

DECARCERATE LOUISIANA RESTORATIVE JUSTICE AND FREEDOM BILL

To amend and reenact LA.R.S. 14: 2(A) and (B), and to enact R.S. 14:2(C) et seq, relative to definitions; to provide reparations for slavery and the re-enslavement of African Americans (and others similarly situated) from the Civil War to World War II, and from post-World War II to 2019 and beyond; to provide reparations relative to crimes of violence, sentencing, and involuntary servitude in penal institutions; to abolish fines and hard labor clauses; to abolish life without parole, the death penalty, multi-bill offender laws and sentence enhancement laws; to provide for recognition of human rights; to provide for the indeterminate sentencing program; to provide for higher-education, rehabilitation, and reentry initiatives; to provide eligibility for pardons, parole, clemency, suspension of sentence, furloughs, voting rights, conjugal visits; to provide for public monies to support the systematic implementation of the Decarcerate Louisiana Restorative Justice and Freedom Bill; to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Louisiana Revised Statute 14:2(A) and (B) are hereby amended and reenacted and R.S. 14:2(C) et seq is hereby enacted to read as follows:

§ 14:2. Definitions

A. In this Code the terms enumerated shall have the designated meanings:

(18) “Reparations” means a repairing or being repaired; restoration to good condition; a making of amends; making up for a wrong or injury; compensation by a government or wrongdoer for crimes committed against individuals, payable in money, land grants, redistribution of wealth, recognition of human rights, political and economic freedoms, exoneration from wrongful prosecution and unjust imprisonment, etc.

(19) “Neoslavery” refers to federal and state constitutional amendments upholding slavery for persons convicted of crimes as a compromise to Southern enslavers and secessionist Democrats who called themselves “Redeemers.”

(20) “Victims” are persons directly descended from Africans (and others similarly situated) held captive in chattel slavery from 1619 to 1865, and held captive in Peonage and slavery from 1866 to 1941, and held in the subsequent decades of marginalization and prison slavery from 1955 to 2019 and beyond.

(21) “State-sponsored discrimination” refers to the racist and systemic backlash against Reconstruction, Black Codes, Jim Crow, Peonage, Segregation, redlining, gerrymandering, voter suppression, gentrification and renter displacement, outsourcing and globalization, and the perverse War Against Poverty and War on Drugs.

(22) “Peers” means community members from the victim’s upbringing – e.g., school teachers, religious leaders, community activists, a member from his or her family, a doctor, a scientist, and other persons in good standing with the community.

(23) “Indeterminate sentencing program” refers to a public health and safety housing program operated by the community to take into custody persons adjudicated a danger to themselves or others. Such persons are to be held in decent housing and treated as a

human being with dignity and freedom as much as possible in the secured environment. Such persons will receive rehabilitation and life skills training and will be released to the community as soon as practicable and upon determination by his/her peers that such person(s) no longer is a danger to himself/herself or others.

§ 2(C) Reparations for slavery and the reenslavement of African Americans (and other similarly situated) from the Civil War to World War II, and from post-World War II to 2019 and beyond.

I. Persons who have committed crimes of violence as defined in subsection B of this section but yet are victims of neoslavery and the subsequent decades of state-sponsored discrimination, are hereby granted reparations and are deemed citizens restored with civil rights and human rights to vote, to pardons, to parole, clemency, furloughs, conjugal visits, higher education, rehabilitation and reentry initiatives. Additionally, victims of neoslavery and the subsequent decades of state-sponsored discrimination who have committed crimes of violence and are serving life without parole, death sentences, or are serving sentences mandated under the multi-bill offender laws or any sentence enhancement laws are hereby granted reparations and suspension of sentence and are relieved of fines and hard labor as punishment for crime. Furthermore, victims of neoslavery and the subsequent decades of state-sponsored discrimination who have committed crimes of violence shall be held in an indeterminate sentencing program under a board of his/her peers. When it is determined that the incarcerated persons and victims of state-sponsored discrimination have become rehabilitated and is no longer deemed a danger to him or herself, their peers shall effect release papers for the incarcerated persons to be returned to the community as promptly as practicable.

II. Historical findings relative to chattel slavery from 1619 to 1865.

1. “Between the arrival of the first Africans in 1619 and the outbreak of Revolution in 1775, slavery had been one of the engines of colonial economic growth. The number of Africans brought to Maryland and Virginia before the late 1660s was a trickle – a few dozen per year. But along with white indentured servants, these enslaved Africans built a massive tobacco production complex along the Chesapeake Bay and its tributaries. Over those formative fifty years, settlers imported concepts of racialized slavery from other colonies (such as those in the Caribbean, where enslaved Africans already outnumbered other inhabitants by the mid-seventeenth century). By 1670, custom and law insisted that children were slaves if their mothers were slaves, that enslaved Africans were to be treated as right-less, perpetual outsiders (even if they converted to Christianity), that they could be whipped to labor, and that they could be sold and moved. They were chattel property. And everyone of visible African descent was assumed to be a slave.

2. “After 1670 or so, the number of enslaved Africans brought to North America surged. By 1775, slave ships had carried 160,000 Africans to the Chesapeake colonies, 140,000 to new slave colonies that opened up in the Carolinas and Georgia, and 30,000 to the northern colonies. These numbers were small compared to the myriads being carried to sugar colonies, however. Slave ships landed more than 1.5 million African captives on British Caribbean islands (primarily Jamaica and Barbados) by the late 1700s and had brought more than 2 million to Brazil. In North America, however, the numbers of the enslaved grew, except in the most malarial lowlands of the Carolina rice country. By

1775, 500,000 of the thirteen colonies' 2.5 million inhabitants were slaves, about the same as the number of slaves then alive in the British Caribbean colonies. Tobacco shipments from the Chesapeake funded everyone's trade circuits. Low-country Carolina planters were the richest elites in the revolutionary republic. The commercial sectors of the northern colonies depended heavily on carrying plantation products to Europe, while New England slave traders were responsible for 130,000 of the human beings shipped in the Middle Passage before 1800.

3. "The legal Atlantic slave trade to the United States ended in 1807, but the internal slave trade and forced labor of enslaved migrants would continue to prosper in the U.S. from 1619 to 1865." (Edward E. Baptist, 2014 – *Slavery and the Making of American Capitalism*)

4. Moreover, 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 ideals 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 person, colonial leaders extended a version of "royal" status to all whites. (Douglas A. Blackmon, 2008 – *Slavery by Another Name*)

5. Some months after the surrender of Confederate officials, 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.

6. Now that slavery and involuntary servitude had become legal and made applicable to the states via the 13th Amendment of the United States Constitution, it is clear that the legislative intent of the 13th Amendment was to provide for a new form of slavery as a compromise to Southern enslavers for persons convicted of crimes which could be legally practiced anew by every state of the Union after the Civil War.

III. 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 by 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, 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 time.”
(Douglass 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 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 with another who acts as surety on his bond to work out the amount of the bond upon his release from jail. Any such sale or contract is positively null and void an 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.

IV. Historical findings relative to slavery and the re-enslavement of African Americans (and others similarly situated) from post-World War II to 2019 and beyond

1. Still yet another form of slavery and involuntary servitude continues to this day and is embraced by the U.S. political and 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 Corrections” and the “Federal Bureau of Prisons.” However, We, the People have recognized it as systemic backlash perpetrated by Southern enslavers beginning with the systematic destruction of Reconstruction (1865-1877), instituting 19 years of Black Codes, Ku Klux Klan and white citizen council violence (1877-1896), 58 years of legal apartheid with nearly 5,000 African Americans lynched and, ever since the 1954 Brown versus Board of Education decision, ongoing racial discrimination with the intent to marginalize, criminalize, and keep the status of African Americans as close to slavery as possible – e.g., waging a War Against Poverty and War on Drugs in a biased way that downplayed public opinion calls for community reinvestment (the Great Society) and passing get-tough-on-crime laws for militarization of the police, high-tech surveillance systems, and prison-building. Relevant findings culled from historical data, investigative reporting, newspapers, and eyewitness testimony present as follows:

(i) “The time I spent investigating the allegations of the ‘Dark Alliance’ series led me to the undeniable conclusion that the CIA, DEA, DIA, and FBI knew about drug trafficking in South Central Los Angeles. They were either part of the trafficking or turned a blind eye to it, in an effort to fund the Contra war, and that drug money was used by both sides.

“The saddest part of these revelations is the wrecked lives and lost possibilities of so many people who got caught up in selling drugs, went to prison, ended up addicted, dead, or walking zombies from drugs.

“It may take time, but I am convinced that history is going to record that Gary Webb wrote the truth. The establishment refused to give Gary Webb the credit that he deserved. They teamed up in an effort to destroy the story, and very nearly succeeded....” (Congresswoman Maxine Waters)

(ii) “My story now had an ending, one that seemed to exemplify the hypocrisy of the whole War on Drugs. The crack dealers went to prison while the men who made crack possible – the cocaine importers – walked away whistling. I laid the series out in just those terms, beginning in the early 1980s with the critical role played by the Nicaraguan ‘freedom fighters’ in founding L.A.’s crack market and ending it in the early 1990s, with the passage of the anti-crack laws that were then packing the prisons with thousands of young black dealers. I never believed, and never wrote, that there was a grand CIA conspiracy behind the crack plague. Indeed, the more I learned about the agency, the more certain of that I became. The CIA couldn’t even mine a harbor without getting its trenchcoat stuck in its fly.

“That the Contras’ cocaine ended up being turned into crack was a horrible accident of history, I believed, not someone’s evil plan. The Contras just happened to pick the worst possible time ever to begin peddling cheap cocaine in black neighborhoods. That, I believed, was the real danger the CIA has always presented – unbridled criminal stupidity, cloaked in a blanket of national security.

“The fact that a government-connected drug ring was dumping tons of cocaine into black neighborhoods in L.A. – and to a lesser extent in San Jose, Oakland, San Francisco, Portland, Houston, Oklahoma City, Alabama and New Orleans – goes a long way towards explaining why crack developed such deep roots in the black community. It’s where the seed was planted.

“Looking back, I can barely believe I was permitted to write such a story, but that was the kind of newspaper the *Mercury News* was at the time. No topic was taboo, or at least if there was one I never discovered it. And I was always looking.” (Gary Webb, investigative reporter for the San Jose *Mercury News* and author of *Dark Alliance*)

(iii) “I watched Reagan slash funds for prenatal and childcare, 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 increasing 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 Préjan, author of *Dead Man Walking*)

(iv) “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*)

(v) “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)

(vi) “Because the criminal justice system is an institution that primarily reacts to – rather than prevent – 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 the people with criminal records further erode the economic and social buffers that prevent crime.”

(vii) “Thomas Piketty’s *Capital in the Twenty-First Century*, a massive book that documented the increasing distance between the wealth of the top 5 percent and that of the remaining 95 percent in both the United States and other developed societies, was a surprise runaway hit because it spoke directly to a reality many were experiencing. Upward redistribution of wealth since 1970 was accompanied by declining real incomes, reduced access to higher education, and, in some areas of the United States, declining life expectancies – which disproportionately affected African Americans.

“That was no accident. In addition to the long-term household-wealth effects of enslavement, systematic discrimination, and government instituted policies that transferred wealth from African Americans to financial institutions and middleclass whites alike, many white voters’ and politicians’ astonishing malice toward African Americans had resulted in the building of a massive incarceration/policing complex since the 1960s. Rules and practices of policing, adjudicating, fining, sentencing, and criminalizing ordinary activities such as movement (driving or walking incorrectly along roadways) felonized misdemeanors like shoplifting and marijuana smoking (three strikes and you’re locked up for life) and justified – no, celebrated – summary execution-by-cop of those who offer the slightest resistance to an increasingly aggressive and militarized police. The formal rights accorded to all American citizens seemed unable to protect the victims of these injustices. The first black president seemed equally powerless; indeed his electoral victories appeared to have so infuriated a substantial minority of American whites that they were dead set on not only blocking all presidential initiatives but also changing the rules of American elections to ensure that a nonwhite majority could never wield power or unrig the system.” (Edward Baptist, 2016, *Slavery and the Making of American Capitalism*)

(viii) “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: The Rise of the American Prison Empire*)

(ix) “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)

(x) A November 2017 survey conducted by the ACLU’s Campaign for Smart Justice found a solid majority of Americans – 71 percent – agreed that incarceration for long periods is counter-productive to public safety due to the absence of effective rehabilitation programs in prisons.

(xi) In a poll for the Justice Action Network (JAN) published in January 2018, 85 percent of respondents supported making rehabilitation the goal of the criminal justice system rather than punishment.

(xii) A March 2017 poll conducted for the John D. and Catherine T. MacArthur Foundation, reported 62 percent of respondents favored rehabilitation over incarceration for non-violent offenders, while 74 percent opposed imprisonment altogether for the mentally ill.

(xiii) A survey conducted for the Vera Institute of Justice between February 27 and March 5, 2018, sampled 2,000 adult Americans attitudes toward incarceration. About half (49 percent) agreed that “too many people are in jail for the wrong reasons,” and 55 percent believed that the country’s criminal justice system discriminates against poor people. Forty percent said incarceration rates in their communities were too high, though two-thirds state they would be concerned or very concerned if they learned the incarceration rate in their community was higher than the rate in similar communities.

(xiv) In August 2016, the Alliance for Safety and Justice released the results of the first-ever survey of crime victims’ perspective on the U.S. criminal justice system. A majority wanted prosecutors to look for alternatives to incarceration to hold criminal defendants accountable. Sixty-one percent preferred shorter sentences to spending on incarceration, while 38 percent believed incarceration actually increased recidivism. Eighty-nine percent of crime victims favored additional spending on schools and education over building more prisons and jails, 83 percent supported more spending on mental health treatment and 73 percent wanted increased drug treatment instead of incarceration. (Sources: www.aclu.org, www.vera.org, www.shadowproof.com, www.gqrr.com, www.crimereport.org, www.citylab.com)

V. Statement of Intent; Purpose

The intent and purpose of the Decarcerate Louisiana Restorative Justice And Freedom Bill is to achieve the unfulfilled demands of Reconstruction and to seek legal redress and reparations for the crimes against humanity committed in slavery, neoslavery, and the subsequent decades of state-sponsored discrimination targeting the newly released slaves and their descendants (and other persons similarly situated) for modern-day slavery and involuntary servitude in the American criminal justice system en masse.

Approved by the Governor, _____, _____.

A true copy:

Secretary of State