
DIGEST

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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)