

Minutes of the Louisiana Sentencing Commission  
Department of Corrections Headquarters, Building 1  
504 Mayflower, Baton Rouge, LA 70802  
November , 2013  
1:00 p.m.

The meeting was called to order by Honorable Ricky Babin at 1:17 p.m.

**Members Present**

Honorable Ricky Babin, Chairman  
Honorable Charles Ballay  
Mrs. Sheila Feigley (proxy for Mr. Robert Barkerding)  
Mr. Dale Simoneaux (proxy for Honorable Mike Cazes)  
Honorable Patricia Smith (proxy for Honorable Yvonne Dorsey Colomb)  
Mr. John DiGiulio (proxy for Mr. David Dugas)  
Mr. Richard Pittman (proxy for Mrs. Julie H. Ferris)  
Honorable Fredricka Wicker (proxy for Honorable Greg Guidry)  
Ms. Debbie Hudnall (by phone)  
Honorable Robert Kostelka (by phone)  
Ms. Angela Whittaker (proxy for Secretary Jimmy LeBlanc)  
Secretary James LeBlanc (proxy for Honorable Joseph Lopinto)  
Dr. Cecil Guin  
Honorable Michael McDonald  
Mr. Rustin Legendre (proxy for Mr. Robert Mehrtens)

**Committee and Advisory Members**

Mr. Scott Brandt, ALBU  
Mr. Darryl Campbell, DOC  
Mrs. Ann Carmon, 5th Circuit  
Mr. Rhett Covington, DOC  
Mr. Frank DiFulco, LASC  
Ms. Tracy DiBenedetto, DOC  
Ms. Linda LaLa Duscoe, Cure  
Ms. Jennifer Eagan  
Mr. Robb Farmer, ALBU  
Ms. Christine Fuido, Orleans Parish DA  
Ms. Caitlin Graham, JDC Public Defender's Office  
Ms. Susan Griffin  
Honorable Hans Liljeberg  
Mr. Carle Jackson, LCLE  
Mr. William L. Kline  
Sandra Laborie, 5th Circuit Court  
Dr. Mary Livers  
Edward McCaulliffe, Orleans Parish DA  
Keith Nordyke  
Ms. Genie Powers, DOC/P&P  
Mrs. Jennifer Watson, LCLE  
Ms. Opal West, LCLE

**Guests**

Diana Dorroh, Together BR  
Veronica Freeman  
Mr. Kevin Kane, Pelican Institute  
George Mills, Cenikor  
R. Nichols, AIM  
Spencer Pearson, Pelican Institute  
Bobby Thompson, Together BR  
Carole Turner, CAPRC  
Rachel Veal, CAPARC  
Ms. Lydia Williams, CAPARC

- I. Welcome and Introductions  
Honorable Ricky Babin, Chairman introduced special guest Head of Juvenile Justice Dr. Mary Livers. Roll Call was taken by Jennifer Watson, LCLE.
- II. Approval of Minutes  
Motion by Honorable Charles Ballay; seconded by Mr. Dale Simoneaux. The motion passed without objection.
- III. Theft statute  
Rep. Patricia Smith motioned to reorganize meeting agenda to make Theft statute revision . The motion passed without objection

This prospective proposal would simplify the Theft statutes by removing the seldom or never used specialized theft statutes from the law, allowing them to revert to coverage under the general Theft statute [R.S. 14:67]. The prospective proposal would also increase the number of penalty ranges available for R.S. 14:67 from the current three to six. Currently, theft of \$1,000 or more, the penalty is up to 10 years of imprisonment with a maximum fine of \$3,000. Under the proposal the following value base breakdowns would be used:

Value	Minimum	Maximum	Mandatory	Max. Fine
\$100,000 or more	2 years	25 years	2 years	\$100,000
\$50,000 to \$99,999.99	0	15 years		\$50,000
\$10,000 to \$49,999.99	0	10 years		\$25,000
\$5,000 to \$9,999.99	0	5 years		\$15,000
\$1,000 to \$4,999.99	0	3 years		\$10,000
Under \$1,000	0	6 months		\$1,000
2 or more prior conv.	0	2 years		\$2,000

Eliminate the specialized and seldom used statutes:

- Theft of Livestock
- Animals
- Crawfish
- Timber
- Alligators
- Fraudulent acquisition of rental vehicle
- Used Building Component
- Utility Property
- Copper/Religious Building
- Copper/Other metals
- Fuel

The conduct covered by the statutes eliminated would not become legal, just prosecuted under the general theft statute [R.S. 14:67].

Consider eliminating the following statutes after consultation with industry to determine if any other issues exist:

Theft of Utility Service	Petroleum products
Oilfield geological survey	Oil & Gas Equipment
Anhydrous Ammonia	Unauthorized possession of Anhydrous Ammonia

If there is a reason to preserve these statutes they would be left alone. The ones eliminated would be prosecuted under the general theft statute.

Leave the following specialized statutes as they are used or differ from the penalties for general theft:

Theft of: Goods	Firearm
Assets of aged or disabled person	Motor Vehicle

**Mr. Richard Pittman motioned to approve and send to the Governor for vetting. Seconded by Honorable Ricky Wicker. No objections.**

IV. Report of the Reason Foundation  
*Kevin Kane, Pelican Institute*

Mr. Kane asked that Commission review the detailed study "*Smart on Sentencing, Smart on Crime*". The Pelican Institute is working with the Texas Public Policy Foundation on developing set of criminal justice reforms. Report addresses mandatory minimums, and determining sentencing rules in Louisiana. In sum, some rules are tougher than necessary, particularly for non-violent criminals, and reforming these sentences may be financially sound. Lauren Galik, one of the authors of this paper, will be at the December Commission meeting.

V. Recommendations for Vetting  
*Honorable Ricky Babin*

A. Previously Considered

- i. Expansion of Minimum Mandatory Waiver -This proposal would extend the waiver of minimum mandatory provisions to all crimes except sex offenses. This means that the prosecutor, defense, and the Court would have to approve the waiver as part of a pre or post sentence agreement.

**Hon. Hans Liljeberg motioned to approve and send to the Governor for vetting. Seconded by Honorable Ricky Wicker. No objections.**

- ii. Crimes of Violence -This proposal would divide the offenses designated as crimes of violence in R.S. 14:2B into two groups. The first are those offenses that are necessarily violent based on the elements of the crime. The second contains those offenses where the elements of the crime do not require violence but the conduct may be violent. The proposal would leave the first group as always crimes of violence, while the second allows the prosecutor to determine whether or not the conduct in the specific case constitutes violence. If the conduct is determined violent by the prosecutor, the sentence is rendered as a crime of violence as in the first group. If not, the sentence is rendered as a regular offense under the statute for the offense without the crime of violence enhancements.

**Hon. Hans Liljeberg motioned to approve and send to the Governor for vetting. Seconded by Honorable Ricky Wicker. No objections.**

- iii. Pre-Trial Services –This proposal would take the language adopted by the Legislature during the 2013 Regular Session [H.B. 297 that became ACT 261] and make all statutory release on recognizance statutes consistent. Generally, this ACT creates a rebuttable presumption that an offender not be released on recognizance or on the signature of another person. This presumption may be overcome

**Honorable Ricky Wicker motioned to approve and send to the Governor for vetting. Seconded by Mr. Richard Pittman. No objections.**

- iv. OUI – This possible proposal is basically a reorganized version of what was proposed last year. It does not dilute the OUI statutes nor make major substantive changes. It does, however, make the statute easier to follow and utilize.

**Honorable Ricky Wicker motioned to approve in broken up form and send to the Governor for vetting. Seconded by Mr. Richard Pittman. No objections.**

## B. Proposals not Previously Considered

- i. Matters related to Parole and Parole Committee

*Keith Nordyke –*

Parole Committee organization and procedural matters related to certification of Louisiana's Parole Committee by the American Correctional Association

- Proposal changes current four year terms to be staggered by the so that the term of no more than two members expires each year for continuity across gubernatorial terms
- All members must have at least a bachelor's degree, except for the ex-officio member, and five years experience.
- If a member does not have at least a bachelor's degree, seven years relevant experience may be substituted
- The rate of annual compensation of the chairman, vice chairman, the two at large appointees to the committee on parole and each of the other members of the board, except for the ex-officio member shall be authorized by executive order of the governor. Such compensation shall be based upon studies of the duties and responsibilities of the position and with compensation being paid for similar or comparable services elsewhere.
- Training components shall include an emphasis on the following subjects:
  - (i) Data-driven decision making;
  - (ii) Evidence based practices ;
  - (iii) Stakeholder collaboration;
  - (iv) Recidivism reduction.

**Honorable Ricky Wicker motioned to approve and send to the Governor for vetting. Seconded by Hon. Hans Liljeberg. No objections.** Hon. Ricky Babin, Chairman, recommended the Governor handle legislation on compensation.

- ii. Theft Statute – already discussed

- iii. Marijuana Statutes  
*Hilary Landry, Greg Thompson:*

This possible proposal dealt with simple possession of a small amount of Marijuana. It does not affect possession of larger quantities, possession with intent, cultivation, or distribution. It would leave simple possession of Marijuana as a misdemeanor upon second and subsequent conviction, as opposed to the enhancements to felony grade offense and increasing penalties as is currently the law. The proposal was deferred.

**Defer matter to committee to draft a statute that The Commission send out for vetting regarding proposal to make possession of Marijuana a misdemeanor**

Honorable Ricky Babin, Chairman	Y
Honorable Charles Ballay	Y
Mrs. Sheila Feigley (proxy for Mr. Robert Barkerding)	Y
Mr. Dale Simoneaux (proxy for Honorable Mike Cazes)	Y
Honorable Patricia Smith (proxy for Honorable Yvonne Dorsey Colomb)	N
Mr. John DiGiulio (proxy for Mr. David Dugas)	N
Mr. Richard Pittman (proxy for Mrs. Julie H. Ferris)	N
Honorable Fredricka Wicker (proxy for Honorable Greg Guidry)	N
Ms. Debbie Hudnall (by phone)	Y
Honorable Robert Kostelka (by phone)	Y
Ms. Angela Whittaker (proxy for Secretary Jimmy LeBlanc)*	Y*
Secretary James LeBlanc (proxy for Honorable Joseph Lopinto)	Absent during vote
Dr. Cecil Guin*	N *
Honorable Michael McDonald	Y
Honorable Hans Liljeberg*	Y*
	<b>7-4 in favor</b>

\*Though the vote was requested during roll call, Committee bylaws dictate the positions of Secretary James LeBlanc (Ms. Angela Whittaker) and Dr. Cecil Guin are non-voting parties. Hon. Liljeberg (proxy for Hon. Michael McDonald) vote doesn't count as Hon. Michael McDonald was present.

- iv. Amendments to Drug Statutes other than Marijuana  
**Deferred to committee**
- v. Amendment to benefit restrictions for Crimes of Violence  
**Deferred to committee**
- vi. Request from the 22nd JDC

**Honorable Ricky Wicker Motioned to support the request Seconded by Hon. Charles Ballay. No objections.**

- C. Proposals Arising from Committee Work  
Covered in above session

## VI. Committee Reports

*Honorable Ricky Babin, Chairman*

### A. Front End Committee

*Honorable Ricky Wicker*

- i. Theft statute – covered in above section
  - a. Other drug statues - still need work
  - b. Drug court/ Specialty court - Carla Sigler -need more work
- ii. Bail and Bond Statute Revision – need more work

### B. Release Mechanisms Committee

*Honorable Hans Liljeberg*

- i. Geriatric and Medical Release –Headed by Dr. Raman Singh, Jerrie LeDoux.

This possible proposal would change “infirm” to “disabled” and utilize the standard medical definition in use by the Social Security Administration. This provides the Medical staff with a better defined set of medical criteria. The Medical staff would only be involved in making the medical determination. Once made the matter would proceed to the Secretary for security and other considerations, with the final decision resting with the Secretary.

**Hon. Ricky Wicker motioned to approve and send to the Governor for vetting. Seconded by Rep. Patricia Smith. No objections.**

- ii. Crimes of Violence/Mandatory Minimum -Headed by Carle Jackson – covered in above section
- iii. Parole for 3rd Offenders - Tracy DiBenedetto –

Possible proposal would make persons convicted for a non-violent, non-sex offense for a third time eligible for parole after serving one third of their sentence. The eligibility time could not be later than one third of sentence since such offenders earn goodtime at the same rate as other offenders and the Parole Committee does not consider persons within six months of their goodtime release date as it takes that long for the process. If such offender was sentenced to 22 years, the parole eligibility date would occur about 1.5 years prior to goodtime release. If such offender was sentenced to 8 years, the parole eligibility date would occur about 195 days prior to the goodtime release date. Parole eligibility does not mean that the offender will be released, but only considered. This recommendation passed favorably through committee.

**Hon. Hans Liljeberg motioned to approve and send to the Governor for vetting. Seconded by Honorable Ricky Wicker. No objections.**

- iv. Multi-Offender Statutes -

Prospective Parole eligibility for certain persons sentenced under R.S. 15:529.1: Persons sentenced under R.S. 15:529.1 to a term of imprisonment of 30 years or less would be parole eligible after serving 50% of sentence. This recommendation passed favorably through committee.

**Hon. Hans Liljeberg motioned to approve and send to the Governor for vetting. Seconded by Honorable Ricky Wicker. No objections.**

C. Re-Entry and Evidence Based Corrections

*Mr. Rhett Covington*

Expungement – **Mr. Richard Pittman** motioned for a resolution of support for work of Louisiana Law Institute and send to the Governor for vetting. Seconded by Rep. Patricia Smith. No objections.

D. Research and Technology Committee

*Mr. Frank DiFulco*

*Ms. Melanie Gueho*

Revision to Uniform Commitment Order

**Honorable Ricky Wicker** motioned that the letter dated November be sent to the Clerks of Court association . Seconded by Rep. Patricia Smith. No objections.

**Honorable Ricky Wicker** motioned that Melanie Gueho and Frank DiFulco write a letter in order to obtain the grant needed for Research and Technology assistance. Seconded by Hon. Charles Ballay. No objections.

VII. Discussion of New Committees

*Honorable Ricky Babin*

A. Public Education Outreach Committee

*Honorable James Michael Guidry*

Matter deferred due to time.

B. Juvenile Justice Committee

*Honorable Ricky Wicker*

**Honorable Ricky Wicker** motioned that the Juvenile Justice Workgroup should act as a stand alone group Chaired by Dr. Mary Livers. Seconded by Mr. Richard Pittman. No objections.

VII. Report on Electronic Monitoring

*Rhonda Nichols*

**Mr. Richard Pittman** motioned for a resolution of support and send to the Governor for vetting. Seconded by **Honorable Ricky Wicker**. No objections.

VIII. Consideration of Off Site Meeting in the Spring

**Honorable Ricky Wicker** motioned that the Off Site Meeting in the Spring should be in Lafayette in March. Seconded by Rep. Patricia Smith. No objections.

VIII. Other business

IX. **Mr. Richard Pittman** motioned to adjourn. No objections. The meeting was adjourned at 3:50 p.m.