

2016 Regular Session

HOUSE BILL NO. 818

BY REPRESENTATIVE MACK

CRIMINAL/PROCEDURE: Amends provisions of law regarding the provision of indigent defense services

1 AN ACT

2 To amend and reenact R.S. 15:143(14), 146(A)(3), (B)(1) and (3), and (C), 149.2(D),
3 150(A), (C), and (E) and to enact R.S. 15:148(D), 150(F), (G), and (H), 162(I) and
4 167(E), and to repeal R.S. 15:146(B)(4), (5), and (6) and (D), relative to indigent
5 defender services; to amend provisions of the Louisiana Public Defender Act; to
6 amend membership requirements for members of the State Public Defender Board;
7 to reduce the number of members on the board; to provide with respect to the powers
8 and duties of the board; to provide for the removal of board members; to provide for
9 the authority of the board; to provide for rulemaking; to provide for the salaries of
10 board members; to provide with respect to the hiring of executive staff positions for
11 the board; to provide with respect to the dispersal of funds; to provide with respect
12 to the delivery of indigent defender services; to provide for definitions; and to
13 provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 15:143(14), 146(A)(3), (B)(1) and (3), and (C), 149.2(D), 150(A),
16 (C), and (E) are hereby amended reenacted and R.S. 15:148(D), 150(F), (G), and (H), 162(I)
17 and 167(E) are hereby enacted to read as follows:

18 §143. Definitions

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

20 * * *

1 (d) ~~The governor shall appoint one member representing the Louisiana State~~
2 ~~University Paul M. Hebert Law Center who is an active employee, retired employee~~
3 ~~or has an academic association with the Paul M. Hebert Law Center.~~ The Louisiana
4 Association of Criminal Defense Lawyers shall provide the chief justice of the
5 Louisiana Supreme Court with three candidates for appointment to the board as the
6 local defender representative, to serve for a renewable term of three years.

7 ~~(e) The governor shall appoint one member representing the Loyola~~
8 ~~University School of Law who is an active employee, retired employee or has an~~
9 ~~academic association with the Loyola University School of Law.~~ The appointees of
10 the speaker of the House of Representatives and president of the Senate, and the
11 Louisiana Association of Criminal Defense Lawyers shall be subject to confirmation
12 by the Senate.

13 ~~(f) The governor shall appoint one member representing the Southern~~
14 ~~University Law Center who is an active employee, retired employee or has an~~
15 ~~academic association with the Southern University Law Center.~~

16 ~~(g) The governor shall appoint one member representing the Tulane~~
17 ~~University School of Law who is an active employee, retired employee or has an~~
18 ~~academic association with the Tulane University School of Law.~~

19 ~~(h) The president of the Louisiana State Bar Association shall appoint two~~
20 ~~members.~~

21 ~~(i) The president of the Louisiana Chapter of the Louis A. Martinet Society~~
22 ~~shall appoint one member.~~

23 ~~(j) The chairman of the Louisiana State Law Institute's Children Code~~
24 ~~Committee shall appoint one member.~~

25 ~~(k) The executive director of the Louisiana Interchurch Conference shall~~
26 ~~appoint one member.~~

27 ~~(l) All appointments to the board shall be subject to confirmation by the~~
28 ~~Senate.~~

1 ~~(4) A vacancy on the board shall be filled in the same manner as the original~~
2 ~~appointment.~~

3 ~~(5) Members of the board shall serve staggered terms of four years, after~~
4 ~~initial terms as follows:~~

5 ~~(a) Two members shall be immediately appointed to a four-year term by the~~
6 ~~chief justice of the Louisiana Supreme Court.~~

7 ~~(b) One member shall be immediately appointed to a two-year term by the~~
8 ~~governor representing the Louisiana State University Paul M. Hebert Law Center.~~

9 ~~(c) One member shall be immediately appointed to a three-year term by the~~
10 ~~governor representing the Loyola University School of Law.~~

11 ~~(d) One member shall be immediately appointed to a three-year term by the~~
12 ~~governor representing the Southern University Law Center.~~

13 ~~(e) One member shall be immediately appointed to a four-year term by the~~
14 ~~governor representing the Tulane University School of Law.~~

15 ~~(f) Upon the first expiration of the term or resignation by a current appointee~~
16 ~~of the governor, one member shall be appointed to a four-year term by the executive~~
17 ~~director of the Louisiana Interchurch Conference.~~

18 ~~(g) Upon the first expiration of the term or resignation by a current appointee~~
19 ~~of the president of the Senate, one member shall be appointed to a two-year term by~~
20 ~~the president of the Louisiana State Bar Association.~~

21 ~~(h) Upon the second expiration of the term or resignation by a current~~
22 ~~appointee of the president of the Senate, one member shall be appointed to a four-~~
23 ~~year term by the president of the Louisiana State Bar Association.~~

24 ~~(i) Upon the third expiration of the term or resignation by a current appointee~~
25 ~~of the president of the Senate, one member shall be appointed to a three-year term~~
26 ~~by the president of the Senate.~~

27 ~~(j) Upon the first expiration of the term or resignation by a current appointee~~
28 ~~of the speaker of the House of Representatives, one member shall be appointed to a~~

1 ~~two-year term by the president of the Louisiana Chapter of the Louis A. Martinet~~
2 ~~Society.~~

3 ~~(k) Upon the second expiration of the term or resignation by a current~~
4 ~~appointee of the speaker of the House of Representatives, one member shall be~~
5 ~~appointed to a four-year term by the chairman of the Louisiana State Law Institute's~~
6 ~~Children Code Committee.~~

7 ~~(l) Upon the third expiration of the term or resignation by a current appointee~~
8 ~~of the speaker of the House of Representatives, one member shall be appointed to a~~
9 ~~three-year term by the speaker of the House of Representatives.~~

10 ~~(6) In addition there shall be two ex officio, nonvoting members of the board~~
11 ~~who shall not be counted or be permitted to be counted for purposes of the number~~
12 ~~of members necessary to take board action or the number of members necessary to~~
13 ~~establish a quorum. In all other respects they have all the duties, authority,~~
14 ~~requirements, and benefits, except per diem, of any other board member. Each of the~~
15 ~~following organizations shall appoint one such member:~~

16 ~~(a) The Louisiana Association of Criminal Defense Lawyers.~~

17 ~~(b) The Louisiana Public Defender's Association.~~

18 ~~C. Nothing in this Section shall limit the length of the term for any board~~
19 ~~members serving on the Indigent Defense Assistance Board on August 15, 2007,~~
20 ~~except that they may be removed for just cause, or as provided in Subsection D of~~
21 ~~this Section. However, members who have not previously been confirmed by the~~
22 ~~Senate, shall be subject to Senate confirmation.~~

23 ~~D.(1) A member may be removed for excessive absences from meetings.~~
24 ~~For the purposes of this Subsection, "excessive absences" means failure to attend~~
25 ~~three consecutive meetings or more than fifty percent of the meetings of the board~~
26 ~~conducted during a year. Three members shall suffice for a quorum so long as the~~
27 ~~chairman of the board is present for the meeting or has certified his approval of the~~
28 ~~agenda.~~

1 pursuant to R.S. 15:150(G) shall be paid in addition to the mandatory seventy-five
2 percent of dedicated and disbursed funds required in this Subsection.

3 * * *

4 Section 2. R.S. 15:146(B)(4), (5), and (6) and (D) are hereby repealed in its entirety.

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)]

HB 818 Original

2016 Regular Session

Mack

Abstract: Amends provisions of law regarding the Louisiana Public Defender Board.

Present law (R.S. 15:146) creates the Louisiana Public Defender Board (LPDB) and provides that the board shall consist of eleven members.

Proposed law removes all existing board members serving on the effective date of proposed law and reduces the number of board members from 11 to 7.

Proposed law provides that board members shall be compensated on the same basis and in the same amount as the Louisiana State University Board of Supervisors.

Present law (R.S. 15:147) provides that except for the inherent regulatory authority of the Louisiana Supreme Court provided for in La. Const. Art. V, §5 regarding the regulation of the practice of law, the LPDB shall have all regulatory authority, control, supervision, and jurisdiction, including auditing and enforcement, and all power incidental or necessary to such regulatory authority, control, supervision, and jurisdiction over all aspects of the delivery of public defender services throughout the courts of the state of Louisiana.

Proposed law retains present law.

Present law (R.S. 15:148) provides for the adoption of rules to implement the provisions of present law and requires that the rules be adopted pursuant to the APA. Present law provides that oversight of the rules shall be conducted by the House Committee on Administration of Criminal Justice and the Senate Committee on Judiciary C.

Proposed law retains present law and provides that it will retain professionals necessary to provide a report to the legislative committees in the 2018 Regular Session.

Present law (R.S. 15:150) provides that the board shall hire an executive staff consisting of a state public defender, a deputy public defender-director of training, a deputy public defender-director of juvenile defender services, a budget officer, a technology and management officer, a trial-level compliance officer, and a juvenile justice compliance officer.

Present law changes present law to allow the board discretion in hiring executive staff.

Present law (R.S. 15:167) provides for the creation of the Louisiana Public Defender Fund and the composition of the fund, administration of the fund, and use of monies from the fund.

Present law (R.S. 15:168) further provides that there is hereby created within each judicial district an indigent defender fund which shall be administered by the district public defender.

Proposed law retains these provisions of present law and further provides that the board shall dedicate and disburse 75% of the entirety of its annual budget and its funds in the Louisiana Public Defender Fund each fiscal year to the district defender offices and their indigent defender funds in the various judicial districts throughout the state.

Proposed law provides that any funds disbursed to any district defender shall be paid in addition to the mandatory 75% of dedicated and disbursed funds required by proposed law.

(Amends R.S. 15:143(14), 146(A)(3), (B)(1) and (3) and (C), 149.2(D), 150(A), (C), and (E); Adds R.S. 15:148(D), 150(F), (G), and (H), 162(I) and 167(E); Repeals R.S. 15:146(D)(B)(4), (5), and (6))