

2022 Regular Session

HOUSE BILL NO. 243

BY REPRESENTATIVE BAGLEY

JUDGES: Authorizes city court judges 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), and R.S. 40:1231.8(C)(1)(a) and 1237.2(C)(1)(a), relative to the authority  
4 of city court judges to serve on a medical review panel; to provide for the practice  
5 of law by city court judges; to provide for the selection of the attorney member of  
6 a medical review panel; to provide for definitions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

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

10 §1875. Compensation of city judges; particular courts

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

13 \* \* \*

14 (7)(a) The judges of the ~~Shreveport~~ City Court of Shreveport shall receive  
15 the same salary and expenses as provided for district court judges, payable monthly  
16 on their respective warrants. The state shall pay that portion of the salary specified  
17 by R.S. 13:1874(E). The city of Shreveport shall pay the remaining portion of the  
18 salary and expenses in an amount sufficient to equal the salary and expenses of the  
19 district court judges. ~~The judges of the city court of Shreveport shall not engage in~~  
20 ~~the practice of law.~~

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

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

13 \* \* \*

14 (10)

15 \* \* \*

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

20 \* \* \*

21 (12)

22 \* \* \*

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

27 \* \* \*

28 (14) ~~Any~~ Notwithstanding any other provision of the law to the contrary, any  
 29 judge of the City Court of Houma is prohibited from engaging in the practice of law,

1 except any judge may serve as the attorney member of a medical review panel  
2 pursuant to R.S. 40:1231.8 or 1237.2.

3 \* \* \*

4 §2152. Salaries and expenses of judges; payment

5 \* \* \*

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

11 \* \* \*

12 §2492. Number of judges; qualifications; election; salary; vacation

13 A.

14 \* \* \*

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

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

26 (b)(i) Beginning at midnight on December 31, 2023, notwithstanding any  
27 other provision of the law to the contrary, the judge presiding over Division "F" shall  
28 not engage in the practice of law nor share in the profits, directly or indirectly, of any

1 law firm or legal corporation, except the judge may serve as the attorney member of  
2 a medical review panel pursuant to R.S. 40:1231.8 or 1237.2.

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

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

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

18 \* \* \*

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

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

5 Section 2. R.S. 40:1231.8(C)(1)(a) and 1237.2(C)(1)(a) are hereby amended and  
6 reenacted to read as follows:

7 §1231.8. Medical review panel

8 \* \* \*

9 C. The medical review panel shall consist of three health care providers who  
10 hold unlimited licenses to practice their profession in Louisiana and one attorney.  
11 The parties may agree on the attorney member of the medical review panel. If no  
12 attorney for or representative of any health care provider named in the complaint has  
13 made an appearance in the proceedings or made written contact with the attorney for  
14 the plaintiff within forty-five days of the date of receipt of the notification to the  
15 health care provider and the insurer that the required filing fee has been received by  
16 the patient's compensation board as required by Subparagraph (A)(1)(c) of this  
17 Section, the attorney for the plaintiff may appoint the attorney member of the  
18 medical review panel for the purpose of convening the panel. Such notice to the  
19 health care provider and the insurer shall be sent by registered or certified mail,  
20 return receipt requested. If no agreement can be reached, then the attorney member  
21 of the medical review panel shall be selected in the following manner:

22 (1)(a) The office of the clerk of the Louisiana Supreme Court, upon receipt  
23 of notification from the board, shall draw five names at random from the list of  
24 attorneys who reside or maintain an office in the parish which would be proper venue  
25 for the action in a court of law. The names of judges other than city court judges,  
26 magistrates, district attorneys<sub>2</sub> and assistant district attorneys shall be excluded if  
27 drawn and new names drawn in their place. After selection of the attorney names,  
28 the office of the clerk of the supreme court shall notify the board of the names so  
29 selected. It shall be the duty of the board to notify the parties of the attorney names

1 from which the parties may choose the attorney member of the panel within five  
 2 days. If no agreement can be reached within five days, the parties shall immediately  
 3 initiate a procedure of selecting the attorney by each striking two names alternately,  
 4 with the claimant striking first and so advising the health care provider of the name  
 5 of the attorney so stricken; thereafter, the health care provider and the claimant shall  
 6 alternately strike until both sides have stricken two names and the remaining name  
 7 shall be the attorney member of the panel. If either the plaintiff or defendant fails  
 8 to strike, the clerk of the Louisiana Supreme Court shall strike for that party within  
 9 five additional days.

10 \* \* \*

11 §1237.2. State medical review panel

12 \* \* \*

13 C.(1) The state medical review panel shall consist of one attorney and three  
 14 health care providers who hold unlimited licenses to practice their profession in  
 15 Louisiana. The parties may agree on the attorney member of the state medical  
 16 review panel. If no attorney for or a representative of any health care provider  
 17 named in the complaint has made an appearance in the proceeding or made written  
 18 contact with the attorney for the plaintiff within forty-five days of the date of receipt  
 19 of the notification to the health care provider and the insurer that the required filing  
 20 fee has been received by the commissioner or the patients compensation board as  
 21 required by Subparagraph (A)(1)(c) of this Section, the attorney for the plaintiff may  
 22 appoint the attorney member of the state medical review panel for the purpose of  
 23 convening the panel. Such notice to the health care provider and the insurer shall be  
 24 sent by registered or certified mail, return receipt requested. If no agreement can be  
 25 reached, then the attorney member of the state medical review panel shall be selected  
 26 in the following manner:

27 (a) The office of the clerk of the Louisiana Supreme Court, upon receipt of  
 28 notification from the commissioner, shall draw five names at random from the list  
 29 of attorneys who reside or maintain an office in the parish which would be proper

1 venue for the action in a court of law. The names of judges other than city court  
2 judges, magistrates, district attorneys, and assistant district attorneys shall be  
3 excluded if drawn and new names drawn in their place. After selection of the  
4 attorney names, the office of the clerk shall notify the office of the commissioner of  
5 the names so selected. It shall be the duty of the office of the commissioner to notify  
6 the parties of the attorney names from which the parties may choose the attorney  
7 member of the panel within five days. If no agreement can be reached within five  
8 days, the parties shall immediately initiate a procedure of selecting the attorney by  
9 each striking two names alternately, with the claimant striking first and so advising  
10 the state or the person covered by this Part of the name of the attorney so stricken;  
11 thereafter, the state or the person covered by this Part and the claimant shall  
12 alternately strike until both sides have stricken two names and the remaining name  
13 shall be the attorney member of the panel. If either party fails to strike, the clerk  
14 shall strike for that party within five additional days.

15 \* \* \*

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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 Engrossed 2022 Regular Session Bagley

**Abstract:** Authorizes city court 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 retains present law.

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 city court judges from the list of attorneys whose names shall be excluded if drawn.

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

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Authorize city court judges, as opposed to all judges, to serve on a medical review panel.
2. Remove provisions relative to the practice of law by supreme court, court of appeal, district court, family court, parish court, and juvenile court judges.
3. Remove the special effective date.