

Regular Session, 2014

HOUSE BILL NO. 210

BY REPRESENTATIVE JEFFERSON

PAROLE: Amends eligibility criteria for medical parole

1 AN ACT

2 To amend and reenact R.S. 15:574.20, relative to medical parole; to amend certain eligibility  
3 requirements for medical parole; to amend certain definitions; to provide with respect to a  
4 risk assessment of an inmate prior to recommendation for medical parole; and to provide for  
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 15:574.20 is hereby amended and reenacted to read as follows:

8 §574.20. Medical parole program; eligibility; revocation

9 A.(1) Notwithstanding the provisions of this Part or any other law to the  
10 contrary, any person sentenced to the custody of the Department of Public Safety and  
11 Corrections may, upon referral by the department, be considered for medical parole  
12 by the committee on parole. Medical parole consideration shall be in addition to any  
13 other parole for which an inmate may be eligible, but shall not be available to any  
14 inmate who is awaiting execution ~~or who has a contagious disease.~~

15 (2) Medical parole shall not be available to any inmate serving time for the  
16 violation of R.S. 14:30, first degree murder; or R.S. 14:30.1, second degree murder.

17 B. The committee on parole shall establish the medical parole program to be  
18 administered by the Department of Public Safety and Corrections. An inmate  
19 eligible for consideration for release under the program shall be any person who,  
20 because of an existing medical or physical condition, is determined by the  
21 department to be within one of the following designations:

1           (1) "~~Permanently incapacitated disabled~~ inmate" ~~which shall mean~~ means  
2           any person who, ~~by reason of an existing physical or medical condition, is so~~  
3           ~~permanently and irreversibly physically incapacitated that he does not constitute a~~  
4           ~~danger to himself or to society~~ is unable to engage in any substantial gainful activity  
5           by reason of any medically determinable physical impairment which can be expected  
6           to result in death or which has or can be expected to have a duration of a continuous  
7           period of not less than twelve months; or

8           (2) "Terminally ill inmate" ~~which shall mean~~ means any person inmate who,  
9           because of an existing medical condition, is irreversibly terminally ill, ~~and who by~~  
10          ~~reason of the condition does not constitute a danger to himself or to society.~~ For the  
11          purposes of this Section, "terminally ill" is defined as a life expectancy of less than  
12          one year due to an underlying medical condition.

13          C. No inmate shall be recommended for medical parole by the department  
14          until full consideration has been given to the inmate's crime and criminal history,  
15          length of time served in custody, institutional conduct, an indication that the inmate  
16          represents a low risk to himself or society, and a medical assessment of the inmate's  
17          condition. In the assessment of risk, emphasis shall be given to the inmate's medical  
18          condition and how this relates to his overall risk to society.

19          ~~C.D.~~ The authority to grant medical parole shall rest solely with the  
20          committee on parole, and the committee shall establish additional conditions of the  
21          parole in accordance with the provisions of this Subpart. The Department of Public  
22          Safety and Corrections shall identify those inmates who may be eligible for medical  
23          parole based upon available medical information. In considering an inmate for  
24          medical parole, the committee may require that additional medical evidence be  
25          produced or that additional medical examinations be conducted. The committee on  
26          parole shall determine the risk to public safety and shall grant medical parole only  
27          after determining that the inmate does not pose a threat to public safety.

28          ~~D.E.~~ The parole term of an inmate released on medical parole shall be for the  
29          remainder of the inmate's sentence, without diminution of sentence for good

1 behavior. Supervision of the parolee shall consist of periodic medical evaluations  
2 at intervals to be determined by the committee at the time of release.

3 E.F. If it is discovered through the supervision of the medical parolee that  
4 his condition has improved such that he would not then be eligible for medical parole  
5 under the provisions of this Subpart, the committee may order that the person be  
6 returned to the custody of the Department of Public Safety and Corrections to await  
7 a hearing to determine whether his parole shall be revoked. Any person whose  
8 medical parole is revoked due to an improvement in his condition shall resume  
9 serving the balance of his sentence with credit given for the duration of the medical  
10 parole. If the person's medical parole is revoked due to an improvement in his  
11 condition, and he would be otherwise eligible for parole, he may then be considered  
12 for parole under the provisions of R.S. 15:574.4. Medical parole may also be  
13 revoked for violation of any condition of the parole as established by the committee  
14 on parole.

15 F.G. The committee on parole shall promulgate such rules as are necessary  
16 to effectuate this Subpart, including rules relative to the conduct of medical parole  
17 hearings, and the conditions of medical parole release.

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#### 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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Jefferson

HB No. 210

**Abstract:** Provides changes regarding the eligibility for medical parole.

Present law provides that the decision to grant medical parole rests solely with the committee on parole.

Proposed law retains present law.

Present law provides that any inmate, except when incarcerated for first or second degree murder, may be considered by the committee on parole for medical parole unless the inmate is sentenced to death or has a contagious disease.

Proposed law removes the disqualification of having a contagious disease from eligibility for consideration of medical parole.

Present law contains criteria for consideration involving inmates who are permanently incapacitated or terminally ill. Both of the criteria contain the element that the inmate because of his condition does not constitute a danger to himself or others.

Proposed law removes the "danger to himself or others" element from the definition of "permanently disabled inmate" and "terminally ill inmate".

Proposed law adds the definition of "terminally ill" to mean a life expectancy of less than one year due to an underlying medical condition.

Proposed law provides that no inmate shall be recommended for medical parole by the department until full consideration has been given to the inmate's crime and criminal history, length of time served in custody, institutional conduct, an indication that the inmate represents a low risk to himself or society and a medical assessment of the inmate's condition. In the assessment of risk, emphasis shall be given to the inmate's medical condition and how this relates to his overall risk to society.

Proposed law provides that the committee on parole shall determine the risk to public safety and shall grant medical parole only after determining the inmate does not pose a threat to public safety.

(Amends R.S. 15:574.20)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Added provisions requiring a determination of the risk to society the release of an inmate poses prior to release on medical parole.
2. Added provision that the committee on parole shall not recommend medical parole until it determines that the inmate does not pose a risk to society.
3. Deleted proposed law provisions regarding mental impairment.