

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 committee 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.

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.

25 (3) Two doctors who treat incarcerated patients at private or state medical facilities.

26 (4) Two family members of people who are incarcerated.

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

29 (6) Two representatives who were formerly incarcerated.

1 (7) Two lawyers with experience in handling medical parole programs, medical
2 furlough programs, and compassionate release cases for a client, including one from the
3 Promise of Justice Initiative.

4 (8) Two representatives from the Louisiana Sheriffs' Association.

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

6 (10) One representative with expertise in incarceration law and policy from Loyola
7 Law School.

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

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

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

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

16 BE IT FURTHER RESOLVED that the Department of Public Safety and Corrections
17 shall staff the commission.

18 BE IT FURTHER RESOLVED that the committee shall submit one print copy and
19 one electronic copy of any report produced pursuant to this Resolution to the David R.
20 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)]

HR 51 Engrossed

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Duplessis

Requests the Dept. of Public Safety and Corrections, the La. Dept. of Health, physicians at private and state medical facilities who treat incarcerated patients, 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 Dept. of Public Safety and Corrections.

Summary of Amendments Adopted by House

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

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.