

2023 Regular Session

SENATE CONCURRENT RESOLUTION NO. 64

BY SENATOR BARROW

PUBLIC DEFENDER. Recreates the Louisiana Public Defender Optimal Funding Group to study and make recommendations regarding the feasibility of establishing an optimal funding mechanism for the Louisiana Public Defender Board.

1 A CONCURRENT RESOLUTION

2 To recreate the Louisiana Public Defender Optimal Funding Group to continue to study and
3 to make recommendations regarding the feasibility of establishing an optimal
4 funding mechanism for the Louisiana Public Defender Board.

5 WHEREAS, the Louisiana Public Defender Board was created and established as a
6 state agency within the office of the governor to provide for the supervision, administration,
7 and delivery of a statewide public defender system and to deliver uniform public defender
8 services in all courts in this state; and

9 WHEREAS, Article I, Section 13 of the Constitution of Louisiana of 1974, in
10 accordance with the state's obligation under the Sixth and Fourteenth Amendments of the
11 United States Constitution, provides that at "each stage of the proceedings, every person is
12 entitled to assistance of counsel of his choice, or appointed by the court if he is indigent and
13 charged with an offense punishable by imprisonment", and Section 13 further mandates that
14 the legislature provide for "a uniform system for securing and compensating qualified
15 counsel for indigents"; and

16 WHEREAS, under both the United States and Louisiana constitutions, it is the
17 obligation of the legislature to provide the general framework and resources necessary to
18 deliver public defender services in this state; and

1 WHEREAS, in 2007, the legislature enacted the Louisiana Public Defender Act to
2 provide all of the following:

3 (1) Ensuring that adequate public funding of the right to counsel is provided and
4 managed in a cost-effective and fiscally responsible manner.

5 (2) Ensuring that the public defender system is free from undue political and judicial
6 interference and free of conflicts of interests.

7 (3) Establishing a flexible delivery system that is responsive to and respectful of
8 jurisdictional variances and local community needs and interests.

9 (4) Providing that the right to counsel is delivered by qualified and competent
10 counsel in a manner that is fair and consistent throughout the state.

11 (5) Providing for statewide oversight with the objective that all indigent criminal
12 defendants who are eligible to have appointed counsel at public expense receive effective
13 assistance of counsel at each critical stage of the proceeding.

14 (6) Providing for the ability to collect and verify objective statistical data on public
15 defense workload and other critical data needed to assist state policymakers in making
16 informed decisions on the appropriate funding levels to ensure an adequate service delivery
17 system.

18 (7) Providing for the development of uniform binding standards and guidelines for
19 the delivery of public defender services and for an effective management system to monitor
20 and enforce compliance with such standards and guidelines; and

21 WHEREAS, the right to a public defender has been guaranteed to poor defendants
22 in criminal court since the landmark 1963 Supreme Court decision *Gideon v. Wainwright*,
23 but advocates say that right has been eroded by a lack of funding, which has led to a scarcity
24 of resources, staggering caseloads, and in some cases, the agencies have rejected clients
25 because they could not afford to defend them; and

26 WHEREAS, Louisiana funds representation for noncapital defendants is provided
27 through legislative appropriations at the state level, supplemented by traffic tickets and other
28 local fines assessed by each defender district; and

29 WHEREAS, about eighty-five percent of criminal defendants in 2016 qualified for
30 a court-appointed lawyer and thirty-three of the state's forty-two public defender offices

1 started turning away cases they no longer had the resources to handle, arguing that whatever
2 legal assistance they could provide would be so ineffective as to violate the defendant's
3 constitutional rights anyway; and

4 WHEREAS, in 2016, the Louisiana State Public Defender was a defendant in the
5 federal case *Yarls v. Bunton*, which challenged the constitutionality of the Louisiana public
6 defenders' practice of placing indigent, noncapital defendants on waitlists for appointed
7 counsel due to chronic budgetary shortfalls, thus violating poor defendants' Sixth and
8 Fourteenth Amendment rights to a speedy trial and to assistance of counsel; and

9 WHEREAS, full realization of the Louisiana Public Defender's Act of 2007 requires
10 thoughtful consideration by a group to study and make recommendations regarding the
11 feasibility of establishing an optimal funding mechanism for the Louisiana Public Defender
12 Board; and

13 WHEREAS, the Senate originally established a group to conduct this study with
14 Senate Resolution No. 20 of the 2020 First Extraordinary Session which directed a report
15 to the Senate by April 1, 2021, however, the group was unable to complete its study; and

16 WHEREAS, the Senate recreated the group with Senate Resolution No. 247 of the
17 2021 Regular Session, which directed a report to the Senate by March 1, 2022, however, the
18 group was unable to complete its study; and

19 WHEREAS, the Senate recreated the group with Senate Resolution No. 224 of the
20 2022 Regular Session, which directed a report to the Senate by March 1, 2023, however, the
21 group was unable to complete its study.

22 THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana
23 does hereby reestablish and provide for the Louisiana Public Defender Optimal Funding
24 Group to study and make recommendations regarding the feasibility of establishing an
25 optimal funding mechanism for the Louisiana Public Defender Board, and to propose
26 recommendations, together with specific proposals for legislation, by written report to the
27 Senate and to the David R. Poynter Legislative Research Library as required by R.S. 24:771
28 and 772, no later than March 1, 2024.

29 BE IT FURTHER RESOLVED that the group should include consideration of all
30 matters pertinent to establishing an optimal funding mechanism for the Louisiana Public

1 Defender Board.

2 BE IT FURTHER RESOLVED that the group shall consist of the following
3 members:

4 (1) Four members appointed by the governor, including one from his staff and one
5 from each appellate court district.

6 (2) Three members appointed by the chief justice of the supreme court, including
7 one juvenile justice advocate, one retired judge with criminal law experience, and two at-
8 large members.

9 (3) One member appointed by the president of the Senate.

10 (4) The president of the Louisiana State Bar Association, or his designee.

11 (5) The chairman of the Louisiana State Law Institute's Children's Code Committee,
12 or his designee.

13 (6) The chairman of the Senate Committee on Finance, or his designee.

14 (7) The chairman of the Senate Committee on Judiciary B, or his designee.

15 (8) The chairman of the Senate Committee on Judiciary C, or his designee.

16 (9) The state public defender, or his designee.

17 (10) The chairman of the Foundation for Louisiana, or his designee.

18 (11) The chairman of the House Committee on the Administration of Criminal
19 Justice, or his designee.

20 (12) One member appointed by the Louisiana Association of Criminal Defense
21 Lawyers.

22 BE IT FURTHER RESOLVED that each designating authority shall submit the
23 names of designees to the group to the president of the Senate no later than August 1, 2023.

24 BE IT FURTHER RESOLVED that the group shall convene for its first meeting no
25 later than September 15, 2023, at the call of the president of the Senate's appointee who shall
26 serve as chair, and at the first meeting, the members shall elect other officers as the group
27 may deem appropriate.

28 BE IT FURTHER RESOLVED that a majority of the group shall constitute a quorum
29 for the transaction of business, and all official actions of the group shall require the
30 affirmative vote of a majority of the members.

1 BE IT FURTHER RESOLVED that the members of the group shall serve without
2 compensation, except per diem or expenses reimbursement to which they may be
3 individually entitled as members of their constituent organizations.

4 BE IT FURTHER RESOLVED that the group shall terminate on the date of the
5 submission of its report or March 1, 2024, whichever occurs first.

6 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
7 governor, the chief justice of the Louisiana Supreme Court, the president of the Louisiana
8 State Bar Association, the chairman of the Foundation of Louisiana, the state public
9 defender, and the chairman of the Louisiana State Law Institute's Children's Code
10 Committee.

The original instrument was prepared by Ann S. Brown. The following
digest, which does not constitute a part of the legislative instrument, was
prepared by Alan Miller.

	DIGEST	
SCR 64 Engrossed	2023 Regular Session	Barrow

Recreates the La. Public Defender Optimal Funding Group to continue its study and make recommendations regarding the feasibility of establishing an optimal funding mechanism for the La. Public Defender Board.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Decreases the number of members appointed by the governor from six to four.
2. Decreases the number of members appointed by the chief justice from four to three.
3. Adds one member appointed by the La. Association of Criminal Defense Lawyers.