

CODE TITLE XIV. RIGHT TO COUNSEL

PART I. INDIGENT DEFENDER REPRESENTATION

§141. Short title

This Part may be referred to and cited as the "Louisiana Public Defender Act".

§142. Legislative findings

A. Article I, Section 13 of the Constitution of Louisiana, in accordance with the state's obligation under the Sixth and Fourteenth Amendments of the United States Constitution, provides that at "each stage of the proceedings, every person is entitled to assistance of counsel of his choice, or appointed by the court if he is indigent and charged with an offense punishable by imprisonment". Section 13 further mandates that the legislature shall provide for "a uniform system for securing and compensating qualified counsel for indigents". Accordingly, it is the obligation of the legislature to provide for the general framework and the resources necessary to provide for the delivery of public defender services in this state.

B. In recognition of its mandates under both the United States and Louisiana constitutions, the legislature enacts the Louisiana Public Defender Act of 2007 to provide for all of the following:

- (1) Ensuring that adequate public funding of the right to counsel is provided and managed in a cost-effective and fiscally responsible manner.
- (2) Ensuring that the public defender system is free from undue political and judicial interference and free of conflicts of interests.
- (3) Establishing a flexible delivery system that is responsive to and respectful of jurisdictional variances and local community needs and interests.
- (4) Providing that the right to counsel is delivered by qualified and competent counsel in a manner that is fair and consistent throughout the state.
- (5) Providing for statewide oversight with the objective that all indigent criminal defendants who are eligible to have appointed counsel at public expense receive effective assistance of counsel at each critical stage of the proceeding.
- (6) Providing for the ability to collect and verify objective statistical data on public defense workload and other critical data needed to assist state policymakers in making informed decisions on the appropriate funding levels to ensure an adequate service delivery system.
- (7) Providing for the development of uniform binding standards and guidelines for the delivery of public defender services and for an effective management system to monitor and enforce compliance with such standards and guidelines.

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

D. The legislature recognizes that the Louisiana Supreme Court in *State v. Citizen*, 898 So. 2nd 325 (La. 2005) authorized trial judges to halt prosecutions in capital cases, upon motion of defense counsel, until adequate funding is provided to ensure an adequate defense, and it is the express intention of the legislature to ensure adequate resources, consistent with the *Citizen* opinion, which allow prosecutions in such cases to continue to conclusion resulting in verdicts that are fair, correct, swift, and final.

E. It is the express intention of the legislature that the Louisiana Public Defender Act of 2007 is designed to provide effective legal representation to criminal defendants who are unable to afford an attorney, consistent with the right to counsel in our criminal courts, mindful of the need for law and order and an appreciation of victims' rights.

F. It is the express intention of the legislature that the Louisiana Public Defender Board respect local differences in practice and custom regarding the delivery of public defender services. The provisions of this Part are to be construed to preserve the operation of district public defender programs which provide effective assistance of counsel and meet performance standards in whatever form of delivery that local district has adopted, provided that method of delivery is consistent with standards and guidelines adopted by the board pursuant to rules and as required by statute.

§143. Definitions

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

- (1) "Board" means the Louisiana Public Defender Board authorized to regulate public defender services.
- (2) "Board office" means the headquarters of the board located in East Baton Rouge Parish.
- (3) "District indigent defender fund" means the judicial district indigent defender fund as provided for in R.S. 15:168.
- (4) "District office" means the office of a district public defender as provided for in R.S. 15:161.
- (5) "District public defender" or "chief indigent defender" means an attorney employed by or under contract with the board to supervise service providers and enforce standards and guidelines within a judicial district or multiple judicial districts.
- (6) "Indigent defendant" means a person that has been determined under the provisions of R.S. 15:175 to be indigent and financially unable to retain private counsel.
- (7) "Indigent defender services program" or "the program" means the activities directed toward the accomplishment of providing indigent defender services under the Louisiana Public Defender Act.
- (8) "Public defender" or "indigent defender" means an attorney employed by or under contract with the board, the district public defender, regional director, where applicable, or nonprofit organization contracting with the board, district public defender, regional director, where applicable, or the board to provide legal counsel to an indigent person in a criminal proceeding.
- (9) "Public defender services" or "indigent defender services" means the providing of legal services to indigent persons in criminal proceedings in which the right to counsel attaches under the United States and Louisiana constitutions.

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

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

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

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

(14) "State Public Defender" means the person in the employment of the board chosen to administer the statewide public defender system for the delivery of public defender services.

§144. Repealed by Acts 2007, No. 307, §11.

§145. Repealed by Acts 2007, No. 307, §11.

§145.1. Repealed by Acts 2007, No. 307, §11.

§146. Louisiana Public Defender Board

A. (1) There is hereby created and established as a state agency within the office of the governor the Louisiana Public Defender Board to provide for the supervision, administration, and delivery of a statewide public defender system, which shall deliver uniform public defender services in all courts in this state. The board shall be a body corporate with the power to sue and be sued.

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

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

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

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

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

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

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

(3) The members shall be selected as follows:

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

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

(c) 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.

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

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

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

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

C. (1) A member may be removed for excessive absences from meetings. For the purposes of this Subsection, "excessive absences" means missing four duly noticed meetings within a period of eighteen months or three duly noticed meetings within a period of ten months.

(2) Upon review of board member attendance, if a board member has been excessively absent from board meetings, the chairman shall inform the board of the absences and shall send written notice on behalf of the board to the member requesting that the member resign his position on the board. If the member refuses to resign, the board shall remove the member for excessive absences in accordance with the provisions of this Subsection.

(3) If a member is removed as provided by this Subsection, the board shall send written notice to the member informing him of his removal and notify the appropriate appointing authority of the vacancy on the board.

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

Added by Acts 1976, No. 653, §1; Amended by Acts 1977, No. 362, §1; Acts 1980, No. 458, §1; Acts 1980, No. 530, §1; Acts 1981, No. 141, §1; Acts 1981, No. 177, §1; Acts 1981, No. 281, §1; Acts 1983, No. 649, §1, eff. July 20, 1983; Acts 1984, No. 379, §1; Acts 1985, No. 764, §1; Acts 1988, No. 315, §1; Acts 1990, No. 1044, §1; Acts 1991, No. 549, §1; Acts 1995, No. 1286, §1; Acts 1999, No. 914, §1; Acts 1999, No. 1187, §2; Acts 2001, No. 283, §1; Acts 2005, No. 112, §1; Acts 2005, No. 343, §1; Acts 2007, No. 307, §1; Acts 2014, No. 113, §1; Acts 2016, No. 571, §1.

§147. Powers, duties, responsibilities

A. Except for the inherent regulatory authority of the Louisiana Supreme Court provided for in Article V, Section 5 of the Constitution of Louisiana regarding the regulation of the practice of

law, the Louisiana Public Defender Board shall have all regulatory authority, control, supervision, and jurisdiction, including auditing and enforcement, and all power incidental or necessary to such regulatory authority, control, supervision, and jurisdiction over all aspects of the delivery of public defender services throughout the courts of the state of Louisiana.

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

(1) Employ an executive staff as provided for in R.S. 15:150 and regularly evaluate the performance of the executive staff.

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

(3) Review and approve the strategic plan and budget proposals submitted by the state public defender, regional directors, where applicable, and district public defenders on behalf of the districts. The board shall consider variations in public defense practices, past practices and procedures, and conditions unique to each district in evaluating the strategic plan and budget proposals on the district level.

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

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

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

(c) Comprehensive workload data.

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

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

(i) Administer the granting of contracts.

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

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

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

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

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

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

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

(11) Prepare and submit to the Joint Legislative Committee on the Budget on or before March first of each year an annual financial report which outlines the expenditures of local, state, and federal funds for the previous calendar year for review by the Joint Legislative Committee on the Budget.

- (12) Draft, administer, and furnish reporting forms to the district public defender, which request detailed information of the district's workload, resources, employees, and expenditures for the previous fiscal year based on the uniform definition of a "case" as defined in R.S. 15:174(C).
- (13) Collect, prepare, and submit an annual report to the legislative auditor.
- (14) Administer the DNA Testing Post-Conviction Relief for Indigents Fund as required under the provisions of Code of Criminal Procedure Article 926.1.
- (15) Arrange for locations, which have adequate space to accommodate the public, to conduct its meetings.
- (16) Adopt rules for the establishment of salary ranges for attorneys and support staff delivering public defender services, taking into consideration variations in public defense practices and procedures in rural, urban, and suburban districts as well as professional experience.

C. The board may:

- (1) Enter into a contract or contracts, on such terms and conditions as it deems advisable, with one or more attorneys licensed to practice law in this state, a consortia of lawyers, or an independent public defender organization qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c) of the Internal Revenue Code to provide counsel for indigent defendants. The provisions of this Paragraph are subject to the intent of the Louisiana Public Defender Act that district public defender programs shall continue operating within the method of delivery of services in effect prior to April 30, 2007, and the board is prohibited from using its power to contract to change the structure of a local program, delivery method, or to terminate personnel without cause in violation of R.S. 15:165(C).
- (2) Establish advisory councils from among Louisiana residents to provide information and guidance regarding needs and concerns of particular localities. Such councils may be established at such times, for such duration, and under such circumstances, as the board deems appropriate.
- (3) Accept, receive, and use public or private grants, gifts, or donations, provided that such gifts, grants, and donations are not otherwise prohibited by law or rule.
- (4) Employ secretarial, clerical, and other such personnel as may be necessary in the operation of the business of the board and fix their compensation.
- (5) Enter into contracts in accordance with law for the purpose of maintaining and operating an office, or offices, and performing the functions authorized by law. The provisions of this Paragraph are subject to the intent of the Louisiana Public Defender Act that district public defender programs shall continue operating within the method of delivery of services in effect prior to April 30, 2007, and the board is prohibited from using its power to contract to change the structure of a local program, delivery method, or to terminate personnel without cause in violation of R.S. 15:165(C).

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

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

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

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

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

Added by Acts 1976, No. 653, §1; Acts 1986, No. 94, §1, eff. June 23, 1986; Acts 1994, 3rd Ex. Sess., No. 105, §1; Acts 1997, No. 1361, §1, eff. Dec. 31, 1997; Acts 2003, No. 288, §1; Acts 2005, No. 343, §1; Acts 2007, No. 307, §1; Acts 2008, No. 2, §1, eff. May 24, 2008; Acts 2008, No. 220, §6, eff. June 14, 2008; Acts 2013, No. 175, §1, eff. June 7, 2013.

§148. Rulemaking; considerations in developing rules

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

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

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

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

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

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

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

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

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

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

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

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

(2) Creating mandatory qualification standards for public defenders that ensure that the public defender services are provided by competent counsel. Those standards shall ensure that public defenders are qualified to handle specific case types which shall take into consideration the level of education and experience that is necessary to competently handle certain cases and case types such as juvenile delinquency, capital, appellate, and other case types in order to provide effective assistance of counsel. Qualification standards shall include all of the following:

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

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

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

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

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

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

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

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

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

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

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

(12) Providing for minimum salary and compensation standards for attorney, investigator, paraprofessional, and any and all other staff necessary for the adequate defense of indigent

defendants in criminal courts and comparable to other positions of similar stature throughout the state.

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

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

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

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

Added by Acts 1976, No. 653, §1; Acts 1987, No. 920, §1; Acts 2005, No. 343, §1; Acts 2007, No. 307, §1; Acts 2008, No. 220, §6, eff. June 14, 2008.

§149. Authority of supreme court not affected

Nothing in the provisions of this Part shall be construed to limit or supersede the inherent regulatory authority of the Louisiana Supreme Court provided for in Article V, Section 5 of the Constitution of Louisiana regarding the regulation of the practice of law in the state of Louisiana. Added by Acts 1976, No. 653, §1; Acts 2007, No. 307, §1; Acts 2008, No. 220, §6, eff. June 14, 2008.

§149.1. Domicile of board; venue

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

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

Acts 1999, No. 1012, §1; Acts 2007, No. 307, §1.

§149.2. Offices; meetings

A. The board shall maintain an office in East Baton Rouge Parish but may maintain such branch offices as it deems necessary to provide for the efficient and thorough regulation and governance of public defender services under its jurisdiction.

B. (1) Except as provided in Subsection C of this Section, in order to effect the implementation of the provisions of this Act, the board shall meet four times per year.

(2) The board may meet such additional times as it deems appropriate.

(3) Meetings may be called by the chairman on his own initiative and shall be called by the chairman upon written request of a majority of board members.

C. (1) Upon consultation with the state public defender, if the chairman determines that there is not sufficient business to warrant the conducting of a meeting of the board, the chairman may cancel a meeting that is required by Subsection B of this Section.

(2) The chairman shall provide written reasons for the cancellation of the meeting and give at least seventy-two hours notice thereof by registered or certified mail to the post office address of each member of the board and of persons who previously have indicated that they have business before the board.

D. The board shall conduct a majority of its meetings per year in East Baton Rouge Parish. Acts 2007, No. 307, §1; Acts 2013, No. 175, §1, eff. June 7, 2013.

§150. Executive staff for board; general qualifications

A. The board shall employ a state public defender, a deputy public defender- director of training, a deputy public defender-director of juvenile defender services, a budget officer, a technology and management officer, a trial-level compliance officer, and a juvenile justice compliance officer who shall function as executive staff for the board.

B. Any person eligible to be employed in an executive staff position shall meet each of the following qualifications:

(1) Be a person of good character, honesty, and integrity.

(2) Be a citizen of the United States.

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

C. The executive staff positions shall be permanent, full-time employees of the board and these employees shall not otherwise engage in the practice of law, where applicable, or engage in any other business or profession.

D. In addition to the general qualifications provided for in Subsection B of this Section, the executive staff positions shall meet the specific qualifications for employment as otherwise provided by law.

E. The salaries of the executive staff, except for the state public defender, shall be established by the board.

Acts 1993, No. 532, §1; Acts 1999, No. 1012, §1; Acts 2004, No. 658, §1; Acts 2007, No. 307, §1.

§151. Quorum; compensation; officers; records

A. Eight voting members shall constitute a quorum for transacting business. A vote of a majority of the membership of the board shall be required to take action.

B. Members of the board shall receive per diem at the same rate as members of the legislature for each day the board meets. They shall also receive reimbursement for travel, lodging, and other expenses at the rate established for state employees.

C. The board shall elect a vice chairman. The chairman and the vice chairman shall serve two-year terms. The board shall select other necessary officers from among its membership.

D. All meetings of the board shall be open and subject to the provisions of R.S. 42:11 et seq. A record of all proceedings at regular and special meetings of the board shall be kept and shall be open to public inspection, except as otherwise provided by R.S. 42:17.

Acts 1997, No. 1361, §1, eff. Dec. 31, 1997; Acts 2005, No. 343, §1; Acts 2007, No. 307, §16.

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

A. The board shall employ a state public defender who shall meet the following qualifications:

(1) Meet the qualifications provided for in R.S. 15:150(B).

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

B. The state public defender shall:

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

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

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

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

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

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

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

- (8) Prepare and submit to the board an annual report of the indigent defender services provided by the service regions, where applicable, and the districts.
- (9) Appear before the Joint Legislative Committee on the Budget and report on the activities of the board.
- (10) Actively seek gifts, grants, and donations that may be available through the federal government or other sources to help fund the system, provided that such gifts, grants, and donations are not otherwise prohibited by law or rule.
- (11) Assist the board in the adoption of rules as provided for in R.S. 15:148 and in accordance with the Administrative Procedure Act.
- (12) Provide services, facilities, and materials necessary for the performance of the duties, functions, and powers of the board.
- (13) Assist the board in establishing the standards and guidelines, policies, and procedures for the statewide delivery of indigent defender services in accordance with rules adopted by the board and as required by statute.
- (14) Establish administrative management procedures for regional offices, where applicable.
- (15) Review, monitor, and assess the performance of all attorneys, consortia of attorneys, or independent public defender organizations qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c) of the Internal Revenue Code to provide counsel for indigent defendants.
- (16) Perform all other duties assigned by the board.

C. The state public defender shall receive annual compensation equal in amount to an associate justice of the supreme court of this state.

Acts 2007, No. 307, §1; Acts 2008, No. 2, §1, eff. May 24, 2008.

NOTE: Judicial compensation, including the salary of a judge of a court of appeal in this state, is subject to the provisions of R.S. 13:10.3 and Chapter 1-B of Part IV of Title 13.

§153. Deputy public defender-director of training; qualifications; duties

A. The board shall employ a deputy public defender who shall act as the director of training who shall meet the following qualifications:

- (1) Meet the qualifications provided for in R.S. 15:150(B).
- (2) Be an attorney licensed to practice law in the United States with at least five years of experience as a criminal defense attorney and if licensed as an attorney in a state other than Louisiana, become licensed as an attorney in this state within one year of being employed by the board.

B. The director of training shall:

- (1) Coordinate training of public defenders in current aspects of criminal and civil law and procedure involving public defense, including the representation of juveniles.
- (2) Establish and supervise a training and performance evaluation program for attorneys and non-attorney staff members and contractors.
- (3) Establish training and educational programs for all public defender attorneys. Such programs shall not be "continuing legal education" as mandated by the Louisiana State Bar Association. The training sponsored by the state program shall be practical training based on models in other states, including trial advocacy and criminal procedure in the nature of mock trials, working seminars,

and mentoring. Such educational programs shall also include annual educational programs and introductory educational programs for attorneys prior to providing public defender services.

(4) Assist in the development and dissemination of standards and guidelines, procedures, and policies that will ensure that public defender services are provided consistently throughout the state.

(5) Consolidate information on important aspects of public defense and provide for a collection of official opinions, legal briefs, and other relevant information.

(6) Provide assistance with research or briefs and provide other technical assistance requested by a public defender providing public defender services.

(7) Apply for and assist in the disbursement of federal funds or other grant money to aid the statewide public defender program, provided that such gifts, grants, and donations are not otherwise prohibited by law or rule.

(8) Perform all other duties assigned by the state public defender or the board.

C. In developing training and educational programs, the director of training shall work in conjunction with the regional director, where applicable, or district public defender to develop a scheduling for training which will consider the daily responsibilities and obligations of attorneys providing public defender services, and minimize any disruption of the delivery of public defender services.

Acts 2007, No. 307, §1.

§154. Deputy public defender-director of juvenile defender services; qualifications; duties

A. The board shall employ a deputy public defender who shall act as the director of juvenile defender services and shall meet the following qualifications:

(1) Meet the qualifications provided for in R.S. 15:150(B).

(2) Be an attorney licensed to practice law in the United States with at least five years of experience as a criminal defense attorney or in juvenile law and if licensed as an attorney in a state other than Louisiana, become licensed as an attorney in this state within one year of being employed by the board.

B. The director of juvenile defender services shall:

(1) Assist the state public defender in working with criminal justice stakeholders, including judges, district attorneys, sheriffs, probation officers, and law enforcement officials to promote sound juvenile justice policies in relation to fair adjudication processes, and placement and treatment of juveniles charged in delinquency proceedings that focus on rehabilitation of the offender.

(2) Promote positive change in educational opportunities and mental health services and other treatment services for juveniles in the court system.

(3) Ensure that board policies and public pronouncements properly recognize that children and young adults do not possess the same cognitive, emotional, decisionmaking, or behavioral capacities as adults and, as such, require that special attention be given to the representation of juveniles to ensure uniformly competent representation.

(4) Perform all other duties assigned by the state public defender or the board.

Acts 2007, No. 307, §1; Acts 2013, No. 175, §1, eff. June 7, 2013.

§155. Budget officer; qualifications; duties

A. The board shall employ a budget officer who shall meet the following qualifications:

- (1) Meet the qualifications provided for in R.S. 15:150(B).
- (2) Have expertise in matters of finance which shall, include at a minimum, possession of either a master's degree in economics, accounting, business administration, public administration, or finance from an accredited business school, or a bachelor's degree in accounting, finance, or administration with five years of progressively responsible experience in general accounting, general finance, or auditing, and have a comprehensive knowledge of the principles and practices of corporate finance.

B. The budget officer shall:

- (1) Prepare and submit to the board for its approval the budget of the board.
- (2) Pay the expenses of the board.
- (3) Be responsible for accounting and budget control, procurement and contract management, data processing, management and program analysis, personnel management, and grants management for the board.
- (4) Develop and make available to the board such fiscal information as will assist the board in evaluating the delivery of public defender services throughout the state with the view of pointing out unnecessary programs, projects, and functions, calling attention to inefficient and uneconomical practices, monitoring, reviewing, and analyzing the performance of the districts and service regions, where applicable, making recommendations for improvement, and carrying out other similar functions.
- (5) Continuously review existing and proposed programs and budgets of the board and service regions, where applicable, and the districts.
- (6) Conduct other studies and perform other duties which may be of assistance in directing the financial affairs of the board.
- (7) Make continuous short- and long-range studies of projected revenues and expenditures of the board.
- (8) Evaluate legislative proposals for fiscal effect on the delivery of public defender services and report the findings of those evaluations to the state public defender and the board.
- (9) Report to the legislature annually with respect to the activities of the board and at such other times as the Joint Legislative Committee on the Budget or the legislative fiscal officer deems appropriate.
- (10) Develop and maintain a comprehensive information system on the receipt of revenues by the board, the service regions, where applicable, and the districts from local, state, and federal sources, as well as the expenditure of these revenues, and to submit a summary of this information annually to the legislature.
- (11) Prepare as of June first of each year an estimate of unexpended balances in every account in his custody and submit a copy thereof to the governor, the legislative auditor, and the legislative fiscal officer.
- (12) Provide administrative staff support to the board.
- (13) Assist each district public defender and regional director, where applicable, with the preparation of monthly and annual financial reporting requirements, budget preparation, and development of a uniform method of accounting for all expenditures of the district including but not limited to the salaries, contracts, acquisition of equipment, and supplies.

(14) Perform all other duties assigned by the state public defender or the board.
Acts 2007, No. 307, §1.

§156. Information technology and management officer; qualifications; duties

A. The board shall employ an information technology and management officer who shall meet the following qualifications:

- (1) Meet the qualifications provided for in R.S. 15:150(B).
- (2) Have expertise in database management, information systems integration, analysis, and programming, which shall include, at a minimum, possession of a bachelor's degree in information technology, or a master's degree in public administration or a related field, from an accredited university or college, or have five years of progressively responsible experience with database management, systems integration, systems analysis, programming, and mid-range client server and Internet systems, or an equivalent combination of education and experience.

B. The information technology and management officer shall:

- (1) Oversee the central and core enabling technologies of the board, including the planning, organizing, supervising and directing of activities and operations of equipment and software and services in the regions.
- (2) Ensure that data, including public defender workload, dispositions, frequency of client contact, duration of time from arrest to disposition, and other data points required to be maintained under Louisiana statutes or requested by the board, is maintained and compiled in a consistent, uniform, and timely manner through the development, training, and enforcement of data collection standards, policies, and procedures.
- (3) Be responsible for instruction and training of board employees and service delivery contractors in the use of new or revised software or equipment.
- (4) Prepare information technology operating and capital budgets.
- (5) Develop and evaluate proposals for computer hardware, software, and networking equipment needs from the regions, where applicable, and the districts.
- (6) Oversee and coordinate the purchase of information technology supplies and equipment for the board and the service regions.
- (7) Employ consultants and vendors to perform information system specialized functions, as needed.
- (8) Perform similar or related work as situations dictate or as required and directed by the state public defender and the board.

Acts 2007, No. 307, §1.

§157. Trial-level compliance officer

A. The board shall employ a trial-level compliance officer who shall meet the following qualifications:

- (1) Meet the qualifications provided for in R.S. 15:150(B).
- (2) Have expertise in matters of performance evaluation development and implementation.
- (3) Be an attorney licensed to practice law in the United States with at least three years of experience as a criminal defense attorney, or possess a master's degree in public administration from an accredited school or university and possess five years of progressively responsible

experience conducting organizational assessments and, if licensed as an attorney in a state other than Louisiana, become licensed as an attorney in this state within one year of being employed by the board.

B. The trial-level compliance officer shall:

- (1) Develop evaluation protocols to assess trial-level district compliance with board-adopted standards and guidelines.
- (2) Develop an effective evaluation implementation plan that allows for regular assessments and ongoing monitoring of each district public defender system's compliance of board-adopted standards and guidelines.
- (3) Provide direct oversight of necessary staff to conduct regular assessments and ongoing monitoring.
- (4) Make regular reports to the board on variances to board standards and guidelines with respect to each district.
- (5) Perform all other duties assigned by the state public defender or the board.

C. All standards and guidelines for the delivery of public defender services shall be rules adopted by the board pursuant to R.S. 15:148 and in accordance with the Administrative Procedure Act.

D. Nothing in this Section shall supersede a district public defender's responsibility to supervise individual attorneys and staff in performance on specific cases, or to employ or terminate local attorneys and staff personnel.

Acts 2007, No. 307, §1.

§158. Juvenile justice compliance officer

A. The board shall employ a juvenile justice compliance officer who shall meet the following qualifications:

- (1) Meet the qualifications provided for in R.S. 15:150(B).
- (2) Have expertise in matters of performance evaluation development and implementation.
- (3) Be an attorney licensed to practice law in the United States with at least three years of experience as a criminal defense attorney or in juvenile law, or possess a master's degree in public administration or a doctoral degree in any field from an accredited school or university and possess five years of progressively responsible experience conducting organizational assessments. If licensed as an attorney in a state other than Louisiana, the juvenile justice compliance officer shall become licensed as an attorney in this state within one year of being employed by the board.

B. The juvenile justice compliance officer shall:

- (1) Develop evaluation protocols to assess district compliance with board- adopted standards and guidelines related to juvenile delinquency representation.
- (2) Develop an effective evaluation implementation plan that allows for regular assessments and ongoing monitoring of each district's compliance of board- adopted standards and guidelines related to juvenile delinquency representation.
- (3) Provide direct oversight of necessary staff to conduct regular assessments and ongoing monitoring related to juvenile delinquency representation.

- (4) Make regular reports to the board on variances to board standards and guidelines with respect to each district related to juvenile delinquency representation.
- (5) Perform all other duties assigned by the state public defender or the board.

C. All standards and guidelines for the delivery of juvenile justice services shall be rules adopted by the board pursuant to R.S. 15:148 and in accordance with the Administrative Procedure Act.

D. Nothing in this Section shall supersede a district public defender's responsibility to supervise individual attorneys and staff in performance on specific cases, or to employ or terminate local attorneys and staff personnel.

Acts 2007, No. 307, §1; Acts 2013, No. 175, §1, eff. June 7, 2013; Acts 2014, No. 214, §1.

§159. Public defender service regions

A. The board is authorized to establish a maximum of eleven public defender service regions or "service regions" in the state of Louisiana to provide service to the board in fulfilling the duties of the board, as provided by this Part. The regions shall be defined by grouping contiguous judicial districts in a manner that provides for the most efficient, feasible, practical, and effective supervision and assistance to the districts by the regional office.

B. A regional office shall be maintained in each service region established by the board.

C. The service region shall provide supervision over the district offices, within that region, including budgetary and operational matters as provided in this Part.

D. The service region shall provide, as authorized by the board, such additional services as the board finds necessary to providing competent counsel in the judicial districts within the region, including but not limited to capital defense services, expert witness resources, and conflict counsel. Such additional services as the board deems necessary or advisable may be provided to clients through the regional offices.

E. Notwithstanding any other provision of law to the contrary, no service region shall be established which has a population in excess of five hundred thousand, as determined by the latest federal decennial census, unless a single judicial district having a population in excess of five hundred thousand, as determined by the latest federal decennial census, is established as a service region consisting of that single judicial district.

Acts 2007, No. 307, §1.

§160. Regional director for service regions; qualifications; duties; selection process

A. The board shall employ a regional director for each of the service regions established by the board, to be selected as provided for in this Section. Each regional director shall meet the following qualifications:

- (1) Meet the qualifications provided for in R.S. 15:150(B).

- (2) Be an attorney licensed to practice law in the United States with at least five years of experience as a criminal defense attorney and, if licensed as an attorney in a state other than

Louisiana, become licensed as an attorney in this state within one year of being employed by the board.

(3) Following his employment, be a domiciliary of the service region who is registered to vote in the service region.

B. Each regional director shall:

(1) Supervise public defender services provided within his assigned service region.

(2) Work in conjunction with the compliance officers to ensure that public defender assignments within the service region comply with the standards and guidelines adopted pursuant to rule by the board and the Rules of Professional Conduct.

(3) Employ and supervise the work of the service region personnel as authorized by the state public defender.

(4) Contract for services as authorized by the state public defender according to the standards and guidelines adopted pursuant to rule by the board and as required by statute.

(5) Keep a record of all public defender services and expenses in the service region and submit the records to the state public defender as requested.

(6) Implement the standards and guidelines adopted as rules by the board pursuant to R.S. 15:148 and in accordance with the Administrative Procedure Act.

(7) Develop a method or methods of delivery of public defender services for the service region, for submission to the board for board approval, upon consultation with and recommendations of the district public defenders in each judicial district within the service region. The regional director shall consider any delivery model in existence prior to August 15, 2007, or prior to establishment of the region, as acceptable until that delivery model fails to comply with the uniform standards and guidelines for the delivery of public defender services in accordance with rules adopted by the board and as required by statute, unless the region is established for districts which have previously been determined not to be in compliance with the uniform standards and guidelines.

(8) Perform all other duties assigned by the state public defender or the board.

C. Upon making the determination to establish a service region, the board shall appoint a regional director selection committee as provided for in Subsection D of this Section.

D. (1) Each judicial district within the service region shall have three members appointed to the selection committee who are attorneys domiciled in that judicial district, are in good standing with the Louisiana Bar Association, and are not otherwise disqualified by Paragraph (2) of this Subsection.

(2) No person shall be appointed to the selection committee who has received compensation to be an elected judge, elected official, judicial officer, prosecutor, law enforcement official, indigent defense provider, or who is an employee of any such person, within a two-year period prior to appointment. No active part-time, full-time, contract, or court-appointed indigent defense provider, or active employees of such persons, may be appointed to serve on the selection committee.

(3) The members of the regional director selection committee shall be appointed district by district in the following manner:

(a) One member appointed by the state public defender.

(b) One member appointed by the president of the Louisiana State Bar Association.

(c) One member appointed by the chief judge of the judicial district.

(4) The state public defender shall select the chairman of the committee from one of his appointments.

E. In the event there are fewer than three attorneys eligible to serve as members of the selection committee as provided for in Subsection D of this Section, or there are fewer than three eligible attorneys who are willing to serve as members of the selection committee, the members shall be selected as provided for in Paragraph (D)(3) of this Section from among any registered voters residing in that judicial district.

F. (1) The selection committee shall review eligible candidates for the position of regional director, giving preference to those individuals who are domiciled in the service region.

(2) Within ninety days of formation of the selection committee, the selection committee shall submit a list of at least three nominees for the position of regional director.

G. Except as provided in Subsection H of this Section, within thirty days of receiving the nominations for the position of regional director from the selection committee, the board shall employ a regional director from the list of nominees submitted to the board.

H. (1) After review and analysis of the list of nominees submitted to the board by the selection committee, if the board determines that none of the submitted nominees are acceptable to the board, the board shall issue a written statement directing the selection committee to submit additional nominees for the position of regional director.

(2) If the board directs the selection committee to submit additional names for the position of regional director, the committee shall have ninety days to submit the additional names. Within thirty days of receiving the additional nominations for the position of regional director, the board shall employ a regional director from the list of nominees submitted to the board.

(3) The board shall direct the selection committee to submit additional nominees to the board only upon a determination that none of the submitted nominees are acceptable to be employed as regional director for the service region.

(4) The board may issue a written statement directing the selection committee to submit additional nominees for the position of regional director only one time during the selection process for that position.

Acts 2007, No. 307, §1; Acts 2008, No. 220, §6, eff. June 14, 2008.

§161. District public defender; powers; duties; accounting; audit reporting; existing chief indigent defenders continued; establishment of district office

A. Except as otherwise provided for in this Section, the board shall employ or contract with a district public defender to provide for the delivery and management of public defender services in each judicial district.

B. Each district public defender shall meet the following qualifications:

(1) Meet the qualifications provided for in R.S. 15:150(B).

(2) Be an attorney licensed to practice law in Louisiana with at least five years of experience as a criminal defense attorney.

(3) Following his employment, be a domiciliary of the judicial district or a contiguous judicial district who is registered to vote in that judicial district or contiguous district.

C. A district office, or appropriate office space, shall be maintained in each judicial district for meeting with clients and rendering public defender services.

D. Vacancies for the office of district public defender shall be filled as provided for in R.S. 15:162.

E. Each district public defender shall:

- (1) Manage and supervise public defender services provided within his judicial district.
- (2) Prepare an operating budget for the district and submit it to the budget officer annually.
- (3) Work in conjunction with the budget officer in developing a uniform method of accounting for all expenditures of the district, including but not limited to the salaries, contracts, acquisition of equipment, and supplies.
- (4) Submit to the budget officer a monthly report of all revenues received and expenditures, including but not limited to salaries, contracts, acquisition of equipment, and supplies for the district.
- (5) Work in conjunction with the compliance officers to ensure that public defender assignments within the judicial district comply with the standards and guidelines adopted pursuant to rule by the board and the Rules of Professional Conduct.
- (6) Supervise the work of the district personnel.
- (7) Employ district personnel, subject to review by the state public defender or the regional director, where applicable, for compliance with qualifications and standards and guidelines established by statute and by rules adopted by the board.
- (8) Contract for services in accordance with the standards and guidelines adopted by rule by the board, and as authorized by the regional director, where applicable.
- (9) Keep a record of all public defender services and expenses in the district and submit the records to the regional director, where applicable, or state public defender as requested.
- (10) Implement the standards and guidelines and procedures established by the board, state public defender, and regional director, where applicable, for the district.
- (11) Maintain a client workload for the district office as determined by the regional director, where applicable, the state public defender, and the board.
- (12) Consult with the regional director, where applicable, and make recommendations regarding the method of delivery of public defender services for the district for submission to the board for board approval. The regional director, where applicable, or the board shall consider any delivery model in existence prior to August 15, 2007, as acceptable until that delivery model is proven to not meet the uniform standards and guidelines for the delivery of public defender services in accordance with rules adopted by the board and as required by statute.
- (13) Employ or terminate district personnel, manage and supervise all district level work, including establishment of district personnel salaries, subject to review by the board for compliance with salary guidelines established by the board through the adoption of rules.
- (14) Perform all other duties assigned by the regional director, where applicable, state public defender, or board.

F. Each district public defender may make recommendations to the regional director, where applicable, the state public defender, and the board on any matter regarding his judicial district.

G. Each district public defender shall work in conjunction with the legislative auditor in developing uniform audit reports as required by R.S. 24:515.1 which shall require the following to be included in that report:

- (1) The amount of all state revenue provided by the legislature from general or special appropriations, or revenue passed through by state agencies.
- (2) The amount of all revenue provided by local government from general or special appropriations, appropriations required by law, and revenue from the criminal court fund.
- (3) The amount of grant funding from federal pass-through or categorical grants, grants from nonprofit organizations, and private and corporate foundations.
- (4) The amount of funding received from any self-generated revenue.

H. (1) In an effort to maintain continuity of indigent defender services in each judicial district, any person employed as the chief indigent defender of a judicial district as of January 1, 2007, pursuant to the provisions of R.S. 15:145(B)(2)(a), shall continue to be employed by, or enter into a contract with, the board and serve as the district public defender of that district.

(2) The board shall establish the salaries for each district public defender; however, the salaries and benefits in place on January 1, 2007, for each chief indigent defender shall continue as the beginning salary for each district public defender and shall not be decreased. The provisions of this Paragraph shall not be construed to limit the board's ability to increase the salary of a district public defender.

I. The board shall evaluate any district where, as of January 1, 2007, there is no person employed as the chief indigent defender, pursuant to the provisions of R.S. 15:145(B)(2)(a), and do one of the following:

- (1) Employ a district public defender who meets the criteria provided for in this Section, using the selection process provided for in R.S. 15:162; or
- (2) Assign another district public defender from a contiguous judicial district to manage and supervise public defender services for both judicial districts; or
- (3) Determine whether the board shall regionalize the operation of the district, as provided for in R.S. 15:163.

J. Notwithstanding any other provision of law to the contrary, any attorney employed by or under contract with the board, the district public defender, regional director, where applicable, or nonprofit organization contracting with the board, district public defender, regional director, where applicable, or the board to provide legal counsel to an indigent person in a criminal proceeding shall be licensed to practice law in the state of Louisiana. The provisions of this Subsection shall not be construed to prohibit the use of an attorney licensed to practice law in another state to provide legal counsel to an indigent person in a criminal proceeding on a pro-bono basis or who is receiving compensation from a grant administered by the board or from a grant administered by any nonprofit organization contracting with the board, provided that the out-of-state attorney is authorized to perform those services by the Louisiana Supreme Court. The legislature hereby specifically states that the provisions of this Subsection are in no way intended to, nor shall they be, construed in any manner which will impair any contractual obligations heretofore existing on June 1, 2007, of any out-of-state attorney authorized by the Louisiana Supreme Court to practice law in this state to provide legal counsel to an indigent person in a criminal proceeding.

Acts 2007, No. 307, §1; Acts 2008, No. 220, §6, eff. June 14, 2008.

§162. Vacancies in position of district public defender; formation of district public defender selection committee; powers and duties of committee; process for filling vacancy for district public defender; interim district public defender

A. Except as provided for in Subsection G of this Section, within twenty days of receiving notice of a vacancy which occurs for the position of district public defender by reason of demotion, termination, retirement, resignation, or death, the board shall form a district public defender selection committee as provided for in Subsection B of this Section.

B. (1) The selection committee shall consist of three attorneys who are in good standing with the Louisiana State Bar Association, are domiciled in that judicial district, and are not otherwise disqualified by Paragraph (2) of this Subsection.

(2) No person shall be appointed to the selection committee that has received compensation to be an elected judge, elected official, judicial officer, prosecutor, law enforcement official, or indigent defense provider, or employees of all such persons, within a two-year period prior to appointment. No active part-time, full-time, contract, or court-appointed indigent defense provider, or active employees of such persons, may be appointed to serve on the selection committee.

(3) The members shall be selected as follows:

(a) One member, who shall serve as chairman of the committee, appointed by the state public defender.

(b) One member appointed by the president of the Louisiana State Bar Association.

(c) One member appointed by the chief judge of the judicial district.

C. In the event there are fewer than three attorneys eligible to serve as members of a selection committee as provided for in Subsection B of this Section, or there are fewer than three eligible attorneys who are willing to serve as members of a selection committee, the members shall be selected as provided for in Paragraph (B)(3) of this Section from among any registered voters residing in that judicial district.

D. (1) The selection committee shall review eligible candidates for the position of district public defender, giving preference to those individuals who are domiciled in the district.

(2) Within sixty days of formation of the selection committee, the selection committee shall submit a list of at least three nominees for the position of district public defender.

E. Within thirty days of receiving the nominations for the position of district public defender from the selection committee, the board shall employ a district public defender from the list of nominees submitted to the board.

F. The board shall appoint an interim district public defender to fill the vacancy of the district public defender until the position is filled.

G. The provisions of this Section shall not apply to a district which has been regionalized pursuant to the provisions of R.S. 15:163.

H. Whenever a vacancy occurs for the position of district public defender in any judicial district having a population of less than thirty thousand, or having less than four attorneys providing public

defender services, the board shall evaluate the district and make a determination regarding the appropriateness of employing a district public defender or authorizing a district public defender from a contiguous judicial district to manage and supervise public services in that judicial district. If a decision is made by the board to employ a district public defender, the board shall use the selection process provided for in this Section to fill that vacancy.

I. (1) Board staff shall not require of the district public defenders or their staff any response with a due date less than six working days from the first full day since the request is received, other than during a natural emergency. The time period provided for in this Paragraph shall not include responses requested by the governor, the House Committee on Administration of Criminal Justice, or the Senate Committee on Judiciary C.

(2) The board shall make every effort to end the use of paper reports and shall make every effort to rely on searchable digital data in order to reduce costs of operation.

Acts 2007, No. 307, §1; Acts 2008, No. 220, §6, eff. June 14, 2008; Acts 2016, No. 571, §1.

§162.1. District public defender advisory boards

A. A district public defender may establish a district public defender advisory board to provide information, assistance, and guidance with respect to the delivery of public defender services in that judicial district.

B. The number of board members, the makeup of the board, and the frequency of meetings of the board shall be determined by the district public defender, upon consultation with district judges having criminal jurisdiction in that judicial district.

C. The advisory board may make comments, recommendations, findings, and suggestions regarding the delivery of indigent defender services in the judicial district.

D. The comments, recommendations, and findings of the district advisory board shall be documented and included in the annual report of the district to the board. Specific comments, recommendations, and findings of the district public defender advisory boards shall be considered by the board in its performance and compliance evaluation of the district but shall be nonbinding on the board.

E. Upon request of a district public defender advisory board, the Louisiana Public Defender Board shall provide an opportunity to the advisory board to appear before the Louisiana Public Defender Board to offer any comments, recommendations, findings, or suggestions regarding the delivery of public defender services for the district.

Acts 2007, No. 307, §1.

§163. Regionalization of district public defender services by board

A. In certain cases the board shall regionalize and operate the public defender services of a district as a subdivision of the board through a regional office. When the public defender services of a district are taken over by the board in this manner, the district public defender shall be an employee of the region and the regional director shall be the manager and supervisor of the district public defender office. A regionalization of the operation of a district public defender program shall

occur, by a majority vote of the board, upon a finding that one of the following conditions have occurred:

- (1) The district, through its district public defender, petitions the board for the board to regionalize the delivery of indigent defender services in the district; or
- (2) The board upon its own motion, or upon petition of a regional director, if applicable, finds that the district public defender office has failed after reasonable assistance, resourcing, and consultation with the board to reasonably meet performance standards mandated by the board or to comply with data reporting or any other rule adopted by the board; or
- (3) Due to a natural disaster or catastrophic emergency, the district public defender cannot operate or function normally, provided that this shall apply for not longer than a period of six months, renewable by the board on an interim basis at six- month intervals.

B. In any district where the board takes over the operation of indigent defender services as provided by this Section the district office shall be maintained for client services in the judicial district. The district public defender in a district regionalized pursuant to the provisions of this Section shall be a day-to-day manager and shall work out of the district office.

C. When the operation of a district office is regionalized pursuant to the provisions of this Section, the supervision of compliance with state standards and guidelines shall be carried out by an officer of the board as part of its supervision of the regional office.

D. Prior to regionalizing a district as provided for in this Section, the board shall send written notice of the public hearing as required in Subsection E of this Section, to the chief judge, the district advisory board, if applicable, and the district public defender of that judicial district of the board's intention to regionalize the district.

E. (1) Prior to regionalizing a district as provided for in this Section, the board shall conduct a public hearing regarding regionalization of a district, and provide the public an opportunity to offer comment on the regionalization.

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

Acts 2007, No. 307, §1.

§164. Regional defense service centers

A. Upon approval of the board, any district public defender may contract with one or more other district public defenders for the establishment of a regional defense service center. A district public defender may enter into only one contract for a regional center in a particular field of practice.

B. As used in this Section, the term "regional defense service center" means:

- (1) A regional appellate resource center.
- (2) A regional death penalty center.
- (3) A regional juvenile defense center.

C. (1) A regional defense service center may be granted authority to contract with counsel for defense at trial in the district court for defendants charged with capital offenses, for appeals in noncapital cases and in capital cases in which a sentence of life imprisonment was imposed, and for representation of juveniles in juvenile courts and in all other courts with juvenile jurisdiction. The center may also contract for other specific functions other than appeals and post-conviction representation in capital cases in which the death penalty was imposed, and for the operation of an office, library, and other reasonably necessary services and authority as the contracting boards deem appropriate.

(2) A regional death penalty center may retain a supervising attorney or chief defender, whose job description and compensation shall be specifically set out in the contract by the districts which establishes the regional defense service center. No attorney with less than five years' criminal trial practice shall serve as lead counsel in any death penalty case assigned to the regional death penalty center.

(3) A regional defense service center may apply for grants from any source of funding for the center's operation. The funds from such grants shall belong to the regional center.

D. A contract among district indigent defender boards shall provide for adequate supervision of the regional defense service center established, with periodic reports to each of the contracting boards, at least every six months, regarding the following:

(1) Information on the center's caseload and the status of each case.

(2) Receipts and disbursements.

(3) Comparison of budget to actual expenses.

(4) Assessment of the effectiveness of the center.

E. (1) The contract establishing a regional defense service center shall further provide for the specifics of contracts with attorneys, the method of staffing, and the contract amount. If a center is intended to retain full-time counsel, that condition shall be specified in the contract establishing the center.

(2) Regional defense service centers shall operate on a calendar year budget and shall be subject to the rules and regulations of the legislative auditor.

(3) A regional defense service center shall have an established caseload limit beyond which counsel at the center may decline to provide representation in its assigned area of criminal defense.

(4) The contract for a regional defense service center shall provide for contribution by the contracting districts for a period not more than five nor less than three calendar years, which commitment shall be binding on the contracting boards. The basis of the contribution may be any rational basis, including population, caseload, or other criteria agreed to by the respective boards. The contracting boards shall be required by the contract to contribute to the regional service center for a period of not less than three nor more than five years, and the contract shall be noncancellable.

F. (1) The purpose of regional defense service centers shall be to improve services and reduce cost by creating a regional defense service center for appellate work, death penalty defense, juvenile representation, and such other specific related purposes as the districts involved shall define by the contract.

(2) Nothing herein shall be interpreted as creating a duty on the part of such regional defense service centers to do any act, or provide any service, beyond that contemplated in the establishment of the center by the district indigent defender boards and present jurisprudence.

Acts 2007, No. 307, §1.

§165. Methods of delivery of public defender services; selection of methods; emergency circumstances

A. The method of delivery in each judicial district shall be approved to the extent that it is meeting or able to meet the performance standards and guidelines of the board. The board may change the method of delivery in order to ensure compliance with best practices reflected in the performance standards and guidelines.

B. The board shall approve the method of delivery of public defender services for each district upon consultation with and recommendations of the state public defender, the director of juvenile defender services, the regional director for the service region, where applicable, and the district public defenders from the following service delivery methods or any combination thereof:

(1)(a) Appointment by the district public defender from a list of competent attorneys licensed to practice law in this state and classified according to case-type certification level.

(b) All appointments shall be on a successive, rotational basis by case-type certification. Deviations from the board's list shall be permitted only to comply with Code of Criminal Procedure Article 512 and in exceptional circumstances upon approval of the board upon recommendation of the district public defender or regional director, where applicable.

(2) An independent public defender organization qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c) of the Internal Revenue Code to provide counsel for indigent defendants. The salaries of the district public defender and all assistants and supporting personnel shall be fixed by the board in compliance with salary and compensation standards adopted pursuant to rule by the board.

(3) The board may authorize the district public defender or regional director, where applicable, to enter into a contract or contracts, on such terms and conditions as it deems advisable, with one or more attorneys licensed to practice law in this state to provide counsel for indigent defendants in criminal proceedings.

(4) A full-time public defender office, staffed by full-time lawyers and support staff, or primarily full time with supplemental positions on a contract basis.

C. Any delivery model in existence prior to April 30, 2007, shall be presumed to be acceptable and meet standards guidelines pursuant to rules adopted by the board, and as provided by statute until the delivery model is proven not to meet those standards and guidelines.

D. (1) If, after reasonable assistance, providing of resources, and consultation with the board, the state public defender, or regional director, where applicable, the preexisting delivery model is still deemed unacceptable, the board shall determine upon consultation with the state public defender, the director of juvenile defender services, and the regional director, where applicable, the appropriate service delivery system to provide counsel for indigent defendants in criminal proceedings. Such a system shall be structured with due consideration for local variances from judicial district to judicial district within the region and shall, where necessary, establish satellite

offices or part-time satellite offices to maintain easy access to clients in each judicial district within their purview.

(2) The board shall provide notice of a public hearing as provided in Paragraph (3) of this Subsection, to the district public defender, district advisory board, if applicable, and the chief judge of the judicial district prior to changing any delivery model as provided for by this Section and provide the public an opportunity to offer comment on the change in the delivery model.

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

E. An independent public defender organization qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c) of the Internal Revenue Code existing as of August 15, 2007, may, with the approval of current local indigent defender boards of other judicial districts in its region, provide administration, management, and supervision of services and budgets for those districts, with due consideration for local variances from judicial district to judicial district within the region, and establish, where necessary, satellite offices or part-time satellite offices to maintain easy access to clients in each judicial district within their purview.

F. The district public defender shall create a staff organization plan for its delivery method which shall be subject to approval by the state public defender or regional director, where applicable, and the board. The staff organization plan will provide for the method of delivery, positions, duties, and assignments in the district court.

G. In the event of a catastrophic event, natural or otherwise, the board shall have the power to establish an appropriate delivery system to maintain the competent delivery of services from among the delivery methods provided for by this Section.

Acts 2007, No. 307, §1; Acts 2008, No. 220, §6, eff. June 14, 2008.

§166. Disbursement of funds

A. The board shall not disburse funds to a non-governmental entity unless it establishes a benefit to the function of the board pursuant to law, and unless services are actually delivered. Under no circumstances shall the board disburse state funds for the purpose of savings, reserves, or other purposes related primarily to the economic health of the non-governmental entity or its owners and employees.

B. Any service which the board seeks, other than the Louisiana Appellate Project or the Capital Appeals Project, which are statewide programs, shall be subject to an application process by which the board provides objective deliverables and allows the district defenders to make application upon the same terms as a non-governmental entity to provide services in that district or a regional area for services as provided by law.

C. No provision of Louisiana law authorizing the return or rollback of funds from governmental programs to the division of administration shall apply to the board account during an emergency shortfall in funding as certified by the board with the approval of the chief justice of the Louisiana Supreme Court.

Acts 2016, No. 571, §1.

§167. Louisiana Public Defender Fund

A. "The Louisiana Public Defender Fund", hereinafter referred to as the "LPD Fund", is hereby created in the state treasury. Interest earned on the investment of monies in the fund shall be deposited in and credited to the fund. Unexpended and unencumbered monies in the fund at the close of each fiscal year shall remain in the fund. Monies in the fund shall be appropriated, administered, and used solely and exclusively for purposes of the Louisiana Public Defender Act and program and as further provided in this Section.

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

C. Monies in the fund shall be appropriated and used solely and exclusively to provide for the implementation of the Louisiana Public Defender Act and the program.

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

E. The board shall dedicate and disburse at least sixty-five percent of the entirety of its annual budget and its funds in the Louisiana Public Defender Fund as defined in Subsection A of this Section each fiscal year to the district defender offices and their indigent defender funds as defined in R.S. 15:168(A) in the various judicial districts throughout the state. Any funds disbursed to any district defender office shall be paid in addition to the minimum mandatory sixty-five percent of dedicated and disbursed funds required in this Subsection. The provisions of this Subsection shall not apply to statutorily dedicated funds or funds received through the awarding of grants.

Acts 2007, No. 307, §1; Acts 2016, No. 571, §1.

§168. Judicial district indigent defender fund

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

B. (1) Every court of original criminal jurisdiction, except in the town of Jonesville, in the city of Plaquemine, and in mayors' courts in municipalities having a population of less than five thousand, shall remit the following special costs to the district indigent defender fund for the following violations, under state statute as well as under parish or municipal ordinance, except a parking violation. The sum of forty-five dollars shall be assessed in cases in which a defendant is convicted

after a trial, a plea of guilty or nolo contendere, or after forfeiting bond and shall be in addition to all other fines, costs, or forfeitures imposed.

(2)(a) Such amounts shall be remitted by the respective recipients thereof to the judicial district indigent defender fund monthly by the tenth day of the succeeding month.

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

(1) Name and case number of each defendant.

(2) Date of order assessing such costs.

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

(4) Date of collection of such costs.

(5) Actual amount collected.

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

C. Except as otherwise provided by the Louisiana Public Defender Act, the funds provided for in this Section, and any other self-generated revenue and all interest or other income earned from the investment of such funds and self-generated revenue shall be retained in the district and shall be used and administered by the district public defender.

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

E. Any surplus monies in the judicial district indigent defender fund on August 15, 2007, shall be retained in that judicial district and remain in the judicial district indigent defender fund. Any unexpended and unencumbered monies in the judicial district indigent defender fund at the close of each fiscal year shall remain in the judicial district indigent defender fund. Monies in the fund shall be administered and used solely and exclusively for purposes of delivering indigent defender services in that judicial district.

Acts 2007, No. 307, §1; Acts 2012, No. 330, §1, eff. July 1, 2012; Acts 2012, No. 578, §1, eff. June 7, 2012; Acts 2016, No. 239, §1; Acts 2016, No. 581, §1, eff. June 17, 2016.

§169. Representation of capital defendants

A. In cases where a sentence of death has been imposed, the board shall promptly cause counsel to be enrolled to represent the defendant. The board shall adopt rules and retain only such staff counsel or other counsel, who will work under the supervision of the board, as are necessary to provide counsel to represent capital defendants on direct appeal to the Supreme Court of Louisiana and to seek post-conviction relief if appropriate in state and federal court. The board shall also adopt rules regarding the provision of reasonably necessary services associated with the proceedings, including investigative, expert, and other services. The rules shall require that funds to pay for such reasonably necessary services shall be provided only upon a written showing specifically identifying the nature of the services, the cost of such services, and the need for such

services with mandatory guidelines for compensation and litigation expense maximums. The board may seek funding as is available under federal law or from other public and private sources to cover the costs of providing representation in connection with applications for post-conviction relief filed in state and federal court.

B. Staff counsel, or other counsel, who represented convicted capital defendants in state court proceedings may, if authorized by the board, accept appointments from federal court to represent those defendants, but only if compensation is provided by funds as directed by the appointing federal court. Such funds shall remain subject to the use of the board and may be used for paying the costs of such representation. No state-appropriated funds shall be expended for the representation of capital defendants in federal court.

Acts 2007, No. 307, §1.

§170. Disciplinary action; sanctions of regional directors and district public defenders; just cause; hearing

A. (1) The board shall have the authority to take corrective or disciplinary action against any regional director, or district public defender, for failure to adhere to the standards and guidelines for rendering indigent defender services as provided by rules adopted pursuant to R.S. 15:148 and in accordance with the Administrative Procedure Act.

(2) "Corrective or disciplinary action" shall include but not be limited to any of the following:

(a) Issuance of a warning or reprimand.

(b) Issuance of a sanction.

(c) Suspension from rendering public defender services with or without compensation.

(d) Demotion.

(e) Termination.

(3) A regional director or district public defender may be demoted or terminated for just cause.

B. The actions which constitute just cause are as follows:

(1) The willful refusal to comply with mandatory training and education requirements.

(2) The willful refusal to comply with mandatory performance standards and guidelines as required by rule adopted by the board.

(3) The conviction or nolo contendere plea to any felony, participation in a pretrial diversion program pursuant to a felony charge, or conviction of any misdemeanor involving moral turpitude or public corruption.

(4) The willful failure to correct consistently ineffective practices to the detriment of clients.

(5) The willful failure to document communications with clients as required by the board.

(6) The willful failure to cooperate with the state public defender, a regional director, where applicable, or the board in any matter.

(7) The willful failure to submit to periodic review of their work against the performance standards and guidelines.

(8) The willful failure to submit requested documentation on any matter as requested by the regional director or the board.

(9) Knowingly making any false statement to the regional director, state public defender, or board.

(10) Using fraudulent, coercive, or dishonest practices or misrepresentation or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business such as might endanger the public.

C. A regional director or district public defender who feels that he has been demoted or terminated without just cause as defined in this Section may, within fifteen days after the action, demand in writing a hearing, and investigation by the board to determine the reasonableness of the action.

D. (1) Upon receipt of a request for a hearing, the board shall appoint a five- member hearing committee made up of five board members.

(2) The board shall designate the chairman of the hearing committee, who shall function as the presiding officer of the hearing.

(3) The chairman of the hearing committee shall designate an attorney to present evidence in support of the proposed job action. The attorney may be the supervisor requesting the job action or his designee or another attorney currently providing indigent defender services appointed by the board for that purpose.

(4) The hearing committee shall conduct a hearing on the matter within thirty days after receipt of the written request.

(5) The hearing shall be conducted by the hearing committee and shall, at a minimum, provide for:

(a) The receipt of sworn testimony, including by deposition.

(b) An opportunity for any interested party to be heard.

(c) An orderly, predictable, and timely docketing system.

(d) Submission of the report required by this Section within thirty days after receipt of the record of the hearing conducted as provided for in this Section.

(6) The hearing shall be public and the testimony shall be recorded.

(7) All parties shall be afforded an opportunity to appear before the hearing committee, either in person or with counsel, and present evidence to show that the action was or was not taken in good faith for cause as set forth in the provisions of this Section.

(8) The burden of proof for any job action short of termination of employment shall be by a preponderance of the evidence. The burden of proof for termination of employment shall be by clear and convincing evidence.

E. The hearing committee may:

(1) Issue subpoenas and compel the attendance of witnesses or the production of documents.

(2) Administer oaths.

(3) Require testimony under oath before the hearing committee in the course of a hearing being held for any reason.

(4) Issue written interrogatories.

F. As to every matter on which a hearing is held, the hearing committee shall submit a report to the board within thirty days of conducting the hearing, which shall contain, at a minimum, the record of the hearing, including all submissions, the finding of the facts that are pertinent to the decision, the conclusions of applicable law related to the decision, and the decision. The submission shall be in writing, shall be provided to all involved parties, and shall be a public record, except for any submitted materials which are confidential pursuant to law.

G. (1) Within thirty days of receipt of the report from the hearing committee, the board shall take action in a public meeting conducted by the board.

(2) At that time the board may affirm the recommendation of the hearing committee, modify or disapprove the recommendations of the hearing committee, or direct that the matter be investigated further.

(3) If the board affirms the demotion or termination action, then the termination or demotion of the regional director or district public defender shall remain in effect and shall be permanent.

(4) If the board finds that the termination or demotion was not taken in good faith for just cause under the provisions of this Section, the board shall order the immediate reinstatement or reemployment of such person in the office, place, position, or employment from which he was terminated or demoted, which reinstatement shall, if the board so provides, be retroactive and entitle him to his regular pay from the time of termination or demotion.

(5) The board may modify the order of termination or demotion by directing a suspension without pay for a given period.

H. The decision of the board, together with its written findings of fact, shall be certified in writing and shall be enforced by the board.

I. All decisions of the board are final and may not be appealed.

J. Prior to terminating or demoting a district public defender, the board shall send written notice of the public hearing as required by this Section, to the chief judge, and the district advisory board, if applicable, of the judicial district of the board's intention to terminate or demote the district public defender of that judicial district.

Acts 2007, No. 307, §1; Acts 2008, No. 220, §6, eff. June 14, 2008

§171. (Reserved).

§172. (Reserved).

§173. Right of action not created

A. It is not the intent of the legislature to create any new right, right of action, or cause of action or eliminate any right, right of action, or cause of action existing under current law. Nothing in the provisions of this Part shall create, expressly or by implication, any right, claim, or cause of action in favor of anyone in connection with the delivery of indigent defender services.

B. In addition to the provisions of Subsection A of this Section, nothing herein, nor any standards, guidelines, or rules adopted as a result hereof, shall be construed to provide any criminal defendant the basis of any claim that the attorney or attorneys appointed to represent him pursuant to this statute performed in an ineffective manner. It shall be presumptive evidence that any attorney performing criminal defense services pursuant to the auspices of this statute is currently certified to have met the standards and guidelines adopted by the board to provide criminal defense services in an effective manner. Nothing contained herein shall be construed to overrule, expand, or extend, whether directly or by analogy, the decision reached by the United States Supreme Court in *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984) nor its progeny as adopted by the Louisiana Supreme Court.

Acts 2007, No. 307, §1; Acts 2008, No. 220, §6, eff. June 14, 2008.

§174. Special reporting requirements; penalties

A. In addition to the general oversight requirements provided by law, each district or service region, where applicable, shall submit an annual report to the Louisiana Public Defender Board no later than February first of each year, commencing in 2009. The report, using the uniform definition of a "case" as defined in Subsection C of this Section, shall include detailed information of the workload, resources, employees, and expenditures for each district or service region, where applicable, for the previous fiscal year. The report shall also include the number of Families in Need of Services (FINS) petitions, Child in Need of Care (CINC) petitions, and child support petitions handled by each service region.

B.(1) The district public defender, and director of each service region, where applicable, shall be responsible for preparing, completing, and submitting the annual report to the Louisiana Public Defender Board as provided for in Subsection A of this Section.

(2) The district public defender shall be subject to the penalties provided for in Paragraph (3) of this Subsection, payable out of the judicial district indigent defender fund, if any of the following occur:

(a) The failure to file a report.

(b) The failure to timely file a report.

(c) The failure to disclose or accurately disclose any required information.

(d) The filing of a false report.

(3) The amount of the penalty shall be one hundred dollars for each day until the report or the required accurate information is filed.

C. For purposes of this Section, a "case" is defined as a charge or set of charges contained in a charging instrument or petition against a single accused arising out of one or more events, transactions, or occurrences, which are joined, or which may be joined pursuant to Code of Criminal Procedure Articles 490 through 495.1. Cases that involve multiple persons accused are counted as a separate case for each person accused. Cases that involve multiple charges or counts are recorded with the highest charge, based on the severity of sentence for the crime charged, as the case type. Multiple charges against a single person for the issuing of worthless checks shall be counted as a single case. Each appeal, after conviction, shall be counted as a separate case. In the event that a charging instrument contains a charge or set of charges arising out of multiple events, transactions, or occurrences, indigent defender boards shall track, record, and report the number of such instances per charging instrument.

Acts 2007, No. 307, §1.

§175. Proceedings to determine indigency

A.(1)(a) A preliminary inquiry and determination of indigency of any accused person shall be made by the court not later than arraignment and such determination may be reviewed by the court at any other stage of the proceedings.

(b) A person will be deemed "indigent" who is unable, without substantial financial hardship to himself or to his dependents, to obtain competent, qualified legal representation on his own. "Substantial financial hardship" is presumptively determined to include all defendants who receive public assistance, such as Food Stamps, Temporary Assistance for Needy Families, Medicaid,

Disability Insurance, resides in public housing, or earns less than two hundred percent of the Federal Poverty Guideline. A defendant is presumed to have a substantial financial hardship if he or she is currently serving a sentence in a correctional institution or is housed in a mental health facility.

(c) Defendants not falling below the presumptive threshold will be subjected to a more rigorous screening process to determine if their particular circumstances, including seriousness of the charges being faced, monthly expenses, local private counsel rates, would result in a "substantial hardship" were they to seek to retain private counsel.

(d) If the court makes the preliminary determination that the accused is or may be indigent, the court shall require the accused to make application to the district public defender office or an attorney appointed or under contract to provide indigent defender services, who shall inquire further into the accused's economic status and, upon determining that the accused is indigent, shall file a certification thereof, in such form as the court may require and without paying costs in advance, in the record of the proceeding or enroll as counsel.

(e) The accused shall be responsible for applying for indigent defense counsel and for establishing his indigency and entitlement to appointment of counsel. Any oral or written statements made by the accused in or for use in the criminal proceeding and material to the issue of his indigency shall be made under oath or an equivalent affirmation.

(f) An accused person or, if applicable, a parent or legal guardian of an accused minor or an accused adult person who is claimed as a dependent on the federal income tax submission of his parent or legal guardian, who makes application to the district office certifying that he is financially unable to employ counsel and requesting representation by indigent defense counsel or conflict counsel, shall pay a nonrefundable application fee of forty dollars to the district office or its designee, which fee shall be in addition to all other fees or costs lawfully imposed. If the board or other appropriate official determines that the person does not have the financial resources to pay the application fee based upon the financial information submitted, the fee may be waived or reduced. An accused who is found to be indigent may not be refused counsel for failure to pay the application fee.

(g) The proceeds shall be deposited to the judicial district indigent defender fund in the judicial district in which the application was made.

(h) The funds collected pursuant to this Section and all interest or other income earned from the investment of such funds shall be used and administered by each district public defender.

(i) The district public defender shall maintain a record of all persons applying for representation and the disposition of the application and shall provide this information to the board on a monthly basis as well as reporting the amount of funds collected or waived.

(2) The district public defender or his assistants or an attorney providing indigent defender services pursuant to a contract with the board shall be allowed to summon witnesses to testify before the court concerning the financial ability of any accused person to employ counsel for his defense.

(3) Failure of the judge to comply with provisions of this Section shall result in deduction of reasonable criminal defense costs from the Judicial Expense Fund.

B. (1) In determining 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.

(2) Release on bail alone shall not disqualify a person for appointment of counsel. In each case, the person subject to the penalty of perjury shall certify in writing such material factors relating to his ability to pay as the court prescribes.

C. Nothing in this Chapter shall prevent a criminal defendant from obtaining representation through the board at no charge.

D. The judicial administrator for the Louisiana Supreme Court shall develop a form to be used by the court in determining indigency. The form, at a minimum, shall include the following determinations by the court:

- (1) Whether the defendant receives any form of public assistance.
- (2) The occupational status of the defendant and income, if any.
- (3) Whether the payment of legal fees would deprive the defendant or his dependents of necessities of life including clothing, shelter, or food.
- (4) Whether the defendant is eligible for indigent defender services based upon the defendant's income and assets.

Acts 2007, No. 307, §1; Acts 2016, No. 224, §1.

§176. Partial reimbursement by indigents

A. To the extent that a person is financially able to provide for an attorney, other necessary services, and facilities of representation and court costs, the court shall order him to pay for these items. The court may order payment in installments, or in any manner which it believes reasonable and compatible with the defendant's financial ability.

B. (1) Payments so made shall be transmitted to and become a part of the indigent defender fund of the district in which the person is prosecuted.

(2) The district public defender, or service region, where applicable, shall have the authority to recoup funds expended under this Section through the refund offset provisions pursuant to R.S. 47:299.1 through 299.20.

C. (1) When an accused is initially determined to be indigent and appointed counsel but subsequently hires private counsel, the court shall conduct a contradictory hearing to determine the expenses of representing the accused incurred by the district office or the service region, where applicable. Upon determining the expenses incurred, the accused shall, within the discretion of the court, be liable to reimburse the district office or service region, where applicable, those expenses, upon a determination that the accused was in fact not initially indigent. A judgment for the amount owed may be recorded in the mortgage records in favor of the board for the payment of money against the accused and may be enforced as provided by law.

(2) All funds received by the district office shall be deposited into the judicial district indigent defender fund as provided for in R.S. 15:168.

(3) Failure of the accused to disclose the full amount involved in the hiring shall constitute grounds for contempt of court.

Acts 2007, No. 307, §1.

§177. (Reserved)

§178. Appointment of appellate and post-conviction counsel in death penalty case

In a capital case in which the trial counsel was provided to an indigent defendant and in which the jury imposed the death penalty, the court, after imposition of the sentence of death, shall appoint the Louisiana Public Defender Board, which shall promptly cause to have enrolled counsel to represent the defendant on direct appeal and in any state post-conviction proceedings, if appropriate.

Acts 2007, No. 307, §1.

§179. Appointment of counsel at parole revocation and prerevocation hearings

A. The Department of Public Safety and Corrections shall provide legal representation for each indigent parolee who is charged with violating the conditions of his parole with respect to which he has the right to a parole revocation or prerevocation hearing, if the indigent parolee is entitled by law to representation by counsel and if the parolee requests such representation.

B. The department may appoint counsel or may request that a district court judge in the parish where a parole revocation or prerevocation hearing is to be held appoint counsel to represent the indigent parolee. When requested to do so, the court shall have counsel appointed.

C. Attorneys appointed under the provisions of this Section shall be paid reasonable compensation and reimbursement for expenses necessarily incurred, which shall be fixed and paid by the Department of Public Safety and Corrections.

Added by Acts 1976, No. 653, §1; Acts 2007, No. 307, §16.

§180. Special reporting requirements

In addition to the general oversight requirements provided by law, the board shall submit an annual report to the legislature not later than February first of each year, commencing in 1999. The report shall include a comprehensive status report on the board's activities, the number of meetings of the board and attendance, expenditures, decisions, and actions for the previous fiscal year. The report shall be directed to the chairmen of the standing committees of the Senate and the House of Representatives with subject matter jurisdiction over criminal justice matters.

Acts 1997, No. 1361, §1, eff. Dec. 31, 1997; Acts 2007, No. 307, §16.

§181. Limited effect

The provisions of this Part are intended to facilitate the providing of legal services and related expenses only to the extent required by the Constitution of Louisiana or the Constitution of the United States of America and specific statutory provisions affording the right of counsel to indigent defendants in criminal cases. No provision of this Part or rule adopted pursuant thereto creates or shall be construed to confer substantive or procedural rights in favor of any person accused of an offense.

Acts 1997, No. 1361, §1, eff. Dec. 31, 1997; Acts 2007, No. 307, §16; Acts 2008, No. 220, §6, eff. June 14, 2008.

§182. Limited effect in capital cases

The provisions of R.S. 15:178 are intended for the sole and exclusive purpose of providing legal services and related expenses for capital defendants who have been sentenced to death and are not intended to confer substantive or procedural rights not otherwise provided by law.

Acts 1999, No. 1012, §1; Acts 2007, No. 307, §16; Acts 2008, No. 220, §6, eff. June 14, 2008.

§183. Effect of signing of pleadings

The provisions of Code of Civil Procedure Article 863 shall be applicable to any petition for post-conviction relief and related or responsive pleadings filed by counsel for petitioner or respondent pursuant to the provisions of Code of Criminal Procedure Articles 924 through 930.8.

Acts 1999, No. 1012, §1; Acts 2007, No. 307, §16.

§184. (Reserved)

PART II. INDIGENT PARENT REPRESENTATION

§185.1. Purpose

The purpose of this Part is to provide for an effective and efficient system of providing qualified legal representation, including curatorship appointments, for indigent or absent parents in child abuse and neglect cases as required by the provisions of the Louisiana Children's Code. The uniform standards and guidelines and the program to provide for representation, including curatorship appointments, of indigent or absent parents in child abuse and neglect cases shall be incrementally implemented and effected throughout the state.

Acts 2007, No. 95, §2; Acts 2016, No. 407, §2, eff. June 5, 2016.

§185.2. Definitions

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

(1) "Board" means the Louisiana Public Defender Board, or any successor to that board, which is authorized to regulate the providing of legal services to indigent persons in criminal proceedings in which the right to counsel attaches under the United States and Louisiana constitutions. The board is also authorized to regulate the providing of representation to indigent parents as authorized by this Part.

(2) "Child abuse and neglect case" means a child protection proceeding conducted by a court exercising juvenile jurisdiction involving the abuse or neglect of children as provided specifically in Titles VI, X, and XI, of the Louisiana Children's Code.

(3) "District office" means the office of a district public defender.

(4) "District public defender", "chief indigent defender", or "chief public defender" means an attorney employed by or under contract with the board to supervise service providers and enforce standards and guidelines within a judicial district or multiple judicial districts.

(5) "Indigent Parents' Program" or "the program" means the Indigent Parents' Representation Program required by the Louisiana Children's Code and administered in accordance with the provisions of R.S. 15:185.1 through 185.9.

(6) "Indigent parent representation" means the providing of legal services to indigent or absent parents in child abuse and neglect cases as required by the provisions of the Louisiana Children's Code.

(7) "Public defender" or "indigent defender" means an attorney employed by or under contract with the board, the district public defender, or a nonprofit organization contracting with the board or the district public defender to provide representation, including curatorship appointments, to indigent or absent parents in child abuse and neglect cases as required by the provisions of the Louisiana Children's Code.

(8) "Revenue" or "self-generated revenue" means all revenue received by a judicial district except revenue received as a result of grants, donations, or other forms of assistance when the terms and conditions thereof or of agreements pertaining thereto require otherwise.

(9) "Task Force on Legal Representation in Child Protection Cases" means the task force created by House Concurrent Resolution No. 44 of the 2003 Regular Session of the Legislature. Acts 2007, No. 95, §2; Acts 2016, No. 407, §2, eff. June 5, 2016.

§185.3. Indigent Parents' Representation Program; duties of the board; subject to appropriation

A. (1) Subject to appropriation, or the availability of other monies made available to the program, the board shall administer a program to provide representation, including curatorship appointments, of indigent or absent parents in child abuse and neglect cases as required by the Louisiana Children's Code.

(2) Except for the inherent regulatory authority of the Louisiana Supreme Court provided for in Article V, Section 5 of the Constitution of Louisiana, regarding the regulation of the practice of law, the Louisiana Public Defender Board or any successor to that board, shall have all regulatory authority, control, supervision, and jurisdiction, including auditing and enforcement, and all power incidental or necessary thereto to administer a program to provide for the delivery of indigent or absent parent representation throughout the courts of the state of Louisiana.

B. In the administration of the Indigent Parents' Representation Program, the board shall:

(1) Regularly collect detailed data from judicial districts, where applicable, relating to workload, resources, employees, and expenditures relating to representation of indigent or absent parents.

(2) Review and evaluate the operations of the program and emphasize special training for counsel representing indigent or absent parents.

(3) Review and approve an annual budget for the program.

(4) Review and approve an annual report on the operation of the program and submit such report to the legislature, the governor, and the chief justice of the Louisiana Supreme Court.

(5) Review and approve the strategic plan and budget proposals submitted by the district public defenders on behalf of the districts.

(6) Make an annual report to the legislature regarding the state of the board's operations and the status of representation of indigent or absent parent services it regulates. Such report shall include at a minimum:

- (a) Recommendations for all needed changes in the law regarding the board or any regulated activity.
- (b) A complete report on the receipt and expenditure of all funds received by the board and the regional offices, where applicable, including district level data.
- (c) Comprehensive workload data.
- (7) Ensure that the policies, procedures, and public pronouncements of the board recognize the unique and critical role of parents' attorneys in safeguarding fundamental rights and promoting the safety, permanency, and well-being of children in the child welfare system.
- (8) Promote accessible child welfare, family preservation, medical, educational, substance abuse treatment, and mental health resources for children and their parents in the child welfare system.
- (9) Take such actions as necessary and appropriate to secure private and state, federal, or other public funds to help support the program.
- (10) Institute or cause to be instituted such legal proceedings as may be necessary to enforce and give effect to any of the duties or powers of the program.
- (11) Provide for the employing or contracting with and training of attorneys and other professional and nonprofessional staff that may be necessary to carry out the functions of the program. All attorneys representing indigent or absent parents through this program shall be licensed to practice law in Louisiana and qualified in accordance with standards and guidelines adopted by rule of the board.
- (12) Have the ability to contract with organizations or individuals for the provision of legal services for indigent or absent parents in child abuse and neglect cases.
- (13) Administer an efficient and effective statewide program for the representation, including curatorship appointments of indigent or absent parents which safeguards their rights and facilitates timely and fair decision making concerning children's safety, permanency, and well-being.
- (14)(a) Establish, and modify as necessary, a plan of organization to conduct the business of regulating and controlling the delivery of services for the representation of indigent or absent parents under its jurisdiction efficiently and thoroughly.
- (b) The plan of organization shall provide for the capacity to:
 - (i) Administer the granting of contracts.
 - (ii) Analyze and review investigative and audit reports and findings.
 - (iii) Provide for enforcement of board rules as is necessary for the efficient and thorough regulation and governance of representation of indigent or absent parent services under its jurisdiction.
- (15) Develop and disseminate standards, procedures, and policies that will ensure that the representation, including curatorship appointments, of indigent or absent parents is provided consistently throughout the state.
- (16) Prepare and submit to the Joint Legislative Committee on the Budget on or before March first of each year an annual financial report which outlines the expenditures of local, state, and federal funds for the previous calendar year.
- (17) Prepare as of June first of each year, an estimate of unexpended balances in every account in the custody of the board and submit a copy thereof to the governor, the legislative auditor, and the legislative fiscal officer.
- (18) Develop and maintain a comprehensive information system on the receipt of revenues by the board, and the districts from local, state, and federal sources, as well as the expenditure of these revenues, and submit a summary of this information annually to the legislature.
- (19) Assign appropriate staff to:

- (a) Coordinate training of attorneys representing indigent or absent parents in current aspects of criminal and civil law and procedure involving the representation of indigent or absent parents.
- (b) Establish and supervise a training and performance evaluation program for attorneys and non-attorney staff members and contractors.
- (c) Establish specialized training and educational programs for all attorneys providing indigent or absent parent representation. Such programs shall not be "continuing legal education" as mandated by the Louisiana State Bar Association. The training sponsored by the state program shall be practical training based on models in other states, including trial advocacy and civil and criminal procedure in the nature of mock trials, working seminars, and mentoring. Such educational programs shall also include annual educational programs and introductory educational programs for attorneys prior to providing indigent or absent parent representation.
- (d) Consolidate information on important aspects of public defense and provide for a collection of official opinions, legal briefs, and other relevant information.
- (e) Provide assistance with research or briefs and provide other technical assistance requested by a public defender providing public defender services.
- (f) Apply for and assist in the disbursement of federal funds or other grant money to aid the statewide Indigent Parents' Representation Program, provided that such gifts, grants, and donations are not otherwise prohibited by law or rule.
- (g) Assist the district public defenders in the compliance with standards and guidelines adopted by the board pursuant to this Section. The board staff shall assist the district public defenders with implementation of standards and guidelines and supervision policy and procedures to verify compliance.
- (20) Work with representatives of all three branches of state government and child welfare stakeholders, including judges, social service personnel, district attorneys, the Child Advocacy Program, court-appointed special advocate programs (CASA), service providers, and others to promote sound child welfare policies and practice.

C. During the incremental implementation period, the board shall continue working in conjunction with the Task Force on Legal Representation in Child Protection Cases to transform the existing legal representation system for children and indigent parents in child abuse and neglect cases to a more efficient and effective statewide system and to facilitate securing of necessary funding for the system. This transformation includes the board developing standards and oversight mechanisms for providing for quality representation of indigent parents and determining how funding currently administered by the Department of Children and Family Services, office of children and family services, for representation of indigent parents and children shall be redistributed to the board and the Child Advocacy Program of the Mental Health Advocacy Service by July 1, 2012.

D. The powers and duties of the board provided for by this Section shall be in addition to the powers and duties provided for in R.S. 15:147 or as otherwise provided by law.

Acts 2007, No. 95, §2; Acts 2008, No. 220, §6, eff. June 14, 2008; Acts 2016, No. 407, §2, eff. June 5, 2016.

§185.4. Standards and guidelines for representation of indigent parents; rulemaking

A. The board shall adopt all rules necessary to implement the provisions of R.S. 15:185.1 through 185.9.

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

(1) Creating mandatory statewide standards and guidelines for the representation, including curatorship appointments, of indigent or absent parents in child abuse and neglect cases that require those services to be provided in a manner that is uniformly fair and consistent throughout the state and recognizing the unique and critical role of parents' attorneys in safeguarding fundamental rights and promoting the safety, permanency, and well-being of children in the child welfare system.

(2) Ensuring the standards and guidelines shall take into consideration all of the following:

(a) Manageable indigent or absent parent representation workloads. The board shall adopt manageable indigent or absent parent representation workloads that permit the rendering of competent representation through an empirically based case-weighting system that does not count all cases of similar case type equally but rather denotes the actual amount of attorney effort needed to bring a specific case to an appropriate disposition.

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

(c) Documentation of communication. The board shall adopt standards and guidelines to ensure that defense attorneys providing indigent or absent parent representation provide documentation of communications with clients to meet standards and guidelines established by the board.

(d) Performance supervision protocols. The board shall adopt standards and guidelines to ensure that all defense attorneys providing indigent or absent parent representation undergo periodic review of their work against the performance standards and guidelines in a fair and consistent manner throughout the state, including creating a uniform evaluation protocol.

(e) Performance of attorneys in all assigned indigent or absent parent representation cases or curatorship appointments. The board shall adopt general standards and guidelines that alert defense counsel to courses of action that may be necessary, advisable, or appropriate to providing competent indigent or absent parent representation or curatorship appointments, including performance standards in the nature of job descriptions.

(3) Creating mandatory qualification standards for attorneys representing indigent or absent parents in child abuse and neglect cases that ensure that those services are provided by competent counsel. Qualification standards shall include both of the following:

(a) The specific training programs that must be completed to provide representation, including curatorship appointments, to indigent or absent parents.

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

(4) Establishing methods of evaluating and enforcing compliance with mandatory statewide standards and guidelines for representing indigent parents.

(5) Establishing methods of monitoring and evaluating compliance with the mandatory indigent or absent parent representation standards and guidelines and the performance of counsel in order to ensure competent representation of indigent parents in all courts of the state.

(6) Establishing a procedure for the review and disposition of client complaints.

- (7) Establishing appropriate sanctions for failure to adhere to the mandatory standards and guidelines for the delivery of indigent or absent parent representation.
- (8) Establishing a policy of selecting a proportionate number of minority and women attorneys in accordance with the makeup of the general population of the state, to the extent that minority and women attorneys are available and otherwise eligible for selection within each district in accordance with law. Any citizen of majority age shall have a cause of action to enjoin the activities of the board for failure to comply with this provision.
- (9) Establishing policies and procedures for ensuring that cases are handled according to the Rules of Professional Conduct.
- (10) Establishing policies and procedures for handling conflict of interest cases and overflow cases when workload standards which are established by rules of the board are breached.
- (11) Establishing policies and procedures to ensure that detailed expenditure and workload data is collected, recorded, and reported to support strategic planning efforts for the system.
- (12) Ensuring data collected, including workload, is collected and maintained in a uniform and timely manner throughout the state to allow the board sound data to support resource needs.
- (13) Providing for minimum salary and compensation standards for attorney, investigator, paraprofessional, and any and all other staff necessary for the adequate representation, including curatorship appointments, of indigent or absent parents comparable to other positions of similar stature throughout the state.
- (14) Establishing processes and procedures to ensure that when a case that is assigned presents a conflict of interest for an attorney providing indigent or absent parent representation, the conflict is identified and handled appropriately and ethically.
- (15) Establishing procedures for managing workloads and assigning cases in a manner that ensures that attorneys representing indigent or absent parents are assigned cases according to experience, training, and manageable workloads and caseloads, taking into account case complexity, potential outcomes of the case, and the legal skills required to provide effective assistance of counsel.
- (16) Establishing procedures to handle complaints about attorney performance and to ensure that attorneys, office personnel, and clients are aware of avenues available for bringing a complaint and that office procedures do not conflict with the supervisory jurisdiction of the Louisiana Supreme Court and pursuant to the court's inherent authority provided for in Article V, Section 5 of the Constitution of Louisiana.

C. All rules shall be adopted pursuant to the provisions of the Administrative Procedure Act and shall be subject to legislative oversight by the House Committee on Health and Welfare and the Senate Committee on Health and Welfare.

Acts 2007, No. 95, §2; Acts 2016, No. 407, §2, eff. June 5, 2016.

§185.5. Indigent Parent Representation Program Fund

A. "The Louisiana Indigent Parent Representation Program Fund", hereinafter referred to as "the fund", is hereby created in the state treasury. Interest earned on the investment of monies in the fund shall be deposited in and credited to the fund. Unexpended and unencumbered monies in the fund at the close of each fiscal year shall remain in the fund. Monies in the fund shall be appropriated, administered, and used solely as provided in this Section.

B. The fund shall be comprised of all monies appropriated by the legislature specifically for the program, donations, fees, or other monies collected or transferred pursuant to the provisions of R.S. 46:460.21(A)(2), or other monies made available to the program. All of such monies required to be deposited in the state treasury in accordance with Article VII, Section 9(A) of the Constitution of Louisiana shall be deposited in the fund after first meeting the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund.

C. The fund shall be segregated from all other funds and shall be appropriated and used solely and exclusively to provide for the implementation and operation of the Indigent Parents' Representation Program. Monies so appropriated shall be used to supplement the judicial district indigent defender funds as provided for in R.S. 15:168, or as otherwise provided for by law, and shall not be used to displace, replace, or supplant monies available for this program or the purpose of providing legal representation in child abuse and neglect cases from that fund or from any other source.

D. The fund shall be administered by the Louisiana Public Defender Board, or any successor to that board.

E. The board shall not commingle the monies in the Indigent Parent Representation Program Fund established in this Section with any other monies or funds of the board for any reason.
Acts 2007, No. 95, §2.

§185.6. Special reporting requirements; indigent parent representation cases; penalties

A. In addition to the general oversight requirements provided by law, each district public defender, or regional director, where applicable, shall submit an annual report to the board no later than February first of each year, commencing in 2008. The report, using the uniform definition of a "case" as defined in Subsection C of this Section, shall include detailed information of the district's workload, resources, employees, and expenditures for the previous fiscal year.

B. (1) The district public defender shall be responsible for preparing, completing, and submitting the annual report to the board as provided for in Subsection A of this Section.

(2) The district public defender shall be subject to the penalties provided for in Paragraph (3) of this Subsection, payable out of the judicial district indigent defender fund, to the board if any of the following occur:

(a) The failure to file a report.

(b) The failure to timely file a report.

(c) The failure to disclose or accurately disclose any required information.

(d) The filing of a false report.

(3) The amount of the penalty shall be one hundred dollars for each day until the report or the required accurate information is filed.

C. For purposes of this Section, a "case" is defined as a proceeding initiated by the state against an indigent or absent parent or parents pursuant to Title VI or Title X of the Louisiana Children's Code. Any appeal from a final judgment in such cases shall be counted as a separate case. In the

event that a case involves multiple children, the district public defender, or regional director, where applicable, shall track, record, and report the number of children per case.

D. The board shall draft, administer, and furnish reporting forms to the district public defender which request detailed information of the district's workload, resources, employees, and expenditures for the previous fiscal year based on the uniform definition of a "case" as defined in Subsection C of this Section.

Acts 2007, No. 95, §2; Acts 2016, No. 407, §2, eff. June 5, 2016.

§185.7. Rights of action; interpretation of Part

A. It is not the intent of the legislature to create any new right, right of action, or cause of action or eliminate any right, right of action, or cause of action existing under current law. Nothing contained in the provisions of this Part shall create, expressly or by implication, any right, claim, or cause of action in favor of anyone in connection with the delivery of indigent and absent parent representation.

B. In addition to the provisions of Subsection A of this Section, nothing herein, nor any standards, guidelines, or rules adopted as a result hereof, shall be construed to provide any person the basis of any claim that the attorney or attorneys appointed to him pursuant to this statute performed in an ineffective manner. It shall be presumptive evidence that any attorney performing indigent or absent parent representation pursuant to the auspices of this statute is currently certified to have met the standards and guidelines adopted by the board to provide indigent or absent parent representation in an effective manner.

C. Nothing contained in this Part shall be construed to overrule, expand, or extend, directly or by analogy, the duties of attorneys providing representation of indigent or absent parents as otherwise required by the provisions of the Louisiana Children's Code.

Acts 2007, No. 95, §2; Acts 2016, No. 407, §2, eff. June 5, 2016.

§185.8. Auditing; district reporting

Each district public defender shall work in conjunction with the legislative auditor in developing uniform audit reports regarding the representation of indigent or absent parents as required by R.S. 24:515.1, which shall require the following to be included in that report:

- (1) The amount of all state revenue provided by the legislature from general or special appropriations, or revenue passed through by state agencies.
- (2) The amount of all revenue provided by local government from general or special appropriations, appropriations required by law, and revenue from the criminal court fund.
- (3) The amount of grant funding from federal pass-through or categorical grants, grants from nonprofit organizations, and private and corporate foundations.
- (4) The amount of funding received from any self-generated revenue.

Acts 2007, No. 95, §2; Acts 2016, No. 407, §2, eff. June 5, 2016.

§185.9. Implementation of indigent parent representation program; timeline

A. In the development of the Indigent Parents' Representation Program, the board shall consider all of the following:

- (1) Forms of delivery of representation that maximize the efficient and effective provision of counsel to indigent or absent parents.
- (2) The local variances which occur from judicial district to judicial district throughout the state.
- (3) The variations in representation practices and procedures in rural, urban, and suburban jurisdictions.

B. (1) Subject to appropriation, or the availability of other monies made available to the program, the board shall develop a program which considers the interest of establishing a flexible delivery system that is responsive to and respectful of jurisdictional variances and local community needs and interests and incrementally implementing that program throughout the state with a full implementation goal of July 1, 2012.

(2) The board shall determine the best method of incremental implementation of the Indigent Parents' Representation Program that is the most efficient, feasible, practicable, and appropriate to provide for the delivery of indigent or absent parent representation as required by the provisions of this Part and rules adopted by the board.

(3) The board shall work in conjunction with the Task Force on Legal Representation in Child Protection Cases in developing the implementation of the parents' representation program.

C. In recognition of the provisions of this Section, the board shall:

(1) Adopt all rules required by the provisions of this Part by August 15, 2008.

(2) Require all district public defenders to provide reporting of cases as required by R.S. 15:185.6 no later than January 1, 2009.

(3) The board shall develop a plan of implementation in conjunction with the Task Force on Legal Representation in Child Protection Cases and appear before the House and Senate committees on health and welfare and provide a report of the status of the implementation of the Indigent Parents' Representation Program prior to the convening of the 2010 Regular Session of the Legislature. Acts 2007, No. 95, §2; Acts 2016, No. 407, §2, eff. June 5, 2016.

PART III. REPRESENTATION OF CHILDREN IN CUSTODY

§186.1. Purpose

The purpose of this Part is to provide for an effective and efficient system of providing qualified legal representation for indigent children committed to the custody of the office of juvenile justice pursuant to Title VII and Title VIII of the Louisiana Children's Code and to promote safe return and reentry for youth in custody.

Acts 2016, No. 617, §2.

§186.2. Definitions

For the purposes of this Part, the following words shall have the following meanings:

(1) "Board" means the Louisiana Public Defender Board, or any successor to that board, which is authorized to regulate the providing of legal services to indigent persons in criminal proceedings in which the right to counsel attaches under the United States and Louisiana Constitutions. The board is also authorized to regulate the providing of representation to indigent parents as authorized by this Part.

(2) "Custody" means the legal custody of the office of juvenile justice, which follows on commitment by a Louisiana court exercising juvenile jurisdiction to the office of juvenile justice as provided in Titles VII and VIII of the Louisiana Children's Code.

(3) "District office" means the office of a district public defender.

(4) "District public defender", "chief indigent defender", or "chief public defender" means an attorney employed by or under contract with the board to supervise service providers and enforce standards and guidelines within a judicial district or multiple judicial districts.

(5) "Indigent child representation" means the providing of legal services to indigent children committed to the custody of the office of juvenile justice pursuant to Title VII and Title VIII of the Louisiana Children's Code.

(6) "Office of juvenile justice" and "the office" means the Department of Public Safety and Corrections, youth services, office of juvenile justice.

(7) "Public defender" or "indigent defender" means an attorney employed by or under contract with the board, the district public defender, or a nonprofit organization contracting with the board or the district public defender to provide representation as required by the provisions of the Louisiana Children's Code.

(8) "Safe Return Program" or "the program" means the Safe Return Representation Program administered pursuant to the Part.

Acts 2016, No. 617, §2.

§186.3. Safe Return Representation Program; duties of the board; subject to appropriations

A. (1) Subject to appropriation and the availability of other monies to the program, the board shall administer a program to provide qualified legal representation to indigent children committed to the custody of the office of juvenile justice pursuant to Title VII and Title VIII of the Louisiana Children's Code and promote safe return and reentry for youth in custody.

(2) Except for the regulatory authority of the Louisiana Supreme Court provided for in Article V, Section 5, of the Louisiana Constitution, the Louisiana Public Defender Board or any successor to that board, shall have all regulatory authority, control, supervision, and jurisdiction, including auditing and enforcement, and all power necessary to administer the program throughout the state.

B. In the administration of the Safe Return Program, the board shall:

(1) Regularly collect detailed data from judicial districts, where applicable, of workload, resources, employees, and expenditures relating to representation of children in the custody of the office of juvenile justice.

(2) Review and evaluate the operations of the program and emphasize special training for counsel representing children in the custody of the office of juvenile justice.

(3) Review and approve an annual budget for the program.

(4) Review and approve an annual report on the operation of the program and submit such report to the legislature, the governor, and the chief justice of the Louisiana Supreme Court.

(5) Submit an annual report to the legislature regarding the state of the program. Such report shall include:

(a) Recommendations for changes in the law regarding the board or any regulated activity.

(b) A detailed explanation of all revenues and expenditures.

(c) Comprehensive workload data regarding the program.

(6) Ensure all policies, procedures, and public pronouncements of the board recognize the role of attorneys in safeguarding fundamental rights and promoting the safety, reintegration, and well-being of children in the custody of the office of juvenile justice.

(7) Promote accessible family preservation, medical resources, educational resources, substance abuse treatment, vocational training, and mental health resources for children in the custody of the office of juvenile justice.

(8) Take such actions as necessary and appropriate to secure private and state, federal, or other public funds to help support the program.

(9) Institute or cause to be instituted legal proceedings as necessary to enforce any of the duties or powers of the program.

(10) Employ and train attorneys and other staff as may be necessary to carry out the functions of the program. All attorneys representing indigent children through this program shall be licensed to practice law in Louisiana and qualified in accordance with the standards and guidelines adopted by rule of the board.

(11) Contract with organizations or individuals for the legal services for indigent children in the custody of the office of juvenile justice.

(12) Administer an efficient and effective statewide program for the representation of indigent children which safeguards their rights and facilitates timely and fair decision-making concerning safety, reentry, reintegration, and well-being.

(13) Establish and modify a plan of organization to conduct the business of regulating and controlling the delivery of program services. The plan of organization shall provide for:

(a) The granting of contracts.

(b) The review of investigative and audit reports and findings.

(c) The enforcement of board rules.

(14) Develop and disseminate standards, procedures, and policies to ensure that quality representation of indigent children in the custody of the office of juvenile justice is provided consistently throughout the state.

(15) Prepare and submit to the Joint Legislative Committee on the Budget not later than March first of each year an annual financial report which outlines the expenditures of all program funds, including local, state, and federal funds, for the previous calendar year.

(16) Prepare and submit to the governor, legislative auditor, and legislative fiscal officer, not later than June first of each year an estimate of unexpended balances in every account in the custody of the board.

(17) Develop and maintain a comprehensive information system on the revenues received by the board and any district from local, state, and federal sources, as well as the expenditure of any revenue, and submit a summary of the information annually to the legislature.

(18) Assign appropriate staff to:

(a) Coordinate training and performance evaluation for attorneys representing indigent children pursuant to this Section.

(b) Apply for and assist in the disbursement of federal funds or other grant money to aid the statewide program, provided that such gifts, grants, and donations are not otherwise prohibited by law or rule.

(c) Assist district public defenders in maintaining compliance with standards and guidelines adopted by the board pursuant to this Section. The board staff shall assist the district public defenders with implementation of standards, guidelines, supervision, policy, and procedures to maintain compliance.

(19) Work with public and private representatives, including but not limited to judges, social service personnel, district attorneys, and service providers to promote sound juvenile justice policy and practice.

C. The powers and duties of the board provided for by this Section shall be in addition to the powers and duties provided for in R.S. 15:147.

Acts 2016, No. 617, §2.

§186.4. Standards and guidelines for representation of indigent children in custody; rulemaking

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

B. The rules shall include mandatory statewide standards and guidelines for the representation of indigent children in the custody of the office of juvenile justice to be provided in a uniform manner and consistent throughout the state.

C. All rules and regulations shall be promulgated in accordance with the Administrative Procedure Act and subject to legislative oversight by the House Committee on Health and Welfare and the Senate Committee on Health and Welfare.

Acts 2016, No. 617, §2.

§186.5. Safe Return Representation Program Fund

A. "The Louisiana Safe Return Representation Program Fund", hereafter referred to as "the fund", is hereby created within the state treasury. Interest earned on the investment of monies in the fund shall be deposited into the fund. Unexpended and unencumbered monies in the fund at the close of each fiscal year shall remain in the fund. Monies in the fund shall be appropriated, administered, and used solely as provided in this Section.

B. The fund shall be comprised of all monies appropriated by the legislature specifically for the program or other monies made available to the program. All monies required to be deposited in the state treasury in accordance with Article VII, Section 9(A), of the Louisiana Constitution shall be deposited in the fund after first meeting the requirements of Article VII, Section 9(B), of the Louisiana Constitution.

C. The fund shall be segregated from all other funds and shall be used solely to provide for the implementation and operation of the Safe Return Representation Program. Monies appropriated to the fund shall also be used to supplement the judicial district indigent defender funds as provided in R.S. 15:168 and shall not be used to displace, replace, or supplant monies available for this

program or the purpose of providing legal representation to children in the custody of the office of juvenile justice.

D. Monies in the fund which have been appropriated to the Louisiana Public Defender Board shall be administered by the Louisiana Public Defender Board, or any successor to that board.

E. The board shall not commingle the monies appropriated from the fund with any other monies of the board.

Acts 2016, No. 617, §2.

§186.6. Implementation of Safe Return Representation Fund

A. Subject to appropriation, or the availability of other monies to the program, the board shall develop a program to establish a flexible delivery system that is responsive to jurisdictional variances and local community needs. The board may implement the program incrementally, but full statewide implementation shall be completed not later than July 1, 2017.

B. The board shall choose a method of implementation of the Safe Return Representation Program that is efficient, feasible, practicable, and appropriate to provide the best delivery of indigent parent representation.

Acts 2016, No. 617, §2.