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January 13, 2017

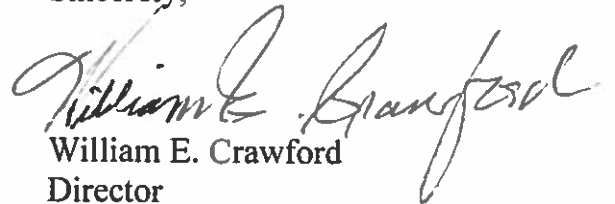
Representative Taylor Barras
Speaker of the House of Representatives
P.O. Box 94062
Baton Rouge, Louisiana 70804

RE: HR 148 OF 2015

Dear Mr. Speaker:

The Louisiana State Law Institute respectfully submits herewith its report to the legislature relative to adding assault on a school teacher and battery of a school teacher to the list of crimes of violence.

Sincerely,


William E. Crawford
Director

WEC/puc

Enclosure

cc: Representative Mike Johnson

email cc: David R. Poynter Legislative Research Library
drplibrary@legis.la.us
Secretary of State, Mr. Tom Schedler
admin@sos.louisiana.gov

**LOUISIANA STATE LAW INSTITUTE
CRIMINAL CODE AND CODE OF CRIMINAL
PROCEDURE COMMITTEE**

**REPORT TO THE LEGISLATURE
IN RESPONSE TO HR 148 OF THE 2015 REGULAR SESSION**

**Relative to adding assault on a school teacher and battery of a school teacher
to the list of crimes of violence**

Prepared for the
Louisiana Legislature on

January 13, 2017

Baton Rouge, Louisiana

**LOUISIANA STATE LAW INSTITUTE
CRIMINAL CODE AND CODE OF CRIMINAL
PROCEDURE COMMITTEE**

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2015 Regular Session

HOUSE RESOLUTION NO. 148

BY REPRESENTATIVE MIKE JOHNSON

A RESOLUTION

To authorize and direct the Louisiana State Law Institute to study the issue of adding the crimes of assault on a school teacher (R.S. 14:38.2) and battery of a school teacher (R.S. 14:34.3) to the offenses enumerated as crimes of violence in R.S. 14:2(B) and to report its findings to the Legislature of Louisiana, including any recommendations for legislative changes as are appropriate, prior to the convening of the 2016 Regular Session.

WHEREAS, Louisiana law provides for the crimes of assault on a school teacher (R.S. 14:38.2) and battery of a school teacher (R.S. 14:34.3) and further provides for a list of offenses that are enumerated as crimes of violence in R.S. 14:2(B); and

WHEREAS, an effective justice system should contain mechanisms that enable victims of violent crimes to be informed as to the whereabouts of their attacker and the outcome of any adjudication or hearing related to the offense; and

WHEREAS, a teacher or other school employee who has been a victim of a violent act by a student should not have to be subjected to that student's continued presence on campus; and

WHEREAS, the Louisiana Legislature recognizes the need for teachers and other school employees to feel safe and secure in their place of employment; and

WHEREAS, the criminal justice system is complex, and any changes to the law would benefit from careful and comprehensive study, taking into account the needs of victims, the rights of the accused, and the important public interests that underlie the criminal justice system.

THEREFORE, BE IT RESOLVED that the House of Representatives of the Legislature of Louisiana does hereby authorize and direct the Louisiana State Law Institute to study the issue of adding the crimes of assault on a school teacher (R.S. 14:38.2) and battery of a school teacher (R.S. 14:34.3) to the offenses enumerated as crimes of violence in R.S. 14:2(B) and to report its findings to the Legislature of Louisiana, including any recommendations for legislative changes as are appropriate.

BE IT FURTHER RESOLVED that the report be submitted to the Legislature of Louisiana prior to the convening of the 2016 Regular Session of the Legislature of Louisiana.

BE IT FURTHER RESOLVED that the Louisiana State Law Institute work in conjunction with and obtain input from all stakeholders deemed appropriate.

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

January 13, 2017

To: Representative Taylor F. Barras
Speaker of the House of Representatives
P.O. Box 94062
Baton Rouge, Louisiana 70804

**REPORT TO THE LEGISLATURE
IN RESPONSE TO HR NO. 148 OF THE 2015 REGULAR SESSION**

House Resolution No. 148 of the 2015 Regular Session authorizes and directs the Louisiana State Law Institute “to study the issue of adding the crimes of assault on a school teacher (R.S. 14:38.2) and battery of a school teacher (R.S. 14:34.3) to the offenses enumerated as crimes of violence in R.S. 14:2(B).” In fulfillment of this request, the Law Institute assigned the project to its Criminal Code and Code of Criminal Procedure Committee.

The Criminal Code and Code of Criminal Procedure Committee conducted background research concerning whether to add assault on a school teacher and battery of a school teacher as crimes of violence in R.S. 14:2(B). The Committee met to discuss the issue and recognized the important policy considerations behind the resolution, including protecting teachers and other school employees who have been victims of violent acts by a student from being subjected to that student’s continued presence on campus, as well as ensuring that teachers and other school employees feel safe and secure in their place of employment.

However, the Committee ultimately determined that these objectives can be obtained under existing law without the necessity of amending the law to include assault on a school teacher and battery of a school teacher in the offenses enumerated as crimes of violence in R.S. 14:2(B). In fact, R.S. 17:416 provides that when a student is formally accused of violating the provisions of R.S. 14:34.3 (battery of a school teacher) or R.S. 14:38.2 (assault on a school teacher), the student shall be immediately suspended and removed from the school premises and shall not be considered for readmission to the school to which the allegedly assaulted or battered school employee is assigned until all hearings and appeals associated with the alleged violation have been exhausted. *See* R.S. 17:416(A)(1)(c)(vii)(aa) and (bb). Further, if the student is found guilty of violating either R.S. 14:34.3 or R.S. 14:38.2, that student shall not be assigned to or permitted to attend the school to which the assaulted or battered school employee is assigned, except when the school system has no other school of suitable grade level for the student to attend. *See* R.S. 17:416(A)(1)(c)(vii)(cc).

Additionally, the Committee expressed concern over the anomaly that would result from amending the list of crimes of violence in R.S. 14:2(B) to include the offenses of assault on a school teacher and battery of a school teacher, when other, more serious crimes are not specifically enumerated in the provision. The Committee instead concluded that prosecutors and judges are already able to exercise discretion in seeking and imposing higher punishments when one of these offenses is committed in a violent manner, without the need for specifically designating assault on a school teacher and battery of a school teacher as crimes of violence in

all cases. For example, the penalty provisions of R.S. 14:34.3 provide that if the battery of a school teacher is committed by a student, the offender shall be fined not more than five thousand dollars or imprisoned not less than thirty days nor more than one year. However, if the battery produces an injury that requires medical attention, the penalty is enhanced to a fine of not more than five thousand dollars or imprisonment with or without hard labor for not less than one year nor more than five years, or both. *See* R.S. 14:34.3(C).

As a result, the Committee ultimately determined that in order to maintain the proper balance of the important public interests that underlie Louisiana's complex criminal justice system, and in light of the mechanisms already in place to protect teachers and other school employees from violent students on school premises, it recommends against adding the crimes of assault on a school teacher (R.S. 14:38.2) and battery of a school teacher (R.S. 14:34.3) to the offenses enumerated as crimes of violence in R.S. 14:2(B). For these reasons, the Law Institute makes no recommendation for legislative changes to R.S. 14:2(B) at this time.