

# LOUISIANA PUBLIC DEFENDER OVERSIGHT BOARD

*Wednesday, June 12, 2024  
10:00 a.m.  
House Committee Room 1, State Capitol Building  
900 North Third Street  
Baton Rouge, Louisiana*

## AGENDA

1. Call to Order
2. Adoption of the Agenda pg. 1
3. Public Comment
4. Adoption of the Minutes of the March 22, 2024 meeting pgs. 2-3
5. Report of State Public Defender Rémy Starns
  - a. La. R.S. 15:141, *et seq* – Louisiana Public Defender Act pgs. 4-96
  - b. State Public Defender Memorandum to the Board pgs. 97-104
    - i. FY2025 District Funded Contracts Exceeding \$250,000 pg. 105
    - ii. Contract Resolutions pgs. 106-110
  - c. District Funded Contracts pg. 111
  - d. District Defender Compensation Plan pgs. 112-123
  - e. OSPD Strategic Plan pgs. 124-140
6. District Defender Selection District 8 (Winn Parish) Update
  - a. Commendation – Herman “Art” Castete
7. Board Items
  - a. LPDOB Sexual Harassment Policy pgs.141-145
  - b. Per Diem | Travel Reimbursements-La. R.S. 15:151 (REPEALED)
  - c. Video-conference (Zoom) Meetings pgs. 146-156
8. Next Meeting Date
9. Adjournment

# LOUISIANA PUBLIC DEFENDER OVERSIGHT BOARD

## MINUTES

*Louisiana State Capitol Building  
Governor's Conference Room, 4<sup>th</sup> Floor  
900 Third Street  
Baton Rouge, Louisiana  
Friday, March 22, 2024 | 10:00 a.m.*

### 1. Call to Order

Hon. Gerard Caswell, Chairman, called to order the meeting of the Louisiana Public Defender Oversight Board, pursuant to lawful notice, on Friday, March 22, 2023, at 10:00 a.m.

#### Present

Hon. Gerard Caswell (ret.), Chairman  
Hon. Paul J. deMahy (ret.)  
Hon. Phyllis M. Keaty (ret.)  
Hon. Freddie Pitcher (ret.)  
Hon. Frank Thaxton (ret.)  
Mr. Peter Thomson

#### Absent

Ms. Adrejia L. A. Boutté

Also participating in the meeting were the following: Mr. Chris Walters, Office of the Governor; Mr. Rémy Voisin Starns, Governor Jeff Landry's appointee for the position of State Public Defender; Mrs. Pamela Starns; executive staff members from the Office of the State Public Defender; interested citizens and representatives of the news media.

### 2. Adoption of the Agenda

Upon motion by the Honorable Freddie Pitcher, seconded by the Honorable Phyllis Keaty, the agenda was unanimously adopted.

### 3. Governor Jeff Landry's Nomination of State Public Defender

#### a. Appointment of State Public Defender

Mr. Christopher Walters, Deputy Executive Counsel, Office of the Governor, addressed the Board. He expressed Governor Landry's appreciation to each member for their willingness to serve and submitted for the Board's approval Governor Landry's appointment of Mr. Rémy Voisin Starns to the position of State Public Defender.

Mr. Starns introduced himself, gave a summary of his experience and offered to answer any questions.

The Honorable Paul deMahy moved to approve Governor Landry's appointment of Mr. Starns as State Public Defender which was seconded by Judge Keaty. Upon roll call vote, the motion passed with five in favor (Caswell, deMahy, Keaty, Pitcher, Thomson) and one abstention (Thaxton).

4. Next Meeting Date

The next meeting of the Board was set for Wednesday, June 12, 2024, at 10:00 a.m. tentatively at the State Capitol, Governor's Conference Room, 4<sup>th</sup> Floor, Baton Rouge, and to be announced at a later date upon confirmation.

5. Adjournment

Chairman Caswell adjourned the meeting at approximately 10:25 a.m.

West's Louisiana Statutes Annotated
Louisiana Revised Statutes
Title 15. Criminal Procedure
Chapter 1. Code of Criminal Procedure Ancillaries
Code Title XIV. Right to Counsel
Part I. Indigent Defender Representation

LSA-R.S. T. 15, Ch. 1, Cdtl. XIV, Pt. I, Refs & Annos

Currentness

## Editors' Notes

### REVISION--ACTS 2007, NO. 307

Section 1 of [Acts 2007, No. 307](#) amended [R.S. 15:146](#) through [15:149.1](#), [15:150](#), and [15:151](#) and enacted [R.S. 15:141](#) through [15:143](#), [15:149.2](#), and [15:152](#) through [15:184](#), § 11 of Act 307 repealed [R.S. 15:144](#), [15:145](#), [15:145.1](#), and [15:151.2](#), and § 16 of Act 307 directed the Louisiana State Law Institute to redesignate and renumber [R.S. 15:151.1](#) as [R.S. 15:151](#), [R.S. 15:149](#) as [R.S. 15:179](#), [R.S. 151.3](#) as [R.S. 15:180](#), [R.S. 15:151.4](#) as [R.S. 15:181](#), [R.S. 15:151.5](#) as [R.S. 15:182](#), and [R.S. 151.6](#) as [R.S. 15:183](#), effectively revising the provisions designated as Part I of Code Title XIV of Chapter 1, [R.S. 15:141](#) through [15:184](#).

[Acts 2007, No. 307](#) also amended provisions of the Code of Criminal Procedure, the Children's Code, and Revised Statutes Titles 9, 15, 24, 33, 36, 39, and 46.

Sections 12 to 20 of Act 307 (§ 1 of which enacts and amends the sections of Part I of Code Title XIV of Chapter 1 of Title 15) provide:

“Section 12. (A) The board shall adopt the rules necessary to implement the provisions of this Act no later than August 15, 2008.

“(B) The board shall employ the state public defender no later than March 1, 2008.

“(C) The board shall implement the provisions of this Act statewide as soon as practicable but in no event later than August 15, 2011.

“Section 13. (A)(1) Effective August 15, 2007, 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 undertake and 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.

“(2) Effective August 15, 2007, the Louisiana Public Defender Board shall be the successor to, and shall assume control of, the affairs of the Indigent Defense Assistance Board.

“(3) Effective August 15, 2007, the members of the Indigent Defense Assistance Board shall become members of the Louisiana Public Defender Board.

“(B) Effective August 15, 2007, all powers, duties, functions, and responsibilities of the Indigent Defense Assistance

Board are transferred to and shall be performed and exercised by the Louisiana Public Defender Board. In addition, all of the obligations of the Indigent Defense Assistance Board are transferred to the Louisiana Public Defender Board. Upon the transfer of the powers, duties, functions, and responsibilities accomplished by this Section, any pending or unfinished business of the Indigent Defense Assistance Board shall become the business of and be completed by the Louisiana Public Defender Board with the same power and authority as the entity from which the functions are transferred.

“(C) Any reference in rules, laws, and documents to or any designation by any law or contract or other document of the Indigent Defense Assistance Board shall be deemed to refer to the Louisiana Public Defender Board provided that, to the extent necessary to prevent the impairment of the contractual obligations of any entity heretofore existing or of the state, the existence, organization, and functions of any such entity shall be excluded from the provisions of this Section. Any legal proceeding to which the Indigent Defense Assistance Board is a party and which is filed, initiated, or pending before any court on August 15, 2007, and all documents involved in or affected by said legal proceeding, shall retain their effectiveness and shall be continued in the name of the Louisiana Public Defender Board. All further legal proceedings and documents in the continuation, disposition, and enforcement of said legal proceeding shall be in the name of the Louisiana Public Defender Board, and the board shall be substituted for the Indigent Defense Assistance Board without the necessity for amendment of any document. The provisions of [R.S. 15:141](#) through 184 shall not be construed so as to impair the contractual or other obligations of the Indigent Defense Assistance Board or of the state of Louisiana. All obligations of the Indigent Defense Assistance Board shall be the obligations of the Louisiana Public Defender Board. The Louisiana Public Defender Board shall be the successor in every way to the Indigent Defense Assistance Board, including all of the obligations and debts of the Indigent Defense Assistance Board. The provisions of [R.S. 15:141](#) through 184 shall not be construed or applied in any way which will prevent full compliance by the state, or any department, office, or agency thereof, with the requirements of any act of Congress of the United States or any regulation made thereunder by which federal aid or other federal assistance has been or hereafter is made available.

“(D) All books, papers, records, money, rights of action, and other property of every kind, movable and immovable, real and personal, heretofore possessed, controlled, or used by the Indigent Defense Assistance Board are hereby transferred to the Louisiana Public Defender Board, except as otherwise specifically provided herein.

“(E) All administrative rules and regulations adopted by the Indigent Defense Assistance Board shall be considered valid and remain in effect until amended or repealed by the Louisiana Public Defender Board.

“(F) All funds dedicated and appropriated to the Indigent Defense Assistance Board shall be transferred to the Louisiana Public Defender Board.

“Section 14. (A) The duties and functions relating to the delivery of indigent defender services heretofore vested in and attached to each judicial district indigent defender board are hereby transferred to the judicial district indigent defender fund under the management of the district public defender and the district public defender office as authorized by this Act.

“(B) Upon the transfer of duties and functions provided for by this Section, any pending or unfinished business of a judicial district indigent defender board shall be assumed and completed by the district public defender for that district, with the same power and authority as the judicial district indigent defender board from which the duties and functions are transferred. The district public defender shall be the successor in every way to the judicial district indigent defender board from which such duties and functions are transferred, and every act done in the exercise of such duties and functions by the district public defender shall be deemed to have the same force and effect under any provisions of law in effect as if done by the judicial district indigent defender board from which such duties and functions are transferred. Whenever any judicial district indigent defender board from which duties and functions are transferred is referred to, or designated by any law or contract or other document, such reference or designations shall be deemed to apply to the district public defender for that district.

“(C) Whenever a judicial district indigent defender board is referred to or designated by the constitution or by any law or contract or other document, such reference or designation hereafter shall be deemed to apply to the district

public defender for that district, and the legislature hereby specifically states that the provisions of this Section are in no way and to no extent intended to, nor shall they be, construed in any manner which will impair the contractual obligations of any judicial district indigent defender board heretofore existing.

“(D) All books, papers, records, and other property heretofore possessed, controlled or used by a judicial district indigent defender board in the exercise of the delivery of indigent defender services are hereby transferred to the district public defender as manager of the district indigent defender fund for that judicial district.

“(E) All money heretofore possessed, controlled, or used by a judicial district indigent defender board in the exercise of the delivery of indigent defender services is hereby transferred to the district public defender fund for that judicial district.

“(F) The transfer of the duties and functions provided for by this Section shall take effect and become operative on August 15, 2007.

“(G) Unless the judicial district indigent defender fund is regionalized as authorized by the provisions of [R.S. 15:163](#), district assets shall be segregated in compliance with provisions of this Act for dedication to the judicial district, and property and assets shall be maintained and used solely to the benefit of the district public defender. The state public defender shall seek to fill any vacancies for the position of district public defender pursuant to the provisions of [R.S. 15:162](#), as soon as practicable, or in the alternative shall regionalize the district for purposes of day-to-day management pursuant to the provisions of [R.S. 15:163](#).

“(H) For purposes of facilitating the transfer of the duties and functions provided by this Section, the district public defender shall be the fiscal officer and manager, and the assets of the district shall be considered part of the judicial district indigent defender fund as provided for in [R.S. 15:168](#).

“Section 15. The Louisiana State Law Institute is hereby directed to make technical changes to statutory laws as necessary to reflect the name changes provided for in this Act.

“Section 16. The Louisiana State Law Institute is hereby directed to redesignate and renumber into the reserved statutes in Code Title XIV of Chapter 1 of Title 15 of the Louisiana Revised Statutes of 1950, as provided for in this Act the following: [R.S. 15:151.1](#) as [R.S. 15:151](#), [R.S. 15:149](#) as [R.S. 15:179](#), [R.S. 15:151.3](#) as [R.S. 15:180](#), [R.S. 15:151.4](#) as [R.S. 15:181](#), [R.S. 15:151.5](#) as [R.S. 15:182](#), and [R.S. 15:151.6](#) as [R.S. 15:183](#), as provided for in this Act.>

“Section 17. The Louisiana State Law Institute is hereby directed to place the provisions of [R.S. 15:141](#) through 184 in their entirety within Part I of Code Title XIV of Chapter 1 of Title 15 of the Louisiana Revised Statutes of 1950, and to designate Part I ‘Indigent Defender Representation’. If the Act which originated as House Bill No. 393 of this 2007 Regular Session of the Legislature is enacted and becomes effective, the Louisiana State Law Institute is hereby directed to place the provisions of [R.S.15:185.1](#) through 185.9, enacted by the provisions of that Act in their entirety, within Part II of Code Title XIV of Chapter 1 of Title 15 of the Louisiana Revised Statutes of 1950, and to designate Part II ‘Indigent Parent Representation’.

“Section 18. If any provision of this Act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are hereby declared severable.

“Section 19. In the event the district public defender for the Twenty-Ninth Judicial District establishes a district public defender advisory board as authorized by [R.S. 15:162.1](#) the members of that board may be paid per diem as authorized by [R.S. 15:145\(E\)\(2\)](#) before that provision was repealed by this Act.

“Section 20. The provisions of this Act shall become effective August 15, 2007.”

House Bill No. 393 of the 2007 Regular Session, cited in § 17 of Act 307, was enacted and designated [Acts 2007, No. 95](#).

**PART DESIGNATIONS--ACTS 2007, NO. 95; ACTS 2007, NO. 307**

Section 2 of [Acts 2007, No. 95](#) enacted Part II of Code Title XIV of Title 15 of the Louisiana Revised Statutes of 1950, comprised of [R.S. 15:185.1](#) through [15:185.9](#). Section 4 of Act 95 provides:

“Section 4. The Louisiana State Law Institute is hereby directed to place the provisions of [R.S. 15:144](#) through 151.6 in their entirety within Part I of Code Title XIV of Title 15 of the Louisiana Revised Statutes of 1950 and to designate Part I ‘Indigent Defender Representation’. If the Act which originated as House Bill No. 436 of this 2007 Regular Session of the Legislature is enacted and becomes effective, the Louisiana State Law Institute is hereby directed to place the provisions of [R.S. 15:141](#) through 184 in their entirety within Part I of Code Title XIV of Title 15 of the Louisiana Revised Statutes of 1950 and to designate Part I ‘Indigent Defender Representation’.”

House Bill No. 436 of the 2007 Regular Session was enacted as Act 307.

[R.S. 15:141](#) to [15:184](#) were designated as Part I of Code Title XIV of Chapter 1 of Title 15 of the Louisiana Revised Statutes of 1950 by the Louisiana State Law Institute pursuant to [Acts 2007, No. 95, § 4](#) and [Acts 2007, No. 307, § 17](#).

West's Louisiana Statutes Annotated
Louisiana Revised Statutes
Title 15. Criminal Procedure
Chapter 1. Code of Criminal Procedure Ancillaries
Code Title XIV. Right to Counsel
Part I. Indigent Defender Representation

## LSA-R.S. T. 15, Ch. 1, Cdtl. XIV, Pt. I, Disp Table

Currentness

### Editors' Notes

### DISPOSITION TABLE

Showing where the subject matter of the former sections of Code Title XIV of Chapter 1 of Title 15 of the Louisiana Revised Statutes of 1950 appears in the revision by Acts 2007, No. 307, §§ 1, 11, and 16.

Former Sections	2007 Revision
R.S. 15:141 (Repealed).....	None
R.S. 15:142 (Repealed).....	None
R.S. 15:143 (Repealed).....	None
R.S. 15:144.....	Repealed
R.S. 15:145.....	Repealed
R.S. 15:145.1 .....	R.S. 15:174
R.S. 15:146.....	R.S. 15:168
R.S. 15:147.....	R.S. 15:175
R.S. 15:148.1 .....	R.S. 15:176

R.S. 15:149.....	R.S. 15:179
R.S. 15:149.1 .....	R.S. 15:178
R.S. 15:150.....	R.S. 15:164
R.S. 15:151 .....	R.S. 15:146
R.S. 15:151.1.1 .....	R.S. 15:151
R.S. 15:151.2 .....	R.S. 15:147, 15:148, 15:169
R.S. 15:151.3 .....	R.S. 15:180
R.S. 15:151.4.1 .....	R.S. 15:181
R.S. 15:151.5 .....	R.S. 15:182
R.S. 15:151.6.1 .....	R.S. 15:183

LSA-R.S. T. 15, Ch. 1, Cdtl. XIV, Pt. I, Disp Table, LA R.S. T. 15, Ch. 1, Cdtl. XIV, Pt. I, Disp Table  
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Code Title XIV. Right to Counsel (Refs & Annos)

Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:141

§ 141. Short title

Effective: June 14, 2008

Currentness

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

#### Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2008, No. 220, § 6, eff. June 14, 2008.

Notes of Decisions (18)

LSA-R.S. 15:141, LA R.S. 15:141

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:142

§ 142. Legislative findings

Effective: March 20, 2024

Currentness

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 office of the state public defender 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. 2d 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 office 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 office pursuant to rules and as required by statute.

#### Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2008, No. 220, § 6, eff. June 14, 2008; Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

#### Editors' Notes

### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND X.SESS., NO. 22**

Sections 4 to 6 of Acts 2024, 2nd Ex.Sess., No. 22 provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

Acts 2024, 2nd Ex.Sess., No. 22 was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

#### Notes of Decisions (5)

LSA-R.S. 15:142, LA R.S. 15:142

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Chapter 1. Code of Criminal Procedure Ancillaries (Refs & Annos)

Code Title XIV. Right to Counsel (Refs & Annos)

Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:143

§ 143. Definitions

Effective: March 20, 2024

[Currentness](#)

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

- (1) “District indigent defender fund” means the judicial district indigent defender fund as provided for in [R.S. 15:168](#).
- (2) “District office” means the office of a district public defender as provided for in [R.S. 15:161](#).
- (3) “District public defender” or “chief indigent defender” means an attorney employed by or under contract with the office to supervise service providers and enforce standards and guidelines within a judicial district or multiple judicial districts.
- (4) “Indigent defendant” means a person who has been determined under the provisions of [R.S. 15:175](#) to be indigent and financially unable to retain private counsel.
- (5) “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.
- (6) “Office” means the office of the state public defender authorized to:
  - (a) Regulate and fund public defender services and provide financial support to other service programs that provide services to persons adjudicated in the criminal justice system.
  - (b) Make recommendations to the legislature, the governor, and the chief justice of the Louisiana Supreme Court regarding potential changes to laws in order to improve public defender services and the criminal justice system in Louisiana.
- (7) “Public defender” or “indigent defender” means an attorney employed by or under contract with the board, the office, or a district public defender to provide legal counsel to an indigent person in a criminal proceeding.
- (8) “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.
- (9) “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.
- (10) “State public defender” means the person appointed by the governor, subject to approval of a majority of the board and Senate confirmation, to administer the statewide public defender system for the delivery of public defender services.

#### Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2008, No. 220, § 6, eff. June 14, 2008; Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

Editors' Notes

EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22

Sections 4 to 6 of [Acts 2024, 2nd Ex.Sess., No. 22](#) provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

[Notes of Decisions \(1\)](#)

LSA-R.S. 15:143, LA R.S. 15:143

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KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment §§ 144 to 145.1. Repealed by Acts 2007, No. 307, § 11, eff. Aug. 15, 2007

West's Louisiana Statutes Annotated

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:144

§§ 144 to 145.1. Repealed by Acts 2007, No. 307, § 11, eff. Aug. 15, 2007

Effective: August 15, 2007

Currentness

LSA-R.S. 15:144, LA R.S. 15:144

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LSA-R.S. 15:145

§§ 144 to 145.1. Repealed by Acts 2007, No. 307, § 11, eff. Aug. 15, 2007

Effective: August 15, 2007

Currentness

LSA-R.S. 15:145, LA R.S. 15:145

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:145.1

§§ 144 to 145.1. Repealed by Acts 2007, No. 307, § 11, eff. Aug. 15, 2007

Effective: August 15, 2007

Currentness

LSA-R.S. 15:145.1, LA R.S. 15:145.1

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LSA-R.S. 15:146

§ 146. Office of the state public defender

Effective: March 20, 2024

Currentness

A. (1) There is hereby created and established as a state agency within the office of the governor the office of the state public defender 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.

(2) The state public defender shall be appointed by the governor, subject to approval of a majority of the board and Senate confirmation, for a term of two years.

B. (1) The Louisiana Public Defender Oversight Board is hereby created and established to provide supervision and oversight to the office of the state public defender and to approve contracts in an amount of two hundred fifty thousand dollars or more. The board shall consist of nine members.

(2) Persons appointed to the board shall have been admitted to the practice of law in this state for at least eight years or have been a judge in this state.

(3) The members shall be selected as follows:

(a) The governor shall appoint four members and shall designate the chairman.

(b) The governor shall appoint one member from a list of three nominees submitted to the governor by a joint resolution of the Public Defenders Association of Louisiana and the Louisiana Association of Criminal Defense Lawyers.

(c) The Supreme Court of Louisiana shall by majority vote appoint two members. One member shall be a juvenile justice advocate, and one member shall be a retired judge.

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

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

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

(6) Members of the board shall serve terms concurrent with that of the governor.

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

## Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2014, No. 113, § 1; Acts 2016, No. 571, § 1; Acts 2018, No. 377, § 1, eff. May 20, 2018; Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

## Editors' Notes

EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22

Sections 4 to 6 of [Acts 2024, 2nd Ex.Sess., No. 22](#) provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

## Notes of Decisions (2)

LSA-R.S. 15:146, LA R.S. 15:146

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LSA-R.S. 15:147

§ 147. Powers; duties; responsibilities

Effective: March 20, 2024

Currentness

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 office 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 office shall:

(1) Employ an executive staff as necessary to carry out the duties of the office 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) Develop and implement the strategic plan and approve budget proposals necessary for the implementation of this Part for coordinating and providing services. The office shall review and approve budget proposals submitted by the district public defenders on behalf of their districts, considering 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 office'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 office or any regulated activity.

(b) A complete report on the receipt and expenditure of all funds received by the office, 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 office 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 office, 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 office.
- (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) Allocate funding to the public defenders, contract programs, and other entities as necessary for the implementation of this Part.
- (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.
- (17) Supervise the activities of staff and apply reasonable controls for the supervision of spending, accounting, and discretionary grants. The office shall seek the assistance of the legislative auditor or an internal auditor to ensure that staff discretion is subject to supervision consistent with the Louisiana Local Government Budget Act, [R.S. 39:1301 et seq.](#) The office's supervision shall include reviewing details regarding expert witness funds or other case-specific grants, including the confidential work product of attorneys in litigation, compensation, and records supporting fees of experts and others, and analysis of the efficiency and effectiveness of programs. The attorney-client privilege and confidentiality that applies to counsel in cases shall apply to all staff for the review of case details.
- (18) Adopt reasonable procedures in compliance with the Louisiana Rules of Professional Conduct for the review and preservation of confidentiality of privileged materials during and after litigation, including impressions of counsel, strategy of litigation, and results of expert work and opinion.
- (19) Adopt procedures necessary to protect strategic choices and confidential work product of the office when the office considers important matters of spending. However, the amounts and general purposes shall remain public record of the office's decisionmaking process.

(20) Enter into a contract or contracts with the University of Louisiana at Monroe for the purpose of providing certain statewide training to attorneys, investigators, social workers, and staff.

C. The office 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 office 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 office 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 office 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.

D. (1) Prior to entering into any contract as authorized by Subsection C of this Section, the office shall provide public notice that a contract is under consideration by the office 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 office 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.

E. The executive staff, secretarial, clerical, and other personnel directly employed in the operations of the office 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<sup>1</sup> as state employees upon recommendation of the office.

**Credits**

[Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by 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; Acts 2017, No. 195, § 1; Acts 2022, No. 237, § 1, eff. July 1, 2022; Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.](#)

## Editors' Notes

### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of [Acts 2024, 2nd Ex.Sess., No. 22](#) provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

## Notes of Decisions (2)

## Footnotes

<sup>1</sup>

R.S. 15:141 et seq.

LSA-R.S. 15:147, LA R.S. 15:147  
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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:148

§ 148. Rulemaking; considerations in developing rules

Effective: March 20, 2024

Currentness

A. The office 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 office 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 office 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 office 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 office 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 office 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 office.

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

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

(7) 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.

(8) 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 office.

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

(10) 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.

(11) 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.

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

(13) Establishing administrative 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.

(14) Repealed by [Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024](#).

(15) Repealed by Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024.

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 B.

#### Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2008, No. 220, § 6, eff. June 14, 2008; Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

#### Editors' Notes

### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of Acts 2024, 2nd Ex.Sess., No. 22 provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

Acts 2024, 2nd Ex.Sess., No. 22 was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

#### Notes of Decisions (1)

LSA-R.S. 15:148, LA R.S. 15:148

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LSA-R.S. 15:149

§ 149. Authority of supreme court not affected

Effective: June 14, 2008

[Currentness](#)

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.

#### Credits

[Acts 2007, No. 307, § 1, eff. Aug. 15, 2007](#). Amended by [Acts 2008, No. 220, § 6, eff. June 14, 2008](#).

LSA-R.S. 15:149, LA R.S. 15:149

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LSA-R.S. 15:149.1

§ 149.1. Domicile of office; venue

Effective: March 20, 2024

Currentness

A. The office 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 office or to which the office is a party shall be East Baton Rouge Parish.

#### Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

#### Editors' Notes

**EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

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Acts 2024, 2nd Ex.Sess., No. 22 was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

#### Notes of Decisions (1)

LSA-R.S. 15:149.1, LA R.S. 15:149.1

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:149.2

§ 149.2. Offices; meetings

Effective: March 20, 2024

[Currentness](#)

The office 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.

#### Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2013, No. 175, § 1, eff. June 7, 2013; Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

#### Editors' Notes

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LSA-R.S. 15:149.2, LA R.S. 15:149.2

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:150

§ 150. Executive staff for office; general qualifications

Effective: March 20, 2024

Currentness

A. The office shall employ an executive office staff as necessary to carry out the duties of the office, and the state public defender shall appoint any other officers as necessary to conduct the business of the office, subject to appropriation.

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 office 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 office.

**Credits**

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

**Editors' Notes**

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“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

LSA-R.S. 15:150, LA R.S. 15:150

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KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment§ 151. Repealed by Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:151

§ 151. Repealed by Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024

Effective: March 20, 2024

Currentness

#### Editors' Notes

#### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

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[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

LSA-R.S. 15:151, LA R.S. 15:151

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LSA-R.S. 15:151.1

§ 151.1. Redesignated

Effective: August 15, 2007

Currentness

LSA-R.S. 15:151.1, LA R.S. 15:151.1

Current through the 2024 First Extraordinary and Second Extraordinary Sessions.

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KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment§ 151.2. Repealed by Acts 2007, No. 307, § 11, eff. Aug. 15, 2007

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LSA-R.S. 15:151.2

§ 151.2. Repealed by Acts 2007, No. 307, § 11, eff. Aug. 15, 2007

Effective: August 15, 2007

Currentness

LSA-R.S. 15:151.2, LA R.S. 15:151.2

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LSA-R.S. 15:151.3

§§ 151.3 to 151.6. Redesignated

Effective: August 15, 2007

Currentness

LSA-R.S. 15:151.3, LA R.S. 15:151.3

Current through the 2024 First Extraordinary and Second Extraordinary Sessions.

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LSA-R.S. 15:151.4

§§ 151.3 to 151.6. Redesignated

Effective: August 15, 2007

Currentness

LSA-R.S. 15:151.4, LA R.S. 15:151.4  
Current through the 2024 First Extraordinary and Second Extraordinary Sessions.

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LSA-R.S. 15:151.5

§§ 151.3 to 151.6. Redesignated

Effective: August 15, 2007

Currentness

LSA-R.S. 15:151.5, LA R.S. 15:151.5

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LSA-R.S. 15:151.6

§§ 151.3 to 151.6. Redesignated

Effective: August 15, 2007

Currentness

LSA-R.S. 15:151.6, LA R.S. 15:151.6  
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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:152

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

Effective: March 20, 2024

[Currentness](#)

A. There shall be a state public defender who shall be appointed by the governor and 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 twenty years of experience with at least seven years of experience as a criminal defense attorney.

B. The state public defender shall:

(1) 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, present for the board's approval, and implement 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 or required by statute.

(4) Prepare the budget of the office.

(5) Negotiate contracts, as appropriate, for providing legal services to persons financially eligible for appointed counsel at state expense. 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.

(6) Employ personnel or contract for services as necessary to carry out the responsibilities of this Part. 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.

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

(8) Prepare and submit to the board an annual report of the indigent defender services provided by the districts.

- (9) Appear before the Joint Legislative Committee on the Budget and report on the activities of the office.
- (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 office.
- (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 office and as required by statute.
- (14) Establish administrative management procedures for the office, 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.

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

#### Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2008, No. 2, § 1, eff. May 24, 2008; Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

#### Editors' Notes

##### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of [Acts 2024, 2nd Ex.Sess., No. 22](#) provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

#### Notes of Decisions (3)

LSA-R.S. 15:152, LA R.S. 15:152

Current through the 2024 First Extraordinary and Second Extraordinary Sessions.



KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment §§ 153 to 160. Repealed by Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024

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LSA-R.S. 15:153

§§ 153 to 160. Repealed by Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024

Effective: March 20, 2024

Currentness

#### Editors' Notes

#### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

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<“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”>

<[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024. >

LSA-R.S. 15:153, LA R.S. 15:153

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KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment §§ 153 to 160. Repealed by Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024

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LSA-R.S. 15:154

§§ 153 to 160. Repealed by Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024

Effective: March 20, 2024

Currentness

#### Editors' Notes

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“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

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LSA-R.S. 15:154, LA R.S. 15:154

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LSA-R.S. 15:155

§§ 153 to 160. Repealed by Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024

Effective: March 20, 2024

Currentness

#### Editors' Notes

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LSA-R.S. 15:155, LA R.S. 15:155

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KeyCite Red Flag - Severe Negative Treatment

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LSA-R.S. 15:156

§§ 153 to 160. Repealed by Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024

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LSA-R.S. 15:156, LA R.S. 15:156

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Effective: March 20, 2024

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LSA-R.S. 15:157, LA R.S. 15:157

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LSA-R.S. 15:158

§§ 153 to 160. Repealed by Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024

Effective: March 20, 2024

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#### Editors' Notes

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LSA-R.S. 15:158, LA R.S. 15:158

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LSA-R.S. 15:159

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Effective: March 20, 2024

Currentness

#### Editors' Notes

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“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

LSA-R.S. 15:159, LA R.S. 15:159

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LSA-R.S. 15:160

§§ 153 to 160. Repealed by Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024

Effective: March 20, 2024

Currentness

#### Editors' Notes

#### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

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“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

LSA-R.S. 15:160, LA R.S. 15:160

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KeyCite Yellow Flag - Negative Treatment

Proposed Legislation

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#### LSA-R.S. 15:161

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

Effective: March 20, 2024

[Currentness](#)

A. Except as otherwise provided for in this Section, the office shall employ or contract, for a period of up to five years, 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 office 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 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.
- (9) Keep a record of all public defender services and expenses in the district and submit the records to the state public defender as requested.
- (10) Implement the standards and guidelines and procedures established by the board and state public defender for the district.
- (11) Maintain a client workload for the district office as determined by the state public defender.
- (12) Make recommendations regarding the method of delivery of public defender services for the district for submission to the board for board approval. 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 applicable 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 office for compliance with salary guidelines established by the office through the adoption of rules.

(14) Perform all other duties assigned by the state public defender.

F. Each district public defender may make recommendations to 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 shall continue to be employed by, or enter into a contract with, the office and serve as the district public defender of that district.

(2) The office shall set the compensation for each district public defender according to a compensation plan established by the board; 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.

I. Notwithstanding any other provision of law to the contrary, any attorney employed by or under contract with the office, the district public defender, or nonprofit organization contracting with the office, district public defender, or the office 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 office or from a grant administered by any nonprofit organization contracting with the office, 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.

J. Repealed by [Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024](#).

### Credits

[Acts 2007, No. 307, § 1, eff. Aug. 15, 2007](#). Amended by [Acts 2008, No. 220, § 6, eff. June 14, 2008](#); [Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024](#).

### Editors' Notes

#### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of [Acts 2024, 2nd Ex.Sess., No. 22](#) provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

### [Notes of Decisions \(4\)](#)

LSA-R.S. 15:161, LA R.S. 15:161

Current through the 2024 First Extraordinary and Second Extraordinary Sessions.

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Code Title XIV. Right to Counsel (Refs & Annos)

Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:162

§ 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

Effective: March 20, 2024

Currentness

A. 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 office 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 one attorney in good standing with the Louisiana State Bar Association, and two other registered voters, all of whom are domiciled in that judicial district.

(2) 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 chairman of the Louisiana Public Defender Oversight Board.

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

C. (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 to the state public defender.

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

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

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

G. Office 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 Subsection shall not include responses requested by the governor, the House Committee on Administration of Criminal Justice, or the Senate Committee on Judiciary B.

### Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2008, No. 220, § 6, eff. June 14, 2008; Acts 2016, No. 571, § 1; Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

### Editors' Notes

#### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of [Acts 2024, 2nd Ex.Sess., No. 22](#) provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

LSA-R.S. 15:162, LA R.S. 15:162

Current through the 2024 First Extraordinary and Second Extraordinary Sessions.

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KeyCite Red Flag - Severe Negative Treatment

KeyCite Red Flag Negative Treatment§ 162.1. Repealed by Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:162.1

§ 162.1. Repealed by Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024

Effective: March 20, 2024

Currentness

#### Editors' Notes

#### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of [Acts 2024, 2nd Ex.Sess., No. 22](#) provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

LSA-R.S. 15:162.1, LA R.S. 15:162.1

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:163

§ 163. Regionalization of district public defender services by office

Effective: March 20, 2024

Currentness

A. In certain cases the office may regionalize and operate the public defender services of a district as a subdivision of the office through a regional office. When the public defender services of a district are taken over by the office 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 upon a finding by the office that one of the following conditions have occurred:

(1) The district, through its district public defender, petitions the office for the office to regionalize the delivery of indigent defender services in the district.

(2) The office upon its own motion finds that the district public defender office has failed after reasonable assistance, resourcing, and consultation with the office to reasonably meet performance standards mandated by the office or to comply with data reporting or any other rule adopted by the office.

(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 office on an interim basis at six-month intervals.

B. In any district where the office 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 may be carried out by a staff member of the office.

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

E. (1) Prior to regionalizing a district as provided for in this Section, the office 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 parish governing authority in the district, provided proper notice is provided to the public as required by this Subsection.

#### Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

#### Editors' Notes

### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of Acts 2024, 2nd Ex.Sess., No. 22 provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

Acts 2024, 2nd Ex.Sess., No. 22 was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

LSA-R.S. 15:163, LA R.S. 15:163

Current through the 2024 First Extraordinary and Second Extraordinary Sessions.

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:164

§ 164. Regional defense service centers

Effective: March 20, 2024

Currentness

A. Upon approval of the office, 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.
- (4) Any other defense center created by the office.

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 district public defender deems 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 public defenders shall provide for adequate supervision of the regional defense service center established, with periodic reports to each of the contracting public defenders, 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 districts. The basis of the contribution may be any rational basis, including population, caseload, or other criteria agreed to by the respective public defenders. The contracting district public defenders 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 public defenders and present jurisprudence.

## **Credits**

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

## Editors' Notes

### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of [Acts 2024, 2nd Ex.Sess., No. 22](#) provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

## [Notes of Decisions \(1\)](#)

LSA-R.S. 15:164, LA R.S. 15:164

Current through the 2024 First Extraordinary and Second Extraordinary Sessions.

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:165

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

Effective: March 20, 2024

Currentness

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 office. The office may change the method of delivery in order to ensure compliance with best practices reflected in the performance standards and guidelines.

B. The office shall approve the method of delivery of public defender services for each district 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 office upon recommendation of the district public defender.

(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 compensation of the district public defender and all assistants and supporting personnel shall be fixed by the board in compliance with compensation standards adopted pursuant to rule by the board.

(3) The authorization, by the office, of the district public defender to employ or 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 office 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 office, the preexisting delivery model is still deemed unacceptable, the board shall determine 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 office shall provide notice of a public hearing as provided in Paragraph (3) of this Subsection to the district public defender, the 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 meeting called by the office, 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 office. 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 office 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.

## Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2008, No. 220, § 6, eff. June 14, 2008; Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

## Editors' Notes

**EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of [Acts 2024, 2nd Ex.Sess., No. 22](#) provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

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[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

[Notes of Decisions \(13\)](#)

LSA-R.S. 15:165, LA R.S. 15:165

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:166

§ 166. Disbursement of funds

Effective: March 20, 2024

Currentness

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

B. Any service which the office seeks shall be subject to an application process by which the office provides objective deliverables and allows the district defenders to make application upon the same terms as a nongovernmental 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 office account during an emergency shortfall in funding as certified by the office with the approval of the chief justice of the Louisiana Supreme Court.

#### Credits

Added by [Acts 2016, No. 571, § 1](#). Amended by [Acts 2024, 2nd Ex.Sess., No. 22, § 1](#), eff. March 20, 2024.

#### Editors' Notes

#### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

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[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

LSA-R.S. 15:166, LA R.S. 15:166

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:167

§ 167. Louisiana Public Defender Fund

Effective: March 20, 2024

[Currentness](#)

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, other services and programs, 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 office as authorized by the provisions of the Louisiana Public Defender Act. The office 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.

E. The office shall dedicate and disburse at least seventy-five percent of the entirety of its annual budget and its funds in the LPD 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. The provisions of this Subsection shall not apply to statutorily dedicated funds or funds received through the awarding of grants.

#### Credits

[Acts 2007, No. 307, § 1, eff. Aug. 15, 2007](#). Amended by [Acts 2016, No. 571, § 1](#); [Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024](#).

## Editors' Notes

### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

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“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

## [Notes of Decisions \(2\)](#)

LSA-R.S. 15:167, LA R.S. 15:167

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LSA-R.S. 15:168

§ 168. Judicial district indigent defender fund

Effective: March 20, 2024

[Currentness](#)

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)(a) 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. Except as provided in Subparagraph (b) of this Paragraph, 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.

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

(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. 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.

E. (1) Notwithstanding any provision of law to the contrary, each judicial district is allowed to accumulate funds for the purposes of retaining expert witnesses. The district public defender, in his discretion, shall determine how payments shall be administered and which experts shall be paid.

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

(3) No court shall have jurisdiction to order the payment of any funds administered by the Louisiana Public Defender Board or district public defender for expert witnesses, or for any other reason.

F. Repealed by [Acts 2024, 2nd Ex.Sess., No. 22, § 3, eff. March 20, 2024](#).

## Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by 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; Acts 2020, No. 110, § 2; Acts 2022, No. 239, § 1; Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

## Editors' Notes

### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of [Acts 2024, 2nd Ex.Sess., No. 22](#) provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

#### **CESSATION OF EFFECTIVENESS--ACTS 2020, NO. 110; ACTS 2022, NO. 654**

Section 1 of [Acts 2022, No. 654](#) provides:

“Section 1. Section 6 of Act 110 of the 2020 Regular Session of the Legislature of Louisiana is hereby amended and reenacted to read as follows:

“Section 6. The provisions of this Act shall cease to be effective on July 1, 2024.”

#### **CESSATION OF EFFECTIVENESS--ACTS 2020, NO. 110**

Section 6 of [Acts 2020, No. 110](#) (which amended subsec. B) provides:

“Section 6. The provisions of this Act shall cease to be effective on July 1, 2022.”

#### [Notes of Decisions \(11\)](#)

LSA-R.S. 15:168, LA R.S. 15:168

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:169

§ 169. Representation of capital defendants

Effective: March 20, 2024

Currentness

A. In cases where a sentence of death has been imposed, the office shall promptly cause counsel to be enrolled to represent the defendant and retain only such staff counsel or other counsel, who will work under the supervision of the office, 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 office 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 office 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 office, 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.

#### Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

#### Editors' Notes

**EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of Acts 2024, 2nd Ex.Sess., No. 22 provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

[Notes of Decisions \(1\)](#)

LSA-R.S. 15:169, LA R.S. 15:169

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:170

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

Effective: March 20, 2024

Currentness

A. (1) The office shall have the authority to take corrective or disciplinary action against any 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 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 office.

(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 office.

(6) The willful failure to cooperate with the office 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 office.

(9) Knowingly making any false statement to the office.

(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 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 office 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 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 the person 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.

### Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2008, No. 220, § 6, eff. June 14, 2008; Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

### Editors' Notes

#### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of Acts 2024, 2nd Ex.Sess., No. 22 provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

Acts 2024, 2nd Ex.Sess., No. 22 was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

LSA-R.S. 15:170, LA R.S. 15:170

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:171

§§ 171, 172. (Reserved)

Effective: August 15, 2007

Currentness

LSA-R.S. 15:171, LA R.S. 15:171

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LSA-R.S. 15:172

§§ 171, 172. (Reserved)

Effective: August 15, 2007

Currentness

LSA-R.S. 15:172, LA R.S. 15:172

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:173

§ 173. Right of action not created

Effective: March 20, 2024

Currentness

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.

#### Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2008, No. 220, § 6, eff. June 14, 2008; Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

LSA-R.S. 15:173, LA R.S. 15:173

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:174

§ 174. Special reporting requirements; penalties

Effective: March 20, 2024

Currentness

A. In addition to the general oversight requirements provided by law, each district shall submit an annual report to the office 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 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 district.

B. (1) The district public defender shall be responsible for preparing, completing, and submitting the annual report to the office 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.

## Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

## Editors' Notes

### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of Acts 2024, 2nd Ex.Sess., No. 22 provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

Acts 2024, 2nd Ex.Sess., No. 22 was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

LSA-R.S. 15:174, LA R.S. 15:174

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:175

§ 175. Proceedings to determine indigency

Effective: March 20, 2024

[Currentness](#)

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 office 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 office 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 office 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 office 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.

#### Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2016, No. 224, § 1; Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

#### Editors' Notes

#### **EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of Acts 2024, 2nd Ex.Sess., No. 22 provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

Acts 2024, 2nd Ex.Sess., No. 22 was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

#### Notes of Decisions (22)

LSA-R.S. 15:175, LA R.S. 15:175

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:176

§ 176. Partial reimbursement by indigents

Effective: August 15, 2007

[Currentness](#)

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.

## Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007.

Notes of Decisions (1)

LSA-R.S. 15:176, LA R.S. 15:176

Current through the 2024 First Extraordinary and Second Extraordinary Sessions.

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:177

§ 177. (Reserved)

Effective: August 15, 2007

Currentness

LSA-R.S. 15:177, LA R.S. 15:177

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LSA-R.S. 15:178

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

Effective: March 20, 2024

[Currentness](#)

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 office, which shall promptly cause to have enrolled counsel to represent the defendant on direct appeal and in any state post-conviction proceedings, if appropriate.

#### Credits

Acts 2007, No. 307, § 1, eff. Aug. 15, 2007. Amended by Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

#### Editors' Notes

**EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of [Acts 2024, 2nd Ex.Sess., No. 22](#) provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

[Acts 2024, 2nd Ex.Sess., No. 22](#) was effective upon the signature by the governor. The governor signed the Act on March 20, 2024.

[Notes of Decisions \(2\)](#)

LSA-R.S. 15:178, LA R.S. 15:178

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LSA-R.S. 15:179

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

Effective: August 15, 2007

[Currentness](#)

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.

#### Credits

[R.S. 15:149](#). Added by Acts 1976, No. 653, § 1. Redesignated as R.S. 15:179 by [Acts 2007, No. 307, § 16](#), [eff. Aug. 15, 2007](#).

LSA-R.S. 15:179, LA R.S. 15:179

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LSA-R.S. 15:180

§ 180. Special reporting requirements

Effective: March 20, 2024

Currentness

In addition to the general oversight requirements provided by law, the office 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 office's activities, expenditures, decisions, and actions for the previous fiscal year. The report shall be directed to the chairmen of the standing committees of the Senate Committee on Judiciary B and the House Committee on the Administration of Criminal Justice.

#### Credits

R.S. 15:151.3. Added by Acts 1997, No. 1361, § 1, eff. Dec. 31, 1997. Redesignated as R.S. 15:180 by Acts 2007, No. 307, § 16, eff. Aug. 15, 2007. Amended by Acts 2024, 2nd Ex.Sess., No. 22, § 1, eff. March 20, 2024.

#### Editors' Notes

**EXISTING CONTRACTS WITH LOUISIANA PUBLIC DEFENDER BOARD AS PARTY; OPTION TO RENEW FOR PUBLIC DEFENDERS; CURRENT EMPLOYEES AND RETIREMENT SYSTEM--ACTS 2024, 2ND EX.SESS., NO. 22**

Sections 4 to 6 of Acts 2024, 2nd Ex.Sess., No. 22 provide:

“Section 4. Nothing in this Act shall be construed to impede or nullify any existing contract in which the Louisiana Public Defender Board is a party. The office of the state public defender shall honor all contracts in which the board is a party through June 30, 2024.

“Section 5. Subject to a satisfactory performance and compliance evaluation, a public defender who has an existing contract with the Louisiana Public Defender Board for Fiscal Year 2023-2024, shall have the option to renew the contract with the office of the state public defender for Fiscal Year 2024-2025, subject to appropriation.

“Section 6. All current employees of the Louisiana Public Defender Board shall remain in their current retirement system with no gap or disruption in service in the event the provisions of this act are enacted into law.”

Acts 2024, 2nd Ex.Sess., No. 22 was effective upon the signature by the governor. The governor signed the Act on March 20,

2024.

LSA-R.S. 15:180, LA R.S. 15:180

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Part I. Indigent Defender Representation (Refs & Annos)

LSA-R.S. 15:181

§ 181. Limited effect

Effective: June 14, 2008

Currentness

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.

#### Credits

R.S. 15:151.4. Added by Acts 1997, No. 1361, § 1, eff. Dec. 31, 1997. Redesignated as R.S. 15:181 by Acts 2007, No. 307, § 16, eff. Aug. 15, 2007. Amended by Acts 2008, No. 220, § 6, eff. June 14, 2008.

LSA-R.S. 15:181, LA R.S. 15:181

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LSA-R.S. 15:182

§ 182. Limited effect in capital cases

Effective: June 14, 2008

Currentness

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.

#### Credits

R.S. 15:151.5. Added by [Acts 1999, No. 1012, § 1](#). Redesignated as R.S. 15:182 by [Acts 2007, No. 307, § 16, eff. Aug. 15, 2007](#). Amended by [Acts 2008, No. 220, § 6, eff. June 14, 2008](#).

LSA-R.S. 15:182, LA R.S. 15:182

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LSA-R.S. 15:183

§ 183. Effect of signing of pleadings

Effective: August 15, 2007

Currentness

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](#).

#### Credits

R.S. 15:151.6. Added by [Acts 1999, No. 1012, § 1](#). Redesignated as R.S. 15:183 by [Acts 2007, No. 307, § 16](#), eff. Aug. 15, 2007.

LSA-R.S. 15:183, LA R.S. 15:183

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LSA-R.S. 15:184

§ 184. (Reserved)

Effective: August 15, 2007

Currentness

LSA-R.S. 15:184, LA R.S. 15:184

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TO: Louisiana Public Defender Oversight Board  
FR: Rémy Voisin Starns  
DT: June 12, 2024  
RE: FY25 Recommendations for Approval of Contracts over \$250,000  
State Public Defender

### **Louisiana Public Defender Oversight Board**

Senate Bill 8 of the Second Extraordinary Session of the 2024 Louisiana Legislature was signed into law by Governor Jeff Landry and was designated as Act 22. Act 22 reformed La. R.S. 15: 141 *et seq.*, The Louisiana Public Defender Act, by creating the “Office of the State Public Defender”, creating the “Louisiana Public Defender Oversight Board” (“LPDOB”), and eliminating the “Louisiana Public Defender Board” (“LPDB”).<sup>1</sup>

Act 22 shifted the regulatory, budgeting, and supervisory authority enjoyed by the former LPDB and placed them all into the newly created Office of the State Public Defender.<sup>2</sup> The newly created LPDOB has general “supervision and oversight” over the Office and was granted discrete areas of authority, to-wit:

1. “Approve contracts of Two Hundred-Fifty Thousand dollars or more.”<sup>3</sup>
2. The State Public Defender develops and “presents for Board’s approval” the “strategic plan for the delivery of public defender services.”<sup>4</sup>
3. The office shall set compensation for each district public defender “according to a compensation plan established by the board.”<sup>5</sup>

At the meeting of the LPDOB of June 12, 2024, the State Public Defender will make recommendations to the Board for approval within these three areas, Contracts for FY25 over \$250,000, FY25 Strategic Plan, and a District Defender Compensation Plan.

<sup>1</sup> See La. R.S. 15: 141 *et seq.* (“The Louisiana Public Defender Act”).

<sup>2</sup> *Id.*

<sup>3</sup> La. R.S. 15: 146B(1).

<sup>4</sup> La. R.S. 15:152 B(2). SB of the Regular Session of the 2024 Louisiana Legislature further amends this section to include “Standards and Guidelines.”

<sup>5</sup> La. R.S. 15:161H(2). Act 22 also establishes a five-member hearing committee of LPDOB members to conduct an investigation and hear any “demotions or terminations” of district public defenders during the term of their contract. See La. R.S. 15: 170. Further, the Chairman of the LPDOB has a selection of a person to any local search committee for new district defenders. See La. R.S. 15: 162B2(b).

## 1. Contracts over \$ 250,000 for FY25.

By statute, at least 75% of the supplemental state funds which are deposited into the District Assistance Fund (“DAF”) must be distributed to the districts.<sup>6</sup> This statutory requirement began in 2016.<sup>7</sup> The DAF also pays for the administration of the Office, usually around 7%, and contract programs.

Since the inception of the statewide system in 1995, “contract programs” have been used to perform specific areas of work. The most prominent area of law handled by the “contract programs” is direct appeals in non-capital cases. Capital litigation has been predominantly handled by contract programs since 2016, over 25 years. Capital litigation includes trial-level work, direct appeals, and post-conviction representation. Prior to 2023, there were three trial-level programs, one direct appeals program, and one capital post-conviction program.

In 2023, LPDB merged the Baton Rouge program with the 19<sup>th</sup> Public Defender Office in East Baton Rouge Parish. The director of that program, the Baton Rouge Capital Conflict Office, is now the district defender in the 19<sup>th</sup> PDO. We also expanded the number of groups who represent people on death row in post-conviction matters. The LPDB has contracted for actual innocence post-conviction as well.

By statute, the LPDB contracted with the University of Louisiana at Monroe to train public defenders and investigators.<sup>8</sup>

From 2019-2023, the LPDB contracted with a law firm to represent people pursuant to *Miller v Alabama*<sup>9</sup> and *Montgomery v. Louisiana*.<sup>10</sup>

For context, these are the existing contracts for FY24, to-wit:

### FY 24 Contracts over \$250,000:

#### Capital programs

##### Trial-level

1. Baton Rouge Capital Conflict Office (“BRCCO”)	\$ 1,280,000
2. Capital Defense Office of Southeast Louisiana (“CPDSLA”)	\$ 1,280,000
3. Louisiana Capital Assistance Center (“LCAC”)	\$ 1,390,000

##### Appeals

4. Capital Appeals Project (“CAP”)	\$ 1,050,000
------------------------------------	--------------

<sup>6</sup> See La.R.S. 15: 167E.

<sup>7</sup> *Id.* at that time the district side minimum was set at 65%.

<sup>8</sup> See La.R.S. 15: 147B(20).

<sup>9</sup> 567 U.S. 460 (2012).

<sup>10</sup> 577 U.S. 190 (2016).

## Post-Conviction

- |                                       |              |
|---------------------------------------|--------------|
| 5. Mwalimu Center for Justice (“MCJ”) | \$ 1,265,036 |
|---------------------------------------|--------------|

## Non-Capital Programs

### Appeals

- |  |              |
|--|--------------|
| 6. Louisiana Appellate Project (“LAP”) | \$ 1,223,891 |
|--|--------------|

### Actual Innocence Post-Conviction

- |  |            |
|--|------------|
| 7. Innocence Project of New Orleans (“IPNO”) | \$ 360,000 |
|--|------------|

### Training

- |  |            |
|--|------------|
| 8. University of Louisiana at Monroe (“ULM”) | \$ 298,900 |
|--|------------|

### Juvenile

- |  |           |
|--|-----------|
| 9. Louisiana Center for Children’s Rights (“LCCR”) | \$265,000 |
|--|-----------|

## Expert Witness Funds

- |                             |            |
|-----------------------------|------------|
| 1. Capital Trial            | \$ 595,000 |
| 2. Capital post-conviction  | \$ 365,000 |
| 3. <i>Miller/Montgomery</i> | \$121,511  |

All contracts are annually renewed and have often benefitted from inertia. While reform has been difficult, progress has been made most notably by merging the 19<sup>th</sup> PDO in East Baton Rouge with the capital program, BRCCO.

I firmly believe that concentrating state resources in the districts, specifically in the courtrooms, is the best use of funds. We must recruit and retain more “line defenders”—public defenders who represent people in court.

Prior to 2016, the LPDB set policies that increased the DAF (state funding) to the contract programs while reducing the supplement to the districts. In my view, this was an extremely poor policy. By 2016 the split was almost 50/50—about half of the DAF went to the 42 districts who represented over 146,000 people per year and about half of the DAF went to a handful of these law firms who represented a few hundred people per year. At that time, the LPDB implemented a policy called “Restriction of Services” or “ROS” which was a formal notice to the courts that the public defenders would refuse to take new cases. One of the consequences of enacting the ROS protocol was the district defender offices had to give up representation of people in capital cases. This was another extremely poor policy.

By LPDB standards and guidelines, for appointment of capital representation, the LPDB had to certify people based upon education, skill, training, and experience, as “capital certified” lawyers. Each capital defendant has two certified counsel and a full team of experts and investigators. Once ROS was enacted the only lawyers certified to handle capital cases were in the capital programs. I believe this was by LPDB design. But no matter, the reality since 2016 has been that all capital cases are handled by one of the LPDB’s contract programs.

Since 2020, I have made efforts to increase capital capacity in the district defender offices to pre-ROS levels. Doing so has proven difficult for several reasons. Among them are a lack of desire from the districts to reacquire this obligation; We have to stand up a significant and intensive training regimen to recertify lawyers; we have to recruit new lawyers for this role; and we have to pay for it.

The process is well underway. Again, the first step was merging BRCCO with the 19<sup>th</sup> PDO (East Baton Rouge Parish). The next steps include partnering two other trial-level programs with specific districts. CPDSLA with the 22<sup>nd</sup> PDO (St. Tammany and Washington parishes) and LCAC with the 15<sup>th</sup> PDO (Lafayette, Vermilion, and Acadia parishes) and the 1<sup>st</sup> PDO (Caddo Parish). These districts have a significant backlog of noncapital cases where life sentences are a possibility.

These mergers/partnerships preserve the network of capital representation we currently utilize while adding capacity to litigate noncapital cases in those districts. The goal is to grow capacity in both capital and noncapital cases going forward by developing a synergy between the programs and the districts.

We are also reworking capital appeals and *Miller*/Montgomery representation. Loyola Law School offers physical infrastructure and law student support for capital appeals, and *Miller* cases going forward. Presently, there are fewer than five (5) appeals, eleven (11) *Montgomery* cases, and one (1) *Miller* case. The program will also represent around ten (10) people in capital post-conviction as overflow or conflict counsel.

#### **Proposed FY 25 Contracts over \$250,000:**

##### **Capital programs**

###### Trial-level

1. BRCCO/19 <sup>th</sup> PDO	\$ 1,280,000	Merged with the 19 <sup>th</sup> PDO in 2023
2. CPDSLA/22 <sup>nd</sup> PDO	\$ 1,280,000	
3. LCAC /15 <sup>th</sup> PDO/1 <sup>st</sup> PDO	\$ 1,390,000	

Presently, the capital cases statewide are as follows, to-wit:

#### **CAPITAL CASES NEEDING STATUS CHECK &/OR ASSIGNMENTS**

There are no identified capital cases awaiting assignment. There is no capital waitlist.

## PRE-INDICTMENT CASES

There are two pre-indictment cases.

District	Parish	Name	Representation	RepOrgn	701 Date
23	Ascension	Forcell, Calvin	Merits	BRCCO	5/13/2024
15	Lafayette	Credeur, Chad	Merits	LCAC	8/14/2024

## INDICTED CAPITAL CASES BY DISTRICT

Statewide, we represent 20 people in open, indicted, indigent capital cases.

District	Parishes	Program	District		Contract	TOTAL
5	Franklin, Richland, West Carroll	1				1
10	Natchitoches	1				1
13	Evangeline	1				1
14	Calcasieu	1				1
15	Lafayette, Acadia Vermilion	2				2
16	New Iberia, St Martin, St Mary	1				1
17	Lafourche	1			1	2
19	East Baton Rouge	2				2
22	St. Tammany	1				1
23	Ascension, Assumption, St. James	1				1
24	Jefferson	1				1
26	Bossier, Webster	2				2
27	St. Landry	1				1
32	Terrebonne	2				2
40	St. John	1				1
		19	0		1	20

District	Parish	Name	RepOrgn
5	Franklin	Semien, Hermandus	BRCCO
10	Natchitoches	Cox, Kendrick	BRCCO
13	Evangeline	Anderson, Vonteeke	BRCCO
14	Calcasieu	Broussard, Neil	LCAC
15	Lafayette	Cormier, Dillon	LCAC
15	Lafayette	Suttoon, Deziree	CDPSEL
16	St. Mary	Thibodeaux, Wilbert	BRCCO
17	Lafourche	Brown, David	Contract
17	Lafourche	Savoie, Anthony	LCAC
19	East Baton Rouge	Turner, Lee	BRCCO
19	East Baton Rouge	Wade, Michael	BRCCO
22	St. Tammany	Tyson, Antonio	CDPSEL
23	Ascension	Mire, Matthew	CDPSEL
24	Jefferson	Every, Joshua	CDPSEL
26	Bossier	Burks, Cortrell	CDPSEL
26	Bossier	McCoy, Robert	LCAC
27	St. Landry	Breaux, Davieontray	CDPSEL
32	Terrebonne	Jones, Maya	LCAC
32	Terrebonne	Robinson, Jermaine	CDPSEL
40	St. John	Smith, Brian	LCAC

## PROGRAM CAPITAL CASELOAD SNAPSHOT

The following is the snapshot of the capital caseloads of the program offices.

Office	Pre-indictment	Indicted	TOTAL
BRCCO	1	6	7
CDPSEL		7	7
LCAC	1	6	7
Contract		1	1

## CURRENTLY SCHEDULED CAPITAL TRIALS

The following is a list of the 7 capital indicted cases with current trial dates, in order of trial date.

District	Parish	Name	RepOrgn	Trial Date
32	Terrebonne	Jones, Maya	LCAC	8/19/2024
32	Terrebonne	Robinson, Jermaine	CDPSEL	8/19/2024
5	Franklin	Semien, Hermandus	BRCCO	9/29/2024
19	East Baton Rouge	Wade, Michael	BRCCO	10/1/2024
27	St. Landry	Breaux, Davieontray	CDPSEL	11/4/2024
26	Bossier	McCoy, Robert	LCAC	4/28/2025
16	St. Mary	Thibodeaux, Wilbert	BRCCO	4/28/2025

Annually, the system defends between 90-100 first degree murder arrests where capital punishment is a possibility. The above numbers reflect the cases that are indicted as first degree murder with the death penalty as an option or pre-indicted cases where the grand jury has not yet returned an indictment against people who are represented by public defenders.

### Appeals

4. **LOYOLA LAW SCHOOL/Orleans PDO \$ 1,050,000** Capital Appeals; *Miller* cases; Capital Post-Conviction; former capital post-conviction.

### Post-Conviction

5. **MCJ \$ 1,265,036**

### **Non-Capital Programs**

### Appeals

6. **LAP \$ 1,223,891**

### Actual Innocence Post-Conviction

7. **IPNO \$ 360,000**

### Training

8. **ULM \$ 300,000 increase of \$ 1,100**

## Expert Witness Funds

9. Capital post-conviction \$ 275,000      Decrease by \$ 90,000 (no addition to trial XWF or *Miller/Montgomery XWF*)

I am not adding any money into the capital trial Expert Witness Fund for FY25 (\$595,000 for FY24), decreasing by \$90,000 the capital post-conviction Expert Witness Fund (\$ 365,000 for FY24), and not adding to the *Miller/Montgomery* Expert Witness Fund (\$ 121,511 for FY24).

In Sum, these proposed contracts preserve the effective representation currently provided in capital cases while necessarily changing representation where it is needed as well as transitioning as responsibly as we can to provide even better services.

We do not currently have enough capacity to represent capital defendants in the districts—in fact we have almost none—this is a consequence of LPDB policies enacted in 2016. We also do not have enough line defenders representing people in the districts accused of noncapital crimes. These proposed contracts are the right step towards solving those problems.

We need to restructure capital appeals and rethink *Miller/Montgomery* representation. The proposed partnership with Loyola Law School is an exciting opportunity to do just that. We are renewing the post-conviction contracts, both capital and actual innocence, and the training contract with ULM which we are statutorily bound to do.

These contracts are necessary both for the continuation of services and building service improvements. I ask for your approval *in Globo* of these contracts.

**Louisiana Public Defender Oversight Board**  
**FY25 Contracts > \$250,000**

1	Mwalimu Center for Justice (MCFJ)	1,265,035
2	Louisiana Appellate Project (LAP)	1,223,891
3	Innocence Project New Orleans (IPNO)	360,000
4	University of Louisiana - Monroe (ULM)	300,000
5	Capital Post Conviction Expert Witness Fund (IPNO)	275,000
<b>Total</b>		<b>3,423,926</b>

**THE LOUISIANA PUBLIC  
DEFENDER OVERSIGHT BOARD**

**RESOLUTION**

On the 12th day of June 2024, a meeting of the Louisiana Public Defender Oversight Board, held in Baton Rouge, Louisiana whereby a resolution was passed authorizing State Public Defender Rémy Starns by his signature, to enter into any and all and contractual obligations in an amount not to exceed \$1,265,035 with **MWALIMU CENTER FOR JUSTICE (MCJ)** for criminal defense services on behalf of indigents seeking capital Post-Conviction Relief.

**I CERTIFY THAT** the above and foregoing constitute a true and correct copy of the resolution resulting from a meeting of the Louisiana Public Defender Oversight Board held on the 12<sup>th</sup> day of June 2024.

---

**RET. JUDGE GERARD CASWELL  
CHAIRMAN**

**THE LOUISIANA PUBLIC  
DEFENDER OVERSIGHT BOARD**

**RESOLUTION**

On the 12th day of June 2024, a meeting of the Louisiana Public Defender Oversight Board, held in Baton Rouge, Louisiana whereby a resolution was passed authorizing State Public Defender Rémy Starns by his signature, to enter into any and all contractual obligations in an amount not to exceed \$1,223,891 with **LOUISIANA APPELLATE PROJECT (LAP)** contract for criminal defense appeals of behalf of indigent defendants.

**I CERTIFY THAT** the above and foregoing constitute a true and correct copy of the resolution resulting from a meeting of the Louisiana Public Defender Oversight Board held on the 12<sup>th</sup> day of June 2024.

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**RET. JUDGE GERARD CASWELL  
CHAIRMAN**

**THE LOUISIANA PUBLIC  
DEFENDER OVERSIGHT BOARD**

**RESOLUTION**

On the 12th day of June 2024, a meeting of the Louisiana Public Defender Oversight Board, held in Baton Rouge, Louisiana whereby a resolution was passed authorizing State Public Defender Rémy Starns by his signature, to enter into any and all and contractual obligations in an amount not to exceed \$360,000 with **INNOCENCE PROJECT NEW ORLEANS (IPNO)** (operations) for criminal defense services on behalf of indigents seeking post-conviction relief.

**I CERTIFY THAT** the above and foregoing constitute a true and correct copy of the resolution resulting from a meeting of the Louisiana Public Defender Oversight Board held on the 12<sup>th</sup> day of June 2024.

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**RET. JUDGE GERARD CASWELL**  
**CHAIRMAN**

**THE LOUISIANA PUBLIC  
DEFENDER OVERSIGHT BOARD**

**RESOLUTION**

On the 12th day of June 2024, a meeting of the Louisiana Public Defender Oversight Board, held in Baton Rouge, Louisiana whereby a resolution was passed authorizing State Public Defender Rémy Starns by his signature, to enter into any and all contractual obligations in an amount not to exceed \$300,000 with **UNIVERISTY OF LOUISIANA MONROE (ULM)** for training services.

**I CERTIFY THAT** the above and foregoing constitute a true and correct copy of the resolution resulting from a meeting of the Louisiana Public Defender Oversight Board held on the 12<sup>th</sup> day of June 2024.

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**RET. JUDGE GERARD CASWELL**  
**CHAIRMAN**

**THE LOUISIANA PUBLIC  
DEFENDER OVERSIGHT BOARD**

**RESOLUTION**

On the 12th day of June 2024, a meeting of the Louisiana Public Defender Oversight Board, held in Baton Rouge, Louisiana whereby a resolution was passed authorizing State Public Defender Rémy Starns by his signature, to enter into any and all and contractual obligations in an amount not to exceed \$275,000 with **INNOCENCE PROJECT NEW ORLEANS (IPNO)** for criminal defense ancillary (expert witness) services on behalf of indigents seeking capital post-conviction relief.

**I CERTIFY THAT** the above and foregoing constitute a true and correct copy of the resolution resulting from a meeting of the Louisiana Public Defender Oversight Board held on the 12<sup>th</sup> day of June 2024.

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**RET. JUDGE GERARD CASWELL**  
**CHAIRMAN**

**District Funded Contracts**  
**FY25 Contracts > \$250,000**

1	District 19 (EBR Parish)   Baton Rouge Capital Conflict Office (BRCCO)	1,280,000
2	District 41 (Orleans Parish)   Loyola Law School	1,050,000
3	District 22 (St. Tammany and Washington Parishes)   Capital Defense Project of Southeast Louisiana (CPDSELA)	1,280,000
5	District 15 (Acadia, Lafayette and Vermilion Parishes)   Louisiana Crisis Assistance Center (LCAC)	853,333
6	District 1 (Caddo Parish)   Louisiana Crisis Assistance Center (LCAC)	426,667
<b>Total</b>		<b>4,890,000</b>

# OSPD Chiefs Compensation Plan

$W+C+L+X = \text{DD Compensation}$

Experience + CUFs + Local Funding + Local  
Complexity = DD Compensation

$W+C+L+X = \text{DD Compensation}$

Experience + CUFs + Local Funding + Local  
Complexity = DD Compensation

**Each component is correlated to a range of dollar  
amounts**

De Facto Warrant		\$60,000.00		CUFs		Local Funding		Complexity			
Years as Chief		Warrant				None		Parish x Section			
0 - 4	\$ -			0-249K	\$ -	1-50,000	\$ 1,000	1-3 Sect	\$ -	\$ 5,000	\$ 10,000
5 - 9	\$ 6,000	+ \$60K		250-499K	\$ 5,000	50,001-200,000	\$ 10,000	4-6 Sect	\$ 10,000	\$ 15,000	\$ 20,000
10 - 14	\$ 12,000	+ \$60K		500-699K	\$ 10,000	200,001-500,000	\$ 20,000	7-12 Sect	\$ 12,500	\$ 22,500	\$ 30,000
15 - 19	\$ 18,000	+ \$60K		700K-1M	\$ 15,000	500,001-1M	\$ 40,000	13-22 Sect	\$ 17,500	\$ 25,000	\$ 30,000
20 - 24	\$ 24,000	+ \$60K		1M+	\$ 20,000	1M-1.9M	\$ 50,000	23+ Sect	\$ 30,000	\$ 35,000	\$ -
25 - 29	\$ 30,000	+ \$60K				2M - 3.9M	\$ 60,000				
30 - 34	\$ 36,000	+ \$60K				4M+	\$ 70,000				
35+	\$ 42,000	+ \$60K									

**W:** Years of Experience as a DD sets a base compensation or de facto warrant. We use the term “Warrant” because it is familiar to Policy-Makers.

**C:** CUFs range acknowledges the individual nature of each district.

**L:** Local Funding reflects the capacity of the District Defender to garner local support for the office. Local Funding includes Cash Contributions and In-Kind Contributions from Local Governments and self-generated revenue.

**X:** Number of Parishes and Weighted Sections of Court in the district reflect the relative complexity of each individual district.

De Facto Warrant		\$60,000.00		CUFs		Local Funding			Complexity								
Years as Chief			Warrant			None	-		Parish x Section	1 parish	2 parish	3 parish					
0 - 4	\$	-		0-249K	\$	-	1-50,000	\$	1-3 Sect	\$	-	\$	5,000	\$	10,000		
5 - 9	\$	6,000	+ \$60K	250-499K	\$	5,000	50,001-200,000	\$	4-6 Sect	\$	10,000	\$	15,000	\$	20,000		
10 - 14	\$	12,000	+ \$60K	500-699K	\$	10,000	200,001-500,000	\$	7-12 Sect	\$	12,500	\$	22,500	\$	30,000		
15 - 19	\$	18,000	+ \$60K	700K-1M	\$	15,000	500,001-1M	\$	13-22 Sect	\$	17,500	\$	25,000	\$	30,000		
20 - 24	\$	24,000	+ \$60K	1M+	\$	20,000	1M-1.9M	\$	23+ Sect	\$	30,000	\$	35,000	\$	-		
25 - 29	\$	30,000	+ \$60K				2M - 3.9M	\$									
30 - 34	\$	36,000	+ \$60K				4M+	\$	70,000								
35+	\$	42,000	+ \$60K														

Years Experience as DD	De Facto Warrant Amount
20	84,000

De Facto Warrant		\$60,000.00		CUFs		Local Funding			Complexity									
Years as Chief			Warrant			None	-		Parish x Section	1 parish	2 parish	3 parish						
0 - 4	\$	-		0-249K	\$	-	1-50,000	\$	1,000	1-3 Sect	\$	-	\$	5,000	\$	10,000		
5 - 9	\$	6,000	+ \$60K	250-499K	\$	5,000	50,001-200,000	\$	10,000	4-6 Sect	\$	10,000	\$	15,000	\$	20,000		
10 - 14	\$	12,000	+ \$60K	500-699K	\$	10,000	200,001-500,000	\$	20,000	7-12 Sect	\$	12,500	\$	22,500	\$	30,000		
15 - 19	\$	18,000	+ \$60K	700K-1M	\$	15,000	500,001-1M	\$	40,000	13-22 Sect	\$	17,500	\$	25,000	\$	30,000		
20 - 24	\$	24,000	+ \$60K	1M+	\$	20,000	1M-1.9M	\$	50,000	23+ Sect	\$	30,000	\$	35,000	\$	-		
25 - 29	\$	30,000	+ \$60K				2M - 3.9M	\$	60,000									
30 - 34	\$	36,000	+ \$60K				4M+	\$	70,000									
35+	\$	42,000	+ \$60K															

Years Experience as DD	De Facto Warrant Amount	CY23 CUF Collections	CUFs-based Compensation Enhancement
20	84,000	550,000	10,000

De Facto Warrant		\$60,000.00		CUFs		Local Funding		Complexity			
Years as Chief		Warrant				None	-	Parish x Section	1 parish	2 parish	3 parish
0 - 4	\$ -			0-249K	\$ -	1-50,000	\$ 1,000	1-3 Sect	\$ -	\$ 5,000	\$ 10,000
5 - 9	\$ 6,000	+ \$60K		250-499K	\$ 5,000	50,001-200,000	\$ 10,000	4-6 Sect	\$ 10,000	\$ 15,000	\$ 20,000
10 - 14	\$ 12,000	+ \$60K		500-699K	\$ 10,000	200,001-500,000	\$ 20,000	7-12 Sect	\$ 12,500	\$ 22,500	\$ 30,000
15 - 19	\$ 18,000	+ \$60K		700K-1M	\$ 15,000	500,001-1M	\$ 40,000	13-22 Sect	\$ 17,500	\$ 25,000	\$ 30,000
20 - 24	\$ 24,000	+ \$60K		1M+	\$ 20,000	1M-1.9M	\$ 50,000	23+ Sect	\$ 30,000	\$ 35,000	\$ -
25 - 29	\$ 30,000	+ \$60K				2M - 3.9M	\$ 60,000				
30 - 34	\$ 36,000	+ \$60K				4M+	\$ 70,000				
35+	\$ 42,000	+ \$60K									

Years Experience as DD	De Facto Warrant Amount	CY23 CUF Collections	CUFs-based Compensation Enhancement	Local Funding: CY23 & In-Kind Contribution & "Other" as of Ann Rpt & Surveys	Local Funding - based Compensation Enhancement
20	84,000	550,000	10,000	300,000	20,000

De Facto Warrant \$60,000.00			CUFs		Local Funding			Complexity			
Years as Chief		Warrant			None	-		Parish x Section	1 parish	2 parish	3 parish
0 - 4	\$ -		0-249K	\$ -	1-50,000	\$ 1,000		1-3 Sect	\$ -	\$ 5,000	\$ 10,000
5 - 9	\$ 6,000	+ \$60K	250-499K	\$ 5,000	50,001-200,000	\$ 10,000		4-6 Sect	\$ 10,000	\$ 15,000	\$ 20,000
10 - 14	\$ 12,000	+ \$60K	500-699K	\$ 10,000	200,001-500,000	\$ 20,000		7-12 Sect	\$ 12,500	\$ 22,500	\$ 30,000
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20 - 24	\$ 24,000	+ \$60K	1M+	\$ 20,000	1M-1.9M	\$ 50,000		23+ Sect	\$ 30,000	\$ 35,000	\$ -
25 - 29	\$ 30,000	+ \$60K			2M - 3.9M	\$ 60,000					
30 - 34	\$ 36,000	+ \$60K			4M+	\$ 70,000					
35+	\$ 42,000	+ \$60K									

Years Experience as DD	De Facto Warrant Amount	CY23 CUF Collections	CUFs-based Compensation Enhancement	Local Funding: CY23 & In-Kind Contribution & "Other" as of Ann Rpt & Surveys	Local Funding - based Compensation Enhancement	Sections x Parishes	Parish x Section Complexity Compensation Enhancement
20	84,000	550,000	10,000	300,000	20,000	26 sect. x 2 par.	\$ 35,000

De Facto Warrant \$60,000.00			CUFs		Local Funding			Complexity			
Years as Chief		Warrant			None	-		Parish x Section	1 parish	2 parish	3 parish
0 - 4	\$ -		0-249K	\$ -	1-50,000	\$ 1,000		1-3 Sect	\$ -	\$ 5,000	\$ 10,000
5 - 9	\$ 6,000	+ \$60K	250-499K	\$ 5,000	50,001-200,000	\$ 10,000		4-6 Sect	\$ 10,000	\$ 15,000	\$ 20,000
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20 - 24	\$ 24,000	+ \$60K	1M+	\$ 20,000	1M-1.9M	\$ 50,000		23+ Sect	\$ 30,000	\$ 35,000	\$ -
25 - 29	\$ 30,000	+ \$60K			2M - 3.9M	\$ 60,000					
30 - 34	\$ 36,000	+ \$60K			4M+	\$ 70,000					
35+	\$ 42,000	+ \$60K									

Years Experience as DD	De Facto Warrant Amount	CY23 CUF Collections	CUFs-based Compensation Enhancement	Local Funding: CY23 & In-Kind Contribution & "Other" as of Ann Rpt & Surveys	Local Funding - based Compensation Enhancement	Sections x Parishes	Parish x Section Complexity Compensation Enhancement	OSPD Compensation
20	84,000	550,000	10,000	300,000	20,000	26 sect. x 2 par.	\$ 35,000	149,000

# For Multiple District Chiefs:

Total years as DD in all districts and apply to dollar ranges

Total CUFs in all districts and apply to ranges

Total Local Contributions of all districts and apply to ranges

Total number of weighted sections and the total number of parishes, then  
apply these totals to the ranges

# Additional 25% DD Compensation Enhancement Based on Line Defender Work

Where the DD is also a line defender the DD Compensation will be 125% of the district defender compensation amount based on the W+C+L+X Formula  
(Not to exceed the compensation of a District Judge salary)

Whether the DD is also a line defender will be determined on a district-by-district basis by the Office of the State Public Defender in consultation with each individual DD

There is no prohibition on DD Private Civil Practice nor Federal Criminal Practice

Policy on Criminal Practice is forthcoming

# TRANSITION

- 1) When: Beginning FY25, Mid-Year FY25 or Start of FY26?
- 2) How to compensate for compelled closure of private practice or for subsidizing system with private office space?
- 3) Other transition factors to be considered?



## Office of the State Public Defender Strategic Plan FYs 23-28

### **Vision:**

Through the untiring efforts of well-trained, professional public defenders, the Office of the State Public Defender (OSPD) provides zealous advocacy on behalf of indigent persons accused of crimes.

### **Mission:**

The Office of the State Public Defender (OSPD) regulates the delivery of legal services for indigent persons accused of crimes through dedicated, well-trained, and talented public defenders and support staff in all 64 parishes.

### **Philosophy:**

In recognition of its mandates under both the United States and Louisiana Constitutions, it is the express intent of the Louisiana Legislature through the Louisiana Public Defender Act of 2007, to provide effective legal representation to indigent persons unable to afford an attorney, consistent with the right to counsel in criminal and juvenile courts.

### **Goals:**

1. Ensure that adequate public funding of the right to counsel is provided and managed in a cost-effective and fiscally responsible manner.
2. Establish a flexible delivery system that is responsive to and respectful of jurisdictional variances and local community needs and interests.
3. Ensure that the right to counsel is delivered by qualified and competent counsel in a manner that is fair and consistent throughout the state.

4. Provide statewide oversight that ensures all indigent persons who are eligible to have appointed counsel at public expense receive effective assistance of counsel at each critical stage of the proceeding.
5. Provide for the ability to collect and verify objective statistical data needed to assist state policymakers in making informed decisions.

### Objectives and Strategies:

**Goal #1: Ensure that adequate public funding of the right to counsel is provided and managed in a cost-effective and fiscally responsible manner.**

**Objective 1-1:** Develop an accurate assessment of the resources required to ethically and professionally fund the public defense function in Louisiana.

Strategy		Timeline
1-1.1	Identify and submit a budget request that adequately funds trial level services for Child In Need of Services (CINC) parent representation.	FY 23-28
1-1.2	Identify and submit a budget request that adequately funds appellate level services for Child In Need of Services (CINC) parent representation.	FY 23-28
1-1.3	Pursue federal, state, and private funds, to increase the capacity (either staff or contract) in the state office in order to provide financial and case data support, training, supervise defender performance and improve communication between OSPD and the field. R.S. 15:152(B)(6) and 15:152(B) (10).	FY 23-28
1-1.4	Collect and analyze data regarding staff, salary, experts, and ancillary services on an annual basis. R.S. 15:148 (B) (10) and 15:148(B) (13).	FY 23-28
1-1.5	Explore, develop, and implement Random Moment Sampling (RMS)	FY 23-28

**Objective 1-2:** Implement reforms to improve the delivery of public defender services and maximize the efficient use of resources.

Strategy		Timeline
1-2.1	Provide regular, accurate data that supports the conversion of the Criminal Justice System from an incarceration first model to one that prioritizes rehabilitation.	FY 23-28
1-2.2	Recommend policies that promote the efficiency of public defense delivery.	FY 23-28

<b>1-2.3</b>	Participate in criminal justice, juvenile justice, and child welfare association, society, task force, and commission meetings.	FY 23-28
<b>1-2.4</b>	Develop a state plan for the method of delivery of capital defense services.	FY 23-28

**Objective 1-3:** Communicate the budgetary needs necessary to achieve ethical and professional representation of indigent persons.

<b>Strategy</b>		<b>Timeline</b>
<b>1-3.1</b>	Proactively monitor and respond to media related to public defense in Louisiana and systemic issues in the criminal justice system.	FY 23-28
<b>1-3.2</b>	Facilitate meetings between the State Public Defender and state-level legislators to promote an identified plan.	FY 23-28
<b>1-3.3</b>	Encourage and support local districts' efforts to generate increased local revenue to support the delivery of public defense services.	FY 23-28
<b>1-3.4</b>	Develop and submit an annual OSPD budget request to Division of Administration that reflects data-supported resource needs for defense services	FY 23-28

**Goal #2: Establish a flexible delivery system that is responsive to and respectful of jurisdictional variances and local community needs and interests.**

**Objective 2-1:** Identify from the list of statutory methods of service delivery which method, or combination of methods, apply to each district.

<b>Strategy</b>		<b>Timeline</b>
<b>2-1.1</b>	Use the list of statutory methods of delivery to determine which method or combination of methods apply to each district.	FY 23-28
<b>2-1.2</b>	Develop formulas for the dispersal of state supplemental assistance that consider the required expenditures and expected revenues of each district.	FY 23-28
<b>2-2.3</b>	Set compensation for each district defender to ensure that personnel expenditures do not exceed available funding.	FY 23-28

**Goal #3: Ensure that the right to counsel is delivered by qualified and competent counsel in a manner that is fair and consistent throughout the state.**

**Objective 3-1:** Create a statewide training system that develops, promotes, and supports, the delivery of effective, services.

Strategy		Timeline
3-1.1	Develop training requirements for the University of Louisiana at Monroe (ULM) that address relevant issues in the field, continually respond to the needs of practitioners, that are accessible and well attended.	FY 23-28
3-1.2	Encourage district offices and 501(c)3 programs to develop additional in-house training programs.	FY 23-28
3-1.3	Cultivate a geographically diverse cadre of defender trainers.	FY 23-28
3-1.4	Ensure that the public defender system is free from undue political and judicial interference and free from conflicts of interest.	FY 23-28
3-1.5	Provide cultural competency training to public defender staff.	FY 23-28
3-1.6	Ensure that all district public defender offices adopt appropriate anti-discrimination statements.	FY 23-28

**Goal #4: Provide statewide oversight that ensures all indigent persons who are eligible to have appointed counsel at public expense receive effective assistance of counsel at each critical stage of the proceeding.**

**Objective 4-1:** Improve the quality of public defense services.

Strategy		Timeline
4-1.1	Support access to trained investigators and other support personnel for all districts.	FY 23-28
4-1.2	Implement meaningful peer & performance review for all District Defenders.	FY 23-28
4-1.3	Implement meaningful performance review for all 501(c)3 programs.	FY 23-28
4-1.4	Develop a “New Defender Manual” for distribution to the districts.	FY 23-28
4-1.5	Provide orientation to new District Defenders.	FY 23-28

<b>4-1.6</b>	Assess awareness and use of promulgated performance standards in the field.	FY 23-28
<b>4-1.7</b>	Review professional service contracts.	FY 23-28
<b>4-1.8</b>	Develop and promulgate Louisiana Performance Standards for Representation in Families in Need of Services (FINS) cases and support the ongoing evaluation of the utilization of these standards in the field.	FY 23-28
<b>4-1.9</b>	Undertake regular site visits in districts/programs across Louisiana to evaluate office functionality and attorney performance per a formal site visit protocol.	FY 23-28

**Objective 4-2:** Uniformly, all staff members at LPDB reflect and demonstrate through their work product the values expected of the district public defender offices/programs.

<b>Strategy</b>		<b>Timeline</b>
<b>4-2.1</b>	The State Public Defender will regularly evaluate all staff on an annual basis.	FY 23-28

**Goal #5: Provide for the ability to collect and verify objective statistical data needed to assist policymakers in making informed decisions.**

**Objective 5-1:** Provide ongoing training to all data entry personnel in public defender offices in Louisiana.

<b>Strategy</b>		<b>Timeline</b>
<b>5-1.1</b>	Maintain and monitor the Issue Tracker System for data entry personnel to make requests, provide feedback or solicit support.	FY 23-28
<b>5-1.2</b>	Provide regional trainings for data entry personnel on a regular basis.	FY 23-28
<b>5-1.3</b>	Update materials/tutorials on the Case Management System, database management, excel documents and other relevant/requested software.	FY 23-28
<b>5-1.4</b>	Solicit evaluations of the Case Management System and Case Management System support services from data entry personnel in public defender offices in Louisiana.	FY 23-28

**Objective 5-2:** Continuously supervise district/program compliance with data collection policies to improve the accuracy and depth of data collected through the Case Management System.

Strategy		Timeline
5-2.1	Develop a protocol to uniformly evaluate a district public defender office's/program's case reporting accuracy and take corrective action.	FY 23-28
5-2.2	Notify defenders of CMS changes.	FY 23-28

**Objective 5-3:** Identify and procure technology in compliance with state regulations.

Strategy		Timeline
5-3.1	Create a file retention policy for the management of casefiles and identify the required technology/capacity for districts to comply.	FY 23-28
5-3.2	Maintain familiarity with new technology, state procurement laws, and professional development opportunities to continuously maximize OSPD's technological capacity.	FY 23-28
5-3.3	Evaluate technology needs through state annual reports and budget submissions.	FY 23-28

**Objective 5-4:** Facilitate, maintain, and improve communication between the field and OSPD.

Strategy		Timeline
5-4.1	Maintain a relevant, timely, and accessible website.	FY 23-28
5-4.2	Manage a juvenile defender listserv to maximize cross-district learning and foster professional relationships among the defender community.	FY 23-28
5-4.3	Hold office hours for line defenders and defender staff in district offices throughout the state.	FY 23-28
5-4.4	Maintain and improve relevant information in the OSPD Continuity of Operations Plan (COOP).	FY 23-28

## **Potential External Factors Which May Affect the Achievement of Goals**

The inadequate, unstable, and unreliable nature of the Louisiana public defender system's funding mechanism is the primary external factor that may affect achievement of the goals included in this strategic plan. Public Defense funding consists primarily of a combination of state supplemental assistance and conviction and user fees. According to Louisiana law, every conviction or nolo contendere plea rendered results in a \$45 special court cost assessment, payable to the local public defender's office. Special court costs make up the majority of conviction and user fees and are typically associated with traffic tickets (approximately 76% of total collections). This funding mechanism is unreliable as revenues fluctuate based on influences outside of the control of the Public Defender's Office. Since the passage of the Public Defender Act in 2007, in any given year, our office can estimate that a handful of districts will face a disruption in the collection of conviction and user fees. These disruptions have included local elections, local spats between other actors in the Criminal Justice System, diversion, natural disasters, civil unrest, and most recently the COVID-19 pandemic.

Despite 2012 legislation that was expected to result in a 25% increase in special court costs, these revenues have decreased annually for nearly a decade. These decreases are accounted for by a decrease in traffic filings. According to Louisiana Supreme Court filing data, the number of traffic tickets filed has declined 59% since 2009. In Calendar Year 2016, CUFs accounted for 54% of total district funding. During Calendar Year 2021, that percentage decreased to 37%. These declines have created an added burden on state supplemental assistance to keep public defender's offices operational.

The Louisiana public defender system is a completely reactive entity having no control over revenues, expenditures, or caseloads. Law enforcement and law enforcement alone have the discretion to write traffic tickets in a district. In a jurisdiction with a District Attorney Pre-Trial Diversion program for traffic tickets, tickets are diverted from the usual court process that may ultimately result in a \$45 fee payable to the Public Defender's Office. In these instances, the District Attorney decides whether to share a portion of the proceeds with the Public Defender's Office. As it relates to criminal matters, each of the state's 42 District Attorneys have different beliefs and make different charging decisions. The types and number of cases handled by a public defender's office will reflect those charging decisions. Additionally, rising labor costs play a role in public defender system expenses. Labor shortages are not unique to the public defender system, as nearly all labor markets across the country have been impacted by the pandemic. Labor shortages particularly impact rural districts who are already frequently in competition with larger districts for talented attorneys, and who often must pay a premium to attract contract attorneys. The instability and unreliability of the current funding stream which requires public defenders to make financial decisions blind, while relying on other actors for funding may impact the feasibility of completing some of the strategies included in the agency's strategic plan.

## **Avoiding Duplication of Effort**

OSPD has an effective communication system among leadership team staff so that all projects are effectively managed, and all work assignments will be streamlined. This system includes:

- Development of clear job descriptions and revision of job descriptions, as necessary

- Implementation of an orientation program for OSPD staff
- Creation and circulation of an OSPD Employee Manual
- Quarterly reports on Performance Indicator Compliance
- Weekly work plan protocols which outline all work and are timely approved by the State Public Defender
- Regular timekeeping protocols which are reviewed by the State Public Defender
- Maintenance of an up-to-date calendar of events/appointments/field visits that is accessible to all staff
- Conduct a day-long, full-staff reevaluation of the OSPD 5-year Strategic Plan, every three years

### **Record Retention Policy**

Data shall be preserved and maintained for a period of at least three years.

**Performance Indicators/Performance Indicator Documentation**

**PROGRAM ACTIVITY # 1:  
LA R.S. 15:142(B)(1) - Resource Acquisition**

*OBJECTIVE:* Develop an accurate assessment of the resources required to ethically and professionally fund the public defense function in Louisiana.

*INDICATOR NAME:* Annually, submit **two (2)** grants each FY for OSPD and/or for the districts

*INDICATOR CODE:* 25364

Type/Level:	Output-- <b>KEY</b>
Rationale:	OSPD has a statutory mandate to seek funds from other sources, as appropriate, to support to delivery of public defense services
Uses:	Indicator will quantify non-state funds to support public defense services (though this objective is not intended to supplant the State's obligation to provide constitutionally mandated delivery of defense services to qualifying indigent persons accused of a crime(s) that carries the possibility of imprisonment)
Clarity:	N/A
Data Source:	Grant Applications approved by State Public Defender
Calculation Methodology:	Number of applications, reported annually
Scope:	Aggregated
Caveats:	N/A
Accuracy/Maintenance:	OSPD reports all revenues and is subject to audit and review by the Legislative Auditor
Responsible Person:	Budget Officer

*OBJECTIVE:* Develop an accurate assessment of the resources required to ethically and professionally fund the public defense function in Louisiana.

*INDICATOR NAME:* Annually, perform **eight (8)** district/program financial audits with each audited office/program successfully implementing all recommended changes

*INDICATOR CODE:* 25365

Type/Level:	Outcome/Efficiency/Quality-- <b>GENERAL</b>
Rationale:	Financial management best-practices and programmatic efficiency in every district public defender office and contract program ensure accurate resource allocation/utilization
Uses:	Audits/implemented recommendations will affect the request for state funds and the distribution of state public defense funds

Clarity:	OSPD has an internal protocol to define the scope of office “audits”
Data Source:	Internal audit reports (shared between OSPD and the district public defender office and/or contract program)
Calculation Methodology:	# of final submitted audit reports (with recommendations) # of follow-up correspondence assessing compliance with audit report recommendations within 6 months, reported quarterly
Scope:	N/A
Caveats:	N/A
Accuracy/Maintenance:	Formal, retained records
Responsible Person:	Trial Level Compliance Officer

*OBJECTIVE:* Implement reforms to improve the delivery of public defender services and maximize the efficient use of allocated resources.

*INDICATOR NAME:* Annually, make public presentations on public defense/defender issues to **eight (8)** Louisiana bar associations/membership, criminal justice, juvenile justice, and child welfare associations, societies, task forces, commissions, etc.

*INDICATOR CODE:* 25366

<i>Type/Level:</i>	Output-- <b>GENERAL</b>
<i>Rationale:</i>	OSPD is directed by statute to leverage the resources of the private bar, as appropriate, to support the delivery of public defense services
<i>Uses:</i>	Pro bono advocacy, financial support, collaborative policy work/support
<i>Clarity:</i>	N/A
<i>Data Source:</i>	# of direct presentations made by OSPD staff to state or local bar leadership/membership, associations and societies, and task forces or commissions of the Louisiana Legislature
<i>Calculation Methodology:</i>	# of presentations, reported quarterly
<i>Scope:</i>	N/A
<i>Caveats:</i>	N/A
<i>Accuracy/Maintenance:</i>	Internal protocol requires all public appointments be maintained via an office-wide calendar
<i>Responsible Person:</i>	Executive Assistant to the State Public Defender

**OBJECTIVE:** Implement reforms to improve the delivery of public defender services and maximize the efficient use of allocated resources.

**INDICATOR NAME:** Annually, attend **25** meetings of criminal justice association, societies, task forces, commissions, etc.

**INDICATOR CODE:** 25367

Type/Level:	Output-- <b>GENERAL</b>
Rationale:	OSPD is directed by statute to serve on certain boards and commissions, and participates in others as a partner per its strategic planning goals/strategies
Uses:	Service collaborations, training, collaborative policy work
Clarity:	N/A
Data Source:	# of appointments where OSPD staff participates as a volunteer or statutorily appointed member
Calculation Methodology:	# of meetings, reported quarterly
Scope:	N/A
Caveats:	N/A
Accuracy/Maintenance:	Internal protocol requires all public appointments be maintained via an office-wide calendar
Responsible Person:	Executive Assistant to the State Public Defender

**OBJECTIVE:** Communicate the budgetary needs necessary to achieve ethical and professional representation of indigent persons.

**INDICATOR NAME:** Prepare and submit the annual report, Joint Legislative Committee on the Budget (JLCB) report, and annual budget request

**INDICATOR CODE:** **NEW**

Type/Level:	Output/Efficiency/Quality-- <b>GENERAL</b>
Rationale:	
Uses:	
Clarity:	N/A
Data Source:	Case Management System, reporting requirements
Calculation Methodology:	
Scope:	N/A
Caveats:	Some information related to this indicator may be protected
Accuracy/Maintenance:	State law requires the agency to submit these reports annually
Responsible Person:	Budget Officer/General Counsel/Information Technology & Management Officer

## PROGRAM ACTIVITY # 2:

### LA R.S. 15:142(B)(3) – Statewide Delivery of Services

*OBJECTIVE:* Identify from the list of statutory methods of service delivery which method, or combination of methods, apply to each district.

*INDICATOR NAME:* Annually, conduct **40** meetings with District Defenders to discuss service delivery issues

*INDICATOR CODE:* **NEW**

<i>Type/Level:</i>	Output-- <b>XXX</b>
<i>Rationale:</i>	OSPD is directed by statute to establish a flexible delivery system that is responsive to and respectful of jurisdictional variances and local community needs and interests.
<i>Uses:</i>	Collaborative policy work; addressing programmatic deficiencies
<i>Clarity:</i>	N/A
<i>Data Source:</i>	# of meetings held between the State Public Defender and District Defenders
<i>Calculation Methodology:</i>	# of meetings held between the State Public Defender and District Defenders, reported quarterly
<i>Scope:</i>	N/A
<i>Caveats:</i>	N/A
<i>Accuracy/Maintenance:</i>	N/A
<i>Responsible Person:</i>	Executive Assistant to the State Public Defender

## PROGRAM ACTIVITY # 3:

### LA R.S. 15:142(B)(2), (4) - Training

*OBJECTIVE:* Consistently train defender staff to deliver a model of defense services to indigent clients that complies with the mission and values of OSPD as well as national best-practices.

*INDICATOR NAME:* Annually/upon the promulgation of new standards, provide **two (2)** trainings on performance standards

*INDICATOR CODE:* 25373

<i>Type/Level:</i>	Output-- <b>KEY</b>
<i>Rationale:</i>	Promote expectations of practice levels upon promulgation of new performance standards/guidelines
<i>Uses:</i>	Identify practice strengths and weaknesses; strengthen contractual obligations of District Defenders to ensure that public defense services comply with such standards in their offices

<i>Clarity:</i>	N/A
<i>Data Source:</i>	Training materials
<i>Calculation Methodology:</i>	# of trainings on performance standards, reported quarterly
<i>Scope:</i>	N/A
<i>Caveats:</i>	If there are no performance standards promulgated during the FY and all other standards have received training programs, there may be no training
<i>Accuracy/Maintenance:</i>	Training agendas and registrations
<i>Responsible Person:</i>	Trial Level Compliance Officer (oversees ULM contract services)

*OBJECTIVE:* Create a statewide training system that develops, promotes, and supports, the delivery of effective, high-quality services.

*INDICATOR NAME:* Annually, receive positive evaluations (“3” or higher) from more than **eighty percent (80%)** of training participants at LPDB-sponsored trainings

*INDICATOR CODE:* 25370

<i>Type/Level:</i>	Output-- <b>KEY</b>
<i>Rationale:</i>	Provide relevant, quality OSPD trainings
<i>Uses:</i>	Continually improve relevance and quality of OSPD trainings per participant feedback
<i>Clarity:</i>	N/A
<i>Data Source:</i>	Training agendas/evaluations
<i>Calculation Methodology:</i>	Training evaluations are required at all trainings, reported quarterly
<i>Scope:</i>	N/A
<i>Caveats:</i>	N/A
<i>Accuracy/Maintenance:</i>	N/A (protected information)
<i>Responsible Person:</i>	Trial Level Compliance Officer (oversees ULM contract services)

*OBJECTIVE:* Create a statewide training system that develops, promotes, and supports, the delivery of effective, high-quality services.

*INDICATOR NAME:* Annually, train **twenty percent (20%)** of total Louisiana public defenders

*INDICATOR CODE:* 24984

<i>Type/Level:</i>	Output-- <b>SUPPORTING</b>
<i>Rationale:</i>	Provide training that promotes a uniform standard of public defense services
<i>Uses:</i>	Identify and address training deficiencies and successes
<i>Clarity:</i>	N/A
<i>Data Source:</i>	Training registrations

<i>Calculation Methodology:</i>	# of training attendees, reported quarterly
<i>Scope:</i>	N/A
<i>Caveats:</i>	N/A
<i>Accuracy/Maintenance:</i>	Training archive, CLE files
<i>Responsible Person:</i>	Trial Level Compliance Officer (oversees ULM contract services)

*OBJECTIVE:* Create a statewide training system that develops, promotes, and supports, the delivery of effective, high-quality services.

*INDICATOR NAME:* Annually, communicate to the field any upcoming training opportunities in **twelve (12)** monthly newsletters

*INDICATOR CODE:* NEW

<i>Type/Level:</i>	Output-- <b>XXX</b>
<i>Rationale:</i>	Communicate upcoming training opportunities to increase awareness and participation
<i>Uses:</i>	Increase training participation
<i>Clarity:</i>	N/A
<i>Data Source:</i>	Monthly newsletters
<i>Calculation Methodology:</i>	# of monthly newsletters, reported quarterly
<i>Scope:</i>	N/A
<i>Caveats:</i>	N/A
<i>Accuracy/Maintenance:</i>	Monthly newsletters
<i>Responsible Person:</i>	Juvenile Justice Compliance Officer

#### **PROGRAM ACTIVITY # 4:**

#### **LA R.S. 15:142(B)(5), (7) – Statewide Oversight of Effective Assistance of Counsel**

*OBJECTIVE:* Improve the quality of public defense services for clients.

*INDICATOR NAME:* Annually, use the District Assessment Protocol (with corrective action as needed) to perform full assessment in **four (4)** district public defender offices

*INDICATOR CODE:* 25371

<i>Type/Level:</i>	Outcome/Efficiency/Quality-- <b>KEY</b>
<i>Rationale:</i>	On-site evaluations provide the best opportunity to assess the administration of the district office/contract program and the quality of public defense services
<i>Uses:</i>	Evaluating contract renewal, addressing administrative and programmatic deficiencies, supporting Training Programs;

	protect state's interest against litigation
<i>Clarity:</i>	N/A
<i>Data Source:</i>	Site visit reports and follow up correspondence
<i>Calculation Methodology:</i>	Number of reported annually
<i>Scope:</i>	N/A
<i>Caveats:</i>	N/A
<i>Accuracy/Maintenance:</i>	Internal protocol outlines the Site Visit Assessment Protocol and defines the preparation, assessment and follow-up requirements
<i>Responsible Person:</i>	Trial-Level Compliance Officer/Juvenile Justice Compliance Officer

*OBJECTIVE:* Improve the quality of public defense services for clients.

*INDICATOR NAME:* Annually, require case reporting for **one hundred percent (100%)** of all contract programs

*INDICATOR CODE:* 25368

<i>Type/Level:</i>	Output/Efficiency/Quality-- <b>GENERAL</b>
<i>Rationale:</i>	OSPD needs measures to ensure that workload is properly monitored and controlled in its contract programs
<i>Uses:</i>	Ensure that budget requests reflect accurate reflection of the resources required to deliver quality public defense services to all eligible defendants; protect state's interest against litigation
<i>Clarity:</i>	N/A
<i>Data Source:</i>	Case Management System, reporting requirements
<i>Calculation Methodology:</i>	Monthly reporting of all active workload, reported quarterly
<i>Scope:</i>	N/A
<i>Caveats:</i>	Some information related to this indicator may be protected
<i>Accuracy/Maintenance:</i>	N/A
<i>Responsible Person:</i>	Trial Level Compliance Officer / Juvenile Justice Compliance Officer

*OBJECTIVE:* Uniformly, all staff members at LPDB reflect and demonstrate through their work product the values expected of the district public defender offices/programs.

*INDICATOR NAME:* Annually, evaluate **one hundred percent (100%)** Office of the State Public Defender staff.

*INDICATOR CODE:* NEW

<i>Type/Level:</i>	Output/Efficiency/Quality-- <b>XXX</b>
<i>Rationale:</i>	Annual performance evaluations provide the best opportunity to assess LPDB staff

<i>Uses:</i>	Evaluate staffing needs, addressing administrative deficiencies
<i>Clarity:</i>	N/A
<i>Data Source:</i>	Performance Evaluation System (PES)
<i>Calculation Methodology:</i>	Completed Performance Evaluation System (PES), reported annually
<i>Scope:</i>	N/A
<i>Caveats:</i>	N/A
<i>Accuracy/Maintenance:</i>	N/A
<i>Responsible Person:</i>	State Public Defender

**PROGRAM ACTIVITY # 4:  
LA R.S. 15:142(B)(6) – Data Collection and Dissemination**

*OBJECTIVE:* Provide ongoing training to all data entry personnel in public defender offices in Louisiana.

*INDICATOR NAME:* Annually, provide on-site and/or long-distance training and/or technical support for appropriate personnel in **twenty (20)** district public defender and program offices

*INDICATOR CODE:* 25369

<i>Type/Level:</i>	Output
<i>Rationale:</i>	To increase the accuracy and scope of data input
<i>Uses:</i>	Improve financial and programmatic regulation of the public defense system
<i>Clarity:</i>	N/A
<i>Data Source:</i>	Training agendas/evaluations
<i>Calculation Methodology:</i>	# of trainings, reported annually
<i>Scope:</i>	N/A
<i>Caveats:</i>	N/A
<i>Accuracy/Maintenance:</i>	N/A
<i>Responsible Person:</i>	Information Technology & Management Officer

*OBJECTIVE:* Facilitate, maintain, and improve communication between the field and OSPD.

*INDICATOR NAME:* Annually, monitor **two hundred (200)** posts to specialty list servs

*INDICATOR CODE:* 25374

<i>Type/Level:</i>	Output-- <b>GENERAL</b>
<i>Rationale:</i>	Leverage resources across the state and support the specialized practice of juvenile law despite only four statutorily dedicated juvenile courts
<i>Uses:</i>	Build networks of support with the four Louisiana law schools and recruit national talent for Louisiana's justice system
<i>Clarity:</i>	N/A
<i>Data Source:</i>	The list-serv administrative panels
<i>Calculation Methodology:</i>	# of job fairs attended, reported annually
<i>Scope:</i>	N/A
<i>Caveats:</i>	N/A
<i>Accuracy/Maintenance:</i>	N/A
<i>Responsible Person:</i>	Director of Juvenile Defender Services

## Statement of Support for Policies Helpful to Women and Families

The following Human Resource policies are beneficial to all OSPD employees, including women and their families:

OSPD provides equal opportunities for the recruitment, employment, training and promotion of all employees based solely on merit factors and prohibits the use of gender and other non-merit factors. OSPD complies with the Family and Medical Leave Act, as applicable, to provide up to 12 workweeks of job-protected paid or unpaid leave during any 12-month period of eligible employees (regardless of gender and other non-merit factors) for certain specified family and medical reasons. OSPD credits and grants leave in accordance with Civil Service Rules and other applicable provisions. Leave is administered as uniformly and equitable as possible without regard to gender and other non-merit factors. OSPD permits the use of flexible time schedules for employees as approved by the supervisor and management. Additionally, OSPD offers maternity leave and has adopted anti-discrimination and prevention of sexual harassment policies.

# LOUISIANA PUBLIC DEFENDER OVERSIGHT BOARD

## SEXUAL HARASSMENT POLICY

The Louisiana Public Defender Oversight Board (“the Board”) has established this policy to prohibit and define sexual harassment, outline board member expectations and provide procedures for filing complaints.

### **I. APPLICABILITY**

This policy shall apply to all members of the Board. It shall also apply to non-employees who have a business relationship with the Board. Conduct prohibited by this policy is unacceptable in any work-related setting, such as Board meetings, Board-related trips, and Board-related social events. Engagement by any board member in any form of sexual harassment is strictly prohibited.

### **II. DEFINITIONS**

- a) Sexual harassment – may include, but is not limited to, a range of subtle to not-so-subtle behaviors and may involve individuals of the same or different gender. The harasser can be a co-Board member, other state employees, or a non-employee who has a business relationship with the Board. Sexual harassment exists when there are unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment,
  - Submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting any individual,
  - Such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment, or
  - The behavior persists despite objection by the person to whom the conduct is directed.

Unwelcome actions such as the following are inappropriate and depending on the circumstances, may in and of themselves meet the definition of sexual harassment or contribute to a hostile work environment (the following are a few examples and are not all-inclusive):

- Sexual pranks, or repeated sexual teasing, jokes, or innuendo;
- Lewd comments about an individual’s body;
- Touching or grabbing of a sexual nature;
- Talking about one’s sexual activity in front of others;

- Repeatedly cornering, leaning in, or standing too close to or brushing up against a person;
- Repeatedly asking a person to socialize during off-duty hours when the person has said no or has indicated that they are not interested (supervisors in particular should be careful not to pressure their employees to socialize);
- Giving gifts or leaving objects that are sexually suggestive;
- Repeatedly making sexually suggestive gestures;
- Making or posting sexually demeaning or offensive pictures, cartoons or other materials in the workplace;
- Pressure for unnecessary personal interaction;
- Off-duty, unwelcome conduct of a sexual nature that affects the work environment.

**NOTE:** Sexual statements can be made in person, in writing, or electronically, such as email instant messaging, text messaging, blogs, web pages, social media, etc.

Sexual harassment does not require the intent to offend. Inappropriate conduct meant as a joke, prank, or even a compliment can lead or contribute to harassment.

### **III. PROVISIONS**

- a) Sexual harassment violates the Equal Employment Opportunity Commission Guidelines, Section 703 of Title VII of the Civil Rights Act of 1964 as amended, the Louisiana Employment Discrimination Law, and La R.S. 42:341-345.

To initiate a claim under federal or state law, employees are referred to the Equal Employment Opportunity Commission and the Louisiana Commission on Human Rights:

EEOC District Office

Hale Boggs Federal Building  
500 Poydras St., Suite 809  
New Orleans, LA 70130  
800-669-4000 (voice)  
504-589-2958 (TDD)  
504-595-2844 (Fax)  
[www.eeoc.gov](http://www.eeoc.gov)

LCHR

1001 N. 23rd St., Suite 268  
Post Office Box 94094  
Baton Rouge, LA 70804  
225-342-6969 (voice)  
888-241-0859 (TDD)  
225-342-2063 (Fax)  
<http://gov.louisiana.gov/page/lchr>

- IV. The Chairman of the Board will serve as the Board's Equal Employment Opportunity (EEO) Officer.

## **V. RESPONSIBILITIES**

### **a) Board**

- When an allegation of sexual harassment has been received, or there is reason to believe sexual harassment is occurring, immediate and appropriate steps will be taken to ensure that the matter is promptly investigated and addressed. The Board is committed to take appropriate action, even if the individual does not wish to file a formal complaint.

### **b) Board Members**

- Any board members who know or reasonably believe that sexual harassment is occurring or has occurred whether to the board member directly or to someone else, is obligated to inform the Chairman.
- Board members are responsible for cooperating fully with any investigation of a complaint of sexual harassment. Information related to complaints and investigations will remain confidential to the fullest extent possible. Board members cooperating in an investigation shall maintain the confidentiality of the investigation to protect the reputations of all involved.
- Confidentiality is expected, but total confidentiality may not be guaranteed when investigating a sexual harassment complaint. Management may be required to inform those on a need-to-know basis of the details surrounding the complaint. Although confidentiality is expected, the witnesses and others questioned may not maintain total confidentiality. This should not deter filing complaints of sexual harassment. Confidentiality violations will be handled on a case-by-case basis.

## **VI. PROCEDURES**

- a) If you feel that you have been subjected to sexual harassment or witnessed sexual harassment, you should do the following:
  - Inform the person who has offended you that their actions are inappropriate and should be stopped, if you feel secure in doing so;
  - Document the occurrence(s) with very specific facts, including names, dates, times, places, witnesses, etc.; and
  - Report the action to the Board Chairman immediately.
- b) If the harasser is the Board Chairman skip the chain of command and report the complaint to one of the agencies listed above in Section III.
- c) If you have had a sexual harassment complaint reported to you, inform the Chairman, immediately.
- d) Upon receiving a complaint, the Chairman will determine the appropriate investigative procedures and will notify the complainant that the complaint has been received.
- e) All actions taken in the investigative process shall be documented and kept in the investigative file.
- f) To guarantee a fair and complete investigation, the cooperation of the alleged harasser and the alleged victim is required.
- g) Once the investigation has concluded, the Chairman will decide on a course of action. Discipline will be appropriate to the circumstances and may include

but is not limited to: a formal write-up, additional training, and up to termination.

- h) After the complaint has been resolved, the Chairman will periodically follow up with the employee(s) who filed the complaint to ensure that there is no continued or new sexual harassment occurring.
- i) If the harassment continues after the initial complaint has been resolved, employees shall contact the Chairman immediately.

## **VII. MANDATORY TRAINING**

- a) All Board members are required to complete one hour of approved mandatory training by December 31<sup>st</sup> each year.
- b) Failure to complete the mandatory training requirements may result in disciplinary action, up to and including termination/removal from the board.

## **VIII. REPORTING**

Beginning in 2021, an annual report will be compiled and submitted to the Division of Administration by February 1st of each year containing information from the previous calendar year regarding compliance with the requirements of this policy. The report shall include:

- The number of board members who have completed the mandatory training requirements;
- The number of sexual harassment complaints received; and
- The number of complaints which resulted in discipline or corrective action.

These reports shall be public record and available to the public in accordance with the Public Records Law.

## **IX. RETALIATION**

State law and the Louisiana Public Defender Oversight Board requires reporting of all incidents of sexual harassment. No board member who makes a good faith complaint under this policy, or who participates in an investigation of a charge made under this policy or any other proceeding involving a complaint of sexual harassment, shall be adversely affected because of their complaint or participation. Acts of retaliation shall be reported immediately and will be promptly investigated and addressed.

## **X. EXCEPTIONS**

The Louisiana Public Defender Oversight Board may grant an exception to any provision of this policy, provided such exception shall not be in conflict with state, board and/or federal law.

# LOUISIANA PUBLIC DEFENDER OVERSIGHT BOARD

## SEXUAL HARASSMENT POLICY

### ACKNOWLEDGEMENT AND CERTIFICATION

My signature hereon acknowledges that:

- 1) I received a copy of the LPDOB Sexual Harassment Policy;
- 2) I read this Policy;
- 3) I understand the content of this Policy;
- 4) I agree to abide by the terms and provisions of this Policy;
- 5) I understand that compliance with this Policy required by law; and
- 6) I understand that disciplinary action will be imposed on those who violate the terms and provisions of this Policy.

\_\_\_\_\_  
Member SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Member NAME (PRINT)

.....

## **MEMORANDUM**

**TO:** Rémy Starns

**FROM:** Paula Miles, General Counsel

**DATE:** May 29, 2024

**RE:** Act 393; R.S. 42:17.2

### **What are the recent updates to the Open Meetings Law pursuant to ACT 393?**

ACT 393, effective August 1, 2023, amended and reenacted La. R.S. 42:17.1 and enacted La. R.S. 42:17.2. The updated law provides that members of a public body, except the legislature and any parish board of election supervisors, who have a disability recognized by the Americans with Disabilities Act (ADA), shall be allowed to participate, and vote in a meeting via electronic means as defined in R.S. 42:17.2 (video or teleconference). Such a member's participation via electronic means shall also count towards the making of a quorum. Each public body is required to adopt rules, regulations, and procedures to facilitate the requirements of R.S. 42:17.2.1(A). For state agencies, the rules must be promulgated pursuant to the Administrative Procedures Act.

Additionally, R.S. 42:14(E), enacted by Act 393 requires all public bodies that have the capability to allow any member of the public with a disability recognized by the Americans with Disabilities Act (ADA), or caretaker of such person, to participate in its meetings via teleconference or video conference if so requested. That same provision states that public bodies that do not have such capability to adopt rules to facilitate viable alternative methods for members of the public with an ADA disability to participate in its meetings if such person, or caretaker, so requests. Each public body is required to adopt rules, regulations, and procedures to facilitate the requirements of R.S. 42:17.2.1(A). For state agencies, the rules must be promulgated pursuant to the Administrative Procedures Act. These requirements are not applicable during an Executive session.

Pursuant to newly enacted R.S. 42:17.2 certain statewide public bodies are allowed to conduct up to 1/3 of their meetings via electronic means (video or teleconference) outside of a gubernatorially declared state of disaster or emergency provided certain special requirements including notice, agenda publication, and public participation, are met. This law is not related to any Americans with Disability (ADA) considerations.

Each public body is required to adopt rules, regulations, and procedures to facilitate the requirements of R.S. 42:17.2.1(A).

### **How does the new law impact LPDOB Board Meetings?**

- Members of the Board who have a disability recognized by the ADA shall be allowed to participate and vote in meetings via electronic means (video or phone).
- Members' participation via electronic means shall also count towards the making of a quorum.
- No later than 24 hours prior to the electronic meeting, the LPDOB shall provide:

- The **notice and agenda for the meeting must be posted on the Louisiana Public Defender Oversight Board (“LPDOB”) website**, emailed to any member of the LPDOB or the news media who requests notice and posted and distributed as otherwise required by law.
  - **Detailed information regarding how members of the LPDOB may participate in the meeting and submit comments regarding matters on the agenda, which information shall be posted on the LPDOB website, emailed to any member of the LPDOB or the news media who requests notice of meetings of the LPDOB.**
- Note that the presiding officer **shall be present at the physical location** of the meetings under this section.
  - **Each public body with the capability to allow any member of the public with a disability recognized by the ADA or designated caregiver of such person to participate in meetings via teleconference or video conference.**
  - **The LPDOB shall provide a method to receive public comments electronically in the manner it prescribes prior to and, to the extent practical, during the meeting.**
  - **The LPDOB shall identify and acknowledge all public comments (in person, in writing, or electronically) prior to any submission deadline for the meeting and shall maintain those comments in its record of the meeting.**
  - The Presiding officer shall also ensure that each person participating is properly identified; that all parts of the meeting are clear and audible to all participants; and that the voting decision of each participating member of the board is clearly identified during each vote during the meeting, recorded and included in the archive of the meeting.
  - All documents made available to members of the public in attendance at the anchor/physical location shall be made available electronically to members of the public participating electronically to the extent practicable.
  - **If the LPDOB is aware of any technical problem that causes the meeting to no longer be audible/visible to the public, the meeting shall be recessed until the problem is resolved. If the problem is not resolved within one hour, the meeting shall be adjourned. The presiding officer shall try to alert all participants to that fact.**
  - **The meetings shall be recorded and made available to the public in an online archive located on the public body’s website for at least two years.**
  - A non-emergency exception to 1/3 of Open Meetings of Statewide Boards has been created in that the LPDOB can conduct up to 1/3 of their meetings via electronic means outside of a state emergency. **This law is not related to ADA considerations.**

- Requirements not applicable during an executive session.
- **Each public body that does not have the capability to allow remote access shall adopt rules, regulations, and procedures to facilitate viable alternative methods.**
- State agencies shall promulgate rules pursuant to the Administrative Procedures Act to implement this subsection. According to La. R.S. 42:12(A), the Open Meetings Law is to be construed liberally.

### **What is a disability under the ADA?**

The Americans with Disability Act (ADA), in 42 USC §12102, defines “disability” for the purpose of an individual under the ADA to mean:

- A physical or mental impairment that substantially limits one or more major life activities of the individual.
- A record of such an impairment; or
- Being regarded as having such an impairment.

The ADA further defines “major life activities” as including, but not limited to, the following:

- Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working; and
- Operation of major bodily functions, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

42 USC §12102(4) provides that disability shall be construed in favor of broad coverage of individuals, and that impairments may be temporary in nature and still constitute a disability for the purposes of the ADA.

The ADA itself does not define or identify specific medical conditions as constituting a disability. However, the Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Justice: Civil Rights Division, who are tasked with enforcement of the ADA, have through rulemaking provided guidance that the following medical conditions, when substantially limiting major life activities, will likely constitute a disability for the purposes of the ADA:

- Blindness
- Deafness
- Intellectual disability
- Partial or complete missing of limbs or mobility impairments requiring a wheelchair

- Autism
- Cancer
- Cerebral palsy
- Diabetes
- Epilepsy
- Human Immunodeficiency Virus (HIV),
- Multiple sclerosis
- Muscular dystrophy
- Major depressive disorder
- Bipolar disorder
- Post-traumatic stress disorder (PTSD)
- Obsessive compulsive disorder (OCD)
- Schizophrenia

### **Can Louisiana Public Defender Oversight Board meetings be held electronically for non-ADA purposes?**

Pursuant to newly enacted R.S. 42:17.2 certain statewide public bodies are allowed to conduct up to 1/3 of their meetings via electronic means (video or teleconference) outside of a gubernatorially declared state of disaster or emergency provided certain special requirements including notice, agenda publication, and public participation, are met. Moreover, to the extent practicable, the LPDOB shall publish a schedule of its meetings indicating which upcoming meetings will be conducted via electronic means and which will be conducted only in person. Pursuant to La. R.S. 42:17.2(H)(1), the LPDOB must conduct at least 6 regularly scheduled meetings in a calendar year to avail itself of the electronic meeting exception. **Moreover, the law provides that a presiding officer or chairperson must be present at the anchor location or designated meeting location to preside over the meeting. This law is not related to any Americans with Disability (ADA) considerations.**

The law states that each public body is required to adopt rules, regulations, and procedures to facilitate the requirements of R.S. 42:17.2.1(A). For state agencies, the rules must be promulgated pursuant to the Administrative Procedures Act. Here, LPDOB is not a state agency, thus promulgation of the rules is not necessary. I have not found any law that specifically addresses the question of whether the rules can be adopted immediately prior to the meeting.

### **Requirements for holding meetings via electronic means non-ADA based reasons.**

- No later than 24 hours prior to the electronic meeting, the Louisiana Public Defender Oversight Board shall provide:
  - The notice and agenda for the meeting must be posted on the LPDOB website, emailed to any member of the LPDOB or the news media who requests notice and posted and distributed as otherwise required by law.
  - Detailed information regarding how members of the LPDOB may participate in the meeting and submit comments regarding matters on the agenda, which information shall be posted on the LPDOB website, emailed to any member of the LPDOB or the news media who requests notice of meetings of the LPDOB.

#### **Duties of Presiding Officer or Chairperson:**

- **The presiding officer shall be present and shall preside over the meeting at the anchor location. The anchor location shall be open to the public. Any member of the public body or the public shall be allowed to participate in person at the anchor location.**
- The public body shall provide a mechanism to receive public comment electronically in the manner it prescribes prior to and, to the extent practical, during the meeting.
- The public body shall identify and acknowledge all public comments inclusive of those received in person during the meeting and those received in writing or electronically prior to any submission deadline for the meeting and shall maintain those comments in its record of the meeting.
- The presiding officer of the public body shall ensure all the following:
  - That each person participating in the meeting is properly identified.
  - That all parts of the meeting, excluding any matter discussed in executive session, are clear and audible to all participants in the meeting including the public.
  - That the voting decision of each participating member of the public body on each matter is clearly identified during each vote during the meeting and recorded and included in the archive of the meeting.
- If made aware of a technical problem that causes the meeting to no longer be audible, or if applicable, visible, and audible to the public, the meeting shall be recessed until the problem is resolved. If the problem is not resolved within one hour, the meeting shall be adjourned, and the presiding officer shall try to alert all participants to that fact.

#### **What is the penalty for violations of open meeting laws?**

A party who prevails in an enforcement proceeding may be granted any or all of the following relief:

- A writ of mandamus – Court order to compel a public official or body to perform mandatory or purely ministerial duties correctly.
- Injunctive relief – Temporarily compel the public body to act or stop acting, pending a final resolution on the issue.
- Declaratory judgment – a binding adjudication that establishes the rights and other legal relations of the parties without providing for or ordering enforcement.
- Judgment rendering the action void as provided in R.S. 42:24; and
- Judgment awarding civil penalties as provided in R.S. 42:28. A party who prevails in an enforcement proceeding shall be awarded reasonable attorney fees and other costs of litigation. If the party prevails in part, the court may award reasonable attorney fees or an appropriate proportion thereof. If the court finds that the proceeding was of a

frivolous nature and was brought with no substantial justification, the court may award reasonable attorney fees to the prevailing party.

**Conclusion:**

Pursuant to the new open meeting laws, The LPDOB can hold board meetings electronically if it conducts six regularly scheduled meetings in a calendar year and if the number of meetings being held electronically does not exceed 1/3<sup>rd</sup> of all meetings for the year. The law does carve out an exception which allows any public body that is strictly advisory to conduct successive meetings electronically without limitation. However, my concern is that LPDOB is called an *oversight board* and not an advisory board. As such, even if the intent of Act 22 was to make LPDOB advisory in nature, it is not specifically designated as such.

The LPDOB is required to adopt rules, regulations, and procedures to facilitate the requirements under R.S. 42:17.2.1(A). I have found no specific laws that address whether the electronic meeting rules can be adopted immediately prior to the meeting. To hold an LPDOB Board meeting electronically, a meeting location must be designated at which the Chair must be present to preside over the meeting. The LPDOB must also provide a means, which can be electronic, for the public to comment prior to and if practical, during the meeting. Moreover, the Board shall identify and acknowledge all public comments, inclusive of those received in person during the meeting (at the anchor location) and those received electronically prior to the submission deadline for the meeting. These comments shall be maintained in the record of the meeting. This can be done by having the emails sent to a designated email address.

Additionally, please note that per AG Opinion. 22-0128, board meetings can be hybrid wherein some of the members of the board are present at the anchor location while others appear via telephone or via videoconference in different locations.

LSA-R.S. 42:17.2

§ 17.2. Exception for certain meetings of certain public bodies

Effective: August 1, 2023

[Currentness](#)

A. Notwithstanding any other provision of this Chapter to the contrary, a public body identified in Subsection H of this Section may conduct and its members may attend and participate in a meeting via electronic means provided that all of the requirements of this Section are met.

B. No later than twenty-four hours prior to a meeting conducted pursuant to the provisions of this Section, the public body shall provide for all of the following:

(1) The notice and agenda for the meeting, which shall be posted on the website of the public body, emailed to any member of the public or the news media who requests notice of meetings of the public body, and posted and distributed as otherwise required by this Chapter and by law.

(2) Detailed information regarding how members of the public may participate in the meeting and submit comments regarding matters on the agenda, which information shall be posted on the website of the public body and emailed to any member of the public or the news media who requests notice of meetings of the public body.

C. For each meeting conducted pursuant to this Section, the following requirements shall apply:

(1) The presiding officer shall be present and shall preside over the meeting at the anchor location. The anchor location shall be open to the public. Any member of the public body or the public shall be allowed to participate in person at the anchor location.

(2) The public body shall provide a mechanism to receive public comment electronically in the manner it prescribes prior to and, to the extent practical, during the meeting.

(3) The public body shall identify and acknowledge all public comments inclusive of those received in person during the meeting and those received in writing or electronically prior to any submission deadline for the meeting and shall maintain those comments in its record of the meeting.

(4) The presiding officer of the public body shall ensure all of the following:

(a) That each person participating in the meeting is properly identified.

(b) That all parts of the meeting, excluding any matter discussed in executive session, are clear and audible to all participants in the meeting including the public.

(c) That the voting decision of each participating member of the public body on each matter is clearly identified during each vote during the meeting and recorded and included in the archive of the meeting.

(5) If the public body is aware of a technical problem that causes the meeting to no longer be audible, or if applicable, visible and audible to the public, the meeting shall be recessed until the problem is resolved. If the problem is not resolved within one hour, the meeting shall be adjourned and the presiding officer shall make an effort to alert all participants to that fact.

(6) The meeting shall be recorded and made available to the public in an online archive located on the public body's website for at least two years.

(7) All documents made available to members of the public in attendance at the anchor location shall be made available electronically to members of the public participating electronically to the extent practical.

D. For the purposes of this Section, the following definitions apply:

(1) "Anchor location" shall mean the public location at which the public body holds in-person meetings or is specifically equipped with the technology necessary to meet via electronic means.

(2) "Meeting via electronic means" shall mean a meeting at which one or more members of a public body or members of the public participate via teleconference or video conference.

(3) "Teleconference" shall mean a method of communication which enables persons in different locations to participate in a meeting and to hear and otherwise communicate with each other.

(4) "Video conference" shall mean a method of communication which enables persons in different locations to participate in a meeting and to see, hear, and otherwise communicate with each other.

E. (1) All members of the public body participating in a meeting held pursuant to this Section, either at the anchor location or via electronic means, shall be counted for the purpose of establishing a quorum and may vote.

(2) Each public body conducting meetings pursuant to this Section shall adopt rules, regulations, and procedures to allow the public to participate in the meeting via electronic means. State agencies as defined by [R.S. 49:951](#) shall promulgate the rules pursuant to the Administrative Procedure Act.

F. (1) Except as otherwise provided in Paragraph (2) of this Subsection, each public body that conducts meetings via electronic means pursuant to this Section shall limit the number of its regularly scheduled meetings via electronic means to no more than one-third in a calendar year, shall limit the number of successive meetings via electronic means to a reasonable number, and shall, to the extent practicable, publish a schedule of its meetings indicating which upcoming meetings will be conducted via electronic means and which will be conducted only in person.

(2) Any public body that is strictly advisory or that primarily focuses on issues dealing with disabilities or assisting military families may conduct successive meetings via electronic means without limitation and shall, to the extent practicable, publish a schedule of its meetings indicating which upcoming meetings will be conducted via electronic means and which will be conducted only in person.

G. No member of a public body who participates in a meeting via electronic means shall be eligible to or receive per diem for attendance at the meeting.

H. (1) Except as provided in Subsection I of this Section, the provisions of this Section shall apply to any public body which has powers, duties, or functions that are not limited to a particular political subdivision or region and that conducts at least six regularly scheduled meetings in a calendar year.

(2) However, no licensing or regulatory public body shall conduct a disciplinary hearing or adjudication via electronic means pursuant to this Section.

I. The provisions of this Section shall not apply to:

- (1) The legislature, either house of the legislature, or any committee of the legislature or either house of the legislature.
- (2) The State Board of Elementary and Secondary Education.
- (3) The Board of Regents.
- (4) The Board of Ethics or Ethics Adjudicatory Board.
- (5) The State Civil Service Commission.
- (6) The board of directors of the Louisiana Citizens Property Insurance Corporation.
- (7) The State Board of Commerce and Industry.
- (8) The board of supervisors for the Louisiana State University System, the University of Louisiana System, the Louisiana Community and Technical Colleges System, or the Southern University System.
- (9) Any parish board of election supervisors.

#### **Credits**

Added by [Acts 2022, No. 723, § 2, eff. June 18, 2022](#). Amended by [Acts 2023, No. 393, § 1](#).

#### **Editors' Notes**

##### **LEGISLATIVE AUDITOR; REVIEW AND REPORTING--ACTS 2023, NO. 393**

<Section 3 of [Acts 2023, No. 393](#) (as modified pursuant to the statutory revision authority of the Louisiana State Law Institute) provides:>

<“Section 3. The legislative auditor shall regularly review the policies and practices of public bodies relative to the implementation of the provisions of this Act and shall submit reports of findings and any recommendations for legislation to the Senate Committee on Senate and Governmental Affairs and the House Committee on House and Governmental Affairs in intervals he deems appropriate.”>

## Notes of Decisions (1)

LSA-R.S. 42:17.2, LA R.S. 42:17.2

Current through the 2024 First Extraordinary and Second Extraordinary Sessions.

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