

2021 Regular Session

HOUSE RESOLUTION NO. 51

BY REPRESENTATIVE DUPLESSIS

PAROLE: Provides relative to study of compassionate release, medical treatment furlough, and medical parole requirements

1 A RESOLUTION

2 To urge and request the Department of Public Safety and Corrections, the Louisiana  
3 Department of Health, physicians at private and state medical facilities who treat  
4 incarcerated patients, and other community members and stakeholders to study the  
5 current eligibility, recommendation, and approval processes for the medical parole  
6 program and the medical treatment furlough program as well as for compassionate  
7 release as provided by the policy of the Department of Public Safety and Corrections.

8 WHEREAS, current regulations restrict eligibility for consideration for  
9 compassionate release to persons who are terminally ill with death expected within sixty  
10 days, or permanently incapacitated including but not limited to being in a prolonged coma  
11 or on mechanical ventilation; and

12 WHEREAS, current regulations also restrict eligibility for consideration of release  
13 through medical parole to persons who have severe disabilities that can be expected to result  
14 in death or that can be expected to become permanently irreversible, including irreversibly  
15 terminally ill patients with a life expectancy of less than one year due to an underlying  
16 medical condition; and

17 WHEREAS, furthermore, current regulations restrict eligibility for consideration of  
18 release through medical treatment furlough to persons who are ineligible for medical parole  
19 and are determined by the Department of Public Safety and Corrections to be a  
20 limited-mobility offender, meaning anyone who is unable to perform activities of daily  
21 living without help or is bedbound, including but not limited to those in a prolonged coma  
22 and on medical ventilation; and

1           WHEREAS, recommendations for compassionate release originate with the unit  
2 medical director at the facility who must complete a recommendation form to be submitted  
3 to the warden for consideration and reviewed by the medical director of the Department of  
4 Public Safety and Corrections, with final decision-making authority with the secretary of the  
5 department; and

6           WHEREAS, the Department of Public Safety and Corrections is tasked with  
7 identifying those who may be eligible for medical parole or medical treatment furlough and  
8 relies on the unit medical director at each facility to determine eligibility and complete a  
9 recommendation form to be approved by the warden and reviewed by both the department's  
10 medical director and secretary; and

11           WHEREAS, authority to grant medical parole or medical treatment furlough rests  
12 solely with the committee on parole; and

13           WHEREAS, Governor John Bel Edwards signed a justice reinvestment package into  
14 law effective November 1, 2017, which included a new medical treatment furlough provision  
15 intended to save the state millions of dollars on prisoner health care; and

16           WHEREAS, the division of probation and parole is directed to submit an annual  
17 report of all medical releases to the medical director of the Department of Public Safety and  
18 Corrections by January 10th of each year, which is then submitted to the department's  
19 secretary but is not publically available; and

20           WHEREAS, there is a lack of data on how compassionate release, medical parole,  
21 and medical treatment furlough were utilized during a declared state of emergency and  
22 public health emergency during the COVID-19 pandemic in order to reduce the number of  
23 positive cases in the prison population and reduce the risk to those who were medically  
24 vulnerable; and

25           WHEREAS, a separate panel review process for medical treatment furlough was  
26 established, under which only four percent of the people in the custody of the Department  
27 of Public Safety and Corrections were eligible for review and only sixty-three individuals  
28 were released when the panel was disbanded in June of 2020; and

1           WHEREAS, over three thousand inmates in the nine Department of Public Safety  
2 and Corrections facilities tested positive for COVID-19 and of the thirty-seven fatalities, all  
3 were reported to have underlying medical conditions; and

4           WHEREAS, there is no currently available mechanism for treating physicians at  
5 private or state medical facilities to recommend or initiate the compassionate release,  
6 medical parole, or medical treatment furlough process for their patients, even those  
7 diagnosed with terminal illness or whose prognosis was significantly impacted by the  
8 cancellation of non-emergency medical appointments during the COVID-19 pandemic.

9           THEREFORE, BE IT RESOLVED that the House of Representatives of the  
10 Legislature of Louisiana does hereby urge and request a commission to be convened to study  
11 the efficacy of the current eligibility requirements and recommendation and review  
12 processes for compassionate release, medical parole, and medical treatment furlough. The  
13 commission shall include but is not limited to representatives of the following: the medical  
14 and correctional staff of the Department of Public Safety and Corrections, the Louisiana  
15 Department of Health, office of public health, Medicaid, physicians at private and state  
16 medical facilities who treat incarcerated patients, family members of impacted incarcerated  
17 persons, crime survivors, family members of victims, and other stakeholders.

18           BE IT FURTHER RESOLVED that the commission shall be composed of the  
19 following members:

20           (1) Two representatives from the medical staff of the Department of Public Safety  
21 and Corrections selected by the secretary of Department of Public Safety and Corrections.

22           (2) Two representatives from the Louisiana Department of Health, including the  
23 director of the Medicaid program, or his designee, and a representative from the office of  
24 public health selected by the secretary of the Louisiana Department of Health.

25           (3) Two doctors who treat incarcerated patients at private or state medical facilities  
26 selected by the speaker of the House of Representatives after consulting with stakeholders.

27           (4) Two family members of people who are incarcerated selected by the speaker of  
28 the House of Representatives after consulting with stakeholders.

29           (5) Two crime survivors appointed by the Louisiana Survivors for Reform, one  
30 primary and one secondary survivor.

1           (6) Two formerly incarcerated persons selected by the speaker of the House of  
2 Representatives after consulting with stakeholders.

3           (7) Two lawyers with experience in handling medical parole programs, medical  
4 furlough programs, and compassionate release cases for a client, including one from the  
5 Promise of Justice Initiative and one selected by the speaker of the House of Representatives  
6 after consulting with stakeholders.

7           (8) Two representatives from the Louisiana Sheriffs' Association selected by the  
8 executive director of the association.

9           (9) Two representatives from the governor's office selected by the governor.

10          (10) One representative with expertise in incarceration law and policy from Loyola  
11 Law School selected by the speaker of the House of Representatives after consulting with  
12 stakeholders.

13          (11) The chairman of House Committee on Administration of Criminal Justice, or  
14 his designee.

15          (12) The chairman of House Committee on Health and Welfare, or his designee.

16          BE IT FURTHER RESOLVED that the director of the Medicaid program or his  
17 designee shall call the first meeting of the commission no later than August 1, 2021, and that  
18 the commission shall select a chairman and any other officers it deems necessary at the first  
19 meeting of the commission.

20          BE IT FURTHER RESOLVED that the commission shall report its findings and  
21 recommendations to the legislature no later than January 1, 2022.

22          BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the  
23 secretary of the Department of Public Safety and Corrections and the secretary of the  
24 Louisiana Department of Health.

25          BE IT FURTHER RESOLVED that the secretary of the Louisiana Department of  
26 Health shall assign the appropriate personnel from the department to staff the commission.

27          BE IT FURTHER RESOLVED that the commission shall submit one print copy and  
28 one electronic copy of any report produced pursuant to this Resolution to the David R.  
29 Poynter Legislative Research Library as required by R.S. 24:772.

## 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)]

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HR 51 Reengrossed

2021 Regular Session

Duplessis

Requests that a commission be convened to study the efficacy of the current eligibility requirements and recommendation and review processes for compassionate release, medical parole, and medical treatment furlough. Provides for membership of the commission.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original resolution:

1. Add the chairman of the House Committee on Administration of Criminal Justice or his designee and the chairman of the House Committee on Health and Welfare or his designee to the commission.
2. Provide that the Dept. of Public Safety and Corrections shall staff the commission.

The Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed resolution:

1. Provide appointing authorities for members of the commission.
2. Add provisions regarding the first meeting of the commission.
3. Provide for staffing of the commission by the La. Dept. of Health rather than the Dept. of Public Safety and Corrections.