

SENATE BILL NO. 448

BY SENATOR LUNEAU

1 AN ACT

2 To amend and reenact R.S. 15:142(F), 168(E), and 175(B)(1), and to enact R.S. 15:142(G)
3 and 175(E), relative to the Louisiana Public Defender Act; to provide for legislative
4 findings; to provide for the judicial district indigent defender fund; to provide for
5 proceedings to determine indigency; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 15:142(F), 168(E), and 175(B)(1) are hereby amended and reenacted
8 and R.S. 15:142(G) and 175(E) are hereby enacted to read as follows:

9 §142. Legislative findings

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11 **F. It is the express intention of the legislature that all funds received**
12 **through any state appropriation, any judicial district indigent defender fund as**
13 **provided for in R.S. 15:168, and any funds received from local governments**
14 **shall not be used for any purposes other than to provide for the administration**
15 **of services and representation of public defender clients.**

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

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24 §168. Judicial district indigent defender fund

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26 E.(1) ~~(1) Notwithstanding any provision of law to the contrary, each judicial~~
27 ~~district is allowed to accumulate funds for the purposes of retaining expert witnesses.~~

1 The district public defender, in his discretion, shall determine how payments shall
2 be administered and which experts shall be paid.

3 (2) Any person who has retained private counsel but is found to be indigent
4 may apply for funds for expert witnesses in the same manner as public defender
5 clients. Each person shall apply for the funds by making application to the district
6 defender of the district having jurisdiction and shall be subject to the same
7 requirements as indigent clients.

8 (3) No court shall have jurisdiction to order the payment of any funds
9 administered by the office or district public defender for expert witnesses, or for any
10 other reason **unless the person makes an application in accordance with R.S.**
11 **15:175(A). If the district public defender or state public defender declines the**
12 **application for expert witness funding, the matter may be fixed for a**
13 **contradictory hearing that is closed to the public and without the presence of**
14 **the prosecuting authority. All recordings and transcripts of the contradictory**
15 **hearing shall be sealed. To require the payment of any expert witness fee, the**
16 **applicant shall demonstrate by a preponderance of the evidence at the hearing**
17 **and the court shall make specific findings as follows:**

18 **(a) The applicant is actually indigent.**

19 **(b) Private counsel of the applicant does not have funds that may be used**
20 **for expert witnesses.**

21 **(c) The source of funding for private counsel is not available for expert**
22 **witnesses.**

23 **(d) The applicant has demonstrated with a reasonable degree of**
24 **specificity what type of expert is needed and the purpose of the expert.**

25 **(e) There is a reasonable probability that denial of the expert's assistance**
26 **would result in a fundamentally unfair trial for the applicant.**

27 **(2) The findings and ruling of the court are subject to immediate**
28 **interlocutory review by the appellate court of competent jurisdiction.**

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30 §175. Proceedings to determine indigency

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B.(1) In ~~determining~~ **making a preliminary determination as to** whether or not a person is indigent and entitled to the appointment of counsel, the court shall consider whether the person is a needy person and the extent of his ability to pay. The court may consider such factors as income or funds from employment or any other source, including public assistance, to which the accused is entitled, property owned by the accused or in which he has an economic interest, outstanding obligations, the number and ages of dependents, employment and job training history, and level of education.

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E. Notwithstanding any provision of law to the contrary, no clerk of court shall charge or collect any fees, including convenience fees, for the filing of a writ application or an appeal when a determination has been made that the applicant or appellant is indigent.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____