
DIGEST

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HB 586 Engrossed

2021 Regular Session

Magee

Abstract: Creates the Office of the State Public Defender and Justice Investment and repeals the La. Public Defender Board.

Present law provides for the La. Public Defender Act which was enacted in order to ensure the right to counsel is delivered by qualified and competent counsel in a manner that is fair and consistent throughout the state and to ensure that adequate public funding is provided and managed in a cost-effective and fiscally responsible manner.

Proposed law retains present law.

Present law created and established the La. Public Defender Bd. (the board) as a state agency within the office of the governor.

Proposed law eliminates the board and creates the Office of the State Public Defender and Justice Investment (the office) as a state agency within the office of the governor.

Proposed law repeals the present law definition of "board" and other definitions related to the board, adds a definition of "office", and makes technical changes in terminology to reflect the elimination of the board and the creation of the office.

Proposed law defines "service program" as a non-governmental entity that provides assistance to or representation of defendants or other persons in the criminal justice system and that is qualified with the U.S. Internal Revenue Service for an exemption from federal income tax under Section 501(c) of the Internal Revenue Code.

Proposed law repeals all provisions of present law related to the establishment, membership, and voting requirements of the board.

Proposed law establishes a nominating committee, provides for the selection of the members of the committee, and requires the committee to submit a list of three nominees for the appointment of the state public defender by the governor, subject to Senate confirmation.

Proposed law provides that if the nominating committee fails to submit the required nominees, the governor shall make the appointment without nominations.

Proposed law provides for qualifications for the position of state public defender.

Present law provides for the powers, duties, responsibilities, and meeting requirements of the board.

Proposed law provides additional duties of the office to implement and coordinate services provided by service programs, allocate funding to public defenders and service programs, and develop a mechanism for the distribution of such funds, but otherwise retains similar duties of the board as provided by present law.

Present law authorizes the Joint Legislative Committee on the Budget (JLCB) to approve employees hired by the board as state employees.

Proposed law repeals present law and requires the office to submit for approval to the JLCB each service program that is to receive funding from the office.

Present law provides for the employment by the board of a state public defender and provides for the qualifications and duties of the state public defender.

Proposed law retains the state public defender but provides for his appointment by the governor and specifies his authority to function as the executive director of the office.

Present law provides for the La. Public Defender Fund and provides that the monies in the fund shall be appropriated, administered, and used solely and exclusively for the purposes of the La. Public Defender Act and program.

Proposed law retains present law but changes the name of the fund to the Justice Investment Fund and also authorizes the use of monies for service programs.

Present law provides for the creation of judicial district indigent defender funds for each judicial district and requires the courts, except in the parish of Orleans, to remit special costs to the fund. Present law provides for a \$45 fee to be assessed in cases in which a defendant is convicted after a trial, pleads guilty or nolo contendere, or forfeits bond.

Proposed law retains present law but requires the costs to be remitted to the state treasurer for deposit into the Justice Investment Fund, and also removes the exception for the parish of Orleans.

Proposed law requires that the funds received pursuant to proposed law shall be distributed the district public defender offices within 10 days of receipt of such funds.

Proposed law requires the office to provide a monthly report to each district public defender advisory board detailing the funds received and disbursed by the fund during the preceding month.

Proposed law repeals a reference to surplus funds in the judicial district indigent defender fund on Aug. 5, 2007.

Present law provides for the board with respect to the structure of the executive branch of state government as an agency within the governor's office.

Proposed law repeals present law and provides for the office as an agency within the governor's office.

Present law provides for board offices and meeting and quorum requirements.

Proposed law repeals present law.

Present law requires employment of board executive staff, a deputy public defender-director of training, a deputy public defender-director of juvenile defender services, a budget officer, an information technology and management officer, a trial-level compliance officer, and a juvenile justice compliance officer.

Proposed law repeals present law.

Proposed law provides that the office shall be the successor to the board and provides for transitional provisions to take effect on Jan. 1, 2022.

Proposed law directs the La. State Law Institute to make technical changes as necessary to change the terminology in order to reflect the name changes as provided by proposed law.

(Amends R.S. 15:142(C) and (F), 143, 146, 147, 148, 149.1, 152, 166, 167, and 168, and R.S. 36:4(D); Adds R.S. 15:142(G); Repeals R.S. 15:149.2-151 and 153-158)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Add provisions establishing a nominating committee for the nomination of three persons, one of whom is to be appointed by the governor as the state public defender.
2. Add qualifications for the position of state public defender.
3. Remove references to CASA.
4. Add a requirement of providing a financial report to each public defender advisory board detailing funds received and disbursed.