

2022 Regular Session

SENATE RESOLUTION NO. 193

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 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; 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.

19 THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana  
20 does hereby reestablish and provide for the Louisiana Public Defender Optimal Funding  
21 Group to study and to make recommendations regarding the feasibility of establishing an  
22 optimal funding mechanism for the Louisiana Public Defender Board, and to propose  
23 recommendations, together with specific proposals for legislation, by written report to the  
24 Senate and to the David R. Poynter Legislative Research Library as required by R.S. 24:771  
25 and 772, no later than March 1, 2023.

26 BE IT FURTHER RESOLVED that the group should include consideration of all  
27 matter pertinent to establishing an optimal funding mechanism for the Louisiana Public  
28 Defender Board.

29 BE IT FURTHER RESOLVED that the group shall consist of the following  
30 members:

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

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

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

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

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

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

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

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

13          (9) The state public defender.

14          (10) The chair of the Louisiana Hospital Association, or his designee.

15          (11) The president of the Louisiana Municipal Association, or his designee.

16          BE IT FURTHER RESOLVED that each designating authority shall submit the  
17 names of designees to the group to the president of the Senate no later than August 1, 2022.

18          BE IT FURTHER RESOLVED the group shall convene for its first meeting no later  
19 than September 15, 2022, at the call of the president of the Senate's appointee who shall  
20 serve as chair, and at the first meeting, the members shall elect other officers as the group  
21 may deem appropriate.

22          BE IT FURTHER RESOLVED that a majority of the group shall constitute a quorum  
23 for the transaction of business. All official actions of the group shall require the affirmative  
24 vote of a majority of the members.

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

28          BE IT FURTHER RESOLVED that the group shall terminate on the date of the  
29 submission of its report or March 1, 2023, whichever occurs first.

30          BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the

