

1 Section 1. R.S. 15:142(C) and (F), 143, 146, 147, 148, 149.1, 152, 166, 167, and 168
2 are hereby amended and reenacted and R.S. 15:142(G) and 152.1 are hereby enacted to read
3 as follows:

4 §142. Legislative findings

5 * * *

6 C. The legislature recognizes that the uniform application of statewide
7 standards and guidelines to be established by the ~~Louisiana Public Defender Board~~
8 Office of the State Public Defender and Justice Investment is an important means of
9 achieving a more consistent delivery of quality representation throughout the state.
10 To that end, it is the express intention of the legislature that the Louisiana Public
11 Defender Act of 2007 is designed, to the extent practicable and feasible, to provide
12 for the delivery of public defender services which meet the requirements established
13 by *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)
14 and its progeny as adopted by the Louisiana Supreme Court.

15 * * *

16 F. It is the express intention of the legislature that the ~~Louisiana Public~~
17 ~~Defender Board~~ Office of the State Public Defender and Justice Investment respect
18 local differences in practice and custom regarding the delivery of public defender
19 services. The provisions of this Part are to be construed to preserve the operation of
20 district public defender ~~programs~~ offices which provide effective assistance of
21 counsel and meet performance standards in whatever form of delivery that local
22 district has adopted, provided that method of delivery is consistent with standards
23 and guidelines adopted by the ~~board~~ office pursuant to rules and as required by
24 statute.

25 G. The office shall not be obligated to pay any monies as contemplated by
26 the court in *State v. Touchet*, 642 So.2d 1213 (La. 1994), unless the accused is
27 represented by a public defender.

28 §143. Definitions

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

1 (1) ~~"Board" means the Louisiana Public Defender Board authorized to~~
2 ~~regulate public defender services.~~

3 (2) ~~"Board office" means the headquarters of the board located in East Baton~~
4 ~~Rouge Parish.~~

5 (3) ~~"District indigent defender fund" means the judicial district indigent~~
6 ~~defender fund as provided for in R.S. 15:168.~~

7 (4)(2) ~~"District office" means the office of a district public defender as~~
8 ~~provided for in R.S. 15:161.~~

9 (5)(3) ~~"District public defender" or "chief indigent defender" means an~~
10 ~~attorney employed by or under contract with the board to supervise service providers~~
11 ~~and enforce standards and guidelines within a judicial district or multiple judicial~~
12 ~~districts.~~

13 (6)(4) ~~"Indigent defendant" means a person that has been determined under~~
14 ~~the provisions of R.S. 15:175 to be indigent and financially unable to retain private~~
15 ~~counsel.~~

16 (7)(5) ~~"Indigent defender services program" "Contract programs" or "the~~
17 ~~program" means the activities directed toward the accomplishment of providing~~
18 ~~indigent defender services under the Louisiana Public Defender Act.~~

19 (6) "Office" means the Office of the State Public Defender and Justice
20 Investment authorized to regulate and fund public defender services and to provide
21 financial support to district public defender offices and other service programs that
22 provide services to persons in the criminal justice system.

23 (8)(7) ~~"Public defender" or "indigent defender" means an attorney employed~~
24 ~~by or under contract with the board office, the district public defender, or regional~~
25 ~~director, where applicable, or nonprofit organization contracting with the board,~~
26 ~~district public defender, regional director, where applicable, or the board to provide~~
27 ~~legal counsel to an indigent person in a criminal proceeding.~~

1 ~~(9)~~(8) "Public defender services" or "indigent defender services" means the
2 providing of legal services to indigent persons in criminal proceedings in which the
3 right to counsel attaches under the United States and Louisiana constitutions.

4 ~~(10)~~(9) "Regional director" means the person in the employment of the ~~board~~
5 office chosen to oversee and enforce standards and guidelines within a service region
6 created by the ~~board~~ office.

7 ~~(11)~~(10) "Regional office" means the office established for a service region
8 as provided for in R.S. 15:159.

9 ~~(12)~~(11) "Revenue" or "self-generated revenue" means all revenue received
10 by a judicial district including revenue received as a result of grants or donations or
11 other forms of assistance.

12 (12) "Service program" means a non-governmental entity that provides
13 assistance to or representation of defendants or other persons in the criminal justice
14 system and that is qualified with the United States Internal Revenue Service for an
15 exemption from federal income tax under Section 501(c) of the Internal Revenue
16 Code.

17 (13) "Service region" means one of the public defender service regions
18 created by the ~~board~~ office as authorized in R.S. 15:159.

19 (14) "State ~~Public Defender~~ public defender" means the person ~~in the~~
20 ~~employment of the board~~ chosen pursuant to R.S. 15:146(B) to administer the
21 statewide public defender system for the delivery of public defender services.

22 §146. ~~Louisiana Public Defender Board~~ Office of the State Public Defender and
23 Justice Investment; nominating committee; confirmation

24 A.~~(1)~~ There is hereby created and established as a state agency within the
25 office of the governor the ~~Louisiana Public Defender Board~~ Office of the State
26 Public Defender and Justice Investment to provide for the supervision,
27 administration, and delivery of a statewide public defender system, which shall
28 deliver uniform public defender services in all courts in this state, and to provide

1 financial support to programs that provide services to persons in the criminal justice
2 system. ~~The board shall be a body corporate with the power to sue and be sued.~~

3 (2) ~~The board and its agents and employees shall be subject to the Code of~~
4 ~~Governmental Ethics, the law relative to public records and open meetings, the law~~
5 ~~relative to public bid and procurement, and all other provisions of law applicable to~~
6 ~~state agencies.~~

7 (3) ~~The two members of the Louisiana Public Defender Board appointed by~~
8 ~~the president of the Louisiana State Bar Association, the member appointed by the~~
9 ~~chairman of the Louisiana State Law Institute's Children's Code Committee, the~~
10 ~~member appointed by the President of the Louisiana Chapter of the Louis A.~~
11 ~~Martinet Society, the member appointed by the Louisiana Interchurch Conference,~~
12 ~~the two members appointed by the governor and the four members appointed by the~~
13 ~~governor and nominated by the four law schools, as formerly provided in this~~
14 ~~Section, shall terminate their service on August 1, 2016.~~

15 (4) ~~To the extent practicable, the board shall be comprised of members who~~
16 ~~reflect the racial and gender makeup of the general population of the state, and who~~
17 ~~are geographically representative of all portions of the state.~~

18 (5) ~~When a vacancy occurs, whether by expiration of a term, resignation, or~~
19 ~~other event, the board shall submit to the appointing entity a list identifying the~~
20 ~~residency of the current board members by congressional district, and request that,~~
21 ~~to the extent possible, the entity make the appointment from the residents of under-~~
22 ~~represented districts.~~

23 B.(1) ~~The board shall consist of eleven members.~~

24 (2) ~~Persons appointed to the board shall have significant experience in the~~
25 ~~defense of criminal proceedings or shall have demonstrated a strong commitment to~~
26 ~~quality representation in indigent defense matters. No person shall be appointed to~~
27 ~~the board who has received compensation to be an elected judge, elected official,~~
28 ~~judicial officer, prosecutor, law enforcement official, indigent defense provider, or~~
29 ~~employees of all such persons, within a two-year period prior to appointment. No~~

1 active part-time, full-time, contract or court-appointed indigent defense provider, or
2 active employees of such persons, may be appointed to serve on the board as a voting
3 member. No person having an official responsibility to the board, administratively
4 or financially, or their employee shall be appointed to the board during their term of
5 office. The majority of board members shall be current members of the Louisiana
6 State Bar Association. Representatives of the client community shall not be
7 prohibited from serving as voting members of the board.

8 (3) The members shall be selected as follows:

9 (a) The governor shall appoint five members, one from each appellate court
10 district, and shall designate the chairman.

11 (b) The five members shall be appointed from a list of three nominees
12 submitted to the governor by a majority of the district public defenders providing
13 public defender services in each appellate district.

14 (c) The chief justice of the Supreme Court of Louisiana shall appoint four
15 members, one member shall be a juvenile justice advocate; one member shall be a
16 retired judge with criminal law experience; and two members shall be at large.

17 (d) The president of the Senate and the speaker of the House of
18 Representatives shall each appoint one member.

19 (e) All appointments to the board shall be subject to confirmation by the
20 Senate.

21 (4) A vacancy on the board shall be filled in the same manner as the original
22 appointment.

23 (5) Members of the board shall serve staggered terms of four years.

24 C.(1) The board, by a vote of two-thirds of the members, may expel a
25 member who has accumulated three unexcused absences from board meetings during
26 a twelve-month period.

27 (2) If a member is expelled as provided by this Subsection, the board shall
28 send written notice to the member informing him of his expulsion and notify the
29 appropriate appointing authority of the vacancy on the board.

1 ~~D. The board shall notify the appropriate appointing authority of any board~~
2 ~~vacancy which occurs for any reason.~~

3 There shall be a nominating committee consisting of the following:

4 (a) The chief justice of the Louisiana State Supreme Court, or his designee
5 who shall be a supreme court justice.

6 (b) The speaker of the Louisiana House of Representatives, or his designee
7 who shall be a member of the Louisiana House of Representatives.

8 (c) The president of the Louisiana State Bar Association, or his designee who
9 shall be a member of the Louisiana State Bar Association.

10 (d) The chancellor of Southern University Law Center, or his designee who
11 is an active or retired employee of the Southern University Law Center.

12 (2)(a) The nominating committee shall provide a list of three nominees to the
13 governor no later than sixty days after a vacancy occurs in the position of state public
14 defender. A majority vote of the nominating committee shall be required to
15 nominate persons to the position of state public defender.

16 (b) The nominating committee is prohibited from nominating any person
17 who has ever held the position of an elected judge or district attorney.

18 (3) From the list of nominees submitted by the nominating committee, the
19 governor shall appoint the state public defender who shall also be the executive
20 director for the Office of the State Public Defender and Justice Investment and who
21 shall serve at the pleasure of the governor. If the nominating committee fails to
22 submit three nominations within the time specified by Paragraph (2) of this
23 Subsection, the governor shall make the appointment without nominations but
24 subject to the qualifications provided by this Section. Each appointment by the
25 governor shall be submitted to the Senate for confirmation, and every appointment
26 confirmed by the Senate shall again be submitted by the governor to the Senate for
27 confirmation every four years after the initial confirmation.

1 §147. Powers, duties, responsibilities

2 A. Except for the inherent regulatory authority of the Louisiana Supreme
3 Court provided for in Article V, Section 5 of the Constitution of Louisiana regarding
4 the regulation of the practice of law, the ~~Louisiana Public Defender Board~~ office
5 shall have all regulatory authority, control, supervision, and jurisdiction, including
6 auditing and enforcement, and all power incidental or necessary to such regulatory
7 authority, control, supervision, and jurisdiction over all aspects of the delivery of
8 public defender services throughout the courts of the state of Louisiana.

9 B. In addition to the powers and duties provided for in Subsection A of this
10 Section, the ~~board~~ office shall:

11 (1) ~~Employ an executive staff as provided for in R.S. 15:150 and regularly~~
12 ~~evaluate the performance of the executive staff~~ necessary to carry out the duties of
13 the office at the discretion of the state public defender.

14 (2) Adopt all rules necessary to implement the provisions of this Part as
15 provided in R.S. 15:148 and in accordance with the Administrative Procedure Act.

16 (3) ~~Review and approve the~~ Develop a strategic plan and budget proposals
17 ~~submitted by the state public defender,~~ for implementing this Part and for
18 coordinating services provided by service programs, regional directors, where
19 applicable, and district public defenders on behalf of the districts. ~~The board shall~~
20 ~~consider variations in public defense practices, past practices and procedures, and~~
21 ~~conditions unique to each district in evaluating the strategic plan and budget~~
22 ~~proposals on the district level.~~

23 (4) Make an annual report to the legislature regarding the state of the ~~board's~~
24 office's operations and the status of public defender services it regulates. Such report
25 shall include at a minimum:

26 (a) Recommendations for all needed changes in the law regarding the ~~board~~
27 office or any regulated activity.

1 (b) A complete report on the receipt and expenditure of all funds received
2 by the ~~board~~ office and the regional offices, where applicable, including district level
3 data.

4 (c) Comprehensive workload data.

5 (5)(a) Establish, and modify as necessary, a plan of organization to conduct
6 the business of regulating and controlling the delivery of public defender services
7 under its jurisdiction efficiently and thoroughly.

8 (b) The plan of organization shall provide for the capacity to:

9 (i) Administer the granting of contracts.

10 (ii) Analyze and review investigative and audit reports and findings.

11 (iii) Provide for enforcement of ~~board~~ office rules as is necessary to the
12 efficient and thorough regulation and governance of public defender services under
13 its jurisdiction.

14 (6) Incur such expenses and obligations, within the fiscal limits available to
15 the ~~board~~ office, as are necessary to the efficient and thorough regulation and
16 governance of the delivery of public defender services under its jurisdiction and
17 establish and maintain an accounting system which complies with law.

18 (7) Approve, prior to its presentation to the legislature and again after
19 appropriation prior to allocation, the budget for the ~~board~~ office.

20 (8) Issue a written response to any formal request from the governor and the
21 legislature or any committee thereof.

22 (9) Appear before any committee of the legislature upon request of the
23 president of the Senate, the speaker of the House, or the chairman of any legislative
24 committee.

25 (10) Review any proposal to create permanent staff positions and approve
26 if deemed appropriate.

27 (11) Prepare and submit to the Joint Legislative Committee on the Budget
28 on or before March first of each year an annual financial report which outlines the

1 expenditures of local, state, and federal funds for the previous calendar year for
2 review by the Joint Legislative Committee on the Budget.

3 (12) Draft, administer, and furnish reporting forms to the district public
4 defender, which request detailed information of the district's workload, resources,
5 employees, and expenditures for the previous fiscal year based on the uniform
6 definition of a "case" as defined in R.S. 15:174(C).

7 (13) Collect, prepare, and submit an annual report to the legislative auditor.

8 (14) Administer the DNA Testing Post-Conviction Relief for Indigents Fund
9 as required under the provisions of Code of Criminal Procedure Article 926.1.

10 (15) ~~Arrange for locations, which have adequate space to accommodate the~~
11 ~~public, to conduct its meetings.~~ Allocate funding to the following:

12 (a) Public defenders, for services as more specifically provided by this Part.

13 (b)(i) Service programs for services provided for the assistance to and
14 representation of persons in the criminal judicial system.

15 (ii) The office shall submit for approval to the Joint Legislative Committee
16 on the Budget each service program that is to receive funding pursuant to this Part.

17 (16) Adopt rules for the establishment of salary ranges for attorneys and
18 support staff delivering public defender services, taking into consideration variations
19 in public defense practices and procedures in rural, urban, and suburban districts as
20 well as professional experience.

21 (17) Supervise the activities of staff and apply reasonable controls for the
22 supervision of spending, accounting, and discretionary grants. ~~The board shall seek~~
23 ~~the assistance of the legislative auditor or an internal auditor to ensure that staff~~
24 ~~discretion is subject to supervision consistent with the Louisiana Local Government~~
25 ~~Budget Act, R.S. 39:1301 et seq.~~ The board's office's supervision shall include
26 reviewing details regarding expert witness funds or other case-specific grants,
27 including the confidential work product of attorneys in litigation, compensation, and
28 records supporting fees of experts and others, and analysis of the efficiency and
29 effectiveness of programs. The attorney-client privilege and confidentiality that

1 applies to counsel in cases shall apply to the state public defender and all ~~board~~
2 ~~members and~~ staff for the review of case details.

3 (18) Adopt reasonable procedures in compliance with the Louisiana Rules
4 of Professional Conduct for the review and preservation of confidentiality of
5 privileged materials during and after litigation, including impressions of counsel,
6 strategy of litigation, and results of expert work and opinion.

7 (19) Adopt procedures necessary to protect strategic choices and confidential
8 work product of the ~~board~~ office when the ~~board~~ office considers important matters
9 of spending. However, the amounts and general purposes shall remain public record
10 of the ~~board's~~ office's decisionmaking process.

11 (20) Develop a mechanism for the distribution of funds to the district public
12 defender offices and to the service programs approved by the Joint Legislative
13 Committee on the Budget.

14 C. The ~~board~~ office may:

15 (1) Enter into a contract or contracts, on such terms and conditions as it
16 deems advisable, with one or more attorneys licensed to practice law in this state, a
17 consortia of lawyers, or an independent public defender organization qualified with
18 the United States Internal Revenue Service for an exemption from federal income tax
19 under Section 501(c) of the Internal Revenue Code to provide counsel for indigent
20 defendants. The provisions of this Paragraph are subject to the intent of the
21 ~~Louisiana Public Defender Act~~ this Part that district public defender programs shall
22 continue operating within the method of delivery of services in effect prior to April
23 30, 2007, and the ~~board~~ office is prohibited from using its power to contract to
24 change the structure of a local program, delivery method, or to terminate personnel
25 without cause in violation of R.S. 15:165(C).

26 (2) Establish advisory councils from among Louisiana residents to provide
27 information and guidance regarding needs and concerns of particular localities. Such
28 councils may be established at such times, for such duration, and under such
29 circumstances, as the ~~board~~ office deems appropriate.

1 (3) Accept, receive, and use public or private grants, gifts, or donations,
2 provided that such gifts, grants, and donations are not otherwise prohibited by law
3 or rule.

4 (4) Employ secretarial, clerical, and other such personnel as may be
5 necessary in the operation of the business of the ~~board~~ office and fix their
6 compensation.

7 (5) Enter into contracts in accordance with law for the purpose of
8 maintaining and operating an office, or offices, and performing the functions
9 authorized by law. The provisions of this Paragraph are subject to the intent of the
10 Louisiana Public Defender Act that district public defender ~~programs~~ offices shall
11 continue operating within the method of delivery of services in effect prior to April
12 30, 2007, and the ~~board~~ office is prohibited from using its power to contract to
13 change the structure of a local program, delivery method, or to terminate personnel
14 without cause in violation of R.S. 15:165(C).

15 D.(1) Prior to entering into any contract as authorized by Subsection C of
16 this Section, the ~~board~~ office shall provide public notice that a contract is under
17 consideration by the ~~board~~ office and shall provide an opportunity for the public to
18 offer comment, regarding the contract, at a public hearing conducted for that
19 purpose.

20 (2) The notice shall include the name of the individual attorneys, a
21 consortium of lawyers, or an independent public defender organization qualified with
22 the United States Internal Revenue Service for an exemption from federal income tax
23 under Section 501(c) of the Internal Revenue Code to provide counsel for indigent
24 defendants, the amount of compensation to be paid, and the nature of the contracted
25 services.

26 (3) The ~~board~~ office shall conduct a public hearing regarding any contract
27 authorized by Subsection C of this Section and provide the public an opportunity to
28 offer comment on the contract.

1 ~~(4) The public hearing provided for by this Subsection may be conducted at~~
2 ~~a regular meeting of the board provided proper notice is provided to the public as~~
3 ~~required by this Subsection.~~

4 E. The ~~executive staff~~, regional directors; and secretarial, clerical, and other
5 personnel directly employed in the operations of the ~~board~~ office shall be state
6 employees. All other personnel employed or who serve under contract in a district
7 office shall not be state employees. ~~The Joint Legislative Committee on the Budget~~
8 ~~may approve other employees hired pursuant to the Louisiana Public Defender Act~~
9 ~~as state employees upon recommendation of the board.~~

10 §148. Rulemaking; considerations in developing rules

11 A. The ~~board~~ office shall adopt all rules necessary to implement the
12 provisions of this Part.

13 B. The rules shall include but not be limited to:

14 (1) Creating mandatory statewide public defender standards and guidelines
15 that require public defender services to be provided in a manner that is uniformly fair
16 and consistent throughout the state. Those standards and guidelines shall take into
17 consideration all of the following:

18 (a) Manageable public defender workloads that permit the rendering of
19 competent representation through an empirically based case weighting system that
20 does not count all cases of similar case type equally but rather denotes the actual
21 amount of attorney effort needed to bring a specific case to an appropriate
22 disposition. In determining an appropriate workload monitoring system, the ~~board~~
23 office shall take into consideration all of the following:

24 (i) The variations in public defense practices and procedures in rural, urban,
25 and suburban jurisdictions.

26 (ii) Factors such as prosecutorial and judicial processing practices, trial rates,
27 sentencing practices, attorney experience, extent and quality of supervision, and
28 availability of investigative, social worker, and support staff.

1 (iii) Client enhancers specific to each client such as the presence of mental
2 illness.

3 (b) ~~Continuity of representation.~~ The ~~board~~ office shall adopt standards and
4 guidelines which ensure that each district devises a plan to provide that, to the extent
5 feasible and practicable, the same attorney handles a case from appointment contact
6 through completion at the district level in all cases.

7 (c) ~~Documentation of communication.~~ The ~~board~~ office shall adopt
8 standards and guidelines to ensure that defense attorneys providing public defender
9 services provide documentation of communications with clients regarding the
10 frequency of attorney client communications as required by rules adopted by the
11 ~~board~~ office.

12 (d) ~~Performance supervision protocols.~~ The ~~board~~ office shall adopt
13 standards and guidelines to ensure that all defense attorneys providing public
14 defender services undergo periodic review of their work against the performance
15 standards and guidelines in a fair and consistent manner throughout the state,
16 including creating a uniform evaluation protocol.

17 (e) Performance of public defenders in all assigned public defense cases.
18 The ~~board~~ office shall adopt general standards and guidelines that alert defense
19 counsel to courses of action that may be necessary, advisable, or appropriate to a
20 competent defense including performance standards in the nature of job descriptions.

21 (f) ~~Consistency of standards.~~ The performance standards and guidelines
22 shall be based upon the performance standards originally adopted by the Louisiana
23 Indigent Defense Assistance Board (LIDAB) in 2006 and any subsequent
24 amendments to those standards adopted by the ~~board~~ office.

25 (2) Creating mandatory qualification standards for public defenders that
26 ensure that the public defender services are provided by competent counsel. Those
27 standards shall ensure that public defenders are qualified to handle specific case
28 types which shall take into consideration the level of education and experience that
29 is necessary to competently handle certain cases and case types such as juvenile

1 delinquency, capital, appellate, and other case types in order to provide effective
2 assistance of counsel. Qualification standards shall include all of the following:

3 (a) The specific training programs that ~~must~~ shall be completed to qualify
4 for each type of case.

5 (b) The number of years the public defender has spent in the practice of law
6 in good standing with the Louisiana State Bar Association.

7 (3) Establishing methods of monitoring and evaluating compliance with the
8 mandatory public defender standards and guidelines and the performance of counsel
9 in order to ensure competent representation of defendants in all courts of the state.

10 (4) Establishing procedures to handle complaints about public defender
11 performance and to ensure that public defenders, office personnel, and clients are
12 aware of avenues available for bringing a complaint and that office procedures do
13 not conflict with the supervisory jurisdiction of the Louisiana Supreme Court and
14 pursuant to the court's inherent authority provided for in Article V, Section 5 of the
15 Constitution of Louisiana.

16 (5) Establishing appropriate sanctions for failure to adhere to the mandatory
17 standards and guidelines for the delivery of public defender services.

18 (6) Establishing a policy of selecting a proportionate number of minority and
19 women lawyers in accordance with the makeup of the general population of the state,
20 to the extent that minority and women lawyers are available and otherwise eligible
21 for selection within each service region in accordance with law. Any citizen of
22 majority age shall have a cause of action to enjoin the activities of the ~~board~~ office
23 for failure to comply with this provision.

24 (7) Establishing policies and procedures for ensuring that cases are handled
25 according to the Rules of Professional Conduct.

26 (8) Establishing policies and procedures for handling conflict of interest
27 cases and overflow cases when workload standards which are established by rules
28 of the ~~board~~ office are breached.

1 (9) Establishing policies and procedures to ensure that detailed expenditure
2 and workload data is collected, recorded, and reported to support strategic planning
3 efforts for the system.

4 (10) Creating separate performance standards and guidelines for attorney
5 performance in capital case representation, juvenile delinquency, appellate, and any
6 other subspecialties of criminal defense practice as well as children in need of care
7 cases determined to be feasible, practicable, and appropriate by the ~~board~~ office.

8 (11) Ensuring data, including workload, is collected and maintained in a
9 uniform and timely manner throughout the state to allow the ~~board~~ office sound data
10 to support resource needs.

11 (12) Providing for minimum salary and compensation standards for attorney,
12 investigator, paraprofessional, and any and all other staff necessary for the adequate
13 defense of indigent defendants in criminal courts and comparable to other positions
14 of similar stature throughout the state.

15 (13) Establishing processes and procedures to ensure that when a case that
16 is assigned presents a conflict of interest for a public defender, the conflict is
17 identified and handled appropriately and ethically.

18 (14) Establishing processes and procedures to ensure that ~~board~~ office and
19 contract personnel use information technology and workload management systems
20 so that detailed expenditure and workload data is accurately collected, recorded, and
21 reported.

22 (15) Establishing administrative salary ranges for compensation of attorneys
23 delivering public defender services throughout the state so that compensation is
24 based on objective policymaking, including years of service, nature of the work and
25 workload, and in consideration of variations in public defense practices and
26 procedures in rural, urban, and suburban districts as well as prosecutorial and judicial
27 processing practices, trial rates, sentencing practices, and attorney experience.

1 C. All rules shall be adopted pursuant to the provisions of the Administrative
2 Procedure Act and shall be subject to legislative oversight by the House Committee
3 on the Administration of Criminal Justice and the Senate Committee on Judiciary C.

4 * * *

5 §149.1. Domicile of ~~board~~ office; venue

6 A. The ~~board~~ office shall be domiciled in East Baton Rouge Parish.

7 B. Notwithstanding any other provision of law to the contrary, the venue for
8 any civil proceeding by or against the ~~board~~ office or to which the ~~board~~ office is a
9 party shall be East Baton Rouge Parish.

10 * * *

11 §152. State public defender; ~~qualifications~~; powers and duties; salary

12 A.~~(1)~~ The ~~board shall employ~~ a state public defender ~~who~~ shall meet the
13 following qualifications:

14 ~~(1)(a)~~ ~~Meet the qualifications provided for in R.S. 15:150(B)~~ Be a person of
15 good character, honesty, and integrity.

16 (b) Be a citizen of the United States.

17 (c) Following his employment, be a domiciliary of Louisiana who is
18 registered to vote in Louisiana.

19 ~~(2)(d)~~ Be an attorney licensed to practice law in the United States with at
20 least seven years of experience as a criminal defense attorney. If licensed as an
21 attorney in a state other than Louisiana, become licensed as an attorney in this state
22 within one year of being employed by the board.

23 (e) Have at least five years of combined experience as any of the following:

24 (i) A district public defender or chief indigent defender as defined by R.S.
25 15:143.

26 (ii) A public defender or indigent defender as defined by R.S. 15:143.

27 (iii) An attorney employed at a service program as defined by R.S. 15:143.

1 ~~(iv) An attorney practicing in a state other than Louisiana with~~
2 ~~responsibilities similar to those of an attorney described by Items (i), (ii), or (iii) of~~
3 ~~this Subparagraph.~~

4 ~~(2) The state public defender shall be a permanent full-time employee and~~
5 ~~shall not otherwise engage in the practice of law or engage in any other business or~~
6 ~~profession.~~

7 ~~B. The state public defender shall:~~

8 ~~(1) Recommend to the board how to establish and maintain, in a~~
9 ~~cost-effective manner, the delivery of legal services to persons entitled to, and~~
10 ~~financially eligible for, appointed counsel in criminal proceedings at state expense~~
11 ~~under Louisiana law, the Constitution of Louisiana, and the United States~~
12 ~~Constitution and consistent with the standards of national justice and those~~
13 ~~established by the Louisiana Supreme Court.~~

14 ~~(2) Develop and present for the board's approval a strategic plan for the~~
15 ~~delivery of public defender services.~~

16 ~~(3) Implement and ensure compliance with contracts, policies, procedures,~~
17 ~~standards, and guidelines adopted pursuant to rule by the board or required by~~
18 ~~statute.~~

19 ~~(4) Prepare and submit to the board for its approval the budget of the board.~~

20 ~~(5) Negotiate contracts, as appropriate, for providing legal services to~~
21 ~~persons financially eligible for appointed counsel at state expense. No contract so~~
22 ~~negotiated is binding or enforceable until the contract has been reviewed and~~
23 ~~approved by the board at a public hearing as provided for in R.S. 15:147(D). The~~
24 ~~provisions of this Paragraph are subject to the intent of the Louisiana Public~~
25 ~~Defender Act that district public defender programs shall continue operating within~~
26 ~~the method of delivery of services in effect prior to April 30, 2007, and the board is~~
27 ~~prohibited from using its power to contract to change the structure of a local~~
28 ~~program, delivery method, or to terminate personnel without cause in violation of~~
29 ~~R.S. 15:165(C).~~

1 ~~(6) Employ personnel or contract for services as necessary to carry out the~~
2 ~~responsibilities of the board. The provisions of this Paragraph are subject to the~~
3 ~~intent of the Louisiana Public Defender Act that district public defender programs~~
4 ~~shall continue operating within the method of delivery of services in effect prior to~~
5 ~~April 30, 2007, and the board is prohibited from using its power to contract to~~
6 ~~change the structure of a local program, delivery method, or to terminate personnel~~
7 ~~without cause in violation of R.S. 15:165(C).~~

8 ~~(7) Supervise the personnel, operation, and activities of the board.~~

9 ~~(8) Prepare and submit to the board an annual report of the indigent defender~~
10 ~~services provided by the service regions, where applicable, and the districts.~~

11 ~~(9) Appear before the Joint Legislative Committee on the Budget and report~~
12 ~~on the activities of the board.~~

13 ~~(10) Actively seek gifts, grants, and donations that may be available through~~
14 ~~the federal government or other sources to help fund the system, provided that such~~
15 ~~gifts, grants, and donations are not otherwise prohibited by law or rule.~~

16 ~~(11) Assist the board in the adoption of rules as provided for in R.S. 15:148~~
17 ~~and in accordance with the Administrative Procedure Act.~~

18 ~~(12) Provide services, facilities, and materials necessary for the performance~~
19 ~~of the duties, functions, and powers of the board.~~

20 ~~(13) Assist the board in establishing the standards and guidelines, policies,~~
21 ~~and procedures for the statewide delivery of indigent defender services in accordance~~
22 ~~with rules adopted by the board and as required by statute.~~

23 ~~(14) Establish administrative management procedures for regional offices,~~
24 ~~where applicable.~~

25 ~~(15) Review, monitor, and assess the performance of all attorneys, consortia~~
26 ~~of attorneys, or independent public defender organizations qualified with the United~~
27 ~~States Internal Revenue Service for an exemption from federal income tax under~~
28 ~~Section 501(c) of the Internal Revenue Code to provide counsel for indigent~~
29 ~~defendants.~~

1 ~~(16) Perform all other duties assigned by the board.~~

2 (3) The state public defender, appointed pursuant to R.S. 15:146(B) and
3 functioning as the executive director of the office, shall have full jurisdiction,
4 authority, and discretion over all aspects of the office.

5 ~~E.B.~~ The state public defender shall receive annual compensation at least
6 equal in amount to an associate justice of the supreme court of this state.

7 §152.1. Louisiana Public Defender Advisory Board

8 A. There is hereby created the Louisiana Public Defender Advisory Board
9 within the Office of the State Public Defender and Justice Investment to provide for
10 the advisory supervision of a statewide public defender system.

11 B. The advisory board shall be subject to the Code of Governmental Ethics,
12 the law relative to public records and open meetings, the law relative to public bid
13 and procurement, and all other provisions of law applicable to state agencies.

14 C. To the extent practicable, the advisory board shall be comprised of
15 members who reflect the racial and gender makeup of the general population of the
16 state, and who are geographically representative of all portions of the state.

17 D. When a vacancy occurs, whether by expiration of a term, resignation, or
18 other event, the state public defender shall submit to the appointing entity a list
19 identifying the residency of the current advisory board members by congressional
20 district, and request that, to the extent possible, the entity make the appointment from
21 the residents of under-represented districts.

22 E.(1) The advisory board shall consist of twelve members.

23 (2) Persons appointed to the advisory board shall have significant experience
24 in the defense of criminal proceedings or shall have demonstrated a strong
25 commitment to quality representation in indigent defense matters. No person shall
26 be appointed to the advisory board who has received compensation as an elected
27 judge, elected official, judicial officer, prosecutor, law enforcement official, indigent
28 defense provider, or employee of and such person, within a two-year period prior to
29 appointment. No active part-time, full-time, contract, or court-appointed indigent

1 defense provider, or active employee of such person, may be appointed to serve on
2 the advisory board as a voting member. No person having an official responsibility
3 to the advisory board, administratively or financially, or their employee shall be
4 appointed to the advisory board during their term of office. The majority of advisory
5 board members shall be current members of the Louisiana State Bar Association.
6 Representatives of the client community shall not be prohibited from serving as
7 voting members of the advisory board.

8 (3) The members shall be selected as follows:

9 (a)(i) The governor shall appoint five members, one from each appellate
10 court district, and shall designate the chairman.

11 (ii) The five members shall be appointed from a list of three nominees
12 submitted to the governor by a majority of the district public defenders providing
13 public defender services in each appellate district.

14 (b) The chief justice of the Supreme Court of Louisiana shall appoint four
15 members, one member shall be a juvenile justice advocate; one member shall be a
16 retired judge with criminal law experience; and two members shall be at large.

17 (c) The president of the Senate and the speaker of the House of
18 Representatives shall each appoint one member.

19 (d) The chancellor of Southern University Law Center shall appoint one
20 member who is an active or retired employee of the Southern University Law Center.

21 (4) All appointments to the advisory board shall be subject to confirmation
22 by the Senate.

23 (5) A vacancy on the advisory board shall be filled in the same manner as the
24 original appointment.

25 (6) Members of the advisory board shall serve staggered terms of four years.

26 F.(1) The advisory board, by a vote of two-thirds of the members, may expel
27 a member who has accumulated three unexcused absences from advisory board
28 meetings during a twelve-month period.

1 §167. ~~Louisiana Public Defender~~ Justice Investment Fund

2 A. "The ~~Louisiana Public Defender~~ Justice Investment Fund", hereinafter
3 referred to as the "~~LPD Fund~~" "fund", is hereby created in the state treasury. Interest
4 earned on the investment of monies in the fund shall be deposited in and credited to
5 the fund. Unexpended and unencumbered monies in the fund at the close of each
6 fiscal year shall remain in the fund. Monies in the fund shall be appropriated,
7 administered, and used solely and exclusively for purposes of the Louisiana Public
8 Defender Act and program, other service programs, and as further provided in this
9 Section.

10 B. The fund shall be comprised of all monies appropriated, donated, or
11 otherwise made available to provide funding for the provisions of the Louisiana
12 Public Defender Act and other service programs. All of such monies required to be
13 deposited in the state treasury in accordance with Article VII, Section 9(A) of the
14 Constitution of Louisiana shall be deposited in the fund after first meeting the
15 requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative
16 to the Bond Security and Redemption Fund.

17 C. Monies in the fund shall be appropriated and used solely and exclusively
18 to provide for the implementation of ~~the Louisiana Public Defender Act~~ and this Part,
19 the program, and other service programs.

20 D. The ~~LPD Fund~~ fund shall be administered by the ~~board~~ office as
21 authorized by the provisions of ~~the Louisiana Public Defender Act~~ this Part. The
22 ~~board~~ office is hereby authorized to establish such accounts or sub-accounts within
23 the ~~LPD Fund~~ fund as deemed necessary to comply with the provisions of ~~the~~
24 ~~Louisiana Public Defender Act~~ this Part and the program. ~~The board shall not~~
25 ~~commingle the monies in the LPD Fund established in this Section with any other~~
26 ~~monies or funds of the board for any reason.~~

27 E. The ~~board~~ office shall dedicate and disburse at least sixty-five percent of
28 the entirety of its annual budget and its funds in the ~~Louisiana Public Defender Fund~~
29 fund ~~as defined in Subsection A of this Section~~ each fiscal year to the district

1 defender offices and their indigent defender funds as defined in R.S. 15:168(A) in
2 the various judicial districts throughout the state. Any funds disbursed to any district
3 defender office shall be paid in addition to the minimum mandatory sixty-five
4 percent of dedicated and disbursed funds required in this Subsection. The provisions
5 of this Subsection shall not apply to statutorily dedicated funds or funds received
6 through the awarding of grants.

7 F. The office shall provide a monthly report to each district public defender
8 advisory board detailing all funds received and disbursed by the fund during the
9 preceding month.

10 §168. Judicial district indigent defender fund

11 A. There is hereby created within each judicial district an indigent defender
12 fund which shall be administered by the district public defender and composed of
13 funds provided for by this Section and such funds as may be appropriated or
14 otherwise made available to it.

15 ~~B.(1)(a)~~ Every court of original criminal jurisdiction, except in the town of
16 Jonesville, in the city of Plaquemine, and in mayors' courts in municipalities having
17 a population of less than five thousand, shall remit the following special costs to the
18 ~~district indigent defender fund~~ state treasurer for deposit into the Justice Investment
19 Fund for the following violations, under state statute as well as under parish or
20 municipal ordinance, except a parking violation. ~~Except as provided in~~
21 ~~Subparagraph (b) of this Paragraph, the~~ The sum of forty-five dollars shall be
22 assessed in cases in which a defendant is convicted after a trial, a ~~plea of~~ pleads
23 guilty or nolo contendere, or after forfeiting forfeits bond and shall be in addition to
24 all other fines, costs, or forfeitures imposed.

25 ~~(b) In the parish of Orleans, in addition to all other fines, costs, or forfeitures~~
26 ~~imposed, the sum of forty-five dollars may be assessed in cases in which a defendant~~
27 ~~is convicted after a trial, a plea of guilty or nolo contendere, or after forfeiting bond.~~

1 (2)(a) Such amounts shall be remitted by the respective recipients thereof to
2 the ~~judicial district indigent defender fund~~ state treasurer for deposit into the Justice
3 Investment Fund monthly by the tenth day of the succeeding month.

4 (b) Such amounts remitted in the parish of Orleans shall include all of the
5 following data for each case in which the costs required for in this Subsection are
6 assessed:

7 ~~(1)~~(i) Name and case number of each defendant.

8 ~~(2)~~(ii) Date of order assessing such costs.

9 ~~(3)~~(iii) Date by which the defendant is ordered to pay such costs.

10 ~~(4)~~(iv) Date of collection of such costs.

11 ~~(5)~~(v) Actual amount collected.

12 (c) The office for the district public defender for the parish of Orleans shall
13 notify the office of the inspector general, city of New Orleans, in writing, if such
14 amounts and data required in Subparagraphs (a) and (b) of this Paragraph have not
15 been remitted by the fifteenth day of the month.

16 ~~E.B.(1)~~ Except as otherwise provided by ~~the Louisiana Public Defender Act,~~
17 ~~the funds provided for in this Section, and this Part,~~ any ~~other~~ self-generated revenue
18 and all interest or other income earned from the investment of such funds and self-
19 generated revenue shall be retained in the district and shall be used and administered
20 by the district public defender.

21 (2) All funds received pursuant to this Section shall be distributed to the
22 district public defender offices in the district from which the funds were received
23 within ten days of receipt of such funds.

24 ~~D.C.~~ No defendant who has retained private counsel of record shall be
25 assessed any costs to be credited to the indigent defender fund, other than the special
26 costs established by Subsection ~~B~~ A of this Section, unless ~~the board~~ a public
27 defender has provided representation of record for that defendant at some point in
28 that criminal proceeding.

1 shall become the business of and be completed by the office with the same power and
2 authority as the entity from which the functions are transferred.

3 (3) All administrative functions performed by the Louisiana Public Defender Board
4 relative to any component of the Louisiana Public Defender Act prior to the effective date
5 of this Act shall be transferred to the Office of the State Public Defender and Justice
6 Investment.

7 (4) Except for the inherent regulatory authority of the Louisiana Supreme Court
8 provided for in Article V, Section 5 of the Constitution of Louisiana regarding the regulation
9 of the practice of law, the office shall undertake and have all regulatory authority, control,
10 supervision, and jurisdiction, including auditing and enforcement, and all power incidental
11 or necessary to such regulatory authority, control, supervision, and jurisdiction over all
12 aspects of the delivery of public defender services throughout the courts of the state of
13 Louisiana.

14 (5) All funds dedicated and appropriated to the Louisiana Public Defender Board
15 shall be transferred to the office.

16 (6) All funds dedicated and appropriated for service programs, as defined by R.S.
17 15:143 as amended by this Act, shall be administered by the office.

18 (7) All books, papers, records, money, rights of action, and other property of every
19 kind, movable and immovable, real and personal, heretofore possessed, controlled, or used
20 by the Louisiana Public Defender Board shall be transferred to the office, except as
21 otherwise specifically provided by this Act.

22 (8) Any assets, funds, facilities, property, equipment, books, documents, records,
23 obligations, programs, and functions relative to the Louisiana Public Defender Board shall
24 be transferred to the office.

25 (C) All rules, regulations, and policies adopted by or applicable to the Louisiana
26 Public Defender Board prior to the effective date of this Act shall continue in full force and
27 effect unless amended or repealed by the Office of the State Public Defender and Justice
28 Investment.

1 (D) Any reference in rules, laws, and documents to or any designation by any law
2 or contract or other document of the Louisiana Public Defender Board shall be deemed to
3 refer to the office provided that, to the extent necessary to prevent the impairment of the
4 contractual obligations of any entity heretofore existing or of the state, the existence,
5 organization, and functions of any such entity shall be excluded from the provisions of this
6 Section. Any legal proceeding to which the Louisiana Public Defender Board is a party and
7 which is filed, initiated, or pending before any court on January 1, 2022, and all documents
8 involved in or affected by said legal proceeding, shall retain their effectiveness and shall be
9 continued in the name of the office. All further legal proceedings and documents in the
10 continuation, disposition, and enforcement of said legal proceeding shall be in the name of
11 the office, and the office shall be substituted for the Louisiana Public Defender Board
12 without the necessity for amendment of any document. All obligations of the Louisiana
13 Public Defender Board shall be the obligations of the office. The office shall be the
14 successor in every way to the Louisiana Public Defender Board, including all of the
15 obligations and debts of the Louisiana Public Defender Board. The provisions of R.S.
16 15:141 through 184 shall not be construed or applied in any way which will prevent full
17 compliance by the state, or any department, office, or agency thereof, with the requirements
18 of any act of Congress of the United States or any regulation made thereunder by which
19 federal aid or other federal assistance has been or hereafter is made available.

20 (E) The office shall, to the extent possible and at the discretion of the state public
21 defender, provide for employees of the Louisiana Public Defender Board, not including the
22 appointed board members, to continue to perform the duties they performed prior to the
23 effective date of this Act without loss of status, salary, and related benefits.

24 (F) Prior to January 1, 2022, the Louisiana Public Defender Board shall not:

25 (1) Sell, transfer, or otherwise remove any asset or thing of value, movable or
26 immovable, corporeal or incorporeal, attributable to or owned by the Louisiana Public
27 Defender Board.

28 (2) Incur, transfer, or assign any debt or other responsibility or obligation to the
29 district that is not properly attributable to the Louisiana Public Defender Board.

1 (3) Reduce or reallocate the level of funding, staffing, or support that would
2 otherwise be allocated to the Louisiana Public Defender Board.

3 (4) Impose any budget reductions or changes in funding without the prior approval
4 of the Joint Legislative Committee on the Budget.

5 (5) Take any personnel action with regard to any employee without the approval of
6 the governor.

7 Section 5. The Louisiana State Law Institute is hereby directed to make technical
8 changes to statutory laws as necessary to change the terminology in order to reflect the name
9 changes provided by this Act, specifically R.S. 15:141 through 186.6, as necessary to change
10 the term "board" to the term "office".

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 586 Reengrossed

2021 Regular Session

Magee

Abstract: Creates the Office of the State Public Defender and Justice Investment and repeals the La. Public Defender Board.

Present law provides for the La. Public Defender Act which was enacted in order to ensure the right to counsel is delivered by qualified and competent counsel in a manner that is fair and consistent throughout the state and to ensure that adequate public funding is provided and managed in a cost-effective and fiscally responsible manner.

Proposed law retains present law.

Present law creates and establishes the La. Public Defender Bd. (the board) as a state agency within the office of the governor.

Proposed law eliminates the board and creates the Office of the State Public Defender and Justice Investment (the office) as a state agency within the office of the governor.

Proposed law repeals the present law definition of "board" and other definitions related to the board, adds a definition of "office", and makes technical changes in terminology to reflect the elimination of the board and the creation of the office.

Proposed law defines "service program" as a non-governmental entity that provides assistance to or representation of defendants or other persons in the criminal justice system and that is qualified with the U.S. Internal Revenue Service for an exemption from federal income tax under Section 501(c) of the Internal Revenue Code.

Proposed law repeals all provisions of present law related to the establishment, membership, and voting requirements of the board.

Proposed law establishes a nominating committee, provides for the selection of the members of the committee, and requires the committee to submit a list of three nominees for the appointment of the state public defender by the governor, subject to Senate confirmation.

Proposed law provides that if the nominating committee fails to submit the required nominees, the governor shall make the appointment without nominations.

Proposed law provides for qualifications for the position of state public defender.

Present law provides for the powers, duties, responsibilities, and meeting requirements of the board.

Proposed law provides additional duties of the office to implement and coordinate services provided by service programs, allocate funding to public defenders and service programs, and develop a mechanism for the distribution of such funds, but otherwise retains similar duties of the board as provided by present law.

Present law authorizes the Joint Legislative Committee on the Budget (JLCB) to approve employees hired by the board as state employees.

Proposed law repeals present law and requires the office to submit for approval to the JLCB each service program that is to receive funding from the office.

Present law provides for the employment by the board of a state public defender and provides for the qualifications and duties of the state public defender.

Proposed law retains the state public defender but provides for his appointment by the governor and specifies his authority to function as the executive director of the office.

Proposed law establishes the La. Public Defender Advisory Board and provides for the appointment of the 12 members of the board, provides the procedures to expel a member of the board, provides for the filling of vacancies, and provides the duties of the board.

Present law provides for the La. Public Defender Fund and provides that the monies in the fund shall be appropriated, administered, and used solely and exclusively for the purposes of the La. Public Defender Act and program.

Proposed law retains present law but changes the name of the fund to the Justice Investment Fund and also authorizes the use of monies for service programs.

Present law provides for the creation of judicial district indigent defender funds for each judicial district and requires the courts, except in the parish of Orleans, to remit special costs to the fund. Present law provides for a \$45 fee to be assessed in cases in which a defendant is convicted after a trial, pleads guilty or nolo contendere, or forfeits bond.

Proposed law retains present law but requires the costs to be remitted to the state treasurer for deposit into the Justice Investment Fund, and also removes the exception for the parish of Orleans.

Proposed law requires that all funds received pursuant to proposed law be distributed to the public defender districts from which the funds were received within 10 days of receipt of such funds.

Proposed law requires the office to provide a monthly report to each district public defender advisory board detailing the funds received and disbursed by the fund during the preceding month.

Proposed law repeals a reference to surplus funds in the judicial district indigent defender fund on Aug. 5, 2007.

Present law provides that the board is, with respect to the structure of the executive branch of state government, an agency within the governor's office.

Proposed law repeals present law and provides that the office is an agency within the governor's office.

Present law provides for board offices and meeting and quorum requirements.

Proposed law repeals present law.

Present law requires employment of board executive staff, a deputy public defender-director of training, a deputy public defender-director of juvenile defender services, a budget officer, an information technology and management officer, a trial-level compliance officer, and a juvenile justice compliance officer.

Proposed law repeals present law.

Proposed law provides that the office shall be the successor to the board and provides for transitional provisions to take effect on Jan. 1, 2022.

Proposed law directs the La. State Law Institute to make technical changes as necessary to change the terminology in order to reflect the name changes as provided by proposed law.

(Amends R.S. 15:142(C) and (F), 143, 146, 147, 148, 149.1, 152, 166, 167, and 168, and R.S. 36:4(D); Adds R.S. 15:142(G) and 152.1; Repeals R.S. 15:149.2-151 and 153-158)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Add provisions establishing a nominating committee for the nomination of three persons, one of whom is to be appointed by the governor as the state public defender.
2. Add qualifications for the position of state public defender.
3. Remove references to CASA.
4. Add a requirement of providing a financial report to each public defender advisory board detailing funds received and disbursed.

The House Floor Amendments to the engrossed bill:

1. Add the chancellor of the Southern University Law Center, or his designee, to the nominating committee.
2. Add an additional qualification for the position of state public defender.
3. Establish and provide for the appointment and duties of the La. Public Defender Advisory Board.

4. Specify that *all* funds received for deposit into the Justice Investment Fund be distributed to the district *from which the funds were received* within 10 days of receipt of such funds.