

2024 Regular Session

SENATE BILL NO. 467

BY SENATOR REESE

PUBLIC DEFENDER. Provides for the office of the state public defender. (gov sig)

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AN ACT

To amend and reenact R.S. 15:150(C), 152(B)(2) and (13), 161(A), (E)(11), (H)(1), and (I), 162(D) and (F), 167(E), 168(A) and (E)(3), 175(A)(1)(d) and (f), 176(C), 185.2(4) and (8), 186.2(4) and (8), and 186.3(B)(10), relative to indigent defender representation; to provide for the executive staff general qualifications; to provide for duties of the state public defender; to provide for powers and duties of the district public defenders; to provide for vacancies of the district public defenders; to provide for the Louisiana Public Defender Fund; to provide for the district indigent defender fund; to provide for proceedings to determine indigency; to provide for partial reimbursement by indigents; to provide for definitions; to provide for the Safe Return Representation Program; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:150(C), 152(B)(2) and (13), 161(A), (E)(11), (H)(1), and (I), 162(D) and (F), 167(E), 168(A) and (E)(3), 175(A)(1)(d) and (f), 176(C), 185.2(4) and (8), 186.2(4) and (8), and 186.3(B)(10) are hereby amended and reenacted to read as follows:

§150. Executive staff for office; general qualifications

* * *

1 C. The executive staff positions shall be permanent, full-time **state**
2 employees of the office ~~and these employees shall not otherwise engage in the~~
3 ~~practice of law, where applicable, or engage in any other business or profession.~~

4 * * *

5 §152. State public defender; qualifications; powers and duties; salary

6 * * *

7 B. The state public defender shall:

8 * * *

9 (2) Develop, present for the board's approval, and implement a strategic plan,
10 **standards, and guidelines** for the delivery of public defender services.

11 * * *

12 (13) ~~Assist the board in establishing~~ **Establish** ~~the standards and guidelines,~~
13 policies; and procedures for the statewide delivery of indigent defender services in
14 accordance with rules adopted by the office and as required by statute.

15 * * *

16 §161. District public defender; powers; duties; accounting; audit reporting; existing
17 ~~chief indigent~~ **district public** defenders continued; establishment of
18 **office of the district office public defender**

19 A. Except as otherwise provided for in this Section, the office shall ~~employ~~
20 ~~or~~ contract, for a period of up to five years, with a district public defender to provide
21 for the delivery and management of public defender services in each judicial district
22 **through the office of the district public defender. The office of the district public**
23 **defender shall be a local body corporate with the power to sue and be sued, to**
24 **enter into contracts on such terms and conditions as it deems advisable, and**
25 **with all other general obligations and privileges of local political subdivisions.**
26 **The district public defender shall be the policymaker for the office of the**
27 **district public defender and shall be responsible for ensuring that the office of**
28 **the district public defender satisfies its obligations and privileges under**
29 **Louisiana law.**

1 * * *

2 E. Each district public defender shall:

3 * * *

4 (11) Maintain a client workload for the ~~district office~~ **of the district public**
5 **defender** as determined by the state public defender.

6 * * *

7 H.(1) In an effort to maintain continuity of ~~indigent~~ **public** defender services
8 in each judicial district, any person ~~employed~~ **serving** as the ~~chief indigent~~ **district**
9 **public** defender of a judicial district shall continue to ~~be employed by, or enter into~~
10 a contract with, the office and serve as the district public defender of that district.

11 * * *

12 I. Notwithstanding any other provision of law to the contrary, any attorney
13 ~~employed by or~~ under contract with the office, the district public defender, or
14 nonprofit organization contracting with the office, district public defender, or the
15 office to provide legal counsel to an indigent person in a criminal proceeding shall
16 be licensed to practice law in the state of Louisiana. The provisions of this
17 Subsection shall not be construed to prohibit the use of an attorney licensed to
18 practice law in another state to provide legal counsel to an indigent person in a
19 criminal proceeding on a pro bono basis or who is receiving compensation from a
20 grant administered by the office or from a grant administered by any nonprofit
21 organization contracting with the office, provided that the out-of-state attorney is
22 authorized to perform those services by the Louisiana Supreme Court. The
23 legislature hereby specifically states that the provisions of this Subsection are in no
24 way intended to, nor shall they be, construed in any manner which will impair any
25 contractual obligations heretofore existing on June 1, 2007, of any out-of-state
26 attorney authorized by the Louisiana Supreme Court to practice law in this state to
27 provide legal counsel to an indigent person in a criminal proceeding.

28 * * *

29 §162. Vacancies in position of district public defender; formation of district public

1 defender selection committee; powers and duties of committee;
2 process for filling vacancy for district public defender; interim
3 district public defender

4 * * *

5 D. Within thirty days of receiving the nominations for the position of district
6 public defender from the selection committee, the office shall ~~employ or~~ contract
7 with a district public defender from the list of nominees submitted to the board.

8 * * *

9 F. Whenever a vacancy occurs for the position of district public defender in
10 any judicial district having a population of less than thirty thousand, or having less
11 than four attorneys providing public defender services, the office shall evaluate the
12 district and make a determination regarding the appropriateness of ~~employing or~~
13 contracting with a district public defender or authorizing a district public defender
14 from a contiguous judicial district to manage and supervise public defender services
15 in that judicial district. If a decision is made by the office to ~~employ or~~ contract with
16 a district public defender, the office shall use the selection process provided for in
17 this Section to fill that vacancy.

18 * * *

19 §167. Louisiana Public Defender Fund

20 * * *

21 E. The office shall dedicate and disburse at least seventy-five percent of the
22 entirety of its annual budget and its funds in the LPD Fund as defined in Subsection
23 A of this Section each fiscal year to the **offices of the district defender offices public**
24 **defenders** and their indigent defender funds as defined in R.S. 15:168(A) in the
25 various judicial districts throughout the state. The provisions of this Subsection shall
26 not apply to statutorily dedicated funds or funds received through the awarding of
27 grants.

28 §168. Judicial district indigent defender fund

29 A. There is hereby created within each judicial district an indigent defender

1 fund which shall be administered by the district public defender **on behalf of the**
 2 **office of the district public defender for that judicial district** and composed of
 3 funds provided for by this Section and such funds as may be appropriated or
 4 otherwise made available to it.

5 * * *

6 E. * * *

7 (3) No court shall have jurisdiction to order the payment of any funds
 8 administered by the ~~Louisiana Public Defender Board~~ **office** or district public
 9 defender for expert witnesses, or for any other reason.

10 * * *

11 §175. Proceedings to determine indigency

12 A.(1) * * *

13 (d) If the court makes the preliminary determination that the accused is or
 14 may be indigent, the court shall require the accused to make application to the **office**
 15 **of the** district public defender ~~office~~ or an attorney appointed or under contract to
 16 provide indigent defender services, who shall inquire further into the accused's
 17 economic status and, upon determining that the accused is indigent, shall file a
 18 certification thereof, in such form as the court may require and without paying costs
 19 in advance, in the record of the proceeding or enroll as counsel.

20 * * *

21 (f) An accused person or, if applicable, a parent or legal guardian of an
 22 accused minor or an accused adult person who is claimed as a dependent on the
 23 federal income tax submission of his parent or legal guardian, who makes application
 24 to the **office of the** district ~~office~~ **public defender** certifying that he is financially
 25 unable to employ counsel and requesting representation by indigent defense counsel
 26 or conflict counsel, shall pay a nonrefundable application fee of forty dollars to the
 27 **office of the** district ~~office~~ **public defender** or its designee, which fee shall be in
 28 addition to all other fees or costs lawfully imposed. If the office or other appropriate
 29 official determines that the person does not have the financial resources to pay the

1 application fee based upon the financial information submitted, the fee may be
2 waived or reduced. An accused who is found to be indigent may not be refused
3 counsel for failure to pay the application fee.

4 * * *

5 §176. Partial reimbursement by indigents

6 * * *

7 C.(1) When an accused is initially determined to be indigent and appointed
8 counsel but subsequently hires private counsel, the court shall conduct a
9 contradictory hearing to determine the expenses of representing the accused incurred
10 by the **office of the** district ~~office~~ **public defender** or the service region, where
11 applicable. Upon determining the expenses incurred, the accused shall, within the
12 discretion of the court, be liable to reimburse the **office of the** district ~~office~~ **public**
13 **defender** or service region, where applicable, those expenses, upon a determination
14 that the accused was in fact not initially indigent. A judgment for the amount owed
15 may be recorded in the mortgage records in favor of the board for the payment of
16 money against the accused and may be enforced as provided by law.

17 (2) All funds received by the **office of the** district ~~office~~ **public defender**
18 shall be deposited into the judicial district indigent defender fund as provided for in
19 R.S. 15:168.

20 (3) Failure of the accused to disclose the full amount involved in the hiring
21 shall constitute grounds for contempt of court.

22 * * *

23 §185.2. Definitions

24 As used in this Part, the following words shall have the following meanings:

25 * * *

26 (4) "District public defender", "chief indigent defender", or "chief public
27 defender" means an attorney ~~employed by or~~ under contract with the office to
28 supervise service providers and enforce standards and guidelines within a judicial
29 district or multiple judicial districts.

* * *

(8) "Public defender" or "indigent defender" means an attorney employed by or under contract with ~~the board~~, the **office of the** district public defender; or a nonprofit organization contracting with the board or the district public defender to provide representation, including curatorship appointments, to indigent or absent parents in child abuse and neglect cases as required by the provisions of the Children's Code.

* * *

§186.2. Definitions

For the purposes of this Part, the following words shall have the following meanings:

* * *

(4) "District public defender", "chief indigent defender", or "chief public defender" means an attorney ~~employed by or under contract with the board~~ **office** to supervise service providers and enforce standards and guidelines within a judicial district or multiple judicial districts.

* * *

(8) "Public defender" or "indigent defender" means an attorney employed by or under contract with the office; **of** the district public defender; or a nonprofit organization contracting with the office ~~or~~ **of** the district public defender to provide representation as required by the provisions of the Children's Code.

* * *

§186.3. Safe Return Representation Program; duties of the office; subject to appropriation

* * *

B. In the administration of the Safe Return Program, the office shall:

* * *

(10) ~~Employ and train~~ **Train** attorneys and other staff as may be necessary to carry out the functions of the program. All attorneys representing indigent children through this program shall be licensed to practice law in Louisiana and qualified in

1 accordance with the standards and guidelines adopted by rule of the board.

2 * * *

3 Section 2. This Act shall become effective upon signature by the governor or, if not
4 signed by the governor, upon expiration of the time for bills to become law without signature
5 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
6 vetoed by the governor and subsequently approved by the legislature, this Act shall become
7 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Alan Miller.

DIGEST

SB 467 Engrossed

2024 Regular Session

Reese

Present law authorizes the office of the state public defender (office) to enter into contracts to provide counsel for indigent defendants.

Present law requires that district public defender programs continue operating within the method of delivery of services in effect prior to April 30, 2007, and prohibits the office from using its power to contract to change the structure of a local program, delivery method, or to terminate personnel without cause in violation of present law.

Proposed law eliminates present law prohibition of the office from using its power to contract to change the structure of a local program, delivery method, or to terminate personnel without cause in violation of present law.

Present law requires that the office's executive staff positions be permanent, full-time employees of the office and these employees shall not otherwise engage in the practice of law, where applicable, or engage in any other business or profession.

Proposed law clarifies that the office's executive staff positions are state employees.

Present law prohibits employees of the office from engaging in the practice of law or any other business or profession.

Proposed law removes the present law prohibition that the office's employees not otherwise engage in the practice of law, where applicable, or engage in any other business or profession.

Present law requires the state public defender to develop and implement a strategic plan for delivery of public defender services with approval of the Louisiana Public Defender Oversight Board (board).

Proposed law retains present law and further requires the state public defender to develop and implement standards and guidelines with approval of the board.

Present law requires the state public defender to assist the board in establishing standards, guidelines, policies and procedures for statewide delivery of indigent defender services.

Proposed law requires the state public defender to establish policies and procedures for statewide delivery of indigent defender services.

Proposed law requires that offices of the district public defender be a local body corporate with the power to sue and be sued, to enter into contracts on such terms and conditions as it deems advisable, and with all other general obligations and privileges of local political subdivisions.

Proposed law requires the district public defender to be the policymaker for the office of the district public defender and to be responsible for ensuring that the office of the district public defender satisfies its obligations and privileges under present law.

Proposed law makes conforming changes consistent with Act No. 22 of the 2024 2nd Extraordinary Session.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 15:150(C), 152(B)(2) and (13), 161(A), (E)(11), (H)(1), and (I), 162(D) and (F), 167(E), 168(A) and (E)(3), 175(A)(1)(d) and (f), 176(C), 185.2(4) and (8), 186.2(4) and (8), and 186.3(B)(10))