

2015 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 196

BY REPRESENTATIVE SEABAUGH

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

1 A CONCURRENT RESOLUTION

2 To authorize and direct the creation of an Indigent Defense Review Committee, within the

3 Louisiana Commission on Law Enforcement and Criminal Justice, to study the

4 constitutionally required standards of indigent criminal defense, the fiscal priorities

5 of the Louisiana Public Defender Board in relation to its mission, and the

6 composition of the Louisiana Public Defender Board in consideration of potential

7 conflicts of interest and fiduciary responsibility to the state of Louisiana, considering

8 the limited fiscal resources of the state of Louisiana.

9 WHEREAS, the Louisiana Supreme Court has the sole authority to regulate the

10 practice of law in the state of Louisiana; and

11 WHEREAS, the Legislature of Louisiana has the sole authority to appropriate

12 funding for legislatively created state boards; and

13 WHEREAS, the assistance of counsel in a person's defense and the appointment of

14 counsel if indigent is guaranteed by the Sixth Amendment to the Constitution of the United

15 States and by Article I, Sec. 13 of the Louisiana Constitution; and

16 WHEREAS, on August 15, 2007, the Legislature of Louisiana provided for statewide

17 standards and guidelines for indigent defense through the Louisiana Public Defender Act of

18 2007; and

19 WHEREAS, the Legislature of Louisiana appropriates approximately \$33 million per

20 year for the Louisiana Public Defender Board (LPDB) in addition to funds generated at the

21 local level; and

1 WHEREAS, the LPDB spends approximately \$11 million of state funding on capital
2 cases, which makes up less than one half of one percent of its total cases; and

3 WHEREAS, the LPDB and local public defenders determine how attorneys are
4 appointed to indigent defendants, regulate how attorneys are paid to represent indigents, and
5 authorize the manner in which attorney services are delivered in indigent cases; and

6 WHEREAS, the LPDB has adopted a regulatory scheme under which local public
7 defenders in multiple districts may "enter a restriction of services" immediately and "[b]y
8 the end of 2016, LPDB projects no less than 24 of the state's 42 districts will become
9 insolvent and enter restriction of services"; and

10 WHEREAS, local public defenders are authorized by R.S. 15:175 to collect a forty-
11 dollar fee from applicants to support their local office, but are doing so in a small fraction
12 of cases; and

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

16 WHEREAS, additional input from other criminal justice stakeholders may facilitate
17 a more fair, efficient, impartial, and constitutional operation of the public defender system;
18 and

19 WHEREAS, the state of Louisiana has limited fiscal resources.

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

24 (1) To study the caseload standards and guidelines adopted by the LPDB in relation
25 to the constitutionally required standards of indigent criminal defense matters in light of the
26 limited fiscal resources and the Louisiana Rules of Professional Conduct.

27 (2) To study the fiscal priorities of the LPDB.

28 (3) To study the composition and structure of the LPDB.

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

- 1 (1) Two retired district judges with experience in capital cases.
- 2 (2) A member of the LPDB or his designee.
- 3 (3) A former local public defender with experience in capital cases.
- 4 (4) A retired district attorney with experience in capital cases.
- 5 (5) A retired assistant district attorney with experience in capital cases.
- 6 (6) The legislative auditor or his designee.

7 BE IT FURTHER RESOLVED that all membership appointments and the chairman
 8 of the committee shall be designated by the chairman of the Louisiana Commission on Law
 9 Enforcement and Criminal Justice from a list of candidates mutually agreed upon and
 10 submitted by the chief public defender and the president of the Louisiana District Attorney's
 11 Association.

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

15 BE IT FURTHER RESOLVED that the committee shall prepare and submit a final
 16 written report that contains a detailed statement of the findings and recommendations to the
 17 legislature and the Louisiana Supreme Court no later than thirty days prior to the convening
 18 of the 2016 Regular Session.

19 BE IT FURTHER RESOLVED that the LPDB provide any and all assistance and
 20 information requested by the committee within the law and the Louisiana Rules of
 21 Professional Conduct.

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

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)]

HCR 196 Engrossed 2015 Regular Session Seabaugh

Directs the creation of an Indigent Defense Review Committee, within the La. Commission on Law Enforcement and Criminal Justice, to study, considering the constitutionally required standards of indigent criminal defense, the fiscal priorities of the La. Public Defender Board

in relation to its mission, and the composition of the La. Public Defender Board in consideration of potential conflicts of interest and fiduciary responsibility to the state.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Judiciary to the original bill:

1. Change the provision which states that the legislature appropriates funding for the LPDB Board in excess of funds generated at the local level to funds appropriated in addition to funds generated at the local level.
2. Make changes relative to the stated policies, duties, and responsibilities of the LPDB.
3. Add a statement that the state of La. has limited fiscal resources.
4. Clarify the directive of the Indigent Defense Review Committee (committee) as it relates to the caseload standards and guidelines of the LPDB and its composition and structure in accordance with the La. Rules of Professional Conduct.
5. Remove all references to the consideration by the committee of the limited fiscal resources of the state when conducting its study.
6. Add a requirement that the membership appointments are made from a list of candidates mutually agreed upon and submitted by the chief public defender and the president of the La. District Attorney's Association.