

2017 Regular Session

HOUSE BILL NO. 336

BY REPRESENTATIVE MARCELLE

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

DISTRICT ATTORNEYS: Creates a Diversion Oversight Committee to examine district attorney-operated diversion programs statewide

1 AN ACT

2 To enact Chapter 4 of Title 16 of the Louisiana Revised Statutes of 1950, to be comprised  
3 of R.S. 16:1025 through 1030, relative to diversion programs; to create the Diversion  
4 Oversight Committee; to provide for an independent oversight body over district  
5 attorney operated diversion programs statewide; to provide for the organization and  
6 structure of the committee; to provide for the functions, powers, and duties of the  
7 committee; to authorize the committee to adopt regulations or policies necessary for  
8 the purposes of the committee; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 4 of Title 16 of the Louisiana Revised Statutes of 1950,  
11 comprised of R.S. 16:1025 through 1030, is hereby enacted to read as follows:

12 CHAPTER 4. DIVERSION OVERSIGHT COMMITTEE

13 §1025. Establishment; jurisdiction; general duties

14 A. A Diversion Oversight Committee is hereby established which shall  
15 oversee aspects of DA Diversion Programs and have jurisdiction over all such  
16 programs statewide. For purposes of this Chapter, "DA Diversion Program" means  
17 a district attorney operated program which diverts a defendant from prosecution,  
18 incarceration, or confinement to an alternative program or treatment including but  
19 not limited to pretrial intervention programs, educational programs, and treatment  
20 programs.

1           B. The Diversion Oversight Committee shall comply with all of the  
2           following requirements:

3           (1) Collect data pertaining to individuals enrolled in DA Diversion  
4           Programs.

5           (2) Publish an annual report on the equity, quality, accessibility, and  
6           effectiveness of DA Diversion Programs.

7           (3) Require that the funds received from participants in a DA Diversion  
8           Program be allocated in equal parts to local district attorney offices, local indigent  
9           defense offices, the criminal court fund in the judicial district, and the sheriff's  
10          general fund.

11          (4) Review the financial statements of DA Diversion Programs in order to  
12          confirm the allocation of such funds.

13          §1026. Composition of membership; terms of office

14          A.(1) The Diversion Oversight Committee shall consist of following thirteen  
15          members:

16          (a) Three members appointed by the Louisiana District Attorneys  
17          Association.

18          (b) Two members appointed by the Louisiana Public Defender Board.

19          (c) Two members appointed by the chief justice of the Louisiana Supreme  
20          Court.

21          (d) One member appointed by the Southern University Law Center.

22          (e) One member appointed by the LSU Paul M. Hebert Law Center.

23          (f) One member appointed by the Tulane University Law School.

24          (g) One member appointed by the governor.

25          (h) One member appointed by the Louisiana Sheriffs' Association.

26          (i) One member appointed by the Department of Public Safety and  
27          Corrections.

28          (2) In making appointments to the Diversion Oversight Committee, race,  
29          gender, and other demographic factors shall be considered to ensure

1        nondiscrimination, inclusion, and representation of all segments of the population  
2        of the state to the greatest extent possible.

3                B. Membership in the Diversion Oversight Committee shall not constitute  
4        the holding of a public office and no member shall be required to take and file an  
5        oath of office prior to serving on the committee. The members of the committee  
6        shall elect one of its members by majority vote to serve as chairman during his time  
7        on the committee.

8                C.(1) Members of the Diversion Oversight Committee shall serve two-year  
9        terms.

10               (2) Vacancies shall be filled in the same manner as the original  
11        appointments.

12               D. Each member of the Diversion Oversight Committee shall serve without  
13        salary or other compensation, but shall be entitled to receive actual and necessary  
14        expenses incurred in the discharge of his duties.

15        §1027. Authority to collect data related to persons placed in DA Diversion  
16        Programs

17               A. The Diversion Oversight Committee shall have the authority to collect  
18        data directly from the district attorney's office in the applicable parish related to  
19        persons placed in DA Diversion Programs.

20               B. Data collected as provided in this Subsection A of this Section shall  
21        include the following information about the participants in DA Diversion Programs:

22               (1) The demographic data of participants including but not limited to race,  
23        income, education level, employment, age, sex, and marital status.

24               (2) The numbers of individuals who applied for participation in a DA  
25        Diversion Program.

26               (3) The number of individuals who entered a DA Diversion Program.

27               (4) The number of individuals who successfully completed a DA Diversion  
28        Program within a twelve-month period.

1           (5) The number of individuals who participated in a DA Diversion Program  
2           but did not successfully complete the program within a twelve-month period.

3           (6) The number of individuals who did not complete a DA Diversion  
4           Program within a twelve-month period and were subsequently prosecuted for the  
5           offense committed.

6           (7) The number of individuals with fees fully or partially waived based upon  
7           indigency.

8           (8) The number of individuals owing fees for participation in a DA  
9           Diversion Program.

10           C. The Diversion Oversight Committee shall have the authority to access the  
11           assistance, information, and data necessary to properly carry out its functions,  
12           powers, and duties.

13           §1028. Issuance of public reports and statements; annually

14           On an annual basis, the Diversion Oversight Committee shall publicly report  
15           the accumulated data as provided in R.S. 16:1027 and any conclusions reached by  
16           the committee with respect to the data. The annual report shall not include any  
17           personal or identifying information of any DA Diversion Program participant.

18           §1029. Authority of Diversion Oversight Committee; allocation of funding;  
19           examination of financial statements of DA Diversion Programs

20           A. The Diversion Oversight Committee shall have the authority to require  
21           the allocation of funds received from participants in a DA Diversion Program in a  
22           specific parish in the following manner:

23           (1) Twenty-five percent shall be remitted to the office of the district attorney.

24           (2) Twenty-five percent shall be remitted to the criminal court fund of the  
25           judicial district having jurisdiction over the matter.

26           (3) Twenty-five percent shall be remitted to the local indigent defender fund.

27           (4) Twenty-five percent shall be remitted to the sheriff's general fund.

28           B. In order to confirm the allocation as provided in this Section, the  
29           Diversion Oversight Committee shall have the authority to examine the financial

1 statements of a district attorney's office pertaining to any DA Diversion Program. A  
 2 district attorney's office may not increase any DA Diversion Program fees charged  
 3 to defendants in order to evade the effects of local indigent defense offices receiving  
 4 the allocated funds.

5 §1030. Rulemaking

6 The Diversion Oversight Committee may adopt regulations or policies  
 7 pertaining to its operations and procedures, including but not limited to how data is  
 8 collected and evaluated and how funds are allocated from DA Diversion Programs  
 9 pursuant to the provisions of R.S. 16:1029.

#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 336 Original

2017 Regular Session

Marcelle

**Abstract:** Establishes a Diversion Oversight Committee to examine district attorney operated diversion programs statewide.

Proposed law creates a Diversion Oversight Committee to examine district attorney operated diversion programs statewide which shall oversee aspects of programs that divert a defendant from prosecution, incarceration, or confinement to an alternative program or treatment.

Proposed law provides for the following duties:

- (1) Collect data pertaining to those enrolled in DA Diversion Programs.
- (2) Publish reports on the equity, quality, accessibility, and effectiveness of DA Diversion Programs.
- (3) Require that the funds received from participants in a DA Diversion Program be allocated in equal parts to local district attorney offices, to local indigent defense offices, to the criminal court fund in the judicial district, and the sheriff's general fund.
- (4) Review the financial statements of DA Diversion Programs.

Proposed law requires the Diversion Oversight Committee to publish data as provided in proposed law and any conclusions by the committee based on such data on an annual basis.

Proposed law gives the committee the authority to require that the funds received from participants in a DA Diversion Program be allocated in equal parts to local district attorney offices, to local indigent defense offices, to the criminal court fund in the judicial district, and the sheriff's general fund. Proposed law further provides that in order to confirm the proper allocation, the DA Diversion Oversight Committee has the authority to examine the financial statements of the district attorney as they pertain to any DA Diversion Programs.

Proposed law also allows for the Diversion Oversight Committee to adopt regulations or policies pertaining to operations and procedures.

(Adds R.S. 16:1025 - 1030)