

2015 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 196

BY REPRESENTATIVE SEABAUGH

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 caseload standards and guidelines adopted by the Louisiana Public Defender Board in relation to the constitutionally required standards of indigent criminal defense matters in light of the limited fiscal resources and Louisiana Rules of Professional Conduct, the fiscal priorities and the composition and structure of the Louisiana Public Defender Board.

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

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

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

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

WHEREAS, the LPDB has adopted a regulatory scheme under which local public defenders in multiple districts may "enter a restriction of services" and LPDB projects that no less than 24 of the state's 42 districts will become insolvent and enter restriction of services by the end of 2016; and

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

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

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

WHEREAS, the state of Louisiana has limited fiscal resources.

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

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

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

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

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

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

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

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

- (4) A retired district attorney with experience in capital cases.
- (5) A retired assistant district attorney with experience in capital cases.
- (6) The legislative auditor or his designee.
- (7) The secretary of the Department of Children and Family Services or his designee.

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

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

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

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

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

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE