

SENATE BILL NO. 467

BY SENATOR REESE

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AN ACT

To amend and reenact R.S. 15:150(C), 152(B)(2) and (13), 161(A), (E)(11), (H)(1), and (I), 162(D) and (F), 167(E), 168(A) and (E)(3), 175(A)(1)(d) and (f), 176(C), 185.2(4) and (8), 186.2(4) and (8), and 186.3(B)(10), to enact R.S. 33:447.11.1, and to repeal R.S. 33:447.11, relative to indigent defender representation; to provide for the executive staff general qualifications; to provide for duties of the state public defender; to provide for powers and duties of the district public defenders; to provide for vacancies of the district public defenders; to provide for the Louisiana Public Defender Fund; to provide for the district indigent defender fund; to provide for proceedings to determine indigency; to provide for partial reimbursement by indigents; to provide for definitions; to provide for the Safe Return Representation Program; to provide for additional court costs in certain mayor's courts with proceeds remitted to applicable indigent defender funds; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 15:150(C), 152(B)(2) and (13), 161(A), (E)(11), (H)(1), and (I), 162(D) and (F), 167(E), 168(A) and (E)(3), 175(A)(1)(d) and (f), 176(C), 185.2(4) and (8), 186.2(4) and (8), and 186.3(B)(10) are hereby amended and reenacted to read as follows:

§150. Executive staff for office; general qualifications

* * *

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

* * *

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

* * *

1 B. The state public defender shall:

2 * * *

3 (2) Develop, present for the board's approval, and implement a strategic plan,
4 standards, and guidelines for the delivery of public defender services.

5 * * *

6 (13) ~~Assist the board in establishing~~ Establish ~~the standards and guidelines,~~
7 policies; and procedures for the statewide delivery of indigent defender services in
8 accordance with rules adopted by the office and as required by statute.

9 * * *

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

13 A. Except as otherwise provided for in this Section, the office shall ~~employ~~
14 ~~or~~ contract, for a period of up to five years, with a district public defender to provide
15 for the delivery and management of public defender services in each judicial district
16 through the office of the district public defender. The office of the district public
17 defender shall be a local body corporate with the power to sue and be sued, to
18 enter into contracts on such terms and conditions as it deems advisable, and
19 with all other general obligations and privileges of local political subdivisions.
20 The district public defender shall be the policymaker for the office of the
21 district public defender and shall be responsible for ensuring that the office of
22 the district public defender satisfies its obligations and privileges under
23 Louisiana law.

24 * * *

25 E. Each district public defender shall:

26 * * *

27 (11) Maintain a client workload for the ~~district office~~ of the district public
28 defender as determined by the state public defender.

29 * * *

30 H.(1) In an effort to maintain continuity of ~~indigent~~ public defender services

1 in each judicial district, any person ~~employed~~ **servi**ng as the chief indigent **district**
 2 **public** defender of a judicial district shall continue to ~~be employed by, or enter into~~
 3 a contract with; the office and serve as the district public defender of that district.

4 * * *

5 I. Notwithstanding any other provision of law to the contrary, any attorney
 6 ~~employed by or~~ under contract with the office, the district public defender, or
 7 nonprofit organization contracting with the office, district public defender, or the
 8 office to provide legal counsel to an indigent person in a criminal proceeding shall
 9 be licensed to practice law in the state of Louisiana. The provisions of this
 10 Subsection shall not be construed to prohibit the use of an attorney licensed to
 11 practice law in another state to provide legal counsel to an indigent person in a
 12 criminal proceeding on a pro bono basis or who is receiving compensation from a
 13 grant administered by the office or from a grant administered by any nonprofit
 14 organization contracting with the office, provided that the out-of-state attorney is
 15 authorized to perform those services by the Louisiana Supreme Court. The
 16 legislature hereby specifically states that the provisions of this Subsection are in no
 17 way intended to, nor shall they be, construed in any manner which will impair any
 18 contractual obligations heretofore existing on June 1, 2007, of any out-of-state
 19 attorney authorized by the Louisiana Supreme Court to practice law in this state to
 20 provide legal counsel to an indigent person in a criminal proceeding.

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

25 * * *

26 D. Within thirty days of receiving the nominations for the position of district
 27 public defender from the selection committee, the office shall ~~employ or~~ contract
 28 with a district public defender from the list of nominees submitted to the board.

29 * * *

30 F. Whenever a vacancy occurs for the position of district public defender in

1 any judicial district having a population of less than thirty thousand, or having less
 2 than four attorneys providing public defender services, the office shall evaluate the
 3 district and make a determination regarding the appropriateness of ~~employing or~~
 4 contracting with a district public defender or authorizing a district public defender
 5 from a contiguous judicial district to manage and supervise public defender services
 6 in that judicial district. If a decision is made by the office to ~~employ or~~ contract with
 7 a district public defender, the office shall use the selection process provided for in
 8 this Section to fill that vacancy.

9 * * *

10 §167. Louisiana Public Defender Fund

11 * * *

12 E. The office shall dedicate and disburse at least seventy-five percent of the
 13 entirety of its annual budget and its funds in the LPD Fund as defined in Subsection
 14 A of this Section each fiscal year to the offices of the district ~~defender offices~~ public
 15 defenders and their indigent defender funds as defined in R.S. 15:168(A) in the
 16 various judicial districts throughout the state. The provisions of this Subsection shall
 17 not apply to statutorily dedicated funds or funds received through the awarding of
 18 grants.

19 §168. Judicial district indigent defender fund

20 A. There is hereby created within each judicial district an indigent defender
 21 fund which shall be administered by the district public defender on behalf of the
 22 office of the district public defender for that judicial district and composed of
 23 funds provided for by this Section and such funds as may be appropriated or
 24 otherwise made available to it.

25 * * *

26 E. * * *

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

30 * * *

1 §175. Proceedings to determine indigency

2 A.(1) * * *

3 (d) If the court makes the preliminary determination that the accused is or
4 may be indigent, the court shall require the accused to make application to the office
5 of the district public defender ~~office~~ or an attorney appointed or under contract to
6 provide indigent defender services, who shall inquire further into the accused's
7 economic status and, upon determining that the accused is indigent, shall file a
8 certification thereof, in such form as the court may require and without paying costs
9 in advance, in the record of the proceeding or enroll as counsel.

10 * * *

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

23 * * *

24 §176. Partial reimbursement by indigents

25 * * *

26 C.(1) When an accused is initially determined to be indigent and appointed
27 counsel but subsequently hires private counsel, the court shall conduct a
28 contradictory hearing to determine the expenses of representing the accused incurred
29 by the office of the district ~~office~~ public defender or the service region, where
30 applicable. Upon determining the expenses incurred, the accused shall, within the

1 discretion of the court, be liable to reimburse the office of the district ~~office~~ **public**
2 **defender** or service region, where applicable, those expenses, upon a determination
3 that the accused was in fact not initially indigent. A judgment for the amount owed
4 may be recorded in the mortgage records in favor of the board for the payment of
5 money against the accused and may be enforced as provided by law.

6 (2) All funds received by the office of the district ~~office~~ **public defender**
7 shall be deposited into the judicial district indigent defender fund as provided for in
8 R.S. 15:168.

9 (3) Failure of the accused to disclose the full amount involved in the hiring
10 shall constitute grounds for contempt of court.

11 * * *

12 §185.2. Definitions

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

14 * * *

15 (4) "District public defender", "chief indigent defender", or "chief public
16 defender" means an attorney ~~employed by or~~ under contract with the office to
17 supervise service providers and enforce standards and guidelines within a judicial
18 district or multiple judicial districts.

19 * * *

20 (8) "Public defender" or "indigent defender" means an attorney employed by
21 or under contract with ~~the board~~, the office of the district public defender; or a
22 nonprofit organization contracting with the board or the district public defender to
23 provide representation, including curatorship appointments, to indigent or absent
24 parents in child abuse and neglect cases as required by the provisions of the
25 Children's Code.

26 * * *

27 §186.2. Definitions

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

30 * * *

1 (4) "District public defender", "chief indigent defender", or "chief public
2 defender" means an attorney ~~employed by or~~ under contract with the ~~board~~ **office** to
3 supervise service providers and enforce standards and guidelines within a judicial
4 district or multiple judicial districts.

5 * * *

6 (8) "Public defender" or "indigent defender" means an attorney employed by
7 or under contract with the office; ~~of~~ the district public defender; or a nonprofit
8 organization contracting with the office ~~or~~ **of** the district public defender to provide
9 representation as required by the provisions of the Children's Code.

10 * * *

11 §186.3. Safe Return Representation Program; duties of the office; subject to
12 appropriation

13 * * *

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

15 * * *

16 (10) ~~Employ and train~~ **Train** attorneys and other staff as may be necessary
17 to carry out the functions of the program. All attorneys representing indigent children
18 through this program shall be licensed to practice law in Louisiana and qualified in
19 accordance with the standards and guidelines adopted by rule of the board.

20 * * *

21 Section 2. R.S. 33:447.11.1 is hereby enacted to read as follows:

22 **§447.11.1. Mayor's court; certain municipalities; additional court costs**

23 **A. Notwithstanding any other provision of law to the contrary, the**
24 **mayors of the municipalities of DeQuincy, Iowa, Vinton, and Westlake may**
25 **impose additional court costs not to exceed twenty dollars for each offense, as**
26 **defined by ordinance, on any defendant convicted of a violation of a municipal**
27 **ordinance or traffic violation, provided that fifty percent of any additional court**
28 **cost collected pursuant to this Section shall be remitted to the Fourteenth**
29 **Judicial District's Indigent Defender Fund.**

30 **B. Notwithstanding any provision of law to the contrary, the additional**

1 costs levied pursuant to R.S. 40:2264 and 2266.1 in excess of ten dollars per
 2 offense shall be optional in any mayor’s court that actually levies the additional
 3 costs authorized pursuant to Subsection A of this Section.

4 Section 3. R.S. 33:447.11 is hereby repealed in its entirety.

5 Section 4. This Act shall become effective upon signature by the governor or, if not
 6 signed by the governor, upon expiration of the time for bills to become law without signature
 7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 9 effective on the day following such approval.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____