

First Extraordinary Session, 2005

SENATE BILL NO. 74

BY SENATOR JONES

CRIMINAL JUSTICE. Creates a work furlough program for nonviolent offenders currently incarcerated in order to assist with disaster and emergency relief.

1 AN ACT

2 To enact R.S. 15:833.1, relative to persons in the custody of the Department of Public Safety
3 and Corrections; to require the implementation of a work furlough program for
4 certain inmates to participate in disaster and emergency relief; to require the
5 secretary to establish rules, regulations and procedures for such program; to provide
6 for eligibility; to provide an opportunity to be heard by the appropriate trial judge,
7 district attorney, and victim; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 15:833.1 is hereby enacted to read as follows:

10 **§833.1. Work furlough program; legislative findings; participation; conditions**

11 **A. As a step in continuing and maintaining the criminal justice system**
12 **during a natural disaster, emergency, or other catastrophe, the Legislature of**
13 **Louisiana hereby finds and declares that overcrowding in correctional**
14 **institutions is not a desirable method of housing state inmates, and that certain**
15 **inmates could be placed into work furlough programs in order to assist with**
16 **disaster recovery, state emergencies, and the rebuilding efforts needed after a**
17 **natural disaster, emergency, or other catastrophe. A work furlough program**

1 would provide appropriate state inmates who are nearing the completion of
2 their term of incarceration with an opportunity to find work in a normal
3 environment and would assist them with their reintegration into society. A
4 work furlough program in a time of disaster or emergency would eliminate the
5 costs associated with incarcerating those inmates eligible for the program, it
6 would provide job training for eligible inmates, and it would allow these
7 inmates to earn a minimum wage to assist with any court ordered restitution
8 and the support of dependants.

9 B.(1) When there is a substantial probability that an inmate will remain
10 at liberty without violating the law and that the release is in the best interests
11 of the state, the Department of Public Safety and Corrections may authorize the
12 release of an inmate on work furlough if the inmate has not been convicted of
13 a crime defined or enumerated as a crime of violence in R.S. 14:2(13) and if the
14 inmate has served not less than six months of the sentence imposed by the court,
15 and is within twelve months of his parole or release date.

16 (2) The department shall not evaluate the furlough of an inmate who has
17 been convicted of any of the following:

18 (a) A person convicted of a sex offense as defined in R.S. 15:540 et seq.
19 when the victim is under the age of eighteen at the time of commission of the
20 offense.

21 (b) A person convicted of a violation of the Uniform Controlled
22 Dangerous Substances Law except for any of the following:

23 (i) Possession as defined in R.S. 40:966(C), 967(C), 968(C), 969(C) or
24 970(C).

25 (ii) Distribution or possession with the intent to distribute cocaine where
26 the offense of conviction involves less than twenty-eight grams of cocaine.

27 (iii) Distribution or possession with the intent to distribute marijuana
28 where the offense of conviction involves less than one pound of marijuana.

29 (iv) A person sentenced to a term of life imprisonment for a violation of

1 the Uniform Controlled Dangerous Substances Law who has served at least
2 seven years of the term of imprisonment in actual custody. However, the
3 provisions of this Item shall not apply to any person who has been convicted of
4 a sex offense as provided for in Subparagraph (a) of this Paragraph or to any
5 person who has been sentenced as a habitual offender under R.S. 15:529.1
6 where one or more of the crimes for which the person was convicted and
7 sentenced under R.S. 15:529.1 is a crime of violence defined or enumerated in
8 R.S. 14:2(13) as provided for in Subparagraph (c) of this Paragraph.

9 (c) A person sentenced as a habitual offender under R.S. 15:529.1 where
10 one or more of the crimes for which the person was convicted and sentenced
11 under R.S. 15:529.1 is a crime of violence defined or enumerated in R.S.
12 14:2(13).

13 C. Such work furloughs shall be granted under the rules, regulations
14 and procedures prescribed and promulgated by the secretary of the Department
15 of Public Safety and Corrections.

16 D. The Department of Public Safety and Corrections is authorized to
17 contract with a public or private nonprofit or for-profit corporation to provide
18 work furlough programs to eligible inmates if the corporation meets criteria
19 promulgated by the department.

20 E. The Department of Public Safety and Corrections shall deny
21 placement in a work furlough program if it is determined that an inmate would
22 pose an unreasonable risk of harm to the public.

23 F. Before releasing an inmate on work furlough, the Department of
24 Public Safety and Corrections shall notify and afford an opportunity to be
25 heard to the district court judge in the parish in which the inmate requesting a
26 work furlough was sentenced, the district attorney, and the victim of the offense
27 for which the inmate is incarcerated. The notice shall state the name of the
28 inmate requesting the work furlough, the offense for which the inmate was
29 sentenced, the length of the sentence and the date of admission to the custody

1 of the department. The notice to the victim shall also inform the victim of his
2 right to be present and to submit a written report to the department expressing
3 his opinion concerning the inmate's release. No hearing concerning work
4 furlough shall be held until fifteen days after the date of giving the notice.

5 G. The Department of Public Safety and Corrections shall notify local
6 law enforcement officials in the parish where the inmate is to be furloughed a
7 reasonable time prior to placing said inmate on furlough.

8 H. Inmates transferred to work furlough shall remain under the legal
9 custody of the Department of Public Safety and Corrections and shall be subject
10 to the rules and regulations promulgated by the department for such program.

11 I. Any wages earned pursuant to this Section shall be paid to the
12 administrator of the program after standard payroll deductions required by
13 state and federal law and shall be allocated for the following purposes:

14 (1) To pay any amounts to defray the costs of the inmate's keep,
15 confinement, and supervision.

16 (2) To pay for travel and other such expenses made necessary by the
17 inmate's work furlough.

18 (3) To provide support and maintenance for the inmate's dependents or
19 to make payments to the Department of Social Services on behalf of dependents
20 who are receiving public assistance.

21 (4) To pay any fines, restitution, or other costs as ordered by the court.

22 (5) Any remaining balance after payment of costs and expenses listed in
23 Paragraphs (1) through (4) of this Subsection shall be retained to the credit of
24 the inmate and paid to him upon his release from confinement.

25 J. Any inmate violating the conditions of work furlough prescribed by
26 the Department of Public Safety and Corrections shall be subject to the
27 disciplinary procedures identified in a classification manual developed for such
28 purposes.

29 K. The work furlough program created under this Section shall remain

1 **in effect for the duration of the disaster and emergency recovery period. When**
 2 **an inmate has satisfactorily completed his assignment to a work furlough**
 3 **program, the Department of Public Safety and Corrections may recommend**
 4 **that the person be considered for clemency by the Board of Pardons or it may**
 5 **recommend that the person be considered for parole by the Board of Parole.**
 6 **The department may also recommend to the appropriate board such conditions**
 7 **for clemency or parole as it may deem advisable.**

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Camille A. Sebastien.

DIGEST

Proposed law requires DPS&C to establish a work furlough program for eligible inmates to participate in disaster recovery and emergency relief work, and to grant such work furloughs under rules, regulations, and procedures to be promulgated by the secretary of the department.

Authorizes DPS&C to release an inmate on work furlough if the inmate has not been convicted of a crime not defined or enumerated as a crime of violence in R.S. 14:2(13), if the inmate has served not less than 6 months of the sentence imposed by the court, and is within 12 months of the inmate's parole or release date and his release would be in the public interest.

Prohibits the application of those inmates who have been convicted of the following:

- (1) A sex offense as defined in R.S. 15:540 et seq. when the victim is under the age of eighteen at the time of commission of the offense.
- (2) A violation of the Uniform Controlled Dangerous Substances Law except for any of the following:
 - (a) Possession as defined in R.S. 40:966(C), 967(C), 968(C), 969(C) or 970(C).
 - (b) Distribution or possession with the intent to distribute cocaine where the offense of conviction involves less than 28 grams of cocaine.
 - (c) Distribution or possession with the intent to distribute marijuana where the offense of conviction involves less than 1 pound of marijuana.
 - (d) A person sentenced to a term of life imprisonment for a violation of the Uniform Controlled Dangerous Substances Law who has served at least 7 years of the term of imprisonment in actual custody. However, the provisions of this Subparagraph shall not apply to any person who has been convicted of a sex offense as provided for in Paragraph (1) of this Subsection or to any person who has been sentenced as a habitual offender under R.S. 15:529.1 where one or more of the crimes for which the person was convicted and sentenced under R.S. 15:529.1 is a crime of violence defined or enumerated in R.S. 14:2(13).
- (3) A habitual offender under R.S. 15:529.1 where one or more of the crimes for which

the person was convicted and sentenced under R.S. 15:529.1 is a crime of violence defined or enumerated in R.S. 14:2(13).

Authorizes DPS&C to contract with a public or private nonprofit or profit corporation to provide work furlough programs to eligible inmates if the corporation meets criteria promulgated by the department.

Authorizes DPS&C to deny placement in a work furlough program if it is determined that an inmate would pose an unreasonable risk of harm to the public.

Requires DPS&C, before releasing an inmate on work furlough, to notify and afford an opportunity to be heard to the appropriate district court judge, the district attorney, and the victim of the offense. Further requires that the notice state the name of the inmate requesting the work furlough, the offense for which the inmate was sentenced, the length of the sentence, the date of admission to the custody of the department and notification to the victim of his right to be present and to submit a written report to the department expressing his opinion concerning the inmate's release. Prohibits a hearing concerning work furlough until 15 days after the date of giving the notice.

Requires DPS&C to notify local law enforcement officials in the parish where the inmate is to be furloughed a reasonable time prior to placing said inmate on furlough.

Provides that inmates transferred to work furlough shall remain under the legal custody of DPS&C.

Requires earned wages by the inmate to be paid to the administrator of the program after standard payroll deductions required by law and to be allocated as follows:

- (1) To pay any amounts to defray the costs of the inmate's keep, confinement, and supervision.
- (2) To pay for travel and other such expenses made necessary by the inmate's work furlough.
- (3) To provide support and maintenance for the inmate's dependents or to make payments to DSS on behalf of dependents who are receiving public assistance.
- (4) To pay any fines, restitution, or other costs as ordered by the court.
- (5) Any remaining balance shall be retained to the credit of the inmate and paid to him upon his release from confinement.

Provides that any inmate violating the conditions of work furlough be subject to the disciplinary procedures identified in a classification manual developed for such purposes.

Requires that this work furlough program remain in effect for the duration of the disaster and emergency recovery period and authorizes DPS&C to recommend that the person be considered for clemency by the Board of Pardons or be considered for parole by the Board of Parole when the inmate has satisfactorily completed his assignment to a work furlough program.

(Adds R.S. 15:833.1)