AN ACT

To amend and reenact R.S. 15:142(C) and (F), 143, 146, 147(A), the introductory paragraph of (B), (B)(1), (3), (4), (5)(b)(iii), (6), (7), (15), (17), (19) and (20), (C), (D) and (E), 148(A), the introductory paragraph of (B)(1)(a), (B)(1)(b), (c), (d), (e) and (f), and (5) through (13) and (C), 149.1, 149.2, 150(A), (C) and (E), 152, 161(A), (E)(5) and (7) through (14), (F), (H), and (I), 162, 163, 164(A), (C)(1), the introductory paragraph of (D), (E)(4) and (F)(2), 165(A), (B), (C), (D), (F) and (G), 166, 167(A), (D) and (E), 168(D) and (E), 169, 170(A)(1) and (3), (B)(2), (5), (6), (8) and (9), (C), (D)(1), (2) and (3), (G), (H), (I) and (J), 173(B), 174(A) and (B)(1), 175(A) and (F)(2), and (D), 185.2(1), (4), (7), (8) and (9), 185.3(A), the introductory paragraph of (B), (B)(6), (7), (11), (17), (18), and (19)(g), and (C), 185.4(A), (B)(2), (10) and (12), 185.6(A), (B)(1) and the introductory paragraph of (B)(2), and (D), 185.7(B), 186.2(1), (6), (7), and (8), 186.3(A), the introductory paragraph of (B), (B)(5)(a), (6), (10), (13)(c), (16), (17) and (18)(c) and (C), 186.4(A), 186.5(D) and (E), and R.S. 36:4(B)(21), to enact R.S. 15:164(B)(4),

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185.2(10), and 186.2(9), and to repeal R.S. 15:148(B)(14) and (15), 151, 153, 154, 155, 156, 157, 158, 159, 160, 161(J), 162.1, 168(F), 185.3(D), and 185.9, relative to indigent defender representation; to create the office of the state public defender; to transfer authority from the Louisiana Public Defender Board to the office; to provide for powers, duties, and responsibilities of the office; to provide for the creation of the Louisiana Public Defender Oversight Board; to provide for duties and responsibilities of the board; to provide for rulemaking; to provide for the domicile of the office; to provide for offices and meetings; to provide for qualifications of executive staff; to provide for qualifications, powers, duties, and salary of the state public defender; to provide for district public defenders; to provide for methods of delivery of services; to provide for the Louisiana Public Defender Fund; to provide for the Judicial District Indigent Defender Fund; to provide for representation of capital defendants; to provide for disciplinary actions; to prohibit certain rights of action; to provide for special reporting requirements; to provide for certain proceedings; to provide for appointment of counsel under certain circumstances; to provide for reports; to provide for the Indigent Parents’ Representation Program; to provide for standards and guidelines; to provide for the Safe Return Representation Program; to provide for the Safe Return Representation Program Fund; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:142(C) and (F), 143, 146(A), (B), and (C), 147(A), the introductory paragraph of (B), (B)(1), (3), (4), (5)(b)(iii), (6), (7), (15), (17), (19) and (20), (C), (D) and (E), 148(A), the introductory paragraph of (B)(1)(a), (B)(1)(b), (c), (d), (e) and (f), and (5) through (13) and (C), 149.1, 149.2, 150(A), (C) and (E), 152, 161(A), (E)(5) and (7) through (14), (F), (H), and (I), 162, 163, 164(A), (C)(1), the introductory paragraph of (D), (E)(4) and (F)(2), 165(A), (B), (C), (D), (F) and (G), 166, 167(A), (D) and (E), 168(D) and (E), 169, 170(A)(1) and (3), (B)(2), (5), (6), (8) and (9), (C), (D)(1), (2) and (3), (G), (H), (I) and (J), 173(B), 174(A) and (B)(1), 175(A)(1)(f) and (i) and (2) and (C), 178, 180, 185.2(1), (4), (7), (8), and (9), 185.3(A), the introductory paragraph of (B), (B)(6), (7), (11), (17), (18), and (19)(g), (C) and (D), 185.4(A), (B)(2), (10) and (12), 185.6(A), (B)(1) and

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the introductory paragraph of (B)(2), and (D), 185.7(B), 186.2(1), (6), (7), and (8), 186.3(A),
the introductory paragraph of (B), (B)(5)(a), (6), (10), (13)(c), (16), (17) and (18)(c) and (C),
186.4(A), and 186.5(D) and (E) are hereby amended and reenacted, and R.S. 15:164(B)(4),
185.2(10), and 186.2(9) are hereby enacted to read as follows:

§142. Legislative findings

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C. The legislature recognizes that the uniform application of statewide standards and guidelines to be established by the Louisiana Public Defender Board office of the state public defender is an important means of achieving a more consistent delivery of quality representation throughout the state. To that end, it is the express intention of the legislature that the Louisiana Public Defender Act of 2007 is designed, to the extent practicable and feasible, to provide for the delivery of public defender services which meet the requirements established by Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984) and its progeny as adopted by the Louisiana Supreme Court.

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F. It is the express intention of the legislature that the Louisiana Public Defender Board office respect local differences in practice and custom regarding the delivery of public defender services. The provisions of this Part are to be construed to preserve the operation of district public defender programs which provide effective assistance of counsel and meet performance standards in whatever form of delivery that local district has adopted, provided that method of delivery is consistent with standards and guidelines adopted by the board office pursuant to rules and as required by statute.

§143. Definitions

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

(1) “Board” means the Louisiana Public Defender Board authorized to regulate public defender services:

(2) “Board office” means the headquarters of the board located in East Baton Rouge Parish.

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(2) "District indigent defender fund" means the judicial district indigent defender fund as provided for in R.S. 15:168.

(4)(2) "District office" means the office of a district public defender as provided for in R.S. 15:161.

(5)(3) "District public defender" or "chief indigent 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.

(6)(4) "Indigent defendant" means a person that has been determined under the provisions of R.S. 15:175 to be indigent and financially unable to retain private counsel.

(7)(5) "Indigent defender services program" or "the program" means the activities directed toward the accomplishment of providing indigent defender services under the Louisiana Public Defender Act.

(6) "Office" means the office of the state public defender authorized to:

(a) Regulate and fund public defender services and provide financial support to other service programs that provide services to persons adjudicated in the criminal justice system.

(b) Make recommendations to the legislature, governor, and the chief justice of the Louisiana Supreme Court regarding potential changes to laws in order to improve public defender services and the criminal justice system in Louisiana.

(7)(7) "Public defender" or "indigent defender" means an attorney employed by or under contract with the board, the office, or a district public defender, regional director, where applicable, or nonprofit organization contracting with the board, district public defender, regional director, where applicable, or the board to provide legal counsel to an indigent person in a criminal proceeding.

(8)(8) "Public defender services" or "indigent defender services" means the providing of legal services to indigent persons in criminal proceedings in which the right to counsel attaches under the United States and Louisiana constitutions.
(10) "Regional director" means the person in the employment of the board chosen to oversee and enforce standards and guidelines within a service region created by the board:

(11) "Regional office" means the office established for a service region as provided for in R.S. 15:159:

(12) "Revenue" or "self-generated revenue" means all revenue received by a judicial district including revenue received as a result of grants or donations or other forms of assistance.

(13) "Service region" means one of the public defender service regions created by the board as authorized in R.S. 15:159:

(14) "State Public Defender" means the person in the employment of the board chosen appointed by the governor, subject to approval of a majority of the board and Senate confirmation, to administer the statewide public defender system for the delivery of public defender services.

§146. Louisiana Public Defender Board Office of the State Public Defender

A.(1) There is hereby created and established as a state agency within the office of the governor the Louisiana Public Defender Board office of the state public defender to provide for the supervision, administration, and delivery of a statewide public defender system, which shall deliver uniform public defender services in all courts in this state. The board shall be a body corporate with the power to sue and be sued:

(2) The board and its agents and employees shall be subject to the Code of Governmental Ethics, the law relative to public records and open meetings, the law relative to public bid and procurement, and all other provisions of law applicable to state agencies:

(3) The two members of the Louisiana Public Defender Board appointed by the president of the Louisiana State Bar Association, the member appointed by the chairman of the Louisiana State Law Institute's Children's Code Committee, the member appointed by the President of the Louisiana Chapter of the Louis A. Martinet Society, the member appointed by the Louisiana Interchurch Conference;
(4) To the extent practicable, the board shall be comprised of members who reflect the racial and gender makeup of the general population of the state, and who are geographically representative of all portions of the state.

(5) When a vacancy occurs, whether by expiration of a term, resignation, or other event, the board staff shall submit to the appointing entity a list identifying the residency of the current board members by congressional district, and request that, to the extent possible, the entity make the appointment from the residents of under-represented districts. The state public defender shall be appointed by the governor, subject to approval of a majority of the board and Senate confirmation, for a term of two years.

B.(1) The Louisiana Public Defender Oversight Board is hereby created and established to provide supervision and oversight to the office of the state public defender and to approve contracts in an amount of two hundred fifty thousand dollars or more. The board shall consist of eleven nine members.

(2) Persons appointed to the board shall have significant experience in the defense of criminal proceedings or shall have demonstrated a strong commitment to quality representation in indigent defense matters. No person shall be appointed to the board who has received compensation to be an elected judge, elected official, judicial officer, prosecutor, law enforcement official, indigent defense provider, or employees of all such persons, within a two-year period prior to appointment. No active part-time, full-time, contract or court-appointed indigent defense provider, or active employees of such persons, may be appointed to serve on the board as a voting member. No person having an official responsibility to the board, administratively or financially, or their employee shall be appointed to the board during their term of office. The majority of board members shall be current members of the Louisiana State Bar Association. Representatives of the client community shall not be prohibited from serving as voting members of the board been admitted to the
practice of law in this state for at least eight years or have been a judge in this state.

(3) The members shall be selected as follows:

(a) The governor shall appoint five members, one from each appellate court district, and shall designate the chairman.

(b) The five members shall be appointed from a list of three nominees submitted to the governor by a majority of the district public defenders providing public defender services in each appellate district, joint resolution of the Public Defenders Association of Louisiana and the Louisiana Association of Criminal Defense Lawyers.

(c) The chief justice of the Supreme Court of Louisiana shall by majority vote appoint four members, one member shall be a juvenile justice advocate; and one member shall be a retired judge with criminal law experience; and two members shall be at large.

(d) The president of the Senate and the speaker of the House of Representatives shall each appoint one member.

(4) All appointments to the board shall be subject to confirmation by the Senate.

(5) A vacancy on the board shall be filled in the same manner as the original appointment.

(6) Members of the board shall serve staggered terms of four years concurrent with that of the governor.

C.(1) The board, by a vote of two-thirds of the members, may expel a member who has accumulated three unexcused absences from board meetings during a twelve-month period.

(2) If a member is expelled as provided by this Subsection, the board shall send written notice to the member informing him of his expulsion and notify the appropriate appointing authority of the vacancy on the board.

D. The board shall notify the appropriate appointing authority of any board vacancy which occurs for any reason.
§147. Powers; duties; responsibilities

A. Except for the inherent regulatory authority of the Louisiana Supreme Court provided for in Article V, Section 5 of the Constitution of Louisiana regarding the regulation of the practice of law, the Louisiana Public Defender Board office shall have all regulatory authority, control, supervision, and jurisdiction, including auditing and enforcement, and all power incidental or necessary to such regulatory authority, control, supervision, and jurisdiction over all aspects of the delivery of public defender services throughout the courts of the state of Louisiana.

B. In addition to the powers and duties provided for in Subsection A of this Section, the board office shall:

1. Employ an executive staff as provided for in R.S. 15:150 necessary to carry out the duties of the office and regularly evaluate the performance of the executive staff.

2. Review and approve Develop and implement the strategic plan and approve budget proposals submitted by the state public defender, regional directors, where applicable, and district public defenders on behalf of the districts. The board shall consider variations in public defense practices, past practices and procedures, and conditions unique to each district in evaluating the strategic plan and budget proposals on the district level necessary for the implementation of this Part for coordinating and providing services. The office shall review and approve budget proposals submitted by the district public defenders on behalf of their districts, considering variations in public defense practices, past practices and procedures, and conditions unique to each district in evaluating the strategic plan and budget proposals on the district level.

3. Make an annual report to the legislature regarding the state of the board's operations and the status of public defender services it regulates. Such report shall include at a minimum:

a. Recommendations for all needed changes in the law regarding the board office or any regulated activity.

(b) A complete report on the receipt and expenditure of all funds received by the board office and the regional offices, where applicable, including district level data.

(c) Comprehensive workload data.

(5)(a) *          *          *

(b) The plan of organization shall provide for the capacity to:

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(iii) Provide for enforcement of board office rules as is necessary to the efficient and thorough regulation and governance of public defender services under its jurisdiction.

(6) Incur such expenses and obligations, within the fiscal limits available to the board office, as are necessary to the efficient and thorough regulation and governance of the delivery of public defender services under its jurisdiction and establish and maintain an accounting system which complies with law.

(7) Approve, prior to its presentation to the legislature and again after appropriation prior to allocation, the budget for the board office.

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(15) Arrange for locations, which have adequate space to accommodate the public, to conduct its meetings. Allocate funding to the public defenders, contract programs, and other entities as necessary for the implementation of this Part.

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(17) Supervise the activities of staff and apply reasonable controls for the supervision of spending, accounting, and discretionary grants. The board office shall seek the assistance of the legislative auditor or an internal auditor to ensure that staff discretion is subject to supervision consistent with the Louisiana Local Government Budget Act, R.S. 39:1301 et seq. The board's office's supervision shall include reviewing details regarding expert witness funds or other case-specific grants, including the confidential work product of attorneys in litigation, compensation, and records supporting fees of experts and others, and analysis of the efficiency and effectiveness of programs. The attorney-client privilege and confidentiality that
applies to counsel in cases shall apply to all board members and staff for the review of case details.

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(19) Adopt procedures necessary to protect strategic choices and confidential work product of the board office when the board office considers important matters of spending. However, the amounts and general purposes shall remain public record of the board's office's decisionmaking process.

(20) Enter into a contract or contracts with the University of Louisiana at Monroe for the purpose of providing certain statewide training to attorneys, investigators, social workers, and staff. Any contract or contracts formed pursuant to this Paragraph shall use existing funds appropriated by the legislature.

C. The board office may:

(1) Enter into a contract or contracts, on such terms and conditions as it deems advisable, with one or more attorneys licensed to practice law in this state, a consortia of lawyers, or an independent public defender organization qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c) of the Internal Revenue Code to provide counsel for indigent defendants. The provisions of this Paragraph are subject to the intent of the Louisiana Public Defender Act that district public defender programs shall continue operating within the method of delivery of services in effect prior to April 30, 2007, and the board office is prohibited 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 R.S. 15:165(C).

(2) Establish advisory councils from among Louisiana residents to provide information and guidance regarding needs and concerns of particular localities. Such councils may be established at such times, for such duration, and under such circumstances, as the board office deems appropriate.

(3) Accept, receive, and use public or private grants, gifts, or donations, provided that such gifts, grants, and donations are not otherwise prohibited by law or rule.
(4) Employ secretarial, clerical, and other such personnel as may be necessary in the operation of the business of the board office and fix their compensation.

(5) Enter into contracts in accordance with law for the purpose of maintaining and operating an office, or offices, and performing the functions authorized by law. The provisions of this Paragraph are subject to the intent of the Louisiana Public Defender Act that district public defender programs shall continue operating within the method of delivery of services in effect prior to April 30, 2007; and the board is prohibited 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 R.S. 15:165(C).

D.(1) Prior to entering into any contract as authorized by Subsection C of this Section, the board office shall provide public notice that a contract is under consideration by the board office and shall provide an opportunity for the public to offer comment, regarding the contract, at a public hearing conducted for that purpose.

(2) The notice shall include the name of the individual attorneys, a consortium of lawyers, or an independent public defender organization qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c) of the Internal Revenue Code to provide counsel for indigent defendants, the amount of compensation to be paid, and the nature of the contracted services.

(3) The board office shall conduct a public hearing regarding any contract authorized by Subsection C of this Section and provide the public an opportunity to offer comment on the contract.

(4) The public hearing provided for by this Subsection may be conducted at a regular meeting of the board provided proper notice is provided to the public as required by this Subsection.

E. The executive staff, regional directors, and secretarial, clerical, and other personnel directly employed in the operations of the board office shall be state
employees. All other personnel employed or who serve under contract in a district office shall not be state employees. The Joint Legislative Committee on the Budget may approve other employees hired pursuant to the Louisiana Public Defender Act as state employees upon recommendation of the board office.

§148. Rulemaking; considerations in developing rules

A. The board office shall adopt all rules necessary to implement the provisions of this Part.

B. The rules shall include but not be limited to:

(1) Creating mandatory statewide public defender standards and guidelines that require public defender services to be provided in a manner that is uniformly fair and consistent throughout the state. Those standards and guidelines shall take into consideration all of the following:

(a) Manageable public defender workloads that permit the rendering of competent representation through an empirically based case weighting system that does not count all cases of similar case type equally but rather denotes the actual amount of attorney effort needed to bring a specific case to an appropriate disposition. In determining an appropriate workload monitoring system, the board office shall take into consideration all of the following:

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(b) Continuity of representation. The board office shall adopt standards and guidelines which ensure that each district devises a plan to provide that, to the extent feasible and practicable, the same attorney handles a case from appointment contact through completion at the district level in all cases.

(c) Documentation of communication. The board office shall adopt standards and guidelines to ensure that defense attorneys providing public defender services provide documentation of communications with clients regarding the frequency of attorney client communications as required by rules adopted by the board.

(d) Performance supervision protocols. The board office shall adopt standards and guidelines to ensure that all defense attorneys providing public defender services undergo periodic review of their work against the performance standards and
guidelines in a fair and consistent manner throughout the state, including creating a uniform evaluation protocol.

(e) Performance of public defenders in all assigned public defense cases. The board office shall adopt general standards and guidelines that alert defense counsel to courses of action that may be necessary, advisable, or appropriate to a competent defense including performance standards in the nature of job descriptions.

(f) Consistency of standards. The performance standards and guidelines shall be based upon the performance standards originally adopted by the Louisiana Indigent Defense Assistance Board (LIDAB) in 2006 and any subsequent amendments to those standards adopted by the board office.

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(5) Establishing appropriate sanctions for failure to adhere to the mandatory standards and guidelines for the delivery of public defender services.

(6) Establishing a policy of selecting a proportionate number of minority and women lawyers in accordance with the makeup of the general population of the state, to the extent that minority and women lawyers are available and otherwise eligible for selection within each service region in accordance with law. Any citizen of majority age shall have a cause of action to enjoin the activities of the board for failure to comply with this provision:

(7) Establishing policies and procedures for ensuring that cases are handled according to the Rules of Professional Conduct.

(8) Establishing policies and procedures for handling conflict of interest cases and overflow cases when workload standards which are established by rules of the board office are breached.

(9) Establishing policies and procedures to ensure that detailed expenditure and workload data is collected, recorded, and reported to support strategic planning efforts for the system.

(10) Creating separate performance standards and guidelines for attorney performance in capital case representation, juvenile delinquency, appellate, and any other subspecialties of criminal defense practice as well as children in need of care
cases determined to be feasible, practicable, and appropriate by the board office.

(41)(9) Ensuring data, including workload, is collected and maintained in a uniform and timely manner throughout the state to allow the board office sound data to support resource needs.

(42)(10) Providing for minimum salary and compensation standards for attorney, investigator, paraprofessional, and any and all other staff necessary for the adequate defense of indigent defendants in criminal courts and comparable to other positions of similar stature throughout the state.

(43)(11) Establishing processes and procedures to ensure that when a case that is assigned presents a conflict of interest for a public defender, the conflict is identified and handled appropriately and ethically.

(44)(12) Establishing processes and procedures to ensure that board office and contract personnel use information technology and workload management systems so that detailed expenditure and workload data is accurately collected, recorded, and reported.

(45)(13) Establishing administrative salary ranges for compensation of attorneys delivering public defender services throughout the state so that compensation is based on objective policymaking, including years of service, nature of the work and workload, and in consideration of variations in public defense practices and procedures in rural, urban, and suburban districts as well as prosecutorial and judicial processing practices, trial rates, sentencing practices, and attorney experience.

C. All rules shall be adopted pursuant to the provisions of the Administrative Procedure Act and shall be subject to legislative oversight by the House Committee on the Administration of Criminal Justice and the Senate Committee on Judiciary.

B.

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§149.1. Domicile of board office; venue

A. The board office shall be domiciled in East Baton Rouge Parish.

B. Notwithstanding any other provision of law to the contrary, the venue for
any civil proceeding by or against the board office or to which the board office is a party shall be East Baton Rouge Parish.

§149.2. Offices; meetings

A. The board office shall maintain an office in East Baton Rouge Parish but may maintain such branch offices as it deems necessary to provide for the efficient and thorough regulation and governance of public defender services under its jurisdiction.

B. (1) Except as provided in Subsection C of this Section, in order to effect the implementation of the provisions of this Act, the board shall meet four times per year:

(2) The board may meet such additional times as it deems appropriate:

(3) Meetings may be called by the chairman on his own initiative and shall be called by the chairman upon written request of a majority of board members.

C. (1) Upon consultation with the state public defender, if the chairman determines that there is not sufficient business to warrant the conducting of a meeting of the board, the chairman may cancel a meeting that is required by Subsection B of this Section:

(2) The chairman shall provide written reasons for the cancellation of the meeting and give at least seventy-two hours notice thereof by registered or certified mail to the post office address of each member of the board and of persons who previously have indicated that they have business before the board.

D. The board shall conduct a majority of its meetings per year in East Baton Rouge Parish.

§150. Executive staff for board office; general qualifications

A. The board office shall employ a state public defender, a deputy public defender-director of training, a deputy public defender-director of juvenile defender services, a budget officer, a technology and management officer, a trial-level compliance officer, and a juvenile justice compliance officer who shall function as executive staff for the board an executive office staff as necessary to carry out the duties of the office, and the state public defender shall appoint any other officers...
as necessary to conduct the business of the office, subject to appropriation.

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

E. The salaries of the executive staff, except for the state public defender, shall be established by the board office.

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

A. The board shall employ There shall be a state public defender who shall be appointed by the governor and meet the following qualifications:

1. Meet the qualifications provided for in R.S. 15:150(B).

2. Be an attorney licensed to practice law in the United States Louisiana with at least seven twenty years of experience with at least seven years of experience as a criminal defense attorney. If licensed as an attorney in a state other than Louisiana, become licensed as an attorney in this state within one year of being employed by the board.

B. The state public defender shall:

1. Recommend to the board how to establish Establish and maintain, in a cost-effective manner, the delivery of legal services to persons entitled to, and financially eligible for, appointed counsel in criminal proceedings at state expense under Louisiana law, the Constitution of Louisiana, and the United States Constitution and consistent with the standards of national justice and those established by the Louisiana Supreme Court.

2. Develop and present for the board's approval, and implement a strategic plan for the delivery of public defender services.

3. Implement and ensure compliance with contracts, policies, procedures, standards, and guidelines adopted pursuant to rule by the board or required by statute.
(4) Prepare and submit to the board for its approval the budget of the board office.

(5) Negotiate contracts, as appropriate, for providing legal services to persons financially eligible for appointed counsel at state expense. No contract so negotiated is binding or enforceable until the contract has been reviewed and approved by the board at a public hearing as provided for in R.S. 15:147(D). The provisions of this Paragraph are subject to the intent of the Louisiana Public Defender Act that district public defender programs shall continue operating within the method of delivery of services in effect prior to April 30, 2007, and the board is prohibited 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 R.S. 15:165(C).

(6) Employ personnel or contract for services as necessary to carry out the responsibilities of the board this Part. The provisions of this Paragraph are subject to the intent of the Louisiana Public Defender Act that district public defender programs shall continue operating within the method of delivery of services in effect prior to April 30, 2007, and the board is prohibited 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 R.S. 15:165(C).

(7) Supervise the personnel, operation, and activities of the board office.

(8) Prepare and submit to the board an annual report of the indigent defender services provided by the service regions, where applicable, and the districts.

(9) Appear before the Joint Legislative Committee on the Budget and report on the activities of the board office.

(10) Actively seek gifts, grants, and donations that may be available through the federal government or other sources to help fund the system, provided that such gifts, grants, and donations are not otherwise prohibited by law or rule.

(11) Assist the board in the adoption of rules as provided for in R.S. 15:148 and in accordance with the Administrative Procedure Act.

(12) Provide services, facilities, and materials necessary for the performance of the duties, functions, and powers of the board office.
(13) Assist the board in establishing the standards and guidelines, policies, and procedures for the statewide delivery of indigent defender services in accordance with rules adopted by the board and as required by statute.

(14) Establish administrative management procedures for the regional offices, where applicable.

(15) Review, monitor, and assess the performance of all attorneys, consortia of attorneys, or independent public defender organizations qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c) of the Internal Revenue Code to provide counsel for indigent defendants.

(16) Perform all other duties assigned by the board.

C. The state public defender shall receive annual compensation equal in amount to an associate justice of the supreme court of this state.

§161. District public defender; powers; duties; accounting; audit reporting; existing chief indigent defenders continued; establishment of district office

A. Except as otherwise provided for in this Section, the board shall employ or contract, for a period of up to five years, with a district public defender to provide for the delivery and management of public defender services in each judicial district.

E. Each district public defender shall:

(5) Work in conjunction with the compliance officers to ensure that public defender assignments within the judicial district comply with the standards and guidelines adopted pursuant to rule by the board and the Rules of Professional Conduct.

(7) Employ district personnel, subject to review by the state public defender or the regional director, where applicable, for compliance with qualifications and
standards and guidelines established by statute and by rules adopted by the board.

(8) Contract for services in accordance with the standards and guidelines adopted by rule by the board, and as authorized by the regional director, where applicable.

(9) Keep a record of all public defender services and expenses in the district and submit the records to the regional director, where applicable, or state public defender as requested.

(10) Implement the standards and guidelines and procedures established by the board; and state public defender; and regional director, where applicable, for the district.

(11) Maintain a client workload for the district office as determined by the regional director, where applicable, the state public defender; and the board.

(12) Consult with the regional director, where applicable, and make recommendations regarding the method of delivery of public defender services for the district for submission to the board for board approval. The regional director, where applicable, or the board shall consider any delivery model in existence prior to August 15, 2007, as acceptable until that delivery model is proven to not meet the uniform standards and guidelines for the delivery of public defender services in accordance with applicable rules adopted by the board and as required by statute.

(13) Employ or terminate district personnel, manage and supervise all district level work, including establishment of district personnel salaries, subject to review by the board office for compliance with salary guidelines established by the board office through the adoption of rules.

(14) Perform all other duties assigned by the regional director, where applicable; state public defender; or board.

F. Each district public defender may make recommendations to the regional director, where applicable, the state public defender; and the board on any matter regarding his judicial district.

* * *

H.(1) In an effort to maintain continuity of indigent defender services in each
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judicial district, any person employed as the chief indigent defender of a judicial
district as of January 1, 2007, pursuant to the provisions of R.S. 15:145(B)(2)(a),
shall continue to be employed by, or enter into a contract with, the board office and
serve as the district public defender of that district.

(2) The board office shall establish set the salaries compensation for each
district public defender according to a compensation plan established by the
board; however, the salaries and benefits in place on January 1, 2007, for each chief
indigent defender shall continue as the beginning salary for each district public
defender and shall not be decreased. The provisions of this Paragraph shall not be
construed to limit the board's ability to increase the salary of a district public
defender.

I. The board shall evaluate any district where, as of January 1, 2007, there is
no person employed as the chief indigent defender, pursuant to the provisions of R.S.
15:145(B)(2)(a), and do one of the following:

(1) Employ a district public defender who meets the criteria provided for in
this Section, using the selection process provided for in R.S. 15:162; or

(2) Assign another district public defender from a contiguous judicial district
to manage and supervise public defender services for both judicial districts; or

(3) Determine whether the board shall regionalize the operation of the
district, as provided for in R.S. 15:163.

J. Notwithstanding any other provision of law to the contrary, any attorney
employed by or under contract with the board office, the district public defender,
regional director, where applicable, or nonprofit organization contracting with the
board office, district public defender, regional director, where applicable, or the
board office to provide legal counsel to an indigent person in a criminal proceeding
shall be licensed to practice law in the state of Louisiana. The provisions of this
Subsection shall not be construed to prohibit the use of an attorney licensed to
practice law in another state to provide legal counsel to an indigent person in a
criminal proceeding on a pro-bono basis or who is receiving compensation from a
grant administered by the board office or from a grant administered by any nonprofit

Coding: Words which are struck through are deletions from existing law; words in boldface type and underscored are additions.
organization contracting with the board office, provided that the out-of-state attorney
is authorized to perform those services by the Louisiana Supreme Court. The
legislature hereby specifically states that the provisions of this Subsection are in no
way intended to, nor shall they be, construed in any manner which will impair any
contractual obligations heretofore existing on June 1, 2007, of any out-of-state
attorney authorized by the Louisiana Supreme Court to practice law in this state to
provide legal counsel to an indigent person in a criminal proceeding.

§162. Vacancies in position of district public defender; formation of district public
defender selection committee; powers and duties of committee;
process for filling vacancy for district public defender; interim
district public defender

A. Except as provided for in Subsection G of this Section, within Within
twenty days of receiving notice of a vacancy which occurs for the position of district
public defender by reason of demotion, termination, retirement, resignation, or death,
the board office shall form a district public defender selection committee as provided
for in Subsection B of this Section.

B.(1) The selection committee shall consist of three attorneys who are one
attorney in good standing with the Louisiana State Bar Association, and two other
registered voters, all of whom are domiciled in that judicial district, and are not
otherwise disqualified by Paragraph (2) of this Subsection.

(2) No person shall be appointed to the selection committee that has received
compensation to be an elected judge, elected official, judicial officer, prosecutor, law
enforcement official, or indigent defense provider, or employees of all such persons,
within a two-year period prior to appointment. No active part-time, full-time,
contract, or court-appointed indigent defense provider, or active employees of such
persons, may be appointed to serve on the selection committee:

(3) The members shall be selected as follows:

(a) One member, who shall serve as chairman of the committee, appointed
by the state public defender.

(b) One member appointed by the president of the Louisiana State Bar
(c) One member appointed by the chief judge of the judicial district.

C. In the event there are fewer than three attorneys eligible to serve as members of a selection committee as provided for in Subsection B of this Section; or there are fewer than three eligible attorneys who are willing to serve as members of a selection committee, the members shall be selected as provided for in Paragraph (B)(3) of this Section from among any registered voters residing in that judicial district.

D. (1) The selection committee shall review eligible candidates for the position of district public defender, giving preference to those individuals who are domiciled in the district.

(2) Within sixty days of formation of the selection committee, the selection committee shall submit a list of at least three nominees for the position of district public defender to the state public defender.

E-F. Within thirty days of receiving the nominations for the position of district public defender from the selection committee, the board office shall employ or contract with a district public defender from the list of nominees submitted to the board.

F. The board office shall appoint an interim district public defender to fill the vacancy of the district public defender until the position is filled.

G. The provisions of this Section shall not apply to a district which has been regionalized pursuant to the provisions of R.S. 15:163.

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

L(1)-(G) Board Office staff shall not require of the district public defenders or their staff any response with a due date less than six working days from the first full day since the request is received, other than during a natural emergency. The time period provided for in this Paragraph shall not include responses requested by the governor, the House Committee on Administration of Criminal Justice, or the Senate Committee on Judiciary § B.

(2) The board shall make every effort to end the use of paper reports and shall make every effort to rely on searchable digital data in order to reduce costs of operation:

* * *

§163. Regionalization of district public defender services by board office

A. In certain cases the board shall office may regionalize and operate the public defender services of a district as a subdivision of the board office through a regional office. When the public defender services of a district are taken over by the board office in this manner, the district public defender shall be an employee of the region and the regional director shall be the manager and supervisor of the district public defender office. A regionalization of the operation of a district public defender program shall occur, by a majority vote of the board, upon a finding by the office that one of the following conditions have occurred:

(1) The district, through its district public defender, petitions the board office for the board office to regionalize the delivery of indigent defender services in the district;

(2) The board office upon its own motion, or upon petition of a regional director, if applicable, finds that the district public defender office has failed after reasonable assistance, resourcing, and consultation with the board office to reasonably meet performance standards mandated by the board office or to comply with data reporting or any other rule adopted by the board, or office.

(3) Due to a natural disaster or catastrophic emergency, the district public defender cannot operate or function normally, provided that this shall apply for not
longer than a period of six months, renewable by the board office on an interim basis at six-month intervals.

B. In any district where the board office takes over the operation of indigent defender services as provided by this Section the district office shall be maintained for client services in the judicial district. The district public defender in a district regionalized pursuant to the provisions of this Section shall be a day-to-day manager and shall work out of the district office.

C. When the operation of a district office is regionalized pursuant to the provisions of this Section, the supervision of compliance with state standards and guidelines may be carried out by an officer a staff member of the board as part of its supervision of the regional office.

D. Prior to regionalizing a district as provided for in this Section, the board office shall send written notice of the public hearing as required in Subsection E of this Section, to the chief judge, the district advisory board, if applicable, and the district public defender of that judicial district of the board's intention to regionalize the district.

E.(1) Prior to regionalizing a district as provided for in this Section, the board office shall conduct a public hearing regarding regionalization of a district, and provide the public an opportunity to offer comment on the regionalization.

(2) The public hearing provided for by this Subsection may be conducted at a regular meeting of the board parish governing authority in the district provided proper notice is provided to the public as required by this Subsection.

§164. Regional defense service centers

A. Upon approval of the board office, any district public defender may contract with one or more other district public defenders for the establishment of a regional defense service center. A district public defender may enter into only one contract for a regional center in a particular field of practice.

B. As used in this Section, the term "regional defense service center" means:

*   *   *

(4) Any other defense center created by the office.
C. (1) A regional defense service center may be granted authority to contract
with counsel for defense at trial in the district court for defendants charged with
capital offenses, for appeals in noncapital cases and in capital cases in which a
sentence of life imprisonment was imposed, and for representation of juveniles in
juvenile courts and in all other courts with juvenile jurisdiction. The center may also
contract for other specific functions other than appeals and post-conviction
representation in capital cases in which the death penalty was imposed, and for the
operation of an office, library, and other reasonably necessary services and authority
as the contracting boards deem appropriate.

D. A contract among district indigent defender boards shall provide for adequate supervision of the regional defense service center established,
with periodic reports to each of the contracting boards, at least every six months, regarding the following:

E.

(4) The contract for a regional defense service center shall provide for
contribution by the contracting districts for a period not more than five nor less than
three calendar years, which commitment shall be binding on the contracting districts. The basis of the contribution may be any rational basis, including
population, caseload, or other criteria agreed to by the respective boards. The contracting boards shall be required by the contract to contribute to the regional service center for a period of not less than three
nor more than five years, and the contract shall be noncancellable.

F.

(2) Nothing herein shall be interpreted as creating a duty on the part of such
regional defense service centers to do any act, or provide any service, beyond that
contemplated in the establishment of the center by the district indigent defender
§165. Methods of delivery of public defender services; selection of methods; emergency circumstances

A. The method of delivery in each judicial district shall be approved to the extent that it is meeting or able to meet the performance standards and guidelines of the board office. The board office may change the method of delivery in order to ensure compliance with best practices reflected in the performance standards and guidelines.

B. The board office shall approve the method of delivery of public defender services for each district upon consultation with and recommendations of the state public defender, the director of juvenile defender services, the regional director for the service region, where applicable, and the district public defenders from the following service delivery methods or any combination thereof:

(1)(a) Appointment by the district public defender from a list of competent attorneys licensed to practice law in this state and classified according to case-type certification level.

(b) All appointments shall be on a successive, rotational basis by case-type certification. Deviations from the board's list shall be permitted only to comply with Code of Criminal Procedure Article 512 and in exceptional circumstances upon approval of the board office upon recommendation of the district public defender or regional director, where applicable.

(2) An independent public defender organization qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c) of the Internal Revenue Code to provide counsel for indigent defendants. The salaries compensation of the district public defender and all assistants and supporting personnel shall be fixed by the board in compliance with salary and compensation standards adopted pursuant to rule by the board.

(3) The board may authorize The authorization, by the office, of the district public defender or regional director, where applicable, to employ or enter into a contract or contracts, on such terms and conditions as it deems advisable, with one
or more attorneys licensed to practice law in this state to provide counsel for indigent
defendants in criminal proceedings.

(4) A full-time public defender office, staffed by full-time lawyers and
support staff, or primarily full time with supplemental positions on a contract basis.

C. Any delivery model in existence prior to April 30, 2007, shall be presumed
to be acceptable and meet standards guidelines pursuant to rules adopted by the
board office, and as provided by statute until the delivery model is proven not to
meet those standards and guidelines.

D.(1) If, after reasonable assistance, providing of resources, and consultation
with the board the state public defender, or regional director, where applicable;
office, the preexisting delivery model is still deemed unacceptable, the board shall
determine upon consultation with the state public defender, the director of juvenile
defender services, and the regional director, where applicable, the appropriate service
delivery system to provide counsel for indigent defendants in criminal proceedings.
Such a system shall be structured with due consideration for local variances from
judicial district to judicial district within the region and shall, where necessary,
establish satellite offices or part-time satellite offices to maintain easy access to
clients in each judicial district within their purview.

(2) The board office shall provide notice of a public hearing as provided in
Paragraph (3) of this Subsection, to the district public defender, district advisory
board, if applicable, and the chief judge of the judicial district prior to changing any
delivery model as provided for by this Section and provide the public an opportunity
to offer comment on the change in the delivery model.

(3) The public hearing provided for by this Subsection may be conducted at
a regular meeting of the board meeting called by the office provided proper notice
is provided to the public as required by this Subsection.

*          *          *

F. The district public defender shall create a staff organization plan for its
delivery method which shall be subject to approval by the state public defender or
regional director, where applicable, and the board office. The staff organization plan
will provide for the method of delivery, positions, duties, and assignments in the
district court.

G. In the event of a catastrophic event, natural or otherwise, the board office
shall have the power to establish an appropriate delivery system to maintain the
competent delivery of services from among the delivery methods provided for by this
Section.

§166. Disbursement of funds

A. The board office shall not disburse funds to a non-governmental entity
unless it establishes a benefit to the function of the board office pursuant to law, and
unless services are actually delivered. Under no circumstances shall the board office
disburse state funds for the purpose of savings, reserves, or other purposes related
primarily to the economic health of the non-governmental entity or its owners and
employees.

B. Any service which the board office seeks, other than the Louisiana 44
Appellate Project or the Capital Appeals Project, which are statewide programs, shall
be subject to an application process by which the board office provides objective
deliverables and allows the district defenders to make application upon the same
terms as a non-governmental entity to provide services in that district or a regional
area for services as provided by law.

C. No provision of Louisiana law authorizing the return or rollback of funds
from governmental programs to the division of administration shall apply to the
board office account during an emergency shortfall in funding as certified by the
board office with the approval of the chief justice of the Louisiana Supreme Court.

§167. Louisiana Public Defender Fund

A. "The Louisiana Public Defender Fund", hereinafter referred to as the
"LPD Fund", is hereby created in the state treasury. Interest earned on the investment
of monies in the fund shall be deposited in and credited to the fund. Unexpended and
unencumbered monies in the fund at the close of each fiscal year shall remain in the
fund. Monies in the fund shall be appropriated, administered, and used solely and
exclusively for purposes of the Louisiana Public Defender Act and program, other

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services and programs, and as further provided in this Section.

* * *

D. The LPD Fund shall be administered by the board office as authorized by the provisions of the Louisiana Public Defender Act. The board office is hereby authorized to establish such accounts or sub-accounts within the LPD Fund as deemed necessary to comply with the provisions of the Louisiana Public Defender Act and the program. The board shall not commingle the monies in the LPD Fund established in this Section with any other monies or funds of the board for any reason.

E. The board office shall dedicate and disburse at least sixty-five seventy-five percent of the entirety of its annual budget and its funds in the Louisiana Public Defender Fund as defined in Subsection A of this Section each fiscal year to the district defender offices and their indigent defender funds as defined in R.S. 15:168(A) in the various judicial districts throughout the state. Any funds disbursed to any district defender office shall be paid in addition to the minimum mandatory sixty-five percent of dedicated and disbursed funds required in this Subsection. The provisions of this Subsection shall not apply to statutorily dedicated funds or funds received through the awarding of grants.

§168. Judicial district indigent defender fund

* * *

D. No defendant who has retained private counsel of record shall be assessed any costs to be credited to the indigent defender fund, other than the special costs established by Subsection B of this Section, unless the board has provided representation of record for that defendant at some point in that criminal proceeding.

E. Any surplus monies in the judicial district indigent defender fund on August 15, 2007, shall be retained in that judicial district and remain in the judicial district indigent defender fund. Any unexpended and unencumbered monies in the judicial district indigent defender fund at the close of each fiscal year shall remain in the judicial district indigent defender fund. Monies in the fund shall be administered and used solely and exclusively for purposes of delivering indigent
defender services in that judicial district.

(1) Notwithstanding any provision of law to the contrary, each judicial district is allowed to accumulate funds for the purposes of retaining expert witnesses. The district public defender, in his discretion, shall determine how payments shall be administered and which experts shall be paid.

(2) Any person who has retained private counsel, but is found to be indigent, may apply for funds for expert witnesses in the same manner as public defender clients. Each person shall apply for the funds by making application to the district defender of the district having jurisdiction and shall be subject to the same requirements as indigent clients.

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

§169. Representation of capital defendants

A. In cases where a sentence of death has been imposed, the board shall promptly cause counsel to be enrolled to represent the defendant. The board shall adopt rules and retain only such staff counsel or other counsel, who will work under the supervision of the board, as are necessary to provide counsel to represent capital defendants on direct appeal to the Supreme Court of Louisiana and to seek post-conviction relief if appropriate in state and federal court. The board shall also adopt rules regarding the provision of reasonably necessary services associated with the proceedings, including investigative, expert, and other services. The rules shall require that funds to pay for such reasonably necessary services shall be provided only upon a written showing specifically identifying the nature of the services, the cost of such services, and the need for such services with mandatory guidelines for compensation and litigation expense maximums. The board may seek funding as is available under federal law or from other public and private sources to cover the costs of providing representation in connection with applications for post-conviction relief filed in state and federal court.

B. Staff counsel, or other counsel, who represented convicted capital
defendants in state court proceedings may, if authorized by the board office, accept appointments from federal court to represent those defendants, but only if compensation is provided by funds as directed by the appointing federal court. Such funds shall remain subject to the use of the board and may be used for paying the costs of such representation. No state-appropriated funds shall be expended for the representation of capital defendants in federal court.

§170. Disciplinary action; sanctions of regional directors and district public defenders; just cause; hearing

A.(1) The board office shall have the authority to take corrective or disciplinary action against any regional director, or district public defender, for failure to adhere to the standards and guidelines for rendering indigent defender services as provided by rules adopted pursuant to R.S. 15:148 and in accordance with the Administrative Procedure Act.

* * *

(3) A regional director or district public defender may be demoted or terminated for just cause.

B. The actions which constitute just cause are as follows:

* * *

(2) The willful refusal to comply with mandatory performance standards and guidelines as required by rule adopted by the board office.

* * *

(5) The willful failure to document communications with clients as required by the board office.

(6) The willful failure to cooperate with the state public defender, a regional director, where applicable, or the board office in any matter.

* * *

(8) The willful failure to submit requested documentation on any matter as requested by the regional director or the board office.

(9) Knowingly making any false statement to the regional director, state public defender, or board office.
C. A regional director or district public defender who feels that he has been demoted or terminated without just cause as defined in this Section may, within fifteen days after the action, demand in writing a hearing, and investigation by the board to determine the reasonableness of the action.

D.(1) Upon receipt of a request for a hearing, the board shall appoint a five-member hearing committee made up of five board members.

(2) The board shall designate the chairman of the hearing committee, who shall function as the presiding officer of the hearing.

(3) The chairman of the hearing committee shall designate an attorney to present evidence in support of the proposed job action. The attorney may be the supervisor requesting the job action or his designee or another attorney currently providing indigent defender services appointed by the board office for that purpose.

G.(1) Within thirty days of receipt of the report from the hearing committee, the board shall take action in a public meeting conducted by the board.

(2) At that time the board may affirm the recommendation of the hearing committee, modify or disapprove the recommendations of the hearing committee, or direct that the matter be investigated further.

(3) If the board affirms the demotion or termination action, then the termination or demotion of the regional director or district public defender shall remain in effect and shall be permanent.

(4) If the board finds that the termination or demotion was not taken in good faith for just cause under the provisions of this Section, the board shall order the immediate reinstatement or reemployment of such person in the office, place, position, or employment from which he was terminated or demoted, which reinstatement shall, if the board so provides, be retroactive and entitle him to his regular pay from the time of termination or demotion.

(5) The board may modify the order of termination or demotion by directing a suspension without pay for a given period.
H. The decision of the board, together with its written findings of fact, shall be certified in writing and shall be enforced by the board.

I. All decisions of the board are final and may not be appealed.

J. Prior to terminating or demoting a district public defender, the board shall send written notice of the public hearing as required by this Section, to the chief judge, and the district advisory board, if applicable, of the judicial district of the board's intention to terminate or demote the district public defender of that judicial district.

§173. Right of action not created

* * *

B. In addition to the provisions of Subsection A of this Section, nothing herein, nor any standards, guidelines, or rules adopted as a result hereof, shall be construed to provide any criminal defendant the basis of any claim that the attorney or attorneys appointed to represent him pursuant to this statute performed in an ineffective manner. It shall be presumptive evidence that any attorney performing criminal defense services pursuant to the auspices of this statute is currently certified to have met the standards and guidelines adopted by the board to provide criminal defense services in an effective manner. Nothing contained herein shall be construed to overrule, expand, or extend, whether directly or by analogy, the decision reached by the United States Supreme Court in *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984) nor its progeny as adopted by the Louisiana Supreme Court.

§174. Special reporting requirements; penalties

A. In addition to the general oversight requirements provided by law, each district or service region, where applicable, shall submit an annual report to the Louisiana Public Defender Board office no later than February first of each year, commencing in 2009. The report, using the uniform definition of a "case" as defined in Subsection C of this Section, shall include detailed information of the workload, resources, employees, and expenditures for each district or service region, where applicable, for the previous fiscal year. The report shall also include the number of
Families in Need of Services (FINS) petitions, Child in Need of Care (CINC) petitions, and child support petitions handled by each service region district.

B.(1) The district public defender, and director of each service region, where applicable, shall be responsible for preparing, completing, and submitting the annual report to the Louisiana Public Defender Board office as provided for in Subsection A of this Section.

* * *

§175. Proceedings to determine indigency

A.(1) * * *

(f) An accused person or, if applicable, a parent or legal guardian of an accused minor or an accused adult person who is claimed as a dependent on the federal income tax submission of his parent or legal guardian, who makes application to the district office certifying that he is financially unable to employ counsel and requesting representation by indigent defense counsel or conflict counsel, shall pay a nonrefundable application fee of forty dollars to the district office or its designee, which fee shall be in addition to all other fees or costs lawfully imposed. If the board office or other appropriate official determines that the person does not have the financial resources to pay the application fee based upon the financial information submitted, the fee may be waived or reduced. An accused who is found to be indigent may not be refused counsel for failure to pay the application fee. * * *

(i) The district public defender shall maintain a record of all persons applying for representation and the disposition of the application and shall provide this information to the board office on a monthly basis as well as reporting the amount of funds collected or waived.

(2) The district public defender or his assistants or an attorney providing indigent defender services pursuant to a contract with the board office shall be allowed to summon witnesses to testify before the court concerning the financial ability of any accused person to employ counsel for his defense. * * *
C. Nothing in this Chapter shall prevent a criminal defendant from obtaining representation through the board office at no charge.

§178. Appointment of appellate and post-conviction counsel in death penalty case

In a capital case in which the trial counsel was provided to an indigent defendant and in which the jury imposed the death penalty, the court, after imposition of the sentence of death, shall appoint the Louisiana Public Defender Board office, which shall promptly cause to have enrolled counsel to represent the defendant on direct appeal and in any state post-conviction proceedings, if appropriate.

§180. Special reporting requirements

In addition to the general oversight requirements provided by law, the board office shall submit an annual report to the legislature not later than February first of each year, commencing in 1999. The report shall include a comprehensive status report on the board's activities, the number of meetings of the board and attendance; expenditures, decisions, and actions for the previous fiscal year. The report shall be directed to the chairman of the standing committees of the Senate Committee on Judiciary B and the House of Representatives with subject matter jurisdiction over criminal justice matters Committee on the Administration of Criminal Justice.

§185.2. Definitions

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

(1) "Board" means the Louisiana Public Defender Oversight Board, or any successor to that board, which is authorized to regulate the providing of legal services to indigent persons in criminal proceedings in which the right to counsel attaches under the United States and Louisiana constitutions. The board is also authorized to regulate the providing of representation to indigent parents as authorized by this Part.
(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.

(7) "Office" means the office of the state public defender as created by
R.S. 15:146.

(8) "Public defender" or "indigent defender" means an attorney employed by
or under contract with the board, 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 Louisiana
Children's Code.

(8)(9) "Revenue" or "self-generated revenue" means all revenue received by
a judicial district except revenue received as a result of grants, donations, or other
forms of assistance when the terms and conditions thereof or of agreements
pertaining thereto require otherwise.

(9)(10) "Task Force on Legal Representation in Child Protection Cases"
means the task force created by House Concurrent Resolution No. 44 of the 2003
Regular Session of the Legislature.

§185.3. Indigent Parents' Representation Program; duties of the board office; subject
to appropriation

A.(1) Subject to appropriation, or the availability of other monies made
available to the program, the board office shall administer a program to provide
representation, including curatorship appointments, of indigent or absent parents in
child abuse and neglect cases as required by the Louisiana Children's Code.

(2) Except for the inherent regulatory authority of the Louisiana Supreme
Court provided for in Article V, Section 5 of the Constitution of Louisiana, regarding
the regulation of the practice of law, the Louisiana Public Defender Board or any
successor to that board, **board and the office** shall have all regulatory authority, control, supervision, and jurisdiction, including auditing and enforcement, and all power incidental or necessary thereto to administer a program to provide for the delivery of indigent or absent parent representation throughout the courts of the state of Louisiana.

B. In the administration of the Indigent Parents' Representation Program, the **board office** shall:

* * *

(6) Make an annual report to the legislature regarding the state of the board's operations and the status of representation of indigent or absent parent services it regulates. Such report shall include at a minimum:

(a) Recommendations for all needed changes in the law regarding the board or any regulated activity.

(b) A complete report on the receipt and expenditure of all funds received by the board and the regional offices, where applicable, including district level data.

(c) Comprehensive workload data.

(7) Ensure that the policies, procedures, and public pronouncements of the board recognize the unique and critical role of parents' attorneys in safeguarding fundamental rights and promoting the safety, permanency, and well-being of children in the child welfare system.

* * *

(11) Provide for the employing or contracting with and training of attorneys and other professional and nonprofessional staff that may be necessary to carry out the functions of the program. All attorneys representing indigent or absent parents through this program shall be licensed to practice law in Louisiana and qualified in accordance with standards and guidelines adopted by rule of the board.

* * *

(17) Prepare as of June first of each year, an estimate of unexpended balances in every account in the custody of the board and submit a copy thereof to the
governor, the legislative auditor, and the legislative fiscal officer.

(18) Develop and maintain a comprehensive information system on the receipt of revenues by the board office, and the districts from local, state, and federal sources, as well as the expenditure of these revenues, and submit a summary of this information annually to the legislature.

(19) Assign appropriate staff to:

*          *          *

(g) Assist the district public defenders in the compliance with standards and guidelines adopted by the board pursuant to this Section. The board office staff shall assist the district public defenders with implementation of standards and guidelines and supervision policy and procedures to verify compliance.

*          *          *

C. During the incremental implementation period, the board shall continue working in conjunction with the Task Force on Legal Representation in Child Protection Cases to transform the existing legal representation system for children and indigent parents in child abuse and neglect cases to a more efficient and effective statewide system and to facilitate securing of necessary funding for the system. This transformation includes the board developing standards and oversight mechanisms for providing for quality representation of indigent parents and determining how funding currently administered by the Department of Children and Family Services, office of children and family services, for representation of indigent parents and children shall be redistributed to the board and the Child Advocacy Program of the Mental Health Advocacy Service by July 1, 2012.

D. The powers and duties of the board provided for by this Section shall be in addition to the powers and duties provided for in R.S. 15:147 or as otherwise provided by law.

§185.4. Standards and guidelines for representation of indigent parents; rulemaking

A. The board shall adopt all rules necessary to implement the provisions of R.S. 15:185.1 through 185.9.

B. The rules shall include but not be limited to:
(2) Ensuring the standards and guidelines shall take into consideration all of
the following:

(a) Manageable indigent or absent parent representation workloads. The
board office shall adopt manageable indigent or absent parent representation
workloads that permit the rendering of competent representation through an
empirically based case-weighting system that does not count all cases of similar case
type equally but rather denotes the actual amount of attorney effort needed to bring
a specific case to an appropriate disposition.

(b) Continuity of representation. The board shall adopt standards and
guidelines which ensure that each district devises a plan to provide that to the extent
feasible and practicable the same attorney handles a case from appointment contact
through completion in all cases.

(c) Documentation of communication. The board office shall adopt standards
and guidelines to ensure that defense attorneys providing indigent or absent parent
representation provide documentation of communications with clients to meet
standards and guidelines established by the board office.

(d) Performance supervision protocols. The board office shall adopt standards
and guidelines to ensure that all defense attorneys providing indigent or absent parent
representation undergo periodic review of their work against the performance
standards and guidelines in a fair and consistent manner throughout the state,
including creating a uniform evaluation protocol.

(e) Performance of attorneys in all assigned indigent or absent parent
representation cases or curatorship appointments. The board office shall adopt
general standards and guidelines that alert defense counsel to courses of action that
may be necessary, advisable, or appropriate to providing competent indigent or
absent parent representation or curatorship appointments, including performance
standards in the nature of job descriptions.

(10) Establishing policies and procedures for handling conflict of interest
cases and overflow cases when workload standards which are established by rules
of the board are breached.

(12) Ensuring data collected, including workload, is collected and maintained
in a uniform and timely manner throughout the state to allow the board office sound
data to support resource needs.

§185.6. Special reporting requirements; indigent parent representation cases;

penalties

A. In addition to the general oversight requirements provided by law, each
district public defender, or regional director, where applicable, shall submit an
annual report to the board office no later than February first of each year,
commencing in 2008. The report, using the uniform definition of a "case" as defined
in Subsection C of this Section, shall include detailed information of the district's
workload, resources, employees, and expenditures for the previous fiscal year.

B. (1) The district public defender shall be responsible for preparing,
completing, and submitting the annual report to the board office as provided for in
Subsection A of this Section.

(2) The district public defender shall be subject to the penalties provided for
in Paragraph (3) of this Subsection, payable out of the judicial district indigent
defender fund, to the board office if any of the following occur:

D. The board office shall draft, administer, and furnish reporting forms to the
district public defender which request detailed information of the district's workload,
resources, employees, and expenditures for the previous fiscal year based on the
uniform definition of a "case" as defined in Subsection C of this Section.

§185.7. Rights of action; interpretation of Part

B. In addition to the provisions of Subsection A of this Section, nothing
herein, nor any standards, guidelines, or rules adopted as a result hereof, shall be

Coding: Words which are struck through are deletions from existing law; words in **boldface type and underscored** are additions.
construed to provide any person the basis of any claim that the attorney or attorneys
appointed to him pursuant to this statute performed in an ineffective manner. It shall
be presumptive evidence that any attorney performing indigent or absent parent
representation pursuant to the auspices of this statute is currently certified to have
met the standards and guidelines adopted by the board to provide indigent or
absent parent representation in an effective manner.

§186.2. Definitions

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

(1) "Board" means the Louisiana Public Defender Oversight Board, or any
successor to that board, which is authorized to regulate the providing of legal
services to indigent persons in criminal proceedings in which the right to counsel
attaches under the United States and Louisiana Constitutions. The board is also
authorized to regulate the providing of representation to indigent parents as
authorized by this Part.

(6) "Office of juvenile justice" and "the office" means the Department of
Public Safety and Corrections, youth services, office of juvenile justice.

(7) "Office" means the office of the state public defender as created by
R.S. 15: 146.

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

(9) "Safe Return Program" or "the program" means the Safe Return
Representation Program administered pursuant to the Part.

§186.3. Safe Return Representation Program; duties of the board; subject to
appropriations
A.(1) Subject to appropriation and the availability of other monies to the program, the board office shall administer a program to provide qualified legal representation to indigent children committed to the custody of the office of juvenile justice pursuant to Title VII and Title VIII of the Louisiana Children's Code and promote safe return and reentry for youth in custody.

(2) Except for the regulatory authority of the Louisiana Supreme Court provided for in Article V, Section 5, of the Louisiana Constitution, the Louisiana Public Defender Board or any successor to that board board and the office, shall have all regulatory authority, control, supervision, and jurisdiction, including auditing and enforcement, and all power necessary to administer the program throughout the state.

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

*          *          *

(5) Submit an annual report to the legislature regarding the state of the program. Such report shall include:

(a) Recommendations for changes in the law regarding the board office or any regulated activity.

*          *          *

(6) Ensure all policies, procedures, and public pronouncements of the board office recognize the role of attorneys in safeguarding fundamental rights and promoting the safety, reintegration, and well-being of children in the custody of the office of juvenile justice.

*          *          *

(10) Employ and 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 accordance with the standards and guidelines adopted by rule of the board.

*          *          *

(13) Establish and modify a plan of organization to conduct the business of regulating and controlling the delivery of program services. The plan of organization...
shall provide for:

* * *

(c) The enforcement of board rules.

* * *

(16) Prepare and submit to the governor, legislative auditor, and legislative fiscal officer, not later than June first of each year an estimate of unexpended balances in every account in the custody of the board office.

(17) Develop and maintain a comprehensive information system on the revenues received by the board office and any district from local, state, and federal sources, as well as the expenditure of any revenue, and submit a summary of the information annually to the legislature.

(18) Assign appropriate staff to:

* * *

(c) Assist district public defenders in maintaining compliance with standards and guidelines adopted by the board pursuant to this Section. The board staff shall assist the district public defenders with implementation of standards, guidelines, supervision, policy, and procedures to maintain compliance.

* * *

C. The powers and duties of the board provided for by this Section shall be in addition to the powers and duties provided for in R.S. 15:147 or as otherwise provided by law.

§186.4. Standards and guidelines for representation of indigent children in custody; rulemaking

A. The board shall adopt all rules necessary to implement the provisions of this Part.

* * *

§186.5. Safe Return Representation Program Fund

* * *

D. Monies in the fund which have been appropriated to the Louisiana Public Defender Board office shall be administered by the Louisiana Public Defender
Board, or any successor to that board office.

E. The board office shall not commingle the monies appropriated from the
fund with any other monies of the board office.

Section 2. R.S. 36:4(B)(21) is hereby amended and reenacted to read as follows:

§4. Structure of executive branch of state government

* * *

B. The office of the governor shall be in the executive branch of state
government. The governor may allocate within his office the powers, duties, funds,
functions, appropriations, responsibilities, and personnel of the agencies within his
office and provide for the administration thereof and for the organization of his
office. The following agencies and their powers, duties, functions, and
responsibilities are hereby transferred to the office of the governor:

* * *

(21) The Louisiana Public Defender Oversight Board (R.S. 15:141 et seq.)
shall be placed within the office of the governor as an independent agency and shall
exercise its powers, duties, functions, and responsibilities in accordance with the

* * *

Section 3. R.S. 15:148(B)(14) and (15), 151, 153, 154, 155, 156, 157, 158, 159, 160,
161(J), 162.1, 168(F), 185.3(D), and 185.9 are hereby repealed.

Section 4. Nothing in this Act shall be construed to impede or nullify any existing
contract in which the Louisiana Public Defender Board is a party. The office of the state
public defender shall honor all contracts in which the board is a party through June 30, 2024.

Section 5. Subject to a satisfactory performance and compliance evaluation, a public
defender who has an existing contract with the Louisiana Public Defender Board for Fiscal
Year 2023-2024, shall have the option to renew the contract with the office of the state
public defender for Fiscal Year 2024-2025, subject to appropriation.

Section 6. All current employees of the Louisiana Public Defender Board shall
remain in their current retirement system with no gap or disruption in service in the event
the provisions of this act are enacted into law.

Coding: Words which are struck through are deletions from existing law; words in boldface type and underscored are additions.
Section 7. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________