

2021 Regular Session

SENATE RESOLUTION NO. 247

BY SENATOR BARROW

PUBLIC DEFENDER. Recreates the Louisiana Public Defender Board 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 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, 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 for the general framework and resources necessary  
18 to 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 through  
27 legislative appropriations at the state level, supplemented by traffic tickets and other local  
28 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 wait lists for appointed  
7 counsel due to chronic budgetary shortfalls, thus violating poor defendants' Sixth and  
8 Fourteenth Amendments 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.

16 THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana  
17 does hereby recreate the Louisiana Public Defender Board Optimal Funding Group to  
18 continue the study of the feasibility of establishing an optimal funding mechanism to address  
19 funding issues of the Louisiana Public Defender Board and to report all such matters to the  
20 Senate.

21 BE IT FURTHER RESOLVED that the Louisiana Public Defender Board Optimal  
22 Funding Group shall be constituted as follows:

23 (1) Six members appointed by the governor, including one from his staff and one  
24 from each appellate court district.

25 (2) Four members appointed by the chief justice of the supreme court, including one  
26 juvenile justice advocate, one retired judge with criminal law experience, and two at-large  
27 members.

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

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

30 (5) The chairman of the Louisiana State Law Institute's Children's Code Committee,



- (2) Four members appointed by the chief justice of the supreme court, including one juvenile justice advocate, one retired judge with criminal law experience, and two members at-large.
- (3) One member appointed by the Senate president.
- (4) The president of the La. State Bar Association, or his designee.
- (5) The chairman of the La. State Law Institute's Children's Code Committee, or his designee.
- (6) The chairman of the Senate Committee on Finance, or his designee.
- (7) The chairman of the Senate Committee on Judiciary B, or his designee.
- (8) The chairman of the Senate Committee on Judiciary C, or his designee.
- (9) The state public defender.

Provides that the Senate president's appointee shall continue to chair the group and the La. Senate will provide staff support. Provides that the group may elect other officers as it shall deem necessary.

Specifies that the group members serve without compensation, except for such per diem and reimbursement to which they may be individually entitled.

Provides that the group is to meet as necessary and is to report its findings to the Senate not later than March 1, 2022.