

ACT No. 307

HOUSE BILL NO. 436

BY REPRESENTATIVES MARTINY, ALARIO, ANDERS, ANSARDI, ARNOLD, BADON, BALDONE, BARROW, BAUDOIN, BAYLOR, BOWLER, BRUCE, BURNS, BURRELL, K. CARTER, CAZAYOUX, CROWE, CURTIS, DAMICO, DANIEL, DOERGE, DORSEY, DOVE, DOWNS, FARRAR, FAUCHEUX, FRITH, GALLOT, GEYMANN, GRAY, GREENE, ELBERT GUILLORY, ELCIE GUILLORY, HARRIS, HEATON, HONEY, HUNTER, HUTTER, JACKSON, JEFFERSON, JOHNS, KENNARD, KENNEY, KLECKLEY, LAFLEUR, LAFONTA, LANCASTER, LORUSSO, MARCHAND, MONTGOMERY, MORRELL, MORRIS, MORRISH, PIERRE, PITRE, T. POWELL, QUEZAIRE, RICHMOND, ROMERO, JACK SMITH, JANE SMITH, ST. GERMAIN, STRAIN, THOMPSON, TOOMY, TOWNSEND, TRAHAN, TRICHE, TUCKER, WADDELL, WHITE, WILLIAMS, WINSTON, AND WOOTON AND SENATORS ADLEY, BROOME, CAIN, CHAISSON, CHEEK, CRAVINS, DUPLESSIS, DUPRE, FIELDS, B. GAUTREAUX, JACKSON, JONES, MARIONNEAUX, MICHOT, MOUNT, MURRAY, SCHEDLER, THEUNISSEN, AND ULLO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 9:2800.16, R.S. 15:85.1(A)(2)(b), 146 through 149.1, 150, 151, 1202(A)(13), and 1424(B)(3), R.S. 24:513(A)(3), 515.1(A), (B)(introductory paragraph), and (D), and 517.1(F)(1) and (2), R.S. 33:1342(1), R.S. 36:4(D) and 801.1(A), R.S. 39:1302(1)(f), R.S. 46:236.5(B)(2), Children's Code Articles 321(C) and (D), 607(A), 608(B), 740(B), and 809(C) and (E), and Code of Criminal Procedure Articles 944(A), 948(A), and 953, to enact R.S. 15:141 through 143, 149.2, and 152 through 184, to repeal R.S. 15:144, 145, 145.1, and 151.2, and to direct the Louisiana State Law Institute to redesignate certain statutory provisions, all relative to indigent defender services; to enact the Louisiana Public Defender Act; to create the Louisiana Public Defender Board; to provide for the powers and duties of the board; to provide for definitions; to provide for legislative findings; to provide for the authority of the board; to provide for rulemaking; to provide for the hiring of executive staff positions for the board; to provide for job descriptions and qualifications for executive staff; to provide for the establishment of public defender

1 service regions; to provide for the powers and duties of regional directors; to provide
 2 for the powers and duties of district public defenders; to provide for the filling of
 3 vacancies in the office of district public defenders; to provide for the selection
 4 process for employing regional directors; to create the Louisiana Public Defender
 5 Fund; to provide for the composition of the fund, administration of the fund, and use
 6 of monies from the fund; to provide for the adoption of mandatory standards and
 7 guidelines of practice in the delivery of indigent defender services; to provide for
 8 qualification standards and mandatory training for attorneys delivering public
 9 defender services; to provide for disciplinary actions taken by the board for the
 10 failure to comply with mandatory standards and guidelines; to provide for a due
 11 process hearing for disciplinary action taken against a regional director or district
 12 public defender; to provide for the transfer of the powers, duties, authority, and
 13 obligations of the Indigent Defense Assistance Board to the Louisiana Public
 14 Defender Board; to provide for the transfer of the duties and functions relating to the
 15 delivery of indigent defender services from judicial district indigent defender boards
 16 to the judicial district indigent defender fund under the management of the district
 17 public defenders; to provide that no right or cause of action is created by the
 18 provisions hereof; and to provide for related matters.

19 Be it enacted by the Legislature of Louisiana:

20 Section 1. R.S. 15:146 through 149.1, 150, and 151 are hereby amended and
 21 reenacted and R.S. 15:141 through 143, 149.2, and 152 through 184 are hereby enacted to
 22 read as follows:

23 §141. Short title

24 R.S. 15:141 through 184 may be referred to and cited as the "Louisiana
 25 Public Defender Act".

26 §142. Legislative findings

27 A. Article I, Section 13 of the Constitution of Louisiana, in accordance with
 28 the state's obligation under the Sixth and Fourteenth Amendments of the United
 29 States Constitution, provides that at "each stage of the proceedings, every person is
 30 entitled to assistance of counsel of his choice, or appointed by the court if he is

1 indigent and charged with an offense punishable by imprisonment". Section 13
2 further mandates that the legislature shall provide for "a uniform system for securing
3 and compensating qualified counsel for indigents". Accordingly, it is the obligation
4 of the legislature to provide for the general framework and the resources necessary
5 to provide for the delivery of public defender services in this state.

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

9 (1) Ensuring that adequate public funding of the right to counsel is provided
10 and managed in a cost-effective and fiscally responsible manner.

11 (2) Ensuring that the public defender system is free from undue political and
12 judicial interference and free of conflicts of interests.

13 (3) Establishing a flexible delivery system that is responsive to and
14 respectful of jurisdictional variances and local community needs and interests.

15 (4) Providing that the right to counsel is delivered by qualified and
16 competent counsel in a manner that is fair and consistent throughout the state.

17 (5) Providing for statewide oversight with the objective that all indigent
18 criminal defendants who are eligible to have appointed counsel at public expense
19 receive effective assistance of counsel at each critical stage of the proceeding.

20 (6) Providing for the ability to collect and verify objective statistical data on
21 public defense workload and other critical data needed to assist state policymakers
22 in making informed decisions on the appropriate funding levels to ensure an
23 adequate service delivery system.

24 (7) Providing for the development of uniform binding standards and
25 guidelines for the delivery of public defender services and for an effective
26 management system to monitor and enforce compliance with such standards and
27 guidelines.

28 C. The legislature recognizes that the uniform application of statewide
29 standards and guidelines to be established by the Louisiana Public Defender Board
30 is an important means of achieving a more consistent delivery of quality

1 representation throughout the state. To that end, it is the express intention of the
2 legislature that the Louisiana Public Defender Act of 2007 is designed, to the extent
3 practicable and feasible, to provide for the delivery of public defender services which
4 meet the requirements established by *Strickland v. Washington*, 466 U.S. 668, 104
5 S.Ct. 2052, 80 L.Ed.2d 674 (1984) and its progeny as adopted by the Louisiana
6 Supreme Court.

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

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

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

1 §143. Definitions

2 As used in R.S. 15:141 through 184, the following words have the following
3 meanings:

4 (1) "Board" means the Louisiana Public Defender Board authorized to
5 regulate public defender services.

6 (2) "Board office" means the headquarters of the board located in East Baton
7 Rouge Parish.

8 (3) "District indigent defender fund" means the judicial district indigent
9 defender fund as provided for in R.S. 15:168.

10 (4) "District office" means the office of a district public defender as provided
11 for in R.S. 15:161.

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

16 (6) "Indigent defendant" means a person that has been determined under the
17 provisions of R.S. 15:175 to be indigent and financially unable to retain private
18 counsel.

19 (7) "Indigent defender services program" or "the program" means the
20 activities directed toward the accomplishment of providing indigent defender
21 services under the Louisiana Public Defender Act.

22 (8) "Public defender" or "indigent defender" means an attorney employed by
23 or under contract with the board, the district public defender, regional director, where
24 applicable, or nonprofit organization contracting with the board, district public
25 defender, regional director, where applicable, or the board to provide legal counsel
26 to an indigent person in a criminal proceeding.

27 (9) "Public defender services" or "indigent defender services" means the
28 providing of legal services to indigent persons in criminal proceedings in which the
29 right to counsel attaches under the United States and Louisiana constitutions.

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

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

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

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

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

14 ~~§151. Indigent Defense Assistance Board~~ §146. Louisiana Public Defender Board

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

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

25 (3) Members of the Indigent Defense Assistance Board serving on August
 26 15, 2007, shall continue to serve as members of the Louisiana Public Defender Board
 27 without limitation of their term.

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

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

2 (2) Persons appointed to the board shall have significant experience in the
3 defense of criminal proceedings or shall have demonstrated a strong commitment to
4 quality representation in indigent defense matters. No person shall be appointed to
5 the board that has received compensation to be an elected judge, elected official,
6 judicial officer, prosecutor, law enforcement official, indigent defense provider, or
7 employees of all such persons, within a two-year period prior to appointment. No
8 active part-time, full-time, contract or court-appointed indigent defense provider, or
9 active employees of such persons, may be appointed to serve on the board as a voting
10 member. No person having an official responsibility to the board, administratively
11 or financially, or their employee shall be appointed to the board until two years have
12 expired from the time the person held such position and the date of appointment to
13 the board. The majority of board members shall be ~~a current member~~ members of
14 the Louisiana State Bar Association. Representatives of the client community shall
15 not be prohibited from serving as voting members of the board. With the exception
16 of mandatory affiliation of the Louisiana State Bar Association, no state or local
17 association of lawyers shall have more than one active board member or officer as
18 a voting member of the ~~Indigent Defense Assistance~~ Louisiana Public Defender
19 Board.

20 (3) The members shall be selected as follows:

21 (a) The governor shall appoint two members and shall designate the
22 chairman.

23 (b) The chief justice of the Supreme Court of Louisiana shall appoint two
24 members; one member shall be a juvenile justice advocate; the other shall be a
25 retired judge with criminal law experience.

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

28 (d) The governor shall appoint one member representing the Louisiana State
29 University Paul M. Hebert Law Center who is an active employee, retired employee
30 or has an academic association with the Paul M. Hebert Law Center.

1 (e) The governor shall appoint one member representing the Loyola
 2 University School of Law who is an active employee, retired employee or has an
 3 academic association with the Loyola University School of Law.

4 (f) The governor shall appoint one member representing the Southern
 5 University Law Center who is an active employee, retired employee or has an
 6 academic association with the Southern University Law Center.

7 (g) The governor shall appoint one member representing the Tulane
 8 University School of Law who is an active employee, retired employee or has an
 9 academic association with the Tulane University School of Law.

10 (h) The president of the Louisiana State Bar Association shall appoint two
 11 members, ~~subject to confirmation by the Senate.~~

12 (i) The president of the Louisiana Chapter of the Louis A. Martinet Society
 13 shall appoint one member, ~~subject to confirmation by the Senate.~~

14 (j) The chairman of the Louisiana State Law Institute's Children Code
 15 Committee shall appoint one member, ~~subject to confirmation by the Senate.~~

16 (k) The executive director of the Louisiana Interchurch Conference shall
 17 appoint one member, ~~subject to confirmation by the Senate.~~

18 (l) All appointments to the board shall be subject to confirmation by the
 19 Senate.

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

22 (5) Members of the board shall serve staggered terms of four years, after
 23 initial terms as follows:

24 (a) Two members shall be immediately appointed ~~for~~ to a four-year term by
 25 the ~~Chief Justice~~ chief justice of the Louisiana Supreme Court.

26 (b) One member shall be immediately appointed to a two-year term by the
 27 governor representing the Louisiana State University Paul M. Hebert Law School
 28 Center.

29 (c) One member shall be immediately appointed to a three-year term by the
 30 governor representing the Loyola University School of Law.

1 (d) One member shall be immediately appointed to a three-year term by the
 2 governor representing the Southern University Law ~~School~~ Center.

3 (e) One member shall be immediately appointed to a four-year term by the
 4 governor representing the Tulane University School of Law.

5 (f) Upon the first expiration of the term or resignation by a current appointee
 6 of the governor, one member shall be appointed to a four-year term by the executive
 7 director of the Louisiana Interchurch Conference.

8 (g) Upon the first expiration of the term or resignation by a current appointee
 9 of the president of the Senate, one member shall be appointed to a two-year term by
 10 the president of the Louisiana State Bar Association.

11 (h) Upon the second expiration of the term or resignation by a current
 12 appointee of the president of the Senate, one member shall be appointed to a four-
 13 year term by the president of the Louisiana State Bar Association.

14 (i) Upon the third expiration of the term or resignation by a current appointee
 15 of the president of the Senate, one member shall be appointed to a three-year term
 16 by the president of the Senate.

17 (j) Upon the first expiration of the term or resignation by a current appointee
 18 of the speaker of the House of Representatives, one member shall be appointed to a
 19 two-year term by the president of the Louisiana Chapter of the Louis A. Martinet
 20 Society.

21 (k) Upon the second expiration of the term or resignation by a current
 22 appointee of the speaker of the House of Representatives, one member shall be
 23 appointed to a four-year term by the chairman of the Louisiana State Law Institute's
 24 Children Code Committee.

25 (l) Upon the third expiration of the term or resignation by a current appointee
 26 of the speaker of the House of Representatives, one member shall be appointed to a
 27 three-year term by the speaker of the House of Representatives.

28 (6) In addition there shall be two ex officio, nonvoting members of the board
 29 who shall not be counted or be permitted to be counted for purposes of the number
 30 of members necessary to take board action or the number of members necessary to

1 establish a quorum. In all other respects they have all the duties, authority,
2 requirements, and benefits, except per diem, of any other board member. Each of the
3 following organizations shall appoint one such member:

4 (a) The Louisiana Association of Criminal Defense Lawyers.

5 (b) The Louisiana Public Defender's Association.

6 C. Nothing in this Section shall limit the length of the term for any board
7 members serving on the Indigent Defense Assistance Board on August 15, 2005
8 2007, except that they may be removed for just cause~~;~~, or as provided in Subsection
9 D of this Section. However, members who have not previously been confirmed by
10 the Senate, shall be subject to Senate confirmation.

11 D.(1) A member may be removed for excessive absences from meetings.
12 For the purposes of this Subsection, "excessive absences" means failure to attend
13 three consecutive meetings or more than fifty percent of the meetings of the board
14 conducted during a year.

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

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

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

26 §147. Powers, duties, responsibilities

27 A. Except for the inherent regulatory authority of the Louisiana Supreme
28 Court provided for in Article V, Section 5 of the Constitution of Louisiana regarding
29 the regulation of the practice of law, the Louisiana Public Defender Board shall have
30 all regulatory authority, control, supervision, and jurisdiction, including auditing and

1 enforcement, and all power incidental or necessary to such regulatory authority,
 2 control, supervision, and jurisdiction over all aspects of the delivery of public
 3 defender services throughout the courts of the state of Louisiana.

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

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

8 (2) Adopt all rules necessary to implement the provisions of R.S. 15:141
 9 through 184 as provided in R.S. 15:148 and in accordance with the Administrative
 10 Procedure Act.

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

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

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

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

23 (c) Comprehensive workload data.

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

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

28 (i) Administer the granting of contracts.

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

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

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

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

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

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

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

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

21 (12) Draft, administer, and furnish reporting forms to the district public
 22 defender, which request detailed information of the district's workload, resources,
 23 employees, and expenditures for the previous fiscal year based on the uniform
 24 definition of a "case" as defined in R.S. 15:174(C).

25 (13) Collect, prepare, and submit an annual report to the legislative auditor.

26 (14) Administer the DNA Testing Post-Conviction Relief for Indigents Fund
 27 as required under the provisions of Code of Criminal Procedure Article 926.1.

28 (15) Arrange for locations, which have adequate space to accommodate the
 29 public, to conduct its meetings.

1 (16) Adopt rules for the establishment of salary ranges for attorneys and
2 support staff delivering public defender services, taking into consideration variations
3 in public defense practices and procedures in rural, urban, and suburban districts as
4 well as professional experience.

5 C. The board may:

6 (1) Enter into a contract or contracts, on such terms and conditions as it
7 deems advisable, with one or more attorneys licensed to practice law in this state, a
8 consortia of lawyers, or an independent public defender organization qualified with
9 the United States Internal Revenue Service for an exemption from federal income tax
10 under Section 501(c) of the Internal Revenue Code to provide counsel for indigent
11 defendants. The provisions of this Paragraph are subject to the intent of the
12 Louisiana Public Defender Act that district public defender programs shall continue
13 operating within the method of delivery of services in effect prior to April 30, 2007,
14 and the board is prohibited from using its power to contract to change the structure
15 of a local program, delivery method, or to terminate personnel without cause in
16 violation of R.S. 15:165(C).

17 (2) Establish advisory councils from among Louisiana residents to provide
18 information and guidance regarding needs and concerns of particular localities. Such
19 councils may be established at such times, for such duration, and under such
20 circumstances, as the board deems appropriate.

21 (3) Accept, receive, and use public or private grants, gifts, or donations,
22 provided that such gifts, grants, and donations are not otherwise prohibited by law
23 or rule.

24 (4) Employ secretarial, clerical, and other such personnel as may be
25 necessary in the operation of the business of the board and fix their compensation.

26 (5) Enter into contracts in accordance with law for the purpose of
27 maintaining and operating an office, or offices, and performing the functions
28 authorized by law. The provisions of this Paragraph are subject to the intent of the
29 Louisiana Public Defender Act that district public defender programs shall continue
30 operating within the method of delivery of services in effect prior to April 30, 2007,

1 and the board is prohibited from using its power to contract to change the structure
 2 of a local program, delivery method, or to terminate personnel without cause in
 3 violation of R.S. 15:165(C).

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

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

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

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

20 §148. Rulemaking; considerations in developing rules

21 A. The board shall adopt all rules necessary to implement the provisions of
 22 R.S. 15:141 through 184.

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

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

28 (a) Manageable public defender workloads that permit the rendering of
 29 competent representation through an empirically based case weighting system that
 30 does not count all cases of similar case type equally but rather denotes the actual

1 amount of attorney effort needed to bring a specific case to an appropriate
2 disposition. In determining an appropriate workload monitoring system, the board
3 shall take into consideration all of the following:

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

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

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

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

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

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

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

28 (f) Consistency of standards. The performance standards and guidelines
29 shall be based upon the performance standards originally adopted by the Louisiana

1 Indigent Defense Assistance Board (LIDAB) in 2006 and any subsequent
2 amendments to those standards adopted by the board.

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

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

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

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

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

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

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

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

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

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

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

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

16 (12) Providing for minimum salary and compensation standards for attorney,
17 investigator, paraprofessional, and any and all other staff necessary for the adequate
18 defense of indigent defendants in criminal courts and comparable to other positions
19 of similar stature throughout the state.

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

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

27 (15) Establishing administrative salary ranges for compensation of attorneys
28 delivering public defender services throughout the state so that compensation is
29 based on objective policymaking, including years of service, nature of the work and
30 workload, and in consideration of variations in public defense practices and

1 procedures in rural, urban, and suburban districts as well as prosecutorial and judicial
2 processing practices, trial rates, sentencing practices, and attorney experience.

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

6 §149. Authority of supreme court not affected

7 Nothing in the provisions of R.S. 15:141 through 184 shall be construed to
8 limit or supersede the inherent regulatory authority of the Louisiana Supreme Court
9 provided for in Article V, Section 5 of the Constitution of Louisiana regarding the
10 regulation of the practice of law in the state of Louisiana.

11 §149.1. Domicile of board; venue

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

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

16 §149.2. Offices; meetings

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

21 B.(1) Except as provided in Subsection C of this Section, in order to effect
22 the implementation of the provisions of this Act, the board shall meet at least ten
23 times per year until 2010, and thereafter meet at least eight times per year.

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

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

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

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

5 D. The board shall conduct a majority of its meetings per year in East Baton
 6 Rouge Parish. The board shall conduct at least three meetings per year in parishes
 7 other than East Baton Rouge Parish.

8 §150. Executive staff for board; general qualifications

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

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

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

17 (2) Be a citizen of the United States.

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

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

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

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

28 §151. (reserved)

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

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

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

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

9 B. The state public defender shall:

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

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

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

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

22 (5) Negotiate contracts, as appropriate, for providing legal services to
 23 persons financially eligible for appointed counsel at state expense. No contract so
 24 negotiated is binding or enforceable until the contract has been reviewed and
 25 approved by the board at a public hearing as provided for in R.S. 15:147(D). The
 26 provisions of this Paragraph are subject to the intent of the Louisiana Public
 27 Defender Act that district public defender programs shall continue operating within
 28 the method of delivery of services in effect prior to April 30, 2007, and the board is
 29 prohibited from using its power to contract to change the structure of a local

1 program, delivery method, or to terminate personnel without cause in violation of
 2 R.S. 15:165(C).

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

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

11 (8) Prepare and submit to the board an annual report of the indigent defender
 12 services provided by the service regions, where applicable, and the districts.

13 (9) Appear before the Joint Legislative Committee on the Budget and report
 14 on the activities of the board.

15 (10) Actively seek gifts, grants, and donations that may be available through
 16 the federal government or other sources to help fund the system, provided that such
 17 gifts, grants, and donations are not otherwise prohibited by law or rule.

18 (11) Assist the board in the adoption of rules as provided for in R.S. 15:148
 19 and in accordance with the Administrative Procedure Act.

20 (12) Provide services, facilities, and materials necessary for the performance
 21 of the duties, functions, and powers of the board.

22 (13) Assist the board in establishing the standards and guidelines, policies,
 23 and procedures for the statewide delivery of indigent defender services in accordance
 24 with rules adopted by the board and as required by statute.

25 (14) Establish administrative management procedures for regional offices,
 26 where applicable.

27 (15) Review, monitor, and assess the performance of all attorneys, consortia
 28 of attorneys, or independent public defender organizations qualified with the United
 29 States Internal Revenue Service for an exemption from federal income tax under

1 Section 501(c) of the Internal Revenue Code to provide counsel for indigent
 2 defendants.

3 (16) Perform all other duties assigned by the board.

4 C. The state public defender shall receive an annual salary equal in amount
 5 to a judge of the courts of appeal of this state, as provided in R.S. 13:311.

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

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

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

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

14 B. The director of training shall:

15 (1) Coordinate training of public defenders in current aspects of criminal and
 16 civil law and procedure involving public defense, including the representation of
 17 juveniles.

18 (2) Establish and supervise a training and performance evaluation program
 19 for attorneys and non-attorney staff members and contractors.

20 (3) Establish training and educational programs for all public defender
 21 attorneys. Such programs shall not be "continuing legal education" as mandated by
 22 the Louisiana State Bar Association. The training sponsored by the state program
 23 shall be practical training based on models in other states, including trial advocacy
 24 and criminal procedure in the nature of mock trials, working seminars, and
 25 mentoring. Such educational programs shall also include annual educational
 26 programs and introductory educational programs for attorneys prior to providing
 27 public defender services.

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

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

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

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

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

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

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

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

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

21 (2) Be an attorney licensed to practice law in the United States with at least
22 five years of specific experience in the defense of juveniles in delinquency
23 proceedings and if licensed as an attorney in a state other than Louisiana, become
24 licensed as an attorney in this state within one year of being employed by the board.

25 B. The director of juvenile defender services shall:

26 (1) Work with representatives of all three branches of state government and
27 other criminal justice stakeholders, including judges, district attorneys, sheriffs,
28 probation officers, and law enforcement officials to promote sound juvenile justice
29 policies in relation to fair adjudication processes, and placement and treatment of

1 juveniles charged in delinquency proceedings that focus on rehabilitation of the
2 offender.

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

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

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

12 §155. Budget officer; qualifications; duties

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

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

16 (2) Have expertise in matters of finance which shall, include at a minimum,
17 possession of either a master's degree in economics, accounting, business
18 administration, public administration, or finance from an accredited business school,
19 or a bachelor's degree in accounting, finance, or administration with five years of
20 progressively responsible experience in general accounting, general finance, or
21 auditing, and have a comprehensive knowledge of the principles and practices of
22 corporate finance.

23 B. The budget officer shall:

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

25 (2) Pay the expenses of the board.

26 (3) Be responsible for accounting and budget control, procurement and
27 contract management, data processing, management and program analysis, personnel
28 management, and grants management for the board.

29 (4) Develop and make available to the board such fiscal information as will
30 assist the board in evaluating the delivery of public defender services throughout the

1 state with the view of pointing out unnecessary programs, projects, and functions,
2 calling attention to inefficient and uneconomical practices, monitoring, reviewing,
3 and analyzing the performance of the districts and service regions, where applicable,
4 making recommendations for improvement, and carrying out other similar functions.

5 (5) Continuously review existing and proposed programs and budgets of the
6 board and service regions, where applicable, and the districts.

7 (6) Conduct other studies and perform other duties which may be of
8 assistance in directing the financial affairs of the board.

9 (7) Make continuous short- and long-range studies of projected revenues and
10 expenditures of the board.

11 (8) Evaluate legislative proposals for fiscal effect on the delivery of public
12 defender services and report the findings of those evaluations to the state public
13 defender and the board.

14 (9) Report to the legislature annually with respect to the activities of the
15 board and at such other times as the Joint Legislative Committee on the Budget or
16 the legislative fiscal officer deems appropriate.

17 (10) Develop and maintain a comprehensive information system on the
18 receipt of revenues by the board, the service regions, where applicable, and the
19 districts from local, state, and federal sources, as well as the expenditure of these
20 revenues, and to submit a summary of this information annually to the legislature.

21 (11) Prepare as of June first of each year an estimate of unexpended balances
22 in every account in his custody and submit a copy thereof to the governor, the
23 legislative auditor, and the legislative fiscal officer.

24 (12) Provide administrative staff support to the board.

25 (13) Assist each district public defender and regional director, where
26 applicable, with the preparation of monthly and annual financial reporting
27 requirements, budget preparation, and development of a uniform method of
28 accounting for all expenditures of the district including but not limited to the salaries,
29 contracts, acquisition of equipment, and supplies.

1 (14) Perform all other duties assigned by the state public defender or the
2 board.

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

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

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

7 (2) Have expertise in database management, information systems integration,
8 analysis, and programming, which shall include, at a minimum, possession of a
9 bachelor's degree in information technology, or a master's degree in public
10 administration or a related field, from an accredited university or college, or have
11 five years of progressively responsible experience with database management,
12 systems integration, systems analysis, programming, and mid-range client server and
13 Internet systems, or an equivalent combination of education and experience.

14 B. The information technology and management officer shall:

15 (1) Oversee the central and core enabling technologies of the board,
16 including the planning, organizing, supervising and directing of activities and
17 operations of equipment and software and services in the regions.

18 (2) Ensure that data, including public defender workload, dispositions,
19 frequency of client contact, duration of time from arrest to disposition, and other data
20 points required to be maintained under Louisiana statutes or requested by the board,
21 is maintained and compiled in a consistent, uniform, and timely manner through the
22 development, training, and enforcement of data collection standards, policies, and
23 procedures.

24 (3) Be responsible for instruction and training of board employees and
25 service delivery contractors in the use of new or revised software or equipment.

26 (4) Prepare information technology operating and capital budgets.

27 (5) Develop and evaluate proposals for computer hardware, software, and
28 networking equipment needs from the regions, where applicable, and the districts.

29 (6) Oversee and coordinate the purchase of information technology supplies
30 and equipment for the board and the service regions.

1 (7) Employ consultants and vendors to perform information system
2 specialized functions, as needed.

3 (8) Perform similar or related work as situations dictate or as required and
4 directed by the state public defender and the board.

5 §157. Trial-level compliance officer

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

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

9 (2) Have expertise in matters of performance evaluation development and
10 implementation.

11 (3) Be an attorney licensed to practice law in the United States with at least
12 three years of experience as a criminal defense attorney, or possess a master's degree
13 in public administration from an accredited school or university and possess five
14 years of progressively responsible experience conducting organizational assessments
15 and, if licensed as an attorney in a state other than Louisiana, become licensed as an
16 attorney in this state within one year of being employed by the board.

17 B. The trial-level compliance officer shall:

18 (1) Develop evaluation protocols to assess trial-level district compliance
19 with board-adopted standards and guidelines.

20 (2) Develop an effective evaluation implementation plan that allows for
21 regular assessments and ongoing monitoring of each district public defender system's
22 compliance of board-adopted standards and guidelines.

23 (3) Provide direct oversight of necessary staff to conduct regular assessments
24 and ongoing monitoring.

25 (4) Make regular reports to the board on variances to board standards and
26 guidelines with respect to each district.

27 (5) Perform all other duties assigned by the state public defender or the
28 board.

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

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

7 §158. Juvenile justice compliance officer

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

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

11 (2) Have expertise in matters of performance evaluation development and
 12 implementation.

13 (3) Be an attorney licensed to practice law in the United States with at least
 14 three years of experience in the defense of juveniles in delinquency proceedings, or
 15 possess a master's degree in public administration from an accredited school or
 16 university and possess five years of progressively responsible experience conducting
 17 organizational assessments and, if licensed as an attorney in a state other than
 18 Louisiana, become licensed as an attorney in this state within one year of being
 19 employed by the board.

20 B. The juvenile justice compliance officer shall:

21 (1) Develop evaluation protocols to assess district compliance with board-
 22 adopted standards and guidelines related to juvenile delinquency representation.

23 (2) Develop an effective evaluation implementation plan that allows for
 24 regular assessments and ongoing monitoring of each district's compliance of board-
 25 adopted standards and guidelines related to juvenile delinquency representation.

26 (3) Provide direct oversight of necessary staff to conduct regular assessments
 27 and ongoing monitoring related to juvenile delinquency representation.

28 (4) Make regular reports to the board on variances to board standards and
 29 guidelines with respect to each district related to juvenile delinquency representation.

1 (5) Perform all other duties assigned by the state public defender or the
 2 board.

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

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

9 §159. Public defender service regions

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

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

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

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

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

1 determined by the latest federal decennial census, is established as a service region
2 consisting of that single judicial district.

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

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

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

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

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

14 B. Each regional director shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **E. In the event there are fewer than three attorneys eligible to serve as**
7 **members of the selection committee as provided for in Subsection D of this Section,**
8 **or there are fewer than three eligible attorneys who are willing to serve as members**
9 **of the selection committee, the members shall be selected as provided for in R.S.**
10 **15:160(D)(3) from among any registered voters residing in that judicial district.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 E. Each district public defender shall:

24 (1) Manage and supervise public defender services provided within his
 25 judicial district.

26 (2) Prepare an operating budget for the district and submit it to the budget
 27 officer annually.

28 (3) Work in conjunction with the budget officer in developing a uniform
 29 method of accounting for all expenditures of the district, including but not limited
 30 to the salaries, contracts, acquisition of equipment, and supplies.

1 (4) Submit to the budget officer a monthly report of all revenues received
2 and expenditures, including but not limited to salaries, contracts, acquisition of
3 equipment, and supplies for the district.

4 (5) Work in conjunction with the compliance officers to ensure that public
5 defender assignments within the judicial district comply with the standards and
6 guidelines adopted pursuant to rule by the board and the Rules of Professional
7 Conduct.

8 (6) Supervise the work of the district personnel.

9 (7) Employ district personnel, subject to review by the state public defender
10 or the regional director, where applicable, for compliance with qualifications and
11 standards and guidelines established by statute and by rules adopted by the board.

12 (8) Contract for services in accordance with the standards and guidelines
13 adopted by rule by the board, and as authorized by the regional director, where
14 applicable.

15 (9) Keep a record of all public defender services and expenses in the district
16 and submit the records to the regional director, where applicable, or state public
17 defender as requested.

18 (10) Implement the standards and guidelines and procedures established by
19 the board, state public defender, and regional director, where applicable, for the
20 district.

21 (11) Maintain a client workload for the district office as determined by the
22 regional director, where applicable, the state public defender, and the board.

23 (12) Consult with the regional director, where applicable, and make
24 recommendations regarding the method of delivery of public defender services for
25 the district for submission to the board for board approval. The regional director,
26 where applicable, or the board shall consider any delivery model in existence prior
27 to August 15, 2007, as acceptable until that delivery model is proven to not meet the
28 uniform standards and guidelines for the delivery of public defender services in
29 accordance with rules adopted by the board and as required by statute.

1 (13) Employ or terminate district personnel, manage and supervise all
2 district level work, including establishment of district personnel salaries, subject to
3 review by the board for compliance with salary guidelines established by the board
4 through the adoption of rules.

5 (14) Perform all other duties assigned by the regional director, where
6 applicable, state public defender, or board.

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

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

13 (1) The amount of all state revenue provided by the legislature from general
14 or special appropriations, or revenue passed through by state agencies.

15 (2) The amount of all revenue provided by local government from general
16 or special appropriations, appropriations required by law, and revenue from the
17 criminal court fund.

18 (3) The amount of grant funding from federal pass-through or categorical
19 grants, grants from nonprofit organizations, and private and corporate foundations.

20 (4) The amount of funding received from any self-generated revenue.

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

26 (2) The board shall establish the salaries for each district public defender;
27 however, the salaries and benefits in place on January 1, 2007, for each chief
28 indigent defender shall continue as the beginning salary for each district public
29 defender and shall not be decreased. The provisions of this Paragraph shall not be

1 construed to limit the board's ability to increase the salary of a district public
2 defender.

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

6 (1) Employ a district public defender who meets the criteria provided for in
7 this Section, using the selection process provided for in R.S. 15:162; or

8 (2) Assign another district public defender from a contiguous judicial district
9 to manage and supervise public defender services for both judicial districts; or

10 (3) Determine whether the board shall regionalize the operation of the
11 district, as provided for in R.S. 15:163.

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

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

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

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

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

19 (3) The members shall be selected as follows:

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

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

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

25 C. In the event there are fewer than three attorneys eligible to serve as
26 members of a selection committee as provided for in Subsection B of this Section,
27 or there are fewer than three eligible attorneys who are willing to serve as members
28 of a selection committee, the members shall be selected as provided for in R.S.
29 15:162(B)(3) from among any registered voters residing in that judicial district.

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

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

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

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

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

14 H. Whenever a vacancy occurs for the position of district public defender in
 15 any judicial district having a population of less than thirty thousand, or having less
 16 than four attorneys providing public defender services, the board shall evaluate the
 17 district and make a determination regarding the appropriateness of employing a
 18 district public defender or authorizing a district public defender from a contiguous
 19 judicial district to manage and supervise public defender services in that judicial
 20 district. If a decision is made by the board to employ a district public defender, the
 21 board shall use the selection process provided for in this Section to fill that vacancy.

22 §162.1. District public defender advisory boards

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

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

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

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

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

14 §163. Regionalization of district public defender services by board

15 A. In certain cases the board shall regionalize and operate the public
16 defender services of a district as a subdivision of the board through a regional office.
17 When the public defender services of a district are taken over by the board in this
18 manner, the district public defender shall be an employee of the region and the
19 regional director shall be the manager and supervisor of the district public defender
20 office. A regionalization of the operation of a district public defender program shall
21 occur, by a majority vote of the board, upon a finding that one of the following
22 conditions have occurred:

23 (1) The district, through its district public defender, petitions the board for
24 the board to regionalize the delivery of indigent defender services in the district; or

25 (2) The board upon its own motion, or upon petition of a regional director,
26 if applicable, finds that the district public defender office has failed after reasonable
27 assistance, resourcing, and consultation with the board to reasonably meet
28 performance standards mandated by the board or to comply with data reporting or
29 any other rule adopted by the board; or

1 (3) Due to a natural disaster or catastrophic emergency, the district public
 2 defender cannot operate or function normally, provided that this shall apply for not
 3 longer than a period of six months, renewable by the board on an interim basis at six-
 4 month intervals.

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

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

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

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

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

25 ~~§150:~~ §164. Regional defense service centers

26 A. Any Upon approval of the board, any district indigent defender board
 27 public defender may contract with one or more other district indigent defender
 28 boards public defenders for the establishment of a regional defense service center.
 29 A district ~~indigent defender board~~ public defender may enter into only one contract
 30 for a regional center in a particular field of practice.

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

2 (1) A regional appellate resource center.

3 (2) A regional death penalty center.

4 (3) A regional juvenile defense center.

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

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

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

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

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

27 (2) Receipts and disbursements.

28 (3) Comparison of budget to actual expenses.

29 (4) Assessment of the effectiveness of the center.

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

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

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

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

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

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

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

28 A. The method of delivery in each judicial district shall be approved to the
 29 extent that it is meeting or able to meet the performance standards and guidelines of

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

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

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

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

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

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

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

28 C. Any delivery model in existence prior to April 30, 2007, shall be
29 presumed to be acceptable and meet standards guidelines pursuant to rules adopted

1 by the board, and as provided by statute until the delivery model is proven not to
2 meet those standards and guidelines.

3 D.(1) If, after reasonable assistance, providing of resources, and consultation
4 with the board, the state public defender, or regional director, where applicable, the
5 preexisting delivery model is still deemed unacceptable, the board shall determine
6 upon consultation with the state public defender, the director of juvenile defender
7 services, and the regional director, where applicable, the appropriate service delivery
8 system to provide counsel for indigent defendants in criminal proceedings. Such a
9 system shall be structured with due consideration for local variances from judicial
10 district to judicial district within the region and shall, where necessary, establish
11 satellite offices or part-time satellite offices to maintain easy access to clients in each
12 judicial district within their purview.

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

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

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

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

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

9 §166. (Reserved)

10 §167. Louisiana Public Defender Fund

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

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

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

28 D. The LPD Fund shall be administered by the board as authorized by the
 29 provisions of the Louisiana Public Defender Act. The board is hereby authorized to
 30 establish such accounts or sub-accounts within the LPD Fund as deemed necessary

1 to comply with the provisions of the Louisiana Public Defender Act and the program.
 2 The board shall not commingle the monies in the LPD Fund established in this
 3 Section with any other monies or funds of the board for any reason.

4 ~~§146.~~ §168. Judicial district indigent defender fund

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

9 B.(1) Every court of original criminal jurisdiction, except in the town of
 10 Jonesville, in the city of Plaquemine, and in mayors' courts in municipalities having
 11 a population of less than five thousand, shall remit the following special costs to the
 12 district indigent defender fund for the following violations, under state statute as well
 13 as under parish or municipal ordinance, except a parking violation. The sum of
 14 thirty-five dollars shall be assessed in cases in which a defendant is convicted after
 15 a trial, a plea of guilty or nolo contendere, or after forfeiting bond and shall be in
 16 addition to all other fines, costs, or forfeitures imposed.

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

20 ~~C. In addition to the funds provided for in Subsection B hereof the state shall~~
 21 ~~pay to each district indigent defender board, on the warrant of its chairman, the sum~~
 22 ~~of ten thousand dollars per annum.~~

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

28 ~~E. D.~~ No defendant who has retained private counsel of record shall be
 29 assessed any costs to be credited to the indigent defender fund, other than the special
 30 costs established by Subsection B of this Section, unless the ~~indigent defender board~~

1 has provided representation of record for that defendant at some point in that
2 criminal proceeding.

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

10 §169. Representation of capital defendants

11 A. In cases where a sentence of death has been imposed, the board shall
12 promptly cause counsel to be enrolled to represent the defendant. The board shall
13 adopt rules and retain only such staff counsel or other counsel, who will work under
14 the supervision of the board, as are necessary to provide counsel to represent capital
15 defendants on direct appeal to the Supreme Court of Louisiana and to seek post-
16 conviction relief if appropriate in state and federal court. The board shall also adopt
17 rules regarding the provision of reasonably necessary services associated with the
18 proceedings, including investigative, expert, and other services. The rules shall
19 require that funds to pay for such reasonably necessary services shall be provided
20 only upon a written showing specifically identifying the nature of the services, the
21 cost of such services, and the need for such services with mandatory guidelines for
22 compensation and litigation expense maximums. The board may seek funding as is
23 available under federal law or from other public and private sources to cover the
24 costs of providing representation in connection with applications for post-conviction
25 relief filed in state and federal court.

26 B. Staff counsel, or other counsel, who represented convicted capital
27 defendants in state court proceedings may, if authorized by the board, accept
28 appointments from federal court to represent those defendants, but only if
29 compensation is provided by funds as directed by the appointing federal court. Such
30 funds shall remain subject to the use of the board and may be used for paying the

1 costs of such representation. No state-appropriated funds shall be expended for the
 2 representation of capital defendants in federal court.

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

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

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

12 (a) Issuance of a warning or reprimand.

13 (b) Issuance of a sanction.

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

16 (d) Demotion.

17 (e) Termination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 **E. The hearing committee may:**

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

16 **(2) Administer oaths.**

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

19 **(4) Issue written interrogatories.**

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

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

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

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

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

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

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

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

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

23 §§171-172. (Reserved).

24 §173. Right of action not created

25 A. It is not the intent of the legislature to create any new right, right of
 26 action, or cause of action or eliminate any right, right of action, or cause of action
 27 existing under current law. Nothing in the provisions of R.S. 15:141 through 184
 28 shall create, expressly or by implication, any right, claim, or cause of action in favor
 29 of anyone in connection with the delivery of indigent defender services.

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

13 ~~§145.1:~~ §174. Special reporting requirements; penalties

14 A. In addition to the general oversight requirements provided by law, each
 15 district or service region, where applicable, district board shall submit an annual
 16 report to the ~~Indigent Defense Assistance~~ Louisiana Public Defender Board no later
 17 than February first of each year, commencing in ~~2006~~ 2009. The report, using the
 18 uniform definition of a "case" as defined in Subsection C of this Section, shall
 19 include detailed information of the ~~district board's~~ workload, resources, employees,
 20 and expenditures for each district or service region, where applicable, for the
 21 previous fiscal year. The report shall also include the number of Families in Need
 22 of Services (FINS) petitions, Child in Need of Care (CINC) petitions, and child
 23 support petitions handled by each ~~indigent defender district~~ service region.

24 ~~B.(1) The chairman of the district board or absent a chairman, every member~~
 25 ~~of the district board~~ district public defender, and director of each service region,
 26 where applicable, shall be responsible for preparing, completing, and submitting the
 27 annual report to the ~~Indigent Defense Assistance~~ Louisiana Public Defender Board
 28 as provided for in Subsection A of this Section.

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

- 4 (a) The failure to file a report.
- 5 (b) The failure to timely file a report.
- 6 (c) The failure to disclose or accurately disclose any required information.
- 7 (d) The filing of a false report.

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

10 C. For purposes of this Section, a "case" is defined as a charge or set of
11 charges contained in a charging instrument or petition against a single accused
12 arising out of one or more events, transactions, or occurrences, which are joined, or
13 which may be joined pursuant to Code of Criminal Procedure Articles 490 through
14 495.1. Cases that involve multiple persons accused are counted as a separate case
15 for each person accused. Cases that involve multiple charges or counts are recorded
16 with the highest charge, based on the severity of sentence for the crime charged, as
17 the case type. Multiple charges against a single person for the issuing of worthless
18 checks shall be counted as a single case. Each appeal, after conviction, shall be
19 counted as a separate case. In the event that a charging instrument contains a charge
20 or set of charges arising out of multiple events, transactions, or occurrences, indigent
21 defender boards shall track, record, and report the number of such instances per
22 charging instrument.

23 ~~§147.~~ §175. Proceedings to determine indigency

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

27 (b) A person will be deemed "indigent" who is unable, without substantial
28 financial hardship to himself or to his dependents, to obtain competent, qualified
29 legal representation on his own. "Substantial financial hardship" is presumptively
30 determined to include all defendants who receive public assistance, such as Food

1 Stamps, Temporary Assistance for Needy Families, Medicaid, Disability Insurance,
 2 resides in public housing, or earns less than two hundred percent of the Federal
 3 Poverty Guideline. A defendant is presumed to have a substantial financial hardship
 4 if he or she is currently serving a sentence in a correctional institution or is housed
 5 in a mental health facility.

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

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

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

23 (f) An accused person or, if applicable, a parent or legal guardian of an
 24 accused minor or an accused adult person who is claimed as a dependent on the
 25 federal income tax submission of his parent or legal guardian, who makes application
 26 to the ~~judicial district indigent defender board~~ district office certifying that he is
 27 financially unable to employ counsel and requesting representation by indigent
 28 defense counsel or conflict counsel, shall pay a nonrefundable application fee of
 29 forty dollars to the ~~indigent defender board~~ district office or its designee, which fee
 30 shall be in addition to all other fees or costs lawfully imposed. If the board or other

1 appropriate official determines that the person does not have the financial resources
 2 to pay the application fee based upon the financial information submitted, the fee
 3 may be waived or reduced. An accused who is found to be indigent may not be
 4 refused counsel for failure to pay the application fee.

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

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

10 (i) The ~~judicial district indigent defender board or other appropriate official~~
 11 district public defender shall maintain a record of all persons applying for
 12 representation and the disposition of the application and shall provide this
 13 information to the ~~Indigent Defense Assistance Board~~ board on a monthly basis as
 14 well as reporting the amount of funds collected or waived.

15 (2) The ~~chief indigent defender~~ district public defender or his assistants or
 16 ~~a member of the indigent defender panel appointed by the board or the court for such~~
 17 ~~purpose, or~~ an attorney providing indigent defender services pursuant to a contract
 18 with the ~~district~~ board shall be allowed to summon witnesses to testify before the
 19 court concerning the financial ability of any accused person to employ counsel for
 20 his defense.

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

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

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

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

6 ~~§148.~~ §176. Partial reimbursement by indigents

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

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

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

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

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

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

1 B. Each advisory board shall also include the following representatives:

2 * * *

3 (3) An assistant public defender or an attorney residing in the district who
4 handles juvenile matters, appointed by the ~~chairman of the indigent defender board~~
5 district public defender.

6 * * *

7 Section 3. R.S. 9:2800.16 is hereby amended and reenacted to read as follows:

8 §2800.16. Limitation of liability; indigent defender board members

9 No individual ~~indigent defender board~~ Louisiana Public Defender Board
10 member shall be personally liable for any act or omission resulting in damage,
11 injury, or loss arising out of the exercise of his official functions and duties.
12 However, this limitation of liability shall not be applicable if the damage, injury, or
13 loss was caused by the gross negligence or willful or wanton misconduct of a
14 member.

15 Section 4. R.S. 24:513(A)(3), 515.1(A), (B)(introductory paragraph), and (D), and
16 517.1(F)(1) and (2) are hereby amended and reenacted to read as follows:

17 §513. Powers and duties of legislative auditor; audit reports as public records;
18 assistance and opinions of attorney general; frequency of audits; subpoena
19 power

20 A.

21 * * *

22 (3) The financial statements of the offices of the independently elected
23 public local officials, including judges, sheriffs, clerks of court, assessors, and
24 district attorneys, all parish governing authorities and all districts, boards, and
25 commissions created by parish governing authorities either independently or in
26 conjunction with other units of government, school boards, ~~indigent defender boards~~
27 district public defender offices, municipalities, and all boards and commissions
28 created by municipalities, either independently or in conjunction with other units of
29 government, city courts, quasi-public agencies, housing authorities, mortgage
30 authorities, or other political subdivisions of the state not included within the state's

1 Comprehensive Annual Financial Reports, hereinafter collectively referred to as
 2 "local auditee", shall be audited or reviewed by licensed certified public accountants
 3 subject to Paragraphs (5) and (6) of this Subsection, but may be audited by the
 4 legislative auditor pursuant to Paragraph (4) of this Subsection. Any person
 5 authorized to conduct an audit of a governmental entity pursuant to R.S. 37:77, shall
 6 be permitted to continue auditing that governmental entity subject to the approval of
 7 the legislative auditor provided for in Paragraphs (5) and (6) of this Subsection.

8 * * *

9 §515.1. Uniform audit reporting

10 A. The legislature hereby recognizes that the reporting, accounting, and audit
 11 system of the ~~judicial district indigent defender boards~~ district public defenders is
 12 fragmented and does not provide a comprehensive picture of certain judicial finances
 13 and the costs of operating the indigent defender system. Therefore, it is the intent
 14 of the legislature in the interests of the public to require the legislative auditor, by
 15 generally accepted auditing standards, to develop a uniform format for audit reports
 16 to assist ~~judicial district indigent defender boards~~ district public defenders in
 17 reporting all major sources of revenue and expenditures.

18 B. In order to fulfill the duties imposed upon him by this Section, the
 19 legislative auditor shall require that such uniform audit reports for ~~judicial district~~
 20 ~~indigent defender boards~~ district public defenders include, at a minimum, but not be
 21 limited to the following:

22 * * *

23 D. Notwithstanding any other provisions of law to the contrary, the ~~judicial~~
 24 ~~district indigent defender boards~~ district public defender, and regional director,
 25 where applicable, shall commence to use uniform formats for audit reports developed
 26 by the legislative auditor by the end of Calendar Year 2007 for such boards on a
 27 calendar year schedule, or Fiscal Year 2007-2008 for such boards on a fiscal year
 28 schedule. The legislative auditor shall develop reporting schedules to assist such

1 entities with standardized and uniform reporting requirements as provided for in this
2 Section.

3 * * *

4 §517.1. Reimbursement for local audits

5 * * *

6 F.(1) Notwithstanding any provision of law to the contrary, a ~~judicial district~~
7 ~~indigent defender board~~ district public defender office which receives annual funds
8 of less than fifty thousand dollars and is audited by the legislative auditor in
9 accordance with this Chapter shall not be required to reimburse the legislative
10 auditor for expenses incurred in connection with the audit, nor shall the legislative
11 auditor charge a fee in connection with said audit.

12 (2) ~~An indigent defender board~~ A district public defender office exempted
13 by this Subsection from reimbursing the legislative auditor for audit costs shall be
14 exempted from paying the costs of any such audit conducted after January 1, 1990.
15 Section 5. R.S. 33:1342(1) is hereby amended and reenacted to read as follows:

16 §1342. Definitions; terms defined

17 The following words and terms shall have the meaning indicated unless the
18 context shall clearly indicate a different meaning:

19 (1) "Local governmental subdivision" means any parish or municipality,
20 other governing or administrative body created under the charter of, or by the
21 governing body of, such parish or municipality to serve a public purpose, or other
22 local governing or administrative body created by or pursuant to law or the
23 Constitution of Louisiana to serve a public purpose. For purposes of this Subpart
24 only, this term also means the offices of the various clerks of court and ~~judicial~~
25 ~~district indigent defender boards~~ district public defender offices established in
26 accordance with ~~R.S. 15:144~~ R.S. 15:141 et seq. and the members of a trust
27 established by a statewide hospital association for the purposes of providing
28 employers' liability or workers' compensation coverage for its members, provided
29 the majority of the members of such trust consists of governmental subdivisions.

30 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 Section 6. R.S. 36:4(D) and 801.1(A) are hereby amended and reenacted to read as
2 follows:

3 §4. Structure of executive branch of state government

4 * * *

5 D. The ~~Indigent Defense Assistance~~ Louisiana Public Defender Board, as
6 more specifically provided for in ~~R.S. 15:151 through 151.4~~ the Louisiana Public
7 Defender Act (R.S. 15:141 et seq.), shall be placed within the office of the governor
8 as an independent agency and shall exercise its powers, duties, functions, and
9 responsibilities ~~as provided by law~~ in the manner provided for agencies transferred
10 in accordance with the provisions of R.S. 36:801.1.

11 * * *

12 §801.1. Transfer; retention of all functions

13 A. The agencies transferred by the provisions of ~~R.S. 36:4(G)~~ R.S. 36:4(D),
14 ~~R.S. 36:4.1(C)~~ and (G), ~~R.S. 36:53(H)~~, ~~R.S. 36:209(R)~~, ~~R.S. 36:259(J)~~, ~~R.S.~~
15 ~~36:409(N)~~, ~~R.S. 36:509(O)~~, ~~R.S. 36:651(D)~~, ~~R.S. 36:725(A)~~, and ~~R.S. 36:769(J)~~ shall
16 continue to be comprised and selected as provided by law.

17 * * *

18 Section 7. R.S. 39:1302(1)(f) is hereby amended and reenacted to read as follows:

19 §1302. Definitions

20 For the purposes of this Chapter:

21 (1) "Political subdivision" means any:

22 * * *

23 (f) ~~Indigent defender board.~~ District public defender office.

24 * * *

25 Section 8. R.S. 46:236.5(B)(2) is hereby amended and reenacted to read as follows:

26 §236.5. Expedited process for establishment of paternity and establishment or
27 enforcement of support

28 * * *

29 B.

30 * * *

1 of an attorney who shall be appointed. Neither the child nor anyone purporting to
2 act on his behalf may be permitted to waive this right.

3 * * *

4 Art. 608. Parents' right to counsel; payment

5 * * *

6 B. If the parents of a child are financially unable to afford counsel, the court
7 shall appoint counsel, or refer the parents for representation by the ~~indigent defender~~
8 ~~board~~ district public defender, or any program created by law to provide
9 representation to indigent parents in child abuse and neglect cases and to be
10 administered by the Louisiana Public Defender Board.

11 * * *

12 Art. 740. Advice of rights

13 * * *

14 B. If a petition seeking a formal adjudication is filed, the court shall appoint
15 independent legal counsel for the child, or refer the child for representation by the
16 ~~indigent defender board~~ district public defender. Neither the child nor anyone
17 purporting to act on his behalf may be permitted to waive this right. If the court
18 finds that the parents of the child are financially able, it may order the parents to pay
19 some or all of the costs of the child's representation.

20 * * *

21 Art. 809. Right to counsel

22 * * *

23 C. If the court finds that the parents of the child are financially unable to
24 afford counsel for the child, the court shall appoint counsel, or refer the child for
25 representation by the ~~indigent defender board~~ district public defender.

26 * * *

27 E. If the court finds that the interests of the child and his parent or caretaker
28 conflict, or if required in the interests of justice, the court shall appoint an attorney
29 to represent the child or refer him for representation by the district public defender.

30 * * *

1 the authority for the appointment of attorneys residing in either the parish or
2 territorial jurisdiction of the affected court or in the host jurisdiction to represent
3 indigent defendants in the host jurisdiction that ~~the board~~ would otherwise have been
4 exercised in the affected court.

5 Section 11. R.S. 15:144, 145, 145.1, and 151.2 are hereby repealed in their entirety.

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

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

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

11 Section 13.(A)(1) Effective August 15, 2007, except for the inherent regulatory
12 authority of the Louisiana Supreme Court provided for in Article V, Section 5 of the
13 Constitution of Louisiana regarding the regulation of the practice of law, the Louisiana
14 Public Defender Board shall undertake and have all regulatory authority, control,
15 supervision, and jurisdiction, including auditing and enforcement, and all power incidental
16 or necessary to such regulatory authority, control, supervision, and jurisdiction over all
17 aspects of the delivery of public defender services throughout the courts of the state of
18 Louisiana.

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

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

24 (B) Effective August 15, 2007, all powers, duties, functions, and responsibilities of
25 the Indigent Defense Assistance Board are transferred to and shall be performed and
26 exercised by the Louisiana Public Defender Board. In addition, all of the obligations of the
27 Indigent Defense Assistance Board are transferred to the Louisiana Public Defender Board.
28 Upon the transfer of the powers, duties, functions, and responsibilities accomplished by this
29 Section, any pending or unfinished business of the Indigent Defense Assistance Board shall

1 become the business of and be completed by the Louisiana Public Defender Board with the
2 same power and authority as the entity from which the functions are transferred.

3 (C) Any reference in rules, laws, and documents to or any designation by any law
4 or contract or other document of the Indigent Defense Assistance Board shall be deemed to
5 refer to the Louisiana Public Defender Board provided that, to the extent necessary to
6 prevent the impairment of the contractual obligations of any entity heretofore existing or of
7 the state, the existence, organization, and functions of any such entity shall be excluded from
8 the provisions of this Section. Any legal proceeding to which the Indigent Defense
9 Assistance Board is a party and which is filed, initiated, or pending before any court on
10 August 15, 2007, and all documents involved in or affected by said legal proceeding, shall
11 retain their effectiveness and shall be continued in the name of the Louisiana Public
12 Defender Board. All further legal proceedings and documents in the continuation,
13 disposition, and enforcement of said legal proceeding shall be in the name of the Louisiana
14 Public Defender Board, and the board shall be substituted for the Indigent Defense
15 Assistance Board without the necessity for amendment of any document. The provisions of
16 R.S. 15:141 through 184 shall not be construed so as to impair the contractual or other
17 obligations of the Indigent Defense Assistance Board or of the state of Louisiana. All
18 obligations of the Indigent Defense Assistance Board shall be the obligations of the
19 Louisiana Public Defender Board. The Louisiana Public Defender Board shall be the
20 successor in every way to the Indigent Defense Assistance Board, including all of the
21 obligations and debts of the Indigent Defense Assistance Board. The provisions of R.S.
22 15:141 through 184 shall not be construed or applied in any way which will prevent full
23 compliance by the state, or any department, office, or agency thereof, with the requirements
24 of any act of Congress of the United States or any regulation made thereunder by which
25 federal aid or other federal assistance has been or hereafter is made available.

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

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

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

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

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

24 (C) Whenever a judicial district indigent defender board is referred to or designated
 25 by the constitution or by any law or contract or other document, such reference or
 26 designation hereafter shall be deemed to apply to the district public defender for that district,
 27 and the legislature hereby specifically states that the provisions of this Section are in no way
 28 and to no extent intended to, nor shall they be, construed in any manner which will impair
 29 the contractual obligations of any judicial district indigent defender board heretofore
 30 existing.

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

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

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

10 (G) Unless the judicial district indigent defender fund is regionalized as authorized
 11 by the provisions of R.S. 15:163, district assets shall be segregated in compliance with
 12 provisions of this Act for dedication to the judicial district, and property and assets shall be
 13 maintained and used solely to the benefit of the district public defender. The state public
 14 defender shall seek to fill any vacancies for the position of district public defender pursuant
 15 to the provisions of R.S. 15:162, as soon as practicable, or in the alternative shall regionalize
 16 the district for purposes of day-to-day management pursuant to the provisions of R.S.
 17 15:163.

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

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

24 Section 16. The Louisiana State Law Institute is hereby directed to redesignate and
 25 renumber into the reserved statutes in Code Title XIV of Title 15 of the Louisiana Revised
 26 Statutes of 1950, as provided for in this Act the following: R.S. 15:151.1 as R.S. 15:151,
 27 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.
 28 15:151.5 as R.S. 15:182, and R.S. 151.6 as R.S. 15:183, as provided for in this Act.

29 Section 17. The Louisiana State Law Institute is hereby directed to place the
 30 provisions of R.S. 141 through 184 in their entirety within Part I of Code Title XIV of Title

1 15 of the Louisiana Revised Statutes of 1950, and to designate Part I "Indigent Defender
 2 Representation". If the Act which originated as House Bill No. 393 of this 2007 Regular
 3 Session of the Legislature is enacted and becomes effective, the Louisiana State Law
 4 Institute is hereby directed to place the provisions of R.S.185.1 through 185.9, enacted by
 5 the provisions of that Act in their entirety, within Part II of Code Title XIV of Title 15 of the
 6 Louisiana Revised Statutes of 1950, and to designate Part II "Indigent Parent
 7 Representation".

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

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

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____