLY THE PROPERTY DESCRIBED IN THE "REGARDING" PORTION OF THIS LETTER; the address of that property may or may not be the same as the mailing address of this notice.~~

~~If your recorded interest in this property is no longer valid or enforceable, you may remove it by visiting the office of the recorder of mortgages and conveyances located at [mortgage and conveyance office address]."~~

B. (1) If the certified mail sent to the tax debtor is returned for any reason, the tax collector shall resend the notice by first class mail and to "occupant" to at the address listed and shall take additional steps to notify the tax debtor of the delinquent taxes and pending auction, which shall include any two of the following:

(a) Review the local telephone directory or internet for the tax debtor.

(b) Contact the assessor for potential updated addresses or other properties assessed in the tax debtor's name.

(c) Examine the mortgage and conveyance records of the parish where the property is located to determine whether there are any other transactions pertaining to the property tax debtor.

(d) Attempt personal or domiciliary service of the tax bill.

(e) Post a notice of tax sale auction at the property.

(2) The tax collector shall send the notice by first class mail to all addresses that the tax collector discovers through the procedures set forth in Paragraph (1) of this Subsection and reasonably believes may be valid addresses for the tax debtor.

(3) The tax collector may recover all reasonable and customary costs actually incurred in complying with Paragraphs (1) and (2) of this Subsection.

C.(1)(a) At the expiration of twenty days' notice, counting from the day when the last of the written notices are sent, or as soon thereafter as practicable, the tax collector shall proceed to publish a notice to the tax debtors of the delinquency and to advertise for sale auction the consolidated delinquent tax list under one form two times within thirty days in the official journal of the political subdivision. The publication and advertisement shall be sufficient if it is in the following form:

"DELINQUENT TAX LIST

\_\_\_\_\_ vs. Delinquent Tax Debtors  
(insert appropriate taxing bodies)

By virtue of the authority vested in me by the constitution and the laws of the State of Louisiana, I will sell by public auction, at \_\_\_\_\_, ~~within the legal hours for judicial sales~~ beginning at \_\_\_\_\_ o'clock a.m. on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, and continuing on each succeeding legal day, until said ~~sales are~~ auction is completed, the delinquent obligation. I will issue in favor of the highest bidder and record in the mortgage records an auction certificate ~~tax sale title~~ to all immovable property on which taxes are now due to \_\_\_\_\_, to enforce collection of taxes

(insert affected taxing bodies) assessed in the year \_\_\_\_\_, together with interest thereon from January 1, \_\_\_\_\_, at the rate of one percent (1%) per month on a non-compounding basis until paid and all costs. The names of said delinquent tax debtors, the amount of statutory impositions due, including any due for prior years, and the immovable property assessed to each ~~to be offered for sale~~ for which an auction certificate will be auctioned are as follows: (Insert names of delinquent tax debtors in alphabetical order, the amount of statutory impositions due, including any due for prior years on each specific piece of property, and the description of each specific piece of immovable property ~~to be offered for sale~~ for which an auction certificate will be issued.)

~~On the day of sale~~ At the auction I will sell the delinquent obligation to the highest bidder, ~~a tax sale title to such portions of the property as each tax debtor will point out and, in case the debtor will not point out sufficient property susceptible to division and~~, I will at once and without further delay ~~sell the least quantity as undivided interests of said property of any tax debtor which any bidder will buy for the amount of the statutory impositions for which the sale is made, together with interest and costs due by said tax debtor.~~ The sale auction will be without appraisement, for cash or other payment method acceptable to the tax collector, in legal tender money of the United States, and the tax auction certificate ~~sale title to property sold~~ will be redeemable at any time during the applicable redemptive period by

paying the price given, including costs and five percent (5%) penalty thereon, with interest at the rate of one percent (1%) per month on a non-compounding basis computed on the statutory impositions until redeemed. The redemption payment shall also include the amount of subsequent parish and municipal statutory impositions paid by the auction certificate holder, his successors or assigns, together with interest computed on the statutory impositions at the rate of one percent (1%) per month on a non-compounding basis and a five percent (5%) penalty. The premium paid by the auction certificate purchaser shall be retained and distributed by the tax collector and shall not be collected from you or paid to the auction certificate purchaser. THE PREMIUM PAID BY A PURCHASER SHALL NOT BE INCLUDED IN THE REDEMPTION PRICE OR OTHERWISE REMIMBURSED TO THE PURCHASER."

(b) In addition to the notice required to be published pursuant to Subparagraph (a) of this Paragraph, the tax collector may elect to publish via the ~~Internet~~ internet the portion of the notification and advertisement that details the names of delinquent tax debtors, the amount of statutory impositions due, and the description of each specific piece of immovable property to be offered for sale for which an auction certificate will be issued. In the instance of using the ~~Internet~~ internet for the detailed listing of properties offered for tax sale for which an auction certificate will be issued, the tax collector shall provide, within the original printed notification or advertisement, the web address where the comprehensive list of debtors and properties ~~offered for sale~~ can be viewed.

(2) For the purpose of tax sales auctions, it shall be sufficient to advertise all property in the name of the tax debtor at the time the assessment was made.

(3) For the purpose of tax sales auctions, it shall be sufficient to assess, ~~and describe, and advertise~~ all property assessed in the following manner: by designating the tract or lot by the name by which it is commonly known, or by the number or letter by which it may be usually designated upon the regular assessment roll or upon an official or private plan or sketch or by giving the boundaries or the names of the owners upon each side, or by the dimensions or description or name given in the act transferring the ownership thereof, or by such other further description as may furnish the means of reasonable identification.

(4) No tax sale auction shall be set aside or annulled for any error in description or measurement of the property assessed in the name of the tax debtor, provided the property sold can be reasonably identified. ~~When advertisements are required to be made in relation to the sale of property for unpaid taxes, the~~ The advertisements shall be made in the English language only.

~~(5) On the day of sale, the tax collector shall sell the portion of the property which the debtor points out. If the debtor does not point out any property or sufficient property, the tax collector shall sell immediately the least quantity of the property, determined by undivided interests, which any bidder will buy for the amount of taxes, interest, penalties and costs. Except as provided in R.S. 47:2196(D), the purchase price or bid price is the amount of taxes, interest, penalties and costs, and the bidding is by undivided interests with the initial bid being one hundred percent and thereafter declining from the initial bid. As an alternative to the procedure for bidding by undivided interest as provided by this Section, upon agreement between the tax collector and the local governing authority, any bidder may elect to bid down the five percent penalty, as provided for in Article VII, Section 25(B)(1) of the Constitution of Louisiana, in increments of one-tenth of a percent. The tax collector may determine and establish that the least quantity that can be sold by undivided interests is one percent~~

~~or less of the whole. The tax sale shall convey, and the purchaser shall take, tax sale title in the undivided interest bid in the entirety of the property, or in the case of separate assessments for undivided interests in the property, tax sale title in the undivided interest bid in the entirety of the undivided interest, intended to be assessed and sold as it was owned by the delinquent tax debtor regardless of any error in the dimensions or description of the property as assessed and sold. The tax collector in the advertisement or tax sale may give the full description according to original titles.~~

~~(6) Except as otherwise provided in this Subpart, the tax sale shall be conducted in the manner provided by law for judicial sales. This provision shall not be construed to prohibit the tax collector from conducting the tax sale by using an online or electronic bidding process consistent with the law governing judicial sales.~~

~~(7) Except as otherwise provided in this Subpart, the tax sale shall be conducted in the manner provided by law for judicial sales. (5) The tax collector may require all registered tax sale auction participants to provide a deposit, not to exceed one thousand dollars, prior to the commencement of the tax sale auction. If a deposit is required, the deposit of the winning bidder shall be applied toward the sale price at the time of purchase. A deposit from a non-winning bidder shall be returned or refunded to the depositor within fourteen days of the close of the sale auction. The deposit shall be made in a form approved by the tax collector.~~

~~(C)(1) In the absence of actual notice of the sale to a tax sale party, including a transferee, or the demonstration of a reasonable effort to provide notice, where the name and address of the tax sale party were reasonably ascertainable or where the transfer was recorded after the tax collector completed his pre-sale tax sale party research, the tax collector shall cancel the sale of the property and refund the tax sale purchaser the tax sale purchase price.~~

~~(2) For each transferred property upon which a tax sale is cancelled pursuant to Paragraph (1) of this Subsection, the tax collector shall send the transferee a tax notification, inclusive of tax sale costs accrued.~~

After completing R.S. 47:2153, Mr. Sklamba moved next to R.S. 47:2154, noting that this provision described the new tax auction procedure being proposed by the Committee. He highlighted in particular the deletion of the word "seize", explaining that, under the Committee's proposals, tax debtors would no longer be deprived of possession at this point in the process. After reading Subsections A and B, the Reporter made additional note of proposed Subsection C, explaining that the accounting adjustment described therein had been included at the specific request of the Committee member serving on behalf of the sheriff of Jefferson Parish. This prompted a Council member to ask whether Subsection C was something that all parishes would want or if others might have different accounting practices. In response, Mr. Sklamba noted that, while he could not give a definitive answer, the aforementioned Committee member was a very active member of the Sheriffs' Association, so it was possible that his position was representative of the wishes of all sheriffs. A motion was then made and seconded to approve Subsections A through C of R.S. 47:2154, at which time discussion continued as to whether other the sheriffs of other parishes would in fact favor the inclusion of Subsection C. Several Council members expressed concern that other sheriffs might oppose its inclusion, and as a result, the motion on the floor to approve Subsections A through C was amended such that Subsections A and B would be approved and Subsection C would be recommitted until other sheriffs could weigh in. The motion passed, and the provisions were approved as follows:

**§2154. Tax sales auctions; time of sale auction; price**

A. The tax collector shall ~~seize, advertise for sale by public auction the delinquent obligation for statutory impositions and the lien and privilege securing it, and sell tax sale title to the property or an undivided interest therein upon which delinquent taxes are due,~~ on or before May first of the year following the year in which the taxes were assessed, or as soon thereafter as possible.

B. The tax sale auction shall be conducted on any weekday ~~within the legal hours for judicial sales,~~ with bidding opening not earlier than 8:00 a.m. and closing no later than 8:00 p.m. If a tax sale auction is conducted by using an online or electronic bidding process that is conducted over the course of multiple days, bids may be placed on any day at any time on any sale auction property upon which bidding has not closed, provided that all sales of property ~~close bidding closes~~ on a weekday within the legal hours for sale as prescribed in this Subsection.

The Reporter moved next to Subsection D of R.S. 47:2154, and a motion was made and seconded to approve the provision as presented. The motion carried without discussion and R.S. 47:2154(D) was approved as follows:

**§2154. Tax sales auctions; time of sale auction; price**

\* \* \*

D. The ~~price~~ opening bid shall be for the amount of statutory impositions due on the property, costs, and interest. Higher bids shall be submitted in increments of whole dollars. If the highest bid exceeds the opening bid, the excess shall be a non-refundable premium and shall be distributed on a pro rata basis to each tax-imposing authority.

\* \* \*

Mr. Sklamba then took up R.S. 47:2154(E), and after a motion for its approval was made and seconded, a Council member noted that “record” should actually be “file”. This suggestion was accepted as a friendly amendment. Another Council member then pointed out that, on line 34 of page 33 – about halfway through Subsection E – the provision abruptly changed topic. The Council member suggested splitting the second portion of the Subsection, beginning with “The amount owed ...”, into its own Subsection. The Reporter accepted this suggestion, and the latter portion of language was redesignated as Subsection F, with proposed Subsection F accordingly becoming Subsection G. The motion to approve Subsection E of R.S. 47:2154 was then amended to include what were now Subsections E and F. Prior to a vote on the motion, it was noted that the final sentence of what was now Subsection F dealt with the rankings issue that had been raised previously. Mr. Sklamba resolved that he would speak about the issue with the Reporter for the Security Devices Committee. Subject to this review, the provisions were approved as follows:

**§2154. Tax sales auctions; time of sale auction; price**

\* \* \*

E. The tax collector shall file in the mortgage records of the parish in which the property is situated an auction certificate in favor of the highest bidder. He shall deliver a certified copy of the auction certificate to the highest bidder. The auction certificate shall be prima facie evidence of the validity of the delinquent obligation, the lien and privilege, and the assignment to the highest bidder.

F. The amount owed to the highest bidder for statutory impositions, interest, costs, and penalty shall be secured by a lien and privilege on the immovable property described in the certificate. This lien and privilege shall have priority over all mortgages, liens, or privileges encumbering the property, but all auction certificates issued by the tax collector or other tax collectors shall be ranked in pari passu.

\* \* \*

Mr. Sklamba moved next to newly redesignated Subsection G. A motion was made and seconded to approve the provision, and prior to a vote being held, it was suggested that Subsection G should be revised so as to avoid use of the passive voice. The Reporter accepted this suggestion, and the provision was approved as follows:

**§2154. Tax sales auctions; time of sale auction; price**

\* \* \*

G. If there are no bids, the tax collector shall file a certificate of no bid in the mortgage records.

The Reporter next turned to R.S. 47:2155, beginning with Subsection A and noting that no significant substantive changes had been made. He explained that the added language prior to the safe-harbor form simply provided for additional information on the notice. Subsection B, Mr. Sklamba noted, was similarly simple. A motion was made and seconded to approve R.S. 47:2155, and the floor was opened for discussion. The first issue identified by the Council was the remnant "... lien and privilege securing it" language that had previously been eliminated in most instances. After some discussion, Mr. Sklamba agreed to accept the deletion of the language on page 34 but convinced the Council of its importance on page 35, where it was ultimately retained. Another Council member, pointing to the language on lines 13-15 regarding the purchaser being "entitled ...", argued that this omitted the requirement that the purchaser pay the amounts in the first place. The Reporter admitted this as a good point and agreed to track the more complete language found elsewhere in the draft. Mr. Sklamba further accepted the suggestion that the language "redeem the property" on line 23 be replaced with "redeem the certificate."

Next, a Council member opined that Subsections E and F of R.S. 47:2154 above were duplicative of R.S. 47:2155. Mr. Sklamba contended that this was not the case, arguing that R.S. 47:2154 dealt with the procedure itself rather than the effects thereof. Although agreeing in part with the Reporter, the Council member maintained that certain portions of R.S. 47:2155 were nevertheless redundant and suggested that Subsection A could simply begin with the actual contents of the notice. The Reporter ultimately agreed that there were some redundancies and resolved to eliminate them prior to final approval of the Committee's revisions. The Council then returned to the motion on the floor to approve R.S.47:2155. Subject to the Reporter's agreement to eliminate the aforementioned redundancies, the motion carried, and the provision was approved as follows:

**§2155. Tax-sale Auction certificate and certificates of no bid**

A. The tax collector shall authenticate and file in accordance with law, in person or by deputy, in the political subdivision's name, ~~a tax sale an auction certificate to purchasers of any property to which tax sale title was sold for taxes the highest bidder,~~ in which he the tax collector shall relate in substance a brief history of the proceedings had, shall describe the property, state the amount of the taxes, interest, penalties, and costs, and the bid made for the property premium offered, and the payment made to him in cash, cashier's check, certified check, money order, credit card, or wire transfer, or other payment method, ~~shall sell tax sale title,~~ The tax collector shall deliver an auction certificate and shall conclude the sale with the statement that the property shall be redeemable statutory impositions, together with interest at the rate set forth in R.S. 47:2127, penalties and

costs may be paid at any time during the applicable redemptive period, ~~beginning on the day when the tax sale certificate is filed with the recorder of conveyances in the parish in which the property is located.~~ The tax sale auction certificate shall contain the full name and address of the tax sale auction purchaser. The ~~tax sale~~ auction certificate shall be sufficient if it is in the following form:

"Tax-Sale Auction Certificate  
[Name of Political Subdivision]  
v.  
[Name of Tax Debtor]

State of Louisiana  
Parish of \_\_\_\_\_  
City of \_\_\_\_\_  
To: \_\_\_\_\_

~~BE IT KNOWN AND REMEMBERED, that, On this~~ \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I, [Name of tax collector], Tax Collector in and for the [Name of political subdivision], in the name of the [name of political subdivision], and by virtue of the authority in me vested by the constitution and laws of the State of Louisiana and in pursuance of the requirements of those laws, having mailed and published the notice required by law and having strictly complied with each and every requirement of the laws relating to delinquent ~~taxes~~ statutory impositions and tax debtors and to seizures, advertisements, and sale of tax sale title did sell by public auction the delinquent obligation and the lien and privilege securing it, evidenced by this auction certificate for ~~to the property described below. in full, did in the manner prescribed by law, advertise and list in [name of appropriate journal for legal notices] the property to be sold for delinquent property taxes with interest and costs for the year(s) of \_\_\_\_\_ in the [place of sale] on [dates of publication], beginning at ten o'clock A.M., giving notice in the issues of the newspaper and in said list as advertised the following described immovable property appearing in the name of \_\_\_\_\_.~~

To-wit:  
Ward \_\_\_\_\_ Section No. \_\_\_\_\_ Taxes \$ \_\_\_\_\_ (for the  
year 20\_\_\_\_)  
Assessment No. \_\_\_\_\_ Interest \_\_\_\_\_  
Penalties \_\_\_\_\_  
Costs \_\_\_\_\_  
Total \_\_\_\_\_

Property description:  
\_\_\_\_\_

~~And on said [date], after beginning but not completing said list, I continued the same within legal hours each succeeding legal day offering tax sale title to said property for sale at public auction in the manner required by said laws and the whole or the undivided interest of the tax debtor therein being the smallest amount of said property that any bidder would buy and pay the taxes and costs, and [Name of Purchaser] being the highest bidder, and having complied with the terms of sale the auction, became the purchaser of tax sale title to the whole of the property or the undivided interest of the tax debtor therein is issued an auction certificate for the property, which shall be prima facie evidence of the validity of the delinquent obligation, the lien and privilege securing it, and the assignment to [Name of Purchaser]. This auction certificate entitles him, his successors or assigns to be paid the total amount of the delinquent statutory impositions, interest at the rate of one percent per month on a non-compounding basis from the delinquency date, all costs and a five percent penalty computed on the statutory impositions. He, his successors or assigns shall also be~~

entitled to amounts paid by the certificate purchaser subsequent to the auction as provided by law.

NOW, THEREFORE, all the formalities of the law having been complied with, I [Name of Tax Collector], Tax Collector for said [Name of Political Subdivision], by virtue of the authority in me vested by the laws of the State of Louisiana do by these presents sell issue and transfer unto [Name and Address of Purchaser], this tax sale title auction certificate to the above described property or the undivided interest of the tax debtor therein last above described with all the improvements thereon. The tax debtor or any person interested personally or as heir, legatee, creditor, or otherwise, shall have the right to redeem the ~~property for the period of three years [or other redemptive period] from the date of filing of this tax sale certificate~~ prior to the expiration of one year after service of process in a judicial proceeding. The redemption may take place by paying the price given including, together with costs and interest at a rate of one percent per month on a non-compounding basis but excluding the premium paid, and five percent penalty thereon, with interest at the rate of one percent per month and amounts paid by the certificate purchaser subsequent to the auction as provided by law plus applicable penalties and interest until the redemption.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially at \_\_\_\_\_, Parish of \_\_\_\_\_, in the presence of the two undersigned competent witnesses, who also signed on this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

Witnesses:

\_\_\_\_\_  
Printed Name: [Name of Tax Collector]

\_\_\_\_\_  
Printed Name: [Name of Political Subdivision]

By: \_\_\_\_\_"

B. A certified copy of the ~~tax sale~~ auction certificate is prima facie evidence of the regularity of all matters regarding the ~~tax sale~~ auction and the validity of the ~~tax sale~~ auction.

~~C. The tax sale certificate contemplated by this Section is a tax deed for purposes of Article VII, Section 25 of the Louisiana Constitution.~~

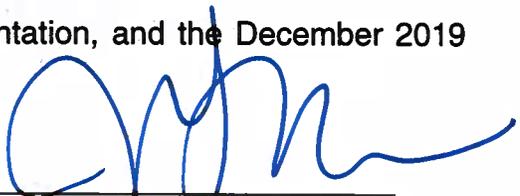
The Reporter next turned his attention to R.S. 47:2156, noting that it essentially provided the certificate purchaser the option to give notice to tax sale parties, while setting out a safe-harbor form to do so. After Mr. Sklamba read the provision aloud, a motion was made and seconded for its approval. With the floor open for discussion, a Council member inquired as to the consequences for failure to send the notice. The Reporter explained that such failure would render the purchaser unable to recover costs or attorney fees in the eventual suit. Another Council member raised concern that the language "Once you are served with the citation and petition in the suit, the redemption period will begin ..." on lines 44 and 45 was technically incorrect. The Council member pointed out that aforementioned service does not actually cause the redemption period to begin, but rather "starts the clock" on the period of time after which there can be no redemption. Mr. Sklamba noted this as an excellent point, and the error was fixed.

Next, a Council member asked about how and to where the letter was sent. The Council member further wondered whether there was any type of standard of care required of the auction certificate purchaser in sending the notice. In response to these questions, the Reporter explained that he and the Committee had been reluctant to add additional steps to the process and reasoned that these issues were appropriate for courts to decide. This led the Council to a discussion of whether there should be a standard of care required of the purchaser. One member of the Tax Sales Committee

opined that those Council members in favor of adding a standard were correct. The Committee member reasoned that because there was a “reward” for sending notice, it would be logical to put teeth into the requirement necessary to reap that reward. Another Council member, also favoring the addition of a standard, further noted that the language “a tax sale party” was insufficient and should be replaced with “all tax sale parties.” Another Tax Sales Committee member voiced support for the addition of a standard of care, arguing in favor of a simple “reasonableness” standard. After additional discussion brought the Council no closer to a solution on the issue, a motion was made to hold a policy vote as to whether some standard for the purchaser should be added. The motion was seconded, and ultimately the Council voted in favor of incorporating a standard. Next, a motion was made for another policy vote, this one to determine what type of standard should be included – either a form of “reasonable effort” or something else. The motion was seconded, and the Council voted in favor of making the standard one that incorporated reasonable effort by the purchaser.

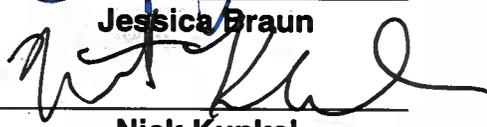
Discussion then turned to the precise language of such standard. Suggestions including “reasonable diligence” and “reasonable effort” were made. A Tax Sales Committee member suggested use of specific language from a case on point in which the court was tasked with determining whether the purchaser exercised sufficient effort in providing notice. The Reporter identified the case as *Mulaney* and noted that the court had used the language “desirous to find”. Further discussion failed to provide a solution, so a motion was made and seconded to recommit R.S. 47:2156 with the understanding that the Tax Sales Committee would draft some type of reasonableness standard for subsequent presentation to the Council. The motion to recommit carried.

At this time, Mr. Sklamba concluded his presentation, and the December 2019 Council meeting was adjourned.



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Jessica Braun



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Nick Kunkel

**MEMBERSHIP AND NOMINATING COMMITTEE REPORT**  
**December 6, 2019**

This committee respectfully makes the following nominations of officers and members to fill vacancies on the Council of the Louisiana State Law Institute for 2020 as follows:

**OFFICERS OF THE INSTITUTE-2020**

**As Chair:**

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

**Chair Emeriti:**

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

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

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:**

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

**As Vice-Presidents:**

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

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

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

Kay Medlin; Louisiana Tower, 401 Edwards Street Suite 1000, Shreveport, Louisiana, 71101-5529.

**As Director:**

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

**As Assistant Director:**

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

**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:**

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

**SENIOR OFFICER(S):**

Lila T. Hogan; P.O. Box 1274, Hammond, Louisiana, 70404.

James A. Stuckey; 365 Canal Street, Suite 2000, New Orleans, Louisiana, 70130-6534.

**EXECUTIVE COMMITTEE-AT-LARGE:**

**For one-year terms expiring December 31, 2020**

Amy Allums Lee; Suite 900, 200 West Congress Street, P.O. Box 51165, Lafayette, Louisiana, 70505,

Gregory A. Miller; P.O. Box 190, Norco, Louisiana, 70079.

J. Randall Trahan; Paul M. Hebert Law Center, Room 338, University Station, Baton Rouge, Louisiana, 70803.

**PRACTICING ATTORNEY ELECTED AS MEMBER:**

**For three-year term expiring December 31, 2022**

Darrel James Papillion; 12345 Perkins Road, Building 1, Baton Rouge, Louisiana, 70810.

**PRACTICING ATTORNEYS ELECTED AS MEMBERS:**

**For four-year terms expiring December 31, 2023**

Kelly Brechtel Becker; 701 Poydras Street, Suite 5000, New Orleans, Louisiana, 70139-7758.

John D. Crigler; P.O. Box 708, St. Joseph, Louisiana, 71366.

Andre' Doguet; 1223 St. John Street, Lafayette, Louisiana, 70506.

Isaac M. "Mack" Gregorie; II City Plaza, 400 Convention Street, Suite 700, Baton Rouge, Louisiana, 70802.

Harry J. "Skip" Philips, Jr.; 451 Florida Street, Floor 8, Baton Rouge, Louisiana, 70801-1700.

Peter S. Title; 400 Poydras Street, Suite 2550, New Orleans, Louisiana, 70130.

**REPRESENTATIVE OF THE YOUNG LAWYERS SECTION:**

**For two-year term expiring December 31, 2021**

Jeff Coreil; One Petroleum Center, 1001 West Pinhook Road, Suite 200, Lafayette, Louisiana, 70503.

**OBSERVERS OF THE YOUNG LAWYERS SECTION:**

**For one-year terms expiring December 31, 2020**

Kristen D. Amond; 201 Saint Charles Avenue, Suite 4600, New Orleans, Louisiana, 70170.

Rachal Cox Cassagne; 301 Main Street, Suite 1400, Baton Rouge, Louisiana, 70801.

**REPRESENTATIVE, LOYOLA UNIVERSITY SCHOOL OF LAW**

**For four-year term expiring, December 31, 2023**

Nikolaos Davrados; Loyola University School of Law, 7214 St. Charles Avenue, Campus Box 901, New Orleans, Louisiana, 70118.

**REPRESENTATIVE, SOUTHERN UNIVERSITY LAW CENTER**

**For four-year term expiring, December 31, 2023**

Nadia Nedzel; Southern University Law Center, P.O. Box 9294, Baton Rouge, Louisiana, 70813.

Donald W. North; 4395 Cherokee Rose Drive, Zachary, Louisiana, 70791.

Shawn D. Vance; Southern University Law Center, P.O. Box 9294, Baton Rouge, Louisiana, 70813.

**REPRESENTATIVE, TULANE UNIVERSITY SCHOOL OF LAW**

**For four-year term expiring, December 31, 2023**

Stacy E. Seicshnaydre; Tulane University School of Law, Weinmann Hall, 6329 Freret Street, New Orleans, Louisiana, 70118.

**THREE HONOR GRADUATES OF EACH LAW SCHOOL NOMINATED FOR  
JUNIOR MEMBERSHIP IN THE INSTITUTE:  
For one-year terms expiring December 31, 2020**

**LOYOLA UNIVERSITY SCHOOL OF LAW**

1. \_\_\_\_\_.
2. \_\_\_\_\_.
3. \_\_\_\_\_.

**PAUL M. HEBERT LAW CENTER**

Jourdan Elise-Moschitta Curet; 418 Pine Drive, Ponchatoula, Louisiana, 70454.

Christopher R. Handy; 800 Lafayette Street, Suite 4200, Lafayette, Louisiana, 70501.

Allena B. McCain; 445 North Boulevard, Suite 300, Baton Rouge, Louisiana, 70802.

**SOUTHERN UNIVERSITY LAW CENTER**

Monette M. Davis; 909 Poydras Street, Suite 3150, New Orleans, Louisiana, 70112.

Jimmie C. Herring, Jr.; 501 Texas Street, Shreveport, Louisiana, 71101.

Brooke A. Roach; 1000 Main Street, Lake Charles, Louisiana, 70615.

**TULANE UNIVERSITY SCHOOL OF LAW**

Patrick M. Bollman; 1 Chatham Drive, New Orleans, Louisiana, 70122.

Jacob J. Pritt; 201 St. Charles Avenue, Suite 5100, New Orleans, Louisiana, 70170

Gabriel J. Winsberg; 4438 Carondelet Street, New Orleans, Louisiana, 70115.

**REPRESENTATIVE, JUDICIAL COUNCIL  
For three-year term expiring December 31, 2022**

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

**APPOINTMENTS BY OPERATION OF LAW**

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

**For one-year term expiring August, 2020**

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 one-year expiring August, 2020**

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, 2020**

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, 2020**

1. \_\_\_\_\_ ?

**REPRESENTATIVE, SUPREME COURT**

**For four-year term expiring December 31, 2023**

Jefferson D. Hughes, III; Supreme Court of Louisiana, 400 Royal Street, New Orleans, Louisiana, 70130.

**MEMBER, HOUSE OF DELEGATES, ABA**

**For two-year terms expiring August 2021**

Richard K. Leefe; 3900 North Causeway Boulevard, Suite 1470, Metairie, Louisiana, 70002-7253.

Alaina R. Mire; 915 3<sup>rd</sup> Street, Alexandria, Louisiana, 71301.

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

December 6, 2019