

2020 First Extraordinary Session

SENATE RESOLUTION NO. 20

BY SENATOR BARROW

PUBLIC DEFENDER. Requests the study of the feasibility of establishing an optimal funding mechanism for the Louisiana Public Defender Board.

1 A RESOLUTION

2 To establish a group to study and make recommendations regarding the feasibility of
3 establishing an optimal funding mechanism for the Louisiana Public Defender
4 Board.

5 WHEREAS, the Louisiana Public Defender Board was created and established as a
6 state agency within the office of the governor to provide for the supervision, administration,
7 and delivery of a statewide public defender system, which shall deliver uniform public
8 defender services in all courts in this state; and

9 WHEREAS, Article I, Section 13 of the Constitution of Louisiana of 1974, in
10 accordance with the state's obligation under the Sixth and Fourteenth Amendments of the
11 United States Constitution, provides that at "each stage of the proceedings, every person is
12 entitled to assistance of counsel of his choice, or appointed by the court if he is indigent and
13 charged with an offense punishable by imprisonment", and Section 13 further mandates that
14 the legislature shall provide for "a uniform system for securing and compensating qualified
15 counsel for indigents"; and

16 WHEREAS, in recognition of its mandates under both the United States and
17 Louisiana constitutions, it is the obligation of the legislature to provide for the general
18 framework and resources necessary to provide for the delivery of public defender services

1 in this state; and

2 WHEREAS, in 2007, the legislature enacted the Louisiana Public Defender Act to
3 provide for all of the following:

4 (1) Ensuring that adequate public funding of the right to counsel is provided and
5 managed in a cost-effective and fiscally responsible manner,

6 (2) Ensuring that the public defender system is free from undue political and judicial
7 interference and free of conflicts of interests,

8 (3) Establishing a flexible delivery system that is responsive to and respectful of
9 jurisdictional variances and local community needs and interests,

10 (4) Providing that the right to counsel is delivered by qualified and competent
11 counsel in a manner that is fair and consistent throughout the state,

12 (5) Providing for statewide oversight with the objective that all indigent criminal
13 defendants who are eligible to have appointed counsel at public expense receive effective
14 assistance of counsel at each critical stage of the proceeding,

15 (6) Providing for the ability to collect and verify objective statistical data on public
16 defense workload and other critical data needed to assist state policymakers in making
17 informed decisions on the appropriate funding levels to ensure an adequate service delivery
18 system,

19 (7) Providing for the development of uniform binding standards and guidelines for
20 the delivery of public defender services and for an effective management system to monitor
21 and enforce compliance with such standards and guidelines; and

22 WHEREAS, the right to a public defender has been guaranteed to poor defendants
23 in criminal court since the landmark 1963 Supreme Court decision *Gideon v. Wainwright*,
24 but advocates say that right has been eroded by a lack of funding, which has led to a scarcity
25 of resources, staggering caseloads, and in some cases, the agencies have rejected clients
26 because they couldn't afford to defend them; and

27 WHEREAS, Louisiana funds representation for noncapital defendants through
28 legislative appropriations at the state level, supplemented by traffic tickets and other local
29 fines assessed by each defender district; and

30 WHEREAS, about eighty-five percent of criminal defendants in 2016 qualified for

1 a court-appointed lawyer and thirty-three of the state's forty-two public defender offices
2 started turning away cases they no longer had the resources to handle, arguing that whatever
3 legal assistance they could provide would be so ineffective as to violate the defendant's
4 constitutional rights anyway; and

5 WHEREAS, in 2016, the Louisiana State Public Defender was a defendant in the
6 federal case *Yarls v. Bunton*, which challenged the constitutionality of the Louisiana public
7 defenders' practice of placing indigent, noncapital defendants on wait lists for appointed
8 counsel due to chronic budgetary shortfalls, thus violating poor defendants' Sixth and
9 Fourteenth Amendments rights to a speedy trial and to assistance of counsel; and

10 WHEREAS, in order to achieve full realization of the Louisiana Public Defender's
11 Act of 2007, requires thoughtful consideration by a group to study and make
12 recommendations regarding the feasibility of establishing an optimal funding mechanism
13 for the Louisiana Public Defender Board.

14 THEREFORE, BE IT RESOLVED that the Senate of the Legislature of Louisiana
15 does hereby establish the Louisiana Public Defender Board Optimal Funding Group to study
16 the feasibility of establishing an optimal funding mechanism to address funding issues of the
17 Louisiana Public Defender Board and to report all such matters to the Senate.

18 BE IT FURTHER RESOLVED that the Louisiana Public Defender Board Optimal
19 Funding Group shall be comprised of the following members:

20 (1) The governor shall appoint six members, one from his staff and one from each
21 appellate court district.

22 (2) The chief justice of the Supreme Court of Louisiana shall appoint four members,
23 one member shall be a juvenile justice advocate, one member shall be a retired judge with
24 criminal law experience, and two members shall be at-large.

25 (3) The president of the Senate shall appoint one member.

26 (4) The president of the Louisiana State Bar Association, or his designee.

27 (5) The chairman of the Louisiana State Law Institute's Children's Code Committee,
28 or his designee.

29 (6) The chairman of the Senate Committee on Finance, or his designee.

30 (7) The chairman of the Senate Committee on Judiciary B, or his designee.

1 BE IT FURTHER RESOLVED that the initial meeting of the study group shall be
2 called by the president of the Louisiana Senate. The president of the Senate appointee shall
3 chair the study group and at its initial meeting, the study group shall elect other officers as
4 it shall deem necessary. The first meeting shall take place no later than September 15, 2020;
5 the Louisiana Senate shall provide staff support.

6 BE IT FURTHER RESOLVED that members of this study group shall serve without
7 compensation, except per diem or expense reimbursement to which they may be individually
8 entitled.

9 BE IT FURTHER RESOLVED that a total membership shall constitute a quorum
10 of the study group and any official action by the study group shall require an affirmative vote
11 of a majority of the quorum present and voting.

12 BE IT FURTHER RESOLVED that the study group shall meet as necessary and shall
13 report its findings to the Senate not later than April 1, 2021.

14 BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
15 governor, the chief justice of the Louisiana Supreme Court, the president of the Louisiana
16 State Bar Association, and the chairman of the Louisiana State Law Institute's Children's
17 Code Committee.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Michael Bell.

DIGEST

SR 20 Original

2020 First Extraordinary Session

Barrow

Establishes a group to study and make recommendations regarding the feasibility of
establishing an optimal funding mechanism for the Louisiana Public Defender Board.

Provides that the study committee is to be comprised of the following:

- (1) The governor shall appoint six members, one member from his staff, and one from each appellate court district.
- (2) The chief justice of the Supreme Court of Louisiana shall appoint four members, one member shall be a juvenile justice advocate, one member shall be a retired judge with criminal law experience, and two members shall be at-large.
- (3) The president of the Senate shall appoint one member.
- (4) The president of the Louisiana State Bar Association, or his designee.
- (5) The chairman of the Louisiana State Law Institute's Children's Code Committee, or his designee.

(6) The chairman of the Senate Committee on Finance, or his designee.

(7) The chairman of the Senate Committee on Judiciary B, or his designee.

Provides that the president of the Senate appointee is to chair the study group and at its initial meeting, the study group shall elect other officers as it shall deem necessary. Further provides that the first meeting must take place no later than September 15, 2020, and the Louisiana Senate will provide staff support.

Specifies that the members of the study group serve without compensation, except for such per diem and reimbursement to which they may be individually entitled.

Provides that the study group is to meet as necessary and is to report its findings to the legislature not later than April 1, 2021.