
DIGEST

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HB 605 Original

2015 Regular Session

Seabaugh

Abstract: Provides relative to the provision of indigent defender services in capital cases.

Present law (Art. I, Sec. 13 of the La. Const. and the 6th and 14th Amendments of the U.S. Constitution) provides that at "each stage of the proceedings, every person is entitled to assistance of counsel of his choice, or appointed by the court if he is indigent and charged with an offense punishable by imprisonment." Present law (Art. I, Sec. 13 of the La. Const.) further requires that the legislature provide for "a uniform system for securing and compensating qualified counsel for indigents".

Present law provides for the constitutionally required delivery of public defender services in La. through the La. Public Defender Act which created and established the La. Public Defender Board that supervises, administers, and delivers public defender services, including services in capital cases, statewide.

The present law La. Public Defender Act provides the Board with certain powers, duties, and responsibilities necessary to carry out the provisions of the Act, provides for the La. Public Defender Fund, and authorizes the La. Public Defender Board to use monies in the fund to implement the Act and public defender service programs statewide.

Effective upon signature of the governor, proposed law does the following:

- (1) Establishes the Committee for the Provision of Indigent Defender Services in Capital Cases, hereinafter referred to as the "committee", provides for the membership of the committee, provides relative to the meetings and compensation of the committee, and provides for the duties, powers, and responsibilities of the committee.
- (2) Requires the committee to study and develop a master plan for the establishment, implementation, administration, and oversight of a statewide system for providing indigent defender services in capital cases in all courts of this state. Requires the master plan to include recommendations for all of the following:
 - (a) Mandatory statewide public defender standards and guidelines for capital cases.
 - (b) Mandatory qualifications for capital public defenders.
 - (c) Constitutionally appropriate workloads.

- (d) Performance supervision and evaluation protocols and methods for monitoring and evaluating compliance with the mandatory standards and guidelines for capital cases.
 - (e) Appropriate sanctions for the failure to adhere to the mandatory standards and guidelines.
 - (f) Policies and procedures for ensuring that cases are handled pursuant to the Rules of Professional Conduct.
 - (g) Methods for ensuring that data is collected and maintained in a uniform and timely manner through the state.
 - (h) Administrative salary ranges for compensation of attorneys delivering capital public defender services throughout the state so that compensation is based on objective policymaking, including years of services, 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.
 - (i) Minimum salary and compensation standards for attorneys, investigators, paraprofessionals, and any and all other staff, employees, or contractors necessary for the adequate provision of capital indigent defender services and comparable to other positions of similar stature through the state.
 - (j) The method by which an attorney is appointed to represent and provide legal counsel to the defendant in a capital case.
- (3) Requires the committee to present the master plan to the La. Supreme Court for its review and approval.
 - (4) Authorizes the committee to employ such personnel as may be necessary in the operation of the business of the committee and fix their compensation and to enter into a contract or contracts providing for office space, telephone, internet, office machines, or other necessary components for the completion of any work required of the committee.

Proposed law provides that the following provisions of proposed law shall become effective upon (1) approval of the master plan by the La. Supreme Court and (2) the enactment of legislation by the legislature, or the amendment or enactment of rules by the La. Supreme Court, that establishes and implements the statewide system for providing indigent defender services in capital cases as set forth in the master plan:

- (1) Removes all powers, duties, functions, and responsibilities of the La. Public Defender Board relative to capital cases and transfers such powers, duties, functions, and responsibilities to the committee, the La. Supreme Court, and the district courts for each judicial district in the state pursuant to the provisions of proposed law.

- (2) Enacts the La. Capital Defense Services Act and provides that the statewide system for providing public defender services in capital cases throughout the state of Louisiana shall be in accordance with the provisions of the La. Capital Defense Services Act.
- (3) Requests the La. Supreme Court to enact or amend its rules to provide for establishment and implementation of the statewide system for providing indigent defender services in capital cases as set forth in the master plan.
- (4) Creates the La. Capital Defense Services Fund, herein after referred to as the "LCDS Fund". The source of monies in the LCDS Fund is an amount transferred by the state treasurer into the LCDS Fund equal to 25% of any monies deposited into the La. Public Defender Fund or any other monies deposited or appropriated into the fund including grants, donations, and gifts not otherwise prohibited by law. Proposed law further provides that monies in the fund shall be used by the judicial administrator's office of the La. Supreme Court to administer the statewide system of providing public defender services in capital cases to all judicial districts in the state pursuant to proposed law.

(Amends R.S. 15:142(B)(intro. para.), (C), and (D), 146(A)(1), 147(A) and (C)(1), 148(B)(1)(intro. para.), (2)(intro. para.), (3), (4), (5), (7), (8), (9), (10), (11), (12), (13), and (15), 152(B)(1), (2), (5), (8), (13), and (15), 153(B)(1), (2), (3), (4), and (6), 155(B)(4) and (8), 157(B)(1) and (2) and (C), 159(D), 160(B)(1), (2), (5), and (7), 161(A) and (E)(1), (6), (7), (8), (9), and (13), 164(B), (C), and (F)(1), 165(A), (B)(intro. para.) and (3), and (E), and 167(C); Adds R.S. 15:184, 184.1, 184.2, 184.3, 184.4, 184.5, 184.6, 184.7, and 184.8; Repeals R.S. 15:169, 178, and 182)