

ACT No. _____

HOUSE BILL No. _____

Decarcerate Louisiana Anti-Slavery and Freedom Liberation Act Of 2020

To amend and reenact the Louisiana Constitution of 1974, relative to slavery in penal institutions; to amend Article 1, Section 3 of the Louisiana Constitution of 1974 to abolish slavery and involuntary servitude in the Louisiana Department of Corrections; to provide for historical findings relative to the legislative intent of the 13th Amendment to the United States Constitution; to provide for historical findings relative to slavery and the re-enslavement of African Americans (and others similarly situated) from the Civil War to World War II; to provide for historical findings relative to slavery and the re-enslavement of African Americans (and others similarly situated) from post-World War II to 2018 and beyond; to provide for a Bill of Rights for Incarcerated Persons; to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Article I, Section 3 of the Louisiana Constitution of 1974 is hereby amended and reenacted to read as follows:

Section 3(a) Right to Individual Dignity

No person shall be denied the equal protection of the laws. No law shall discriminate against a person because of race or religious ideas, beliefs, or affiliations. No law shall arbitrarily, capriciously, or unreasonably discriminate against a person because of birth, age, sex, culture, physical condition, or political ideas or affiliations. Slavery and involuntary servitude are prohibited and abolished in all jails, prisons, lockups and camps and all facilities, units and rooms of such jails, prisons, lockups and camps where prisoners are detained or confined in the state of Louisiana.

Section 3(b) Historical findings relative to the legislative intent of the 13th Amendment of the United States Constitution

1. Antebellum slavery or chattel slavery prospered in the United States from the 1600s to 1865.
2. Between 1861 and 1865, civil war broke out, pitting the northern states (the Union) against the southern states (the Confederacy) over the question of the forced labor of

Africans held in bondage as slaves. The South's intentions were twofold: "to create the legal structure necessary for building an economy with cheap slave labor as its foundation, and secondly, to reconcile bondage with America's revolutionary ideas of intrinsic human rights. Blacks could be excluded from the Enlightenment concepts that every man was granted by God individual freedom and a right to the pursuit of happiness because colonial laws codified a less-than-fully-human status of any person carrying even a trace of Black or Indian blood. Instead of embracing the concept that regardless of color 'All men are created equal', with no king or prince born to higher status than any other, colonial leaders extended a version of 'royal' status to all whites" (Douglas A. Blackmon, 2008, in *Slavery by Another Name*).

3. Some months after the surrender of the confederacy, the United States government issued its Emancipation Proclamation declaring slavery unconstitutional and the slaves free. To support its Emancipation Proclamation, the U.S. Congress passed into law the 13th Amendment to the United States Constitution, abolishing slavery and involuntary servitude except for punishment for a crime whereof the party shall have been duly convicted.
4. Now that slavery and involuntary servitude had become legal and made applicable to the states via the 13th Amendment of the United States Constitution, the legislative intent of the 13th Amendment was to provide for a new form of slavery which could be legally practiced anew by every state in the Union after the Civil War.

Section 3(c) Historical findings relative to slavery and the re-enslavement of African Americans (and others similarly situated) from the Civil War to World War II

1. After the Civil War, between 1867 and 1941, another form of American slavery persisted into the 20th century and was embraced by the U.S. economic system and abided at all levels of government. Officially recognized as peonage or convict leasing, United States District Court Judge Thomas G. Jones wrote of the scheme:

"The plan is to accuse the negro of some petty offense and then require him, in order to escape conviction, to enter into an agreement to pay his accuser so much money, and sign a contract, under the terms of which his bondsmen can hire him out until he pays a certain sum. The negro is made to believe he is a convict and treated as such. It is said that thirty negroes were in the stockade at one point." (Douglas A. Blackmon, 2008)

2. With World War II on the horizon, top officials in the federal government realized that in an all-out war, in which millions of African Americans would be called upon to sacrifice in a struggle to protect freedom and liberty in Europe and Asia, the federal government had to make clear that anyone who continued to practice slavery, in violation of 1865's 13th Amendment, would be prosecuted as a criminal. (Id.)

3. Faced with the harsh but truthful depiction of black life as it would be suddenly exploited and projected through the propaganda of Japan and Germany, President Franklin D. Roosevelt tapped U.S. Attorney General Francis Biddle to issue a directive – Circular No. 3591 – to all federal prosecutors acknowledging the long history of the unwritten federal law enforcement policy to ignore most reports of involuntary servitude. “A survey of the Department files on alleged peonage violations discloses numerous instances of ‘prosecutions declined,’” Biddle wrote. “It is the purpose of these instructions to direct the attention of the U.S. Attorneys to the possibilities of successful prosecutions stemming from alleged peonage complaints which have heretofore been considered inadequate to invoke federal prosecution.” (Id.)
4. “In the United States one cannot sell himself as a peon or slave – the law is fixed and established to protect the weak-minded, the poor, the miserable. Men will sometimes sell themselves for a meal of victuals or contract is positively null and void and the procuring and causing of such contract to be made violates the statutes,” argued Biddle in his memo. Henceforth, he ordered all Department of Justice investigators to entirely drop reference to peonage in their written reports and to instead label every file as related to what it truly was and had always been for the past seven decades: “Involuntary Servitude and Slavery.” (Id.)

3(d) Historical findings relative to slavery and the re-enslavement of African Americans (and others similarly situated) from post-World War II and beyond

1. Still yet another form of slavery and involuntary servitude continues to this day and is embraced by the U.S. economic system and practiced at all levels of government: local, state, and federal. Today it is called “criminal justice,” “law and order,” the “Department of Public Safety and Corrections.” However, we the people have recognized it as all a perverted war on drugs, war against poverty, war against Black and poor people, neo-slavery, a protracted struggle and battle for human rights and human dignity. Relevant findings and/or testimony are hereby presented as follows:
 - (i) “America is the ‘land of the free,’ yet by one vital measure, it is less free than any other country on earth: it incarcerates a greater portion of its citizens than any other, about 1 out of every 100 adults. With some 2.4 million people under lock and key, the United States manages the largest penal system in the world, the grandest ever conceived by a democratic government. Just as slavery once stood as a glaring exception to the American promise, so does imprisonment more than two centuries after the birth of the republic.” (Robert Perkinson, author of Texas Tough).
 - (ii) “We need a much better sense of what the problems look like in our country and then create policy based on the empirical evidence that we’re able to gather.” (U.S. Attorney General Eric Holder, On Racial Disparities in War on Drugs).

- (iii) “I watched Reagan slash funds for prenatal and child care, low-income housing, employment training, and food subsidies. As social programs are slashed, new prisons are built. Between 1975 and 1991, Louisiana expanded its adult prisons from three to twelve with prison populations increased by 249 percent. Louisiana’s exponential prison expansion is part of a national trend. In 1980 about 500,000 Americans were behind bars; in 1990, 1.1 million – the highest confinement rate in the world.” (Sister Helen Prejean, author of *Dead Man Walking*).
- (iv) “Do we realize that when the economic base of these communities is destroyed, education and other surviving social services are profoundly affected? And it turns the men, women, and children who live in these damaged communities into loneliness and desperation and perfect candidates for troubled behavior and imprisonment?
“Do we realize that in the Reagan and Bush era when politicians argued that getting tough on crime would make our communities safer or free of crime by locking more people up had little to no effect on official crime rates? That our communities did not get safer but that we did build more and larger prison populations?” (Angela Davis, author of *Are Prisons Obsolete?*).
- (v) “When communities begin to deal with issues of crime and justice, the focus is generally on ‘holding criminals accountable’ and ‘making them pay.’
Unfortunately, there is relatively little attention given to holding society accountable for failing to adequately address the poverty, lack of education, lack of jobs, deep racial fears and tension in the social structure and culture of this country which have paved the way to prison for many persons of color. Without recognition of how prisons actually function and the difficulties prisoners face, it is easy to blame the high rates of recidivism on individual failures rather than the criminal justice system’s failure as a whole” (Linda M. Thurston, *A Call To Action*).
- (vi) “The policy of more police and prisons has been used as a substitute for policies that promote social, economic, and racial justice for people of color. This formula of ill-conceived public policy and policing practices has produced a highly combustible situation in communities of color throughout the nation” (Ron Daniels, President of the Institute of the Black World 21st Century).
- (vii) “It’s not that complicated a problem. We pay taxes and want the government to protect us from both crime and all forms of discrimination. We demand equal protection under the law.
“The overwhelming majority of this city’s Black residents are being systemically exploited by the local business community, under-educated and underserved by the local school system and exploited and unfairly targeted by the criminal justice system.
“Most of the city’s Black residents are being locked out of educational and economic opportunities to lift themselves out of lives of poverty, hopelessness,

despair and de facto slavery. Is it any wonder there is so much rage, desperation and violence in the Black community? What's amazing is that we haven't seen the kind of violent explosions here that we've seen other parts of the country. "The solutions are as clear as day. Allow schools that serve Black children an opportunity to teach them what they need to learn to become productive and self-sufficient; end the economic exploitation of the Black masses; stop allowing the police to violate the constitutional rights of Black residents; stop resisting the Department of Justice efforts to reform the New Orleans Police Department; stop allowing 'venture capitalists' to siphon money out of public education under the guise of reforming public education; and honor the laws and ordinances that protect the rights of Black businesses to compete for public contracts" (Ramessu Merriamen Aha, a New Orleans businessman and former congressional candidate told the Louisiana Weekly).

- (viii) "What you see is what you get. The City of New Orleans continues to offer very little in the way of quality public education and economic opportunity to Black males, ensuring that many of these young brothers turn to lives of crime and violence to survive. For the government to systematically deprive Black males of educational and economic opportunities while claiming that it wants to use NOLA for Life to Black men and boys is sinister and criminal" (Rev. Raymond Brown, a long-time community activist and president of National Action Now, told the Louisiana Weekly).
- (ix) "This is Ground Zero for white supremacy, the epicenter for white power and privilege. Nearly three centuries after its founding, New Orleans is still being run like a colonial outpost, an imperialist stronghold that utilizes slave labor to maximize profits for wealthy and powerful barons. "Those who oppress us, control and exploit us will never admit that a host of ills – chief among them is systemic racism – are responsible for the rising tides of Black rage and violence. As has often been said, 'violence is the language of the oppressed,' and the outpouring of violence that plagues communities of color is a reflection of the chronic poverty, unemployment, hopelessness, despair, racial injustice that have come to define life for many Blacks in America" (Edmund W. Lewis, editor of the Louisiana Weekly).
- (x) "Because the criminal justice system is an institution that primarily reacts to – rather than prevents – crime, it is ill-equipped to address many of the underlying causes of crime," stated the report, Black Lives Matter: Eliminating Racial Inequity in the Criminal Justice System by the Sentencing Project, a national, nonprofit group that advocates for criminal justice issues. "But mass incarceration's hold on vast public resources and the obstacles erected for people with criminal records further erode the economic and social buffers that prevent crime."

- (xi) “Though the aimless violence and destruction may be contained via military means, only drastic changes in the life of the poor will provide the kind of order you desire. There is no question that the violence must be halted, but Congress has consistently refused to vote a halt to the destruction of the lives of Black people in the ghetto. If our government cannot create jobs, it cannot govern. It cannot have white affluence amid Black poverty and have racial harmony. The turmoil of the ghetto is the externalization of Black people’s inner torment and rage” (Martin Luther King, Jr., On Violence, in a telegram to Lyndon Baines Johnson).
- (xii) “This I know. This I believe with all my heart. If we want a free and peaceful world, if we want to make the deserts bloom and man grow to greater dignity as a human being, we can do it” (Eleanor Roosevelt, in Eleanor: The Years Alone by Joseph P. Lash).

3(e) A Bill of Rights for Incarcerated Persons

1. Persons committed to and in the physical custody of the Louisiana Department of Corrections (LDOC) are nonetheless human beings, created in equality and are endowed by their creator with inalienable rights to life, liberty, and the pursuit of happiness. Regardless of what crime or alleged crime a convicted person may have committed, no person in the physical custody of the LDOC shall be deprived of those fundamental rights intended by his creator. Therefore, in keeping with “the higher purpose of the Creation” and the duty of “my brother’s keeper,” it is right, just, and fair that society assure equality of rights of every sentient human being and secure the blessings of freedom and justice to our fellow humans who are incarcerated in the LDOC.
2. Now, therefore, We, the People of Louisiana and the United States proclaim this universal declaration and Bill of Rights for Incarcerated Persons here and abroad in order to affect their return to the larger community as promptly as practicable:
 - (i) All human beings are born free and equal in dignity and those fundamental rights intended by his or her Creator. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.
 - (ii) Every person incarcerated in the LDOC shall have the right and opportunity for the fullest development of his or her person through higher education.
 - (iii) Every person incarcerated in the LDOC shall have a right to parole, pardon, clemency, furlough(s), and to return to his/her family and the larger community if he or she has been rehabilitated and is deemed no longer a threat to himself or others. In these matters, all such persons committed to the LDOC shall have a right to be judged by his/her peers, consisting of

- persons who harbor no racist, bigoted, or partisan views against persons convicted of crimes or because of their race.
- (iv) Every person incarcerated in the LDOC shall have a right to visit and receive visits from family and friends inside and outside the prison system.
 - (v) Every person incarcerated in the LDOC shall have a right to conjugal visits with his/her significant other. This right shall be provided no matter if the significant other is another prisoner or not.
 - (vi) Every person incarcerated in the LDOC shall have a right to be housed in correctional facilities that are civilized and decent and that are free of loud noises, foul orders, excessive heat, frigid temperatures, vermin, asbestos, lead poison, overcrowding, and other indignities and unsanitary conditions that endanger the public health and safety of the people.
 - (vii) Every person incarcerated in the LDOC shall have a right to refuse housing with other incarcerated persons whose lifestyles are deemed incompatible.
 - (viii) Every person incarcerated in the LDOC shall have a right to practice the religion of their choice, to be afforded the right to eat and dress and worship according to their faith, so long as it poses no harm to oneself or others.
 - (ix) Every person incarcerated in the LDOC shall have a right to wear their hair how they please, however long, so long as it poses no harm to oneself or others.
 - (x) Every person incarcerated in the LDOC shall have a right to vote in all local, state, and national elections.
 - (xi) Every person incarcerated in the LDOC shall have a right to freedom of speech, freedom of expression, freedom of the press, and the right of the people peaceably to assemble, and to petition the government for a redress of grievances.
 - (xii) Every person incarcerated in the LDOC shall have a right to work for a living wage to provide for his/her needs and wants.
 - (xiii) Every person incarcerated in the LDOC shall have a right to receive money, gifts, or other merchandise from family and friends that is deemed harmless and pose no threat to himself or others.
 - (xiv) Every person incarcerated in the LDOC shall have a right to communicate with family, friends, and the public at large via computer, cell phone or other communications technology.

3(f) Statement of Intent; Purpose

The intent and purpose of the Decarcerate Louisiana Anti-Slavery and Freedom Liberation Act is to seek legal redress for the perverted policy of the de facto War on Drugs and War Against Poverty conducted with the intent to marginalize and

criminalize targeted persons, to place those targeted persons in a condition of slavery, and holding and returning such targeted persons to a condition of involuntary servitude.