

2018 Regular Session

HOUSE BILL NO. 560

BY REPRESENTATIVE JAMES

DISTRICT ATTORNEYS: Creates the State Commission on Prosecutorial Conduct

1 AN ACT

2 To enact Chapter 43 of Title 13 of the Louisiana Revised Statutes, to be comprised of R.S.
3 13:5986 through 5992, relative to district attorney offices; to create the State
4 Commission on Prosecutorial Conduct; to provide for the membership of the
5 commission; to provide relative to the compensation of commission members; to
6 provide for the powers and duties of the commission; to require the commission to
7 collect and publish certain data and information; to provide for effectiveness; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 43 of Title 13 of the Louisiana Revised Statutes, comprised of
11 R.S. 13:5986 through 5992, is hereby enacted to read as follows:

12 CHAPTER 43. STATE COMMISSION ON PROSECUTORIAL CONDUCT

13 §5986. Establishment of commission.

14 The State Commission on Prosecutorial Conduct is hereby established. The
15 commission shall have the authority to collect data directly from the district attorney
16 offices statewide and publish such data.

17 §5987. Definitions

18 For the purposes of this Chapter, the following terms have the following
19 meanings:

1 (1) "Diversion program" means programs that divert a defendant from
2 prosecution, incarceration, or confinement to an alternative program or treatment.
3 This term includes, but is not limited to pretrial intervention programs, educational
4 programs, and treatment programs.

5 (2) "Prosecutor" means any person who represents the state or a political
6 subdivision of the state in an action to exact a penalty, fine, sanction, or forfeiture.

7 (3) "Shall" is mandatory, and "may" is permissive.

8 §5988. State Commission on Prosecutorial Conduct; organization

9 A. The State Commission on Prosecutorial Conduct shall consist of one
10 court of appeal judge and two district court judges selected by the Louisiana
11 Supreme Court.

12 B. Each member of the commission shall serve a four-year term. In addition,
13 the member's term shall end upon the occurrence of any event that would have made
14 the member ineligible for appointment. When a vacancy occurs, the Louisiana
15 Supreme Court shall appoint a successor for a four-year term.

16 C. No member of the commission shall receive any compensation for his
17 services, but shall be paid expenses necessarily incurred in the performance of his
18 duties as a member of the commission.

19 §5989. Functions, powers, and duties

20 The commission shall have all of the following functions, powers, and duties:

21 (1) The power to collect data directly from district attorney offices statewide.

22 (2) The duty to publically display such collected data on the website for the
23 commission and corresponding archive.

24 (3) The power to adopt, promulgate, amend, and repeal rules and procedures,
25 not otherwise inconsistent with law, necessary to carry out the provisions and
26 purposes of this Chapter.

27 (4) The power to do all other things necessary and convenient to carry out
28 its functions, powers, and duties expressly set forth in this Section.

1 §5990. District attorney-operated diversion programs; oversight and reporting

2 A. The commission shall be responsible for monitoring district
3 attorney-operated diversion programs statewide.

4 B. The commission shall have the authority to collect data related to persons
5 placed in district attorney-operated diversion programs, directly from the district
6 attorney's office in the applicable parish.

7 C. The data collected pursuant to Subsection B of this Section shall include
8 demographic data of participants in district attorney-operated diversion programs,
9 including but not limited to all of the following:

10 (1) Race, income, education level, employment, age, sex, and marital status.

11 (2) The numbers of individuals who apply for the diversion program.

12 (3) The number of individuals who begin the diversion program.

13 (4) The number of individuals who successfully complete the diversion
14 program within a twelve-month period.

15 (5) The number of individuals who do not successfully complete the
16 diversion program within the same twelve-month period, but who are still
17 participating in the program.

18 (6) The number of individuals who did not complete the diversion program
19 within the twelve-month period and who have been prosecuted for the offense
20 committed.

21 (7) The number of individuals with fees fully or partially waived for
22 indigence.

23 (8) The number of individuals that still owe fees for participation in the
24 diversion program.

25 D. On an annual basis, the commission shall publically report the
26 accumulated data and any conclusions reached on the website for the commission
27 and corresponding archive. The report shall not include any personal or identifying
28 data of diversion program participants.

1 §5991. Prosecutor performance accountability program; reporting

2 A. The commission shall direct every parish district attorney's office to
3 develop a performance accountability program to provide for regular reporting to the
4 people of Louisiana.

5 B. As part of the performance accountability program, the parish district
6 attorney's office shall institute yearly ethics training for all prosecutors. The ethics
7 training shall include training on the requirement that the state shall turn over all
8 exculpatory evidence to the defendant in a criminal case.

9 C. As a part of the performance accountability program, every parish district
10 attorney's office shall create an annual report comprised of all of the following
11 information related to the appropriate calendar year:

12 (1) Number of criminal court cases opened.

13 (2) Number of defendants charged.

14 (3) Number of felony cases opened.

15 (4) Number of misdemeanor cases opened.

16 (5) Number of new cases opened by section.

17 (6) Number of active criminal court cases at year end.

18 (7) Number of active criminal court cases by section at year end.

19 (8) Types of criminal cases opened.

20 (9) Number of cases resolved due to plea-bargaining.

21 (10) For every instance of a case resolved due to plea-bargaining, the initial
22 charge and the charge to which the defendant pleaded.

23 (11) Number of cases dismissed by declaration of nolle prosequi and reason
24 for such dismissal.

25 (12) Number of cases dismissed by judges.

26 (13) Number of juveniles charged as adults.

27 (14) Demographics, including gender, age, race, and income, of new
28 defendants for the year.

1 (15) Demographics, including gender, age, race, and income, of district
2 attorneys and assistant district attorneys.

3 (16) Sentencing outcomes in cases that are resolved either by
4 plea-bargaining or trial.

5 (17) Sentencing recommendations made by prosecutors.

6 (18) Bail amounts that prosecutors request in each case and the bail amount
7 actually set.

8 (19) Number of requests under the Public Records Act received during the
9 year and how district attorneys office responded to the request.

10 (20) Any cases that were overturned on appeal or in post-conviction
11 proceedings and grounds for such reversals.

12 (21) Appendices with all of the underlying case information.

13 D. The annual report for the previous calendar year shall be presented to the
14 commission on or before the first day of April each year. The commission shall
15 provide a copy of the report to the governor, Senate, House of Representatives, and
16 Louisiana Supreme Court, and then publish the report to the public on the website
17 for the commission and corresponding archive.

18 E. The commission shall oversee compliance with this Chapter and shall
19 implement sanctions for parish district attorney offices that fail to produce such an
20 annual report.

21 §5992. Effectiveness

22 A. If any part or provision of this Chapter is adjudged by a court of
23 competent jurisdiction to be unconstitutional or otherwise invalid, the judgment shall
24 not affect or impair any other part or provision of this Chapter, but shall be confined
25 in its operation to the specific part or provision determined to be unconstitutional or
26 invalid.

27 B. This Chapter shall be effective August 1, 2018.

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 560 Original

2018 Regular Session

James

Abstract: Establishes the State Commission on Prosecutorial Conduct to collect and report certain data from district attorney offices statewide.

Proposed law creates the State Commission on Prosecutorial Conduct and authorizes the commission to collect data from prosecutors and district attorneys statewide.

Proposed law provides for the composition of the commission and provides that a commission member shall not receive compensation for his services as a commission member, but shall be paid his expenses necessary to complete the duties of the position.

Proposed law requires the commission to monitor district attorney-operated diversion programs statewide collecting and monitoring a variety of demographic data on the participants.

Proposed law requires the commission to annually publish information collected from the prosecutors and district attorneys statewide and any conclusions reached from analyzing the collected data.

Proposed law provides that the posted information will not violate the privacy rights of any participant of a diversion program. The collected data shall be posted on the commission website.

Proposed law authorizes the commission to adopt, promulgate, amend, and repeal rules and procedures, not otherwise consistent with law, necessary to carry out the provisions and purposes of proposed law.

Proposed law requires the commission to present the annual report for the previous calendar year on or before the first day of April of each year. Further requires the commission to give a copy of the report to the governor, Senate, House of Representatives, and the La. Supreme Court.

(Adds R.S. 13:5986-5992)