

2021 Regular Session

HOUSE RESOLUTION NO. 51

BY REPRESENTATIVE DUPLESSIS

A RESOLUTION

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

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

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

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

WHEREAS, recommendations for compassionate release originate with the unit medical director at the facility who must complete a recommendation form to be submitted to the warden for consideration and reviewed by the medical director of the Department of

Public Safety and Corrections, with final decision-making authority with the secretary of the department; and

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

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

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

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

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

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

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

WHEREAS, there is no currently available mechanism for treating physicians at private or state medical facilities to recommend or initiate the compassionate release, medical parole, or medical treatment furlough process for their patients, even those

diagnosed with terminal illness or whose prognosis was significantly impacted by the cancellation of non-emergency medical appointments during the COVID-19 pandemic.

THEREFORE, BE IT RESOLVED that the House of Representatives of the Legislature of Louisiana does hereby urge and request a commission to 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. The commission shall include but is not limited to representatives of the following: the medical and correctional staff of the Department of Public Safety and Corrections, the Louisiana Department of Health, office of public health, Medicaid, physicians at private and state medical facilities who treat incarcerated patients, family members of impacted incarcerated persons, crime survivors, family members of victims, and other stakeholders.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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SPEAKER OF THE HOUSE OF REPRESENTATIVES