

2015 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 196

BY REPRESENTATIVE SEABAUGH

CRIMINAL/PROCEDURE: Directs the creation of an Indigent Defense Review Committee

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A CONCURRENT RESOLUTION

To authorize and direct the creation of an Indigent Defense Review Committee, within the Louisiana Commission on Law Enforcement and Criminal Justice, to study the constitutionally required standards of indigent criminal defense, the fiscal priorities of the Louisiana Public Defender Board in relation to its mission, and the composition of the Louisiana Public Defender Board in consideration of potential conflicts of interest and fiduciary responsibility to the state of Louisiana, considering the limited fiscal resources of the state of Louisiana.

WHEREAS, the Louisiana Supreme Court has the sole authority to regulate the practice of law in the state of Louisiana; and

WHEREAS, the Legislature of Louisiana has the sole authority to appropriate funding for legislatively created state boards; and

WHEREAS, the assistance of counsel in a person's defense and the appointment of counsel if indigent is guaranteed by the Sixth Amendment to the Constitution of the United States and by Article I, Sec. 13 of the Louisiana Constitution; and

WHEREAS, the federal and state constitutions require indigent defendants to be provided with the assistance of counsel at taxpayer's expense at a level which comports with but does not exceed the standards required by the Constitutions; and

WHEREAS, on August 15, 2007, the Louisiana Legislature provided for statewide standards and guidelines for indigent defense through the Louisiana Public Defender Act of 2007; and

1           WHEREAS, the Louisiana Legislature appropriates approximately \$33 million per  
2 year for the Louisiana Public Defender Board (LPDB) in excess of funds generated at the  
3 local level; and

4           WHEREAS, the LPDB spends approximately \$11 million of state funding on capital  
5 cases which makes up less than one half of one percent of its total cases, and then routinely  
6 requests to stay capital and other proceedings because of a lack of funding; and

7           WHEREAS, the LPDB determines how attorneys are appointed to indigent  
8 defendants, regulates how attorneys are paid to represent indigents, and authorizes the  
9 manner in which attorney services are delivered in indigent cases including capital cases;  
10 and

11           WHEREAS, the LPDB has directed local public defenders in multiple districts to  
12 "enter a restriction of services" immediately and "[b]y the end of 2016, LPDB expects no  
13 less than 24 of the state's 42 districts will become insolvent and enter restriction of services";  
14 and

15           WHEREAS, local public defenders are authorized by R.S. 15:175 to collect a forty-  
16 dollar fee from applicants to support their local office, but are discouraged from doing so by  
17 policies of the LPDB and a corresponding reduction in distributions from state LPDB  
18 District Assistance Funds; and

19           WHEREAS, one of the primary goals of the Louisiana Public Defender Act of 2007  
20 was to ensure that adequate public funding of the right to counsel is provided and managed  
21 in a cost-effective and fiscally responsible manner; and

22           WHEREAS, additional input from other criminal justice stakeholders may facilitate  
23 a more fair, efficient, impartial, and constitutional operation of the public defender system.

24           THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby  
25 authorize and direct the creation of an Indigent Defense Review Committee, within the  
26 Louisiana Commission on Law Enforcement and Criminal Justice, to study, evaluate,  
27 analyze, and undertake a comprehensive review as follows:

28           (1) To study the standards adopted by the LPDB in relation to the constitutionally  
29 required standards of indigent criminal defense matters in light of the limited fiscal resources  
30 of the state of Louisiana.

1           (2) To study the fiscal priorities of the LPDB in relation to its mission considering  
2 the limited fiscal resources of the state of Louisiana.

3           (3) To study the composition of the LPDB in consideration of potential conflicts of  
4 interest and fiduciary responsibility to the state of Louisiana considering the limited fiscal  
5 resources of the state of Louisiana.

6           BE IT FURTHER RESOLVED that the Indigent Defense Review Committee is  
7 hereby created. The membership of the committee shall be as follows:

8           (1) Two retired district judges with experience in capital cases.

9           (2) A member of the LPDB or his designee.

10          (3) A former local public defender with experience in capital cases.

11          (4) A retired district attorney with experience in capital cases.

12          (5) A retired assistant district attorney with experience in capital cases.

13          (6) The legislative auditor or his designee.

14          BE IT FURTHER RESOLVED that all membership appointments and the chairman  
15 of the committee shall be designated by the chairman of the Louisiana Commission on Law  
16 Enforcement and Criminal Justice.

17          BE IT FURTHER RESOLVED that the committee is directed to hold its first  
18 meeting no later than July 15, 2015, and shall meet no less than five times, at the call of the  
19 chairman of the Louisiana Commission on Law Enforcement and Criminal Justice.

20          BE IT FURTHER RESOLVED that the committee shall prepare and submit a final  
21 written report that contains a detailed statement of the findings and recommendations to the  
22 Legislature and the Louisiana Supreme Court no later than thirty days prior to the convening  
23 of the 2016 Regular Legislative Session.

24          BE IT FURTHER RESOLVED that the LPDB provide any and all assistance and  
25 information requested by the committee.

26          BE IT FURTHER RESOLVED that a suitable copy of this Resolution shall be  
27 transmitted to all justices of the Louisiana Supreme Court and the governor, and that the  
28 committee be abolished upon submission of its written report.

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**DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HCR 196 Original

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Seabaugh

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