

2022 Regular Session

HOUSE BILL NO. 243

BY REPRESENTATIVE BAGLEY

JUDGES: Authorizes any judge to serve as the attorney member of a medical review panel

1 AN ACT

2 To amend and reenact R.S. 13:1875(7), (10)(c), 12(e), and (14), 2152(C), and 2492(A)(7)  
3 and (E), R.S. 37:212(D), and R.S. 40:1231.8(C)(1)(a) and 1237.2(C)(1)(a), relative  
4 to the authority of judges to serve on a medical review panel; to provide for the  
5 practice of law by judges; to provide for the selection of the attorney member of a  
6 medical review panel; to provide for definitions; to provide for effectiveness; and to  
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 13:1875(7), (10)(c), 12(e), and (14), 2152(C), and 2492(A)(7) and  
10 (E) are hereby amended and reenacted to read as follows:

11 §1875. Compensation of city judges; particular courts

12 The judges of the following city courts shall receive the salaries provided in  
13 this Section:

14 \* \* \*

15 (7)(a) The judges of the ~~Shreveport~~ City Court of Shreveport shall receive  
16 the same salary and expenses as provided for district court judges, payable monthly  
17 on their respective warrants. The state shall pay that portion of the salary specified  
18 by R.S. 13:1874(E). The city of Shreveport shall pay the remaining portion of the  
19 salary and expenses in an amount sufficient to equal the salary and expenses of the

1 district court judges. ~~The judges of the city court of Shreveport shall not engage in~~  
2 ~~the practice of law.~~

3 (b) In addition to the salary specified by R.S. 13:1874(E) to be paid by the  
4 state of Louisiana to the judges of the City Court of Shreveport, the state shall pay  
5 to such judges an annual salary of six thousand eight hundred eleven dollars. In  
6 addition to the salary paid such judges by the state, they shall be paid an annual  
7 salary of twelve thousand dollars payable monthly on their respective warrants by  
8 the city of Shreveport, and the governing authority of the city of Shreveport shall pay  
9 such additional salary as they deem proper. ~~The judges of the City Court of~~  
10 ~~Shreveport shall not engage in the practice of law.~~

11 (c) Notwithstanding any other provision of law to the contrary, the judges  
12 of the City Court of Shreveport shall not engage in the practice of law, except any  
13 judge may serve as the attorney member on a medical review panel pursuant to R.S.  
14 40:1231.8 or 1237.2.

15 \* \* \*

16 (10)

17 \* \* \*

18 (c) ~~Effective January 1, 1991, the~~ Notwithstanding any other provision of the  
19 law to the contrary, the judges of the City Court of Monroe are prohibited from  
20 engaging in the practice of law, except any judge may serve as the attorney member  
21 of a medical review panel pursuant to R.S. 40:1231.8 or 1237.2.

22 \* \* \*

23 (12)

24 \* \* \*

25 (e) ~~The~~ Notwithstanding any other provision of the law to the contrary, the  
26 judge of the city court City Court of Alexandria is prohibited from engaging in the  
27 practice of law, except the judge may serve as the attorney member of a medical  
28 review panel pursuant to R.S. 40:1231.8 or 1237.2.

29 \* \* \*

1           (14) ~~Any~~ Notwithstanding any other provision of the law to the contrary, any  
2 judge of the City Court of Houma is prohibited from engaging in the practice of law,  
3 except any judge may serve as the attorney member of a medical review panel  
4 pursuant to R.S. 40:1231.8 or 1237.2.

5   \*       \*       \*

6 §2152. Salaries and expenses of judges; payment

7   \*       \*       \*

8           C. ~~The~~ Notwithstanding any other provision of the law to the contrary, the  
9 judges of the First and Second City Courts of the city of New Orleans shall not  
10 engage in the practice of law or share in the profits, directly or indirectly of any law  
11 firm or legal corporation, except any judge may serve as the attorney member of a  
12 medical review panel pursuant to R.S. 40:1231.8 or 1237.2.

13   \*       \*       \*

14 §2492. Number of judges; qualifications; election; salary; vacation

15           A.

16   \*       \*       \*

17           (7)(a)(i) ~~The~~ Notwithstanding any other provision of the law to the contrary,  
18 the judges presiding over Divisions "A" through "E" shall not engage in the practice  
19 of law nor share in the profits, directly or indirectly, of any law firm or legal  
20 corporation, except any judge may serve as the attorney member of a medical review  
21 panel pursuant to R.S. 40:1231.8 or 1237.2.

22           (ii) The judges assigned to Divisions "A" through "E" shall receive a salary  
23 equal to a district judge but not more than the salary paid, from all sources, to the  
24 district court judges in and for the parish of Orleans, of which the amount payable  
25 by the state to city judges of the state shall be paid by the state and the remainder  
26 shall be payable by the city of New Orleans. The salary shall be payable monthly  
27 by his own warrant.

28           (b)(i) Beginning at midnight on December 31, 2023, notwithstanding any  
29 other provision of the law to the contrary, the judge presiding over Division "F" shall

1 not engage in the practice of law nor share in the profits, directly or indirectly, of any  
2 law firm or legal corporation, except the judge may serve as the attorney member of  
3 a medical review panel pursuant to R.S. 40:1231.8 or 1237.2.

4 (ii) He shall receive a salary equal to a district judge but not more than the  
5 salary paid, from all sources, to the district court judges in and for the parish of  
6 Orleans, of which the amount payable by the state to city judges of the state shall be  
7 paid by the state and the remainder shall be payable by the city of New Orleans. The  
8 salary shall be payable monthly by his own warrant.

9 (c)(i) Beginning at midnight on December 31, 2030, notwithstanding any  
10 other provision of the law to the contrary, the judge presiding over Division "G"  
11 shall not engage in the practice of law nor share in the profits, directly or indirectly,  
12 of any law firm or legal corporation, except the judge may serve as the attorney  
13 member of a medical review panel pursuant to R.S. 40:1231.8 or 1237.2.

14 (ii) He shall receive a salary equal to a district judge but not more salary  
15 paid, from all sources, to the district court judges in and for the parish of Orleans, of  
16 which the amount payable by the state to city judges of the state shall be paid by the  
17 state and the remainder shall be payable by the city of New Orleans. The salary shall  
18 be payable monthly by his own warrant.

19 \* \* \*

20 E. The judge of the Municipal and Traffic Court of New Orleans having the  
21 most seniority shall become the administrative judge during his tenure of office and  
22 notwithstanding any other provision of law to the contrary shall not engage in the  
23 practice of law or share in the profits, directly or indirectly, of any law firm or legal  
24 corporation, except the judge may serve as the attorney member on a medical review  
25 panel pursuant to R.S. 40:1231.8 or 1237.2. The administrative judge of the  
26 Municipal and Traffic Court of New Orleans shall possess the same qualifications  
27 that are required of district court judges. He shall receive a salary equal to a district  
28 judge but not more than the salary paid, from all sources, to the district court judges  
29 in and for the parish of Orleans, of which the amount payable by the state to city

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 judges of the state shall be paid by the state and the remainder shall be payable by  
2 the city of New Orleans. The salary of the administrative judge shall be payable  
3 monthly on his own warrant. Should the senior judge decline the position of  
4 administrative judge then the judges of the municipal and traffic court, sitting en  
5 banc, shall choose a judge to assume the position.

6 Section 2. R.S. 37:212(D) is hereby amended and reenacted to read as follows:

7 §212. "Practice of law" defined

8 \* \* \*

9 D. Nothing in Article V, Section 24, of the Constitution of Louisiana or this  
10 Section shall prohibit justices or judges from either of the following:

11 (1) Performing ~~performing~~ all acts necessary or incumbent to the authorized  
12 exercise of duties as judge advocates or legal officers.

13 (2) Serving as the attorney member of a medical review panel pursuant to  
14 R.S. 40:1231.8 or 1237.2.

15 Section 3. R.S. 40:1231.8(C)(1)(a) and 1237.2(C)(1)(a) are hereby amended and  
16 reenacted to read as follows:

17 §1231.8. Medical review panel

18 \* \* \*

19 C. The medical review panel shall consist of three health care providers who  
20 hold unlimited licenses to practice their profession in Louisiana and one attorney.  
21 The parties may agree on the attorney member of the medical review panel. If no  
22 attorney for or representative of any health care provider named in the complaint has  
23 made an appearance in the proceedings or made written contact with the attorney for  
24 the plaintiff within forty-five days of the date of receipt of the notification to the  
25 health care provider and the insurer that the required filing fee has been received by  
26 the patient's compensation board as required by Subparagraph (A)(1)(c) of this  
27 Section, the attorney for the plaintiff may appoint the attorney member of the  
28 medical review panel for the purpose of convening the panel. Such notice to the  
29 health care provider and the insurer shall be sent by registered or certified mail,

1 return receipt requested. If no agreement can be reached, then the attorney member  
2 of the medical review panel shall be selected in the following manner:

3 (1)(a) The office of the clerk of the Louisiana Supreme Court, upon receipt  
4 of notification from the board, shall draw five names at random from the list of  
5 attorneys who reside or maintain an office in the parish which would be proper venue  
6 for the action in a court of law. The names of ~~judges~~, magistrates, district attorneys,  
7 and assistant district attorneys shall be excluded if drawn and new names drawn in  
8 their place. After selection of the attorney names, the office of the clerk of the  
9 supreme court shall notify the board of the names so selected. It shall be the duty of  
10 the board to notify the parties of the attorney names from which the parties may  
11 choose the attorney member of the panel within five days. If no agreement can be  
12 reached within five days, the parties shall immediately initiate a procedure of  
13 selecting the attorney by each striking two names alternately, with the claimant  
14 striking first and so advising the health care provider of the name of the attorney so  
15 stricken; thereafter, the health care provider and the claimant shall alternately strike  
16 until both sides have stricken two names and the remaining name shall be the  
17 attorney member of the panel. If either the plaintiff or defendant fails to strike, the  
18 clerk of the Louisiana Supreme Court shall strike for that party within five additional  
19 days.

20 \* \* \*

21 §1237.2. State medical review panel

22 \* \* \*

23 C.(1) The state medical review panel shall consist of one attorney and three  
24 health care providers who hold unlimited licenses to practice their profession in  
25 Louisiana. The parties may agree on the attorney member of the state medical  
26 review panel. If no attorney for or a representative of any health care provider  
27 named in the complaint has made an appearance in the proceeding or made written  
28 contact with the attorney for the plaintiff within forty-five days of the date of receipt  
29 of the notification to the health care provider and the insurer that the required filing

1 fee has been received by the commissioner or the patients compensation board as  
 2 required by Subparagraph (A)(1)(c) of this Section, the attorney for the plaintiff may  
 3 appoint the attorney member of the state medical review panel for the purpose of  
 4 convening the panel. Such notice to the health care provider and the insurer shall be  
 5 sent by registered or certified mail, return receipt requested. If no agreement can be  
 6 reached, then the attorney member of the state medical review panel shall be selected  
 7 in the following manner:

8 (a) The office of the clerk of the Louisiana Supreme Court, upon receipt of  
 9 notification from the commissioner, shall draw five names at random from the list  
 10 of attorneys who reside or maintain an office in the parish which would be proper  
 11 venue for the action in a court of law. The names of ~~judges~~, magistrates, district  
 12 attorneys, and assistant district attorneys shall be excluded if drawn and new names  
 13 drawn in their place. After selection of the attorney names, the office of the clerk  
 14 shall notify the office of the commissioner of the names so selected. It shall be the  
 15 duty of the office of the commissioner to notify the parties of the attorney names  
 16 from which the parties may choose the attorney member of the panel within five  
 17 days. If no agreement can be reached within five days, the parties shall immediately  
 18 initiate a procedure of selecting the attorney by each striking two names alternately,  
 19 with the claimant striking first and so advising the state or the person covered by this  
 20 Part of the name of the attorney so stricken; thereafter, the state or the person  
 21 covered by this Part and the claimant shall alternately strike until both sides have  
 22 stricken two names and the remaining name shall be the attorney member of the  
 23 panel. If either party fails to strike, the clerk shall strike for that party within five  
 24 additional days.

25 \* \* \*

26 Section 4. This Act shall take effect and become operative if and when the proposed  
 27 amendment of Article V, Section 24(B) of the Constitution of Louisiana contained in the Act  
 28 which originated as House Bill No. \_\_\_\_ of this 2022 Regular Session of the Legislature is  
 29 adopted at a statewide election and becomes effective.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 243 Original

2022 Regular Session

Bagley

**Abstract:** Authorizes judges to serve as the attorney member on a medical review panel.

Present law provides for the review of medical malpractice claims by a medical review panel comprised of three health care providers and one attorney. Further provides for the appointment of the attorney member by the parties or, if the parties fail to appoint the attorney member, the selection by the clerk of the La. Supreme Court.

Proposed law maintains present law.

Present constitution prohibits a judge of the supreme court, a court of appeal, district court, family court, parish court, or court having solely juvenile jurisdiction from practicing law.

Present law provides that nothing in present constitution shall prohibit justices or judges from performing all acts necessary or incumbent to the authorized exercise of duties as judge advocates or legal officers.

Proposed constitution and proposed law authorize a judge of the supreme court, a court of appeal, district court, family court, parish court, or court having solely juvenile jurisdiction to practice law for the limited purpose of serving as the attorney member on a medical review panel.

Present law prohibits judges of the City Court of Shreveport, City Court of Monroe, City Court of Alexandria, City Court of Houma, the First and Second City Courts of the city of New Orleans, and the Municipal and Traffic Court of New Orleans from engaging in the practice of law.

Proposed law authorizes those judges to practice law for the limited purpose of serving as the attorney member on a medical review panel.

To facilitate selection of the attorney member of a medical review panel, present law authorizes the office of the clerk of the La. Supreme Court to draw five names at random from the list of eligible attorneys and requires that the names of judges, magistrates, district attorneys, and assistant district attorneys be excluded if drawn and new names drawn in their place.

Proposed law removes judges from the list of attorneys whose names shall be excluded if drawn.

Effective when proposed constitution is adopted at a statewide election and becomes effective.

(Amends R.S. 13:1875(7), (10)(c), 12(e), and (14), 2152(C), and 2492(A)(7) and (E), R.S. 37:212(D), and R.S. 40:1231.8(C)(1)(a) and 1237.2(C)(1)(a))