

2026 Regular Session

HOUSE BILL NO. 371

BY REPRESENTATIVE JORDAN

ATTORNEY GENERAL: Provides relative to requiring the attorney general to defend state elected officials and acts of the legislature

1 AN ACT

2 To enact R.S. 49:257.1 and 257.2, relative to the defense of elected officials; to provide
3 relative to the attorney general; to require the attorney general to provide legal
4 representation to elected officials and to defend acts of the legislature; to provide for
5 alternative representation when the attorney general declines; to establish rate parity
6 for alternative representation; to provide for procedures, conditions, and limitations;
7 and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 49:257.1 and 257.2 are hereby enacted to read as follows:

10 §257.1. Legal representation of elected officials; attorney general; mandatory
11 representation

12 A. Duty to represent. The attorney general shall provide legal representation
13 at no cost to any duly elected official of this state, including members of the
14 legislature, statewide elected officers, and elected officials of political subdivisions,
15 when any of the following circumstances apply:

16 (1) The official is named as a defendant, respondent, or adverse party in any
17 civil, administrative, or quasi-judicial proceeding arising out of the performance of
18 the official's duties and exercise of authority in his official capacity.

1 (2) The official requires legal guidance or representation before any court,
2 administrative tribunal, or governmental body in connection with official acts taken
3 within the scope of his elected office.

4 (3) The official has been subject to a subpoena, civil investigative demand,
5 or other compulsory legal process directly related to the exercise of his official
6 duties.

7 B. Scope of representation. The duty of representation established in
8 Subsection A of this Section includes but is not limited to the following:

9 (1) Filing and arguing dispositive motions including motions to dismiss,
10 motions for summary judgment, and motions for immunity.

11 (2) Asserting all applicable defenses including sovereign immunity,
12 legislative immunity, qualified immunity, and absolute immunity.

13 (3) Representation through all phases of litigation, appeal, post-judgment
14 proceedings, and enforcement matters.

15 (4) Providing legal advice and written opinions on proposed actions to avoid
16 personal legal liability in the exercise of official duties.

17 C. Limitations. The duty of representation established in this Section does not
18 extend to any of the following:

19 (1) Criminal proceedings arising from acts constituting a crime under state
20 or federal law, except that the attorney general may, in the attorney general's
21 discretion, represent such official in administrative proceedings arising from the
22 same conduct.

23 (2) Civil proceedings in which the official is alleged to have acted outside
24 the scope of official duties or for personal gain unrelated to official responsibilities.

25 (3) Matters where the attorney general determines, in writing, that a clear,
26 nonwaivable conflict of interest exists between the official and the state.

27 D. Request for representation. An elected official seeking representation
28 pursuant to this Section shall submit a written request to the attorney general setting
29 forth the nature of the proceeding, the official acts at issue, and the relief sought. The

1 attorney general shall respond in writing within fifteen business days of receipt of
2 such request, either confirming representation or providing written reasons for any
3 declination.

4 §257.2. Attorney general; mandatory defense of legislative acts; alternative
5 representation upon declination

6 A. Duty to defend acts of the legislature. The attorney general shall defend
7 the constitutionality and validity of every act duly enacted by the Legislature of
8 Louisiana in any proceeding in which an act of the legislature is challenged on
9 constitutional, statutory, or any other grounds, in any court of competent jurisdiction,
10 whether state or federal.

11 B. Duty to notify. Upon receipt of any pleading, petition, or motion that
12 directly challenges the constitutionality or validity of an act of the legislature, the
13 attorney general shall notify the speaker of the House of Representatives, the
14 president of the Senate, and the Legislative Bureau within five business days of such
15 receipt.

16 C. Declination; written statement required. If the attorney general determines
17 not to represent an elected official pursuant to R.S. 49:257.1 or declines to defend
18 an act of the legislature pursuant to Subsection A of this Section, the attorney general
19 shall do both of the following:

20 (1)(a) Issue a written statement of declination to the affected official or, in
21 the case of a legislative act, to the presiding officers of both chambers of the
22 legislature, within fifteen business days of the request for representation or within
23 five business days following the determination not to defend, whichever is earlier.

24 (b) The written statement of declination shall set forth with particularity all
25 legal and factual grounds for the declination, identify any conflicts of interest that
26 preclude representation, and certify that the determination was made in good faith
27 and in accordance with applicable law.

28 (2) File a copy of the written statement of declination simultaneously with
29 the legislative auditor and the governor.

1 D.(1)(a) Right to alternative representation; rate parity. Upon receipt of a
2 written statement of declination pursuant to Subsection C of this Section, the affected
3 elected official or, in the case of a legislative act, the legislature acting through its
4 presiding officers, may retain private legal counsel of choice to provide
5 representation in the matter for which the attorney general has declined.

6 (b) The state is responsible for the cost of such alternative representation,
7 subject to the rate limitations established in Subsection E of this Section.

8 (2) The elected official or legislature shall provide written notice to the
9 commissioner of administration identifying the retained counsel and the matter for
10 which representation is sought, and the written notice shall serve as authorization for
11 payment from the state treasury.

12 (3) The obligation of the state to fund alternative representation shall
13 commence immediately upon receipt of the declination notice and shall continue
14 through final resolution of the matter, including any appeals.

15 E. Rate parity for alternative representation. The hourly rates, flat fees,
16 contingency arrangements, and other compensation structures applicable to
17 alternative private counsel retained pursuant to Subsection D of this Section shall be
18 governed as follows:

19 (1) The rate of compensation for alternative counsel shall not exceed the
20 highest rates approved by the attorney general in any contract for outside legal
21 services entered into by the office of the attorney general for substantially similar
22 legal work during the immediately preceding twenty-four-month period.

23 (2) The office of the attorney general shall maintain and publish, on its
24 official public website and update no less frequently than quarterly, a schedule of all
25 approved rates for outside legal services categorized by practice area, litigation
26 complexity, and type of proceeding. This schedule shall serve as the reference rate
27 schedule for purposes of this Section.

28 (3) If no comparable rate exists in the attorney general's approved contracts,
29 the parties shall negotiate a rate consistent with the prevailing market rate for legal

1 services of similar complexity in the relevant jurisdiction, subject to approval by the
2 commissioner of administration.

3 (4) Travel expenses, filing fees, expert witness fees, and other reasonable
4 litigation costs incurred by alternative counsel shall be reimbursed at actual cost,
5 consistent with the state's general travel and expense reimbursement policies.

6 F. No waiver of rights. The exercise of the right to alternative representation
7 pursuant to this Section does not constitute a waiver of any privilege, immunity, or
8 defense otherwise available to the elected official or to the state in connection with
9 the underlying matter.

10 G. Coordination of defense. If the attorney general has accepted
11 representation of some, but not all, parties or matters in a proceeding, the attorney
12 general and any alternative counsel retained pursuant to this Section shall cooperate
13 in good faith to coordinate the defense, share relevant work product, and avoid
14 duplicative effort to the extent permitted by applicable rules of professional conduct
15 and the interests of their respective clients.

16 H. Legislative intervention. Nothing in this Section shall be construed to limit
17 the right of the legislature, acting through its presiding officers or by legislative
18 resolution, to intervene as a party in any proceeding challenging the constitutionality
19 or validity of a legislative act, regardless of whether the attorney general has
20 accepted or declined the defense.

21 I. Judicial review. Any elected official aggrieved by the declination of the
22 attorney general of representation, or the legislature aggrieved by the declination of
23 the attorney general to defend a legislative act, may seek judicial review of such
24 declination in the Nineteenth Judicial District Court. The court shall conduct a de
25 novo review by summary proceeding and may order the attorney general to provide
26 representation upon a finding that the declination was arbitrary, capricious, or
27 contrary to the provisions of this Part.

28 Section 2. The provisions of this Act apply to all pending and future legal
29 proceedings in which an elected official's request for representation or a challenge to a

1 legislative act is before the office of the attorney general on or after the effective date of this
2 Act.

3 Section 3. If any provision of this Act or the application thereof is held invalid, the
4 invalidity shall not affect other provisions or applications which can be given effect without
5 the invalid provision or application, and to this end the provisions of this Act are severable.

6 Section 4. This Act shall become effective upon signature by the governor or, if not
7 signed by the governor, upon expiration of the time for bills to become law without signature
8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
9 vetoed by the governor and subsequently approved by the legislature, this Act shall become
10 effective on the day following such approval.

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 371 Original

2026 Regular Session

Jordan

Abstract: Requires relative to the attorney general providing legal representation to duly elected state officials and defending acts of the legislature.

Proposed law establishes a mandatory duty of the attorney general to provide legal representation, at no cost, to duly elected officials of the state of La., including members of the legislature, arising out of the performance of official duties.

Proposed law requires the attorney general to represent an elected official when the official is named as a defendant or respondent for acts taken in an official capacity, requires legal guidance or representation in connection with official acts, or is subject to a subpoena or other compulsory legal process related to official duties.

Proposed law provides that the duty of representation includes filing and arguing dispositive motions; asserting applicable defenses; representation through all phases of litigation and appeal; and providing legal advice and written opinions to avoid the official's personal liability.

Proposed law provides that the duty of representation does not extend to criminal proceedings except in the attorney general's discretion for related administrative proceedings; civil proceedings alleging acts outside the scope of official duties or for personal gain; or matters involving a nonwaivable conflict of interest.

Proposed law requires an elected official seeking representation to submit a written request to the attorney general and requires the attorney general to provide a written response within 15 business days confirming representation or providing written reasons for declination.

Proposed law further requires the attorney general to defend the constitutionality and validity of every act duly enacted by the legislature in any state or federal court proceeding in which the act is challenged.

Proposed law requires the attorney general to notify the speaker of the House, the president of the Senate, and the Legislative Bureau within five business days of receipt of any pleading challenging the constitutionality or validity of a legislative act.

Proposed law requires, if the attorney general declines to represent an elected official or declines to defend a legislative act, the attorney general to issue a written statement of declination within specified time periods stating with particularity the legal and factual grounds for the declination, identifying any conflicts of interest, and certifying good faith compliance with applicable law. Further requires the attorney general to file a copy of the declination with the legislative auditor and the governor.

Proposed law provides that upon declination, the affected elected official or the legislature is authorized to retain private legal counsel. Requires the state of La. to fund the alternative representation and requires written notice to the commissioner of administration identifying retained counsel to serve as authorization for payment from the state treasury. Further provides that the state of La.'s obligation to fund representation begins upon receipt of the attorney general's declination and continues through final resolution, including appeals.

Proposed law establishes rate parity for alternative counsel and prohibits compensation that exceeds the highest rates approved by the attorney general in comparable contracts for outside legal service during the preceding 24-month period. Requires the attorney general to maintain and publish a quarterly-updated schedule of approved rates.

Proposed law provides that the exercise of the right to alternative representation does not constitute a waiver of any privilege, immunity, or defense.

Proposed law requires coordination and good faith cooperation between the attorney general and alternative counsel when representation is divided in the same proceeding.

Proposed law does not limit the right of the legislature to intervene in proceedings challenging a legislative act.

Proposed law authorizes an elected official or the legislature to seek an independent judicial review by summary proceeding in the 19th Judicial District Court of a declination by the attorney general and authorizes the court to order representation upon a finding that the declination was arbitrary, capricious, or contrary to proposed law.

Proposed law applies to all pending and future legal proceedings in which an elected official's request for representation or a challenge to a legislative act is before the office of the attorney general on or after the effective date of proposed law.

Proposed law provides for severability.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 49:257.1 and 257.2)