

ACT No. 414

2017 Regular Session

HOUSE BILL NO. 293

BY REPRESENTATIVE AMEDEE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

AN ACT

To amend and reenact R.S. 42:1441(A) and to enact R.S. 42:1441(D), relative to the limitation of liability of the state; to provide relative to liability for damage caused by district attorneys; to provide for indemnification; to provide relative to the attorney general; to provide for payment of a judgment; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 42:1441(A) is hereby amended and reenacted and R.S. 42:1441(D) is hereby enacted to read as follows:

§1441. Limitation on the liability of the state of Louisiana; indemnification

A. The state of Louisiana shall not be liable for any damage caused by a district attorney, except as provided in Subsection D of this Section, a coroner, assessor, sheriff, clerk of court, or public officer of a political subdivision within the course and scope of his official duties, or damage caused by an employee of a district attorney, except as provided for in Subsection D of this Section, a coroner, assessor, sheriff, clerk of court, or public officer of a political subdivision.

* * *

D.(1) The state of Louisiana shall indemnify a district attorney and his office against any claim, demand, suit, complaint, or petition in a federal court based on allegations of the constitutional validity of a statute when the district attorney or his office has taken no action to institute prosecution by filing a bill of information or an indictment. The attorney general may, in exercising his discretion under R.S. 49:257(C), defend the district attorney or his office.

1 (2) When the attorney general has assumed the defense of a district attorney
2 or his office, at any point in the litigation, before a judgment is final and executable,
3 the attorney general, in concurrence with the governor, and the district attorney
4 pursuant to R.S. 49:257(D), may enter into a settlement or compromise to resolve the
5 litigation by means of a consent judgment.

6 (3) Payment of a final judgment or consent judgment shall be by legislative
7 appropriation. Payment of a final judgment or consent judgment, of any amount,
8 against a district attorney or his office shall not be made unless the payment is
9 approved by a majority of members of a subcommittee of the Joint Legislative
10 Committee on the Budget comprised of three members of the Senate and three
11 members of the House designated by the chairman. Notwithstanding any other
12 provision of law to the contrary, the subcommittee may meet in executive session to
13 consider such agreements.

14 (4) The district attorney, or the attorney general, if the attorney general
15 assumed the defense of the claim shall present the subcommittee with a concise
16 abstract of the facts and principles of law upon which the claim is based. The
17 abstract shall include a detailed analysis of the calculation of damages as well as
18 attorney fees, court costs, and interest thereon. The abstract and other information
19 submitted to the subcommittee shall be public record, with the exception of material
20 that reflects the mental impressions, conclusions, opinions, or theories of an attorney.

21 (5) The amount of the final or consent judgment and terms and conditions
22 of any agreement shall be public record.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____