

Minutes of the Louisiana Sentencing Commission
Department of Corrections Headquarters, Building 1
504 Mayflower, Baton Rouge, LA 70802
April 17th, 2013
1:00 p.m.

The meeting was called to order by Honorable Ricky Babin, Chairman, at 1:12 p.m.

Members Present

Honorable Ricky Babin, Chairman
Honorable Charles J. Ballay (by phone)
Mr. Robert Barkerding (by phone)
Honorable Louis Daniel
Mr. John DiGuillio (proxy for David Dugas)
Mr. Richard Pittman (Proxy for Mr. James Dixon)
Honorable Ricky Wicker (proxy for Greg Guidry)
Mr. Cheney Joseph
Secretary James LeBlanc
Honorable Jay B. McCallum
Honorable Michael McDonald
Mr. Tyler Downing (proxy for Mr. Robert Mehrtens)
Mr. Paul Barker (proxy for Honorable Helena Moreno)

Advisory and Staff Members*

Mr. Richard Pittman
Sheryl Ranatza

Guests*

Checo Yancy
Monique Kristapovich

- I. Welcome and Introductions
Honorable Ricky Babin, Chairman
Honorable Ricky Babin, Chairman, welcomed members.
- II. Approval of Minutes
Honorable Ricky Babin, Chairman
Motion by Mr. Cheney Joseph Seconded by Honorable Jay McCallum No objections
- III. Memo Regarding Possible Future Topics
Honorable Ricky Babin, Chairman
Honorable Ricky Babin, Chairman, briefly went over Honorable Ricky Wicker's memo regarding future topics for the Sentencing Commission.
- IV. Pending Legislation regarding the Commission
Honorable Ricky Babin, Chairman
Honorable Ricky Babin, Chairman, briefly went over Honorable Ricky Wicker's memo regarding bills that impact the Sentencing Commission.

*Advisory and Guest lists are incomplete

1. HB 743 by Representative Helena Moreno:
 - a. This bill would add three new members to the commission, each appointed by the Governor:
 1. The deputy secretary of the Louisiana Department of Corrections, youth services, office of juvenile justice, or his designee. (ex officio; non-voting member)
 2. A judge with experience in handling juvenile cases
 3. A person with experience and expertise in the juvenile justice system
 - b. A member of the commission is permitted to appoint one proxy. The proxy appointed by a member must have the same membership qualifications or be a member of the same entity as the appointed member, & an individual shall not serve as proxy for more than one commission member.
 - c. Legislation may be recommended by the commission only upon approval by two-thirds vote of the commission members present.
2. HB 679 by Representative Katrina Jackson
 This bill would require the commission to monitor compliance with sentencing standards set forth in the title 15, assess impact on the correctional resources of the state, and determine if the sentencing practices further these standards. **This bill has been tabled in order to discuss funding.**

V. Legislation filed related to Commission Recommendations

Mr. Carle Jackson, LCLE

A HB 790 Permissive cash deposit bail system – After separate conversations with Pete Adams and Representative Joe Lopinto, the recommendation is that this bill be withdrawn if both of representative Lopinto's bail bills are withdrawn and if all three bills are referred to the Law Institute with a proposal that the Law Institute complete its ongoing bail reform work before the next legislative session with proposed reform for that session

B Theft Statutes

HB 680 changes penalties based upon value. Referred to House Criminal Justice—held in favor of HB 791

HB 791 repeals redundant statutes and changes penalties based on value. Passed House-Amended

Ref. to Judiciary C

Amendments:

Thresholds- **From**

100,000 or more	2-25 years	100,000	2yr Mandatory
50,000, less than 100,000	15 years	50,000	
10,000, less than 50,000	10	25,000	
5,000, less than 10,000	5	15,000	
1,000, less than 5,000	3	10,000	
Less than 1,000	6 months		Misdemeanor

To

25,000 or more	5-25 years	50,000	
5,000, less than 25,000	10 years	10,000	
750-less than 5,000	5 years	3,000	
Less than 750	6 months	3,000	Misdemeanor

Repeal list

Added: -Theft of Timber R.S. 14:67.12

Dropped: -Theft of utility property R.S. 14:67.24 &

-Theft of copper or other metals; determination of value of copper or other metals R.S. 14:28

C SB 277 OWI statute rewrite and amendment - Passed Senate-Amendments
 Referred to House Committee on the Administration of Criminal Justice. Expected to be heard in May. Amendments: The amendments were generally minor in nature, generally clarifying language.

D SB 532 Drug Statutes -Veteran's Court – Passed Senate-Amended. Referred to House Judiciary

*Advisory and Guest lists are incomplete

Amendments: The amendments were minor, adding specific reference to suicide assessment, treatment and management and making technical modifications.

- E SB 398 Drug Statutes - DA Association: After a conversation with Pete Adams we have been informed that the DA's Association does not oppose this bill Passed Senate Referred to House Judiciary
- F SB 256 Drug Statutes – benefit restrictions and weight enhancements DAs, Sheriff oppose; Still pending Senate Judiciary C--not scheduled as of this date. Honorable Ricky Wicker advised the Commission this may sit for a year. The arrest data given to Melanie Gueho by the police is not useful for this purpose.
- G SB 275 Drug Statutes - Drug Traffic Loitering-No oppositions from DAs or Sheriffs. Pending Judiciary C-not scheduled as of this date.
- H SB257 Drug Statutes - Clandestine labs - DAs, Sheriff oppose; Pending Judiciary C-not scheduled as of this date.
- I HB 16 Reentry Courts - 15th JDC. Passed House
Pending Senate Floor Action. Includes only the 15th JDC as it emerged from Senate Committee.
- J SB 203 Reentry Courts - 15th JDC & 24th JDC; Expands reentry court jurisdiction to both the 15th and 24th JDC Passed Senate Referred to House Judiciary
- K HB 732 Sentencing - Agreed upon mandatory minimum and benefit restriction waiver – DA Association: After informing Pete Adams that we submitted an amendment to this bill to return the exclusion of sex offenses from those crimes to which this statute can be applied, the DA's Association does not oppose this bill. Passed House-Amended. Referred to Senate Judiciary C.
Amendments:
 - Deleted the reference to sex offenders, making the waiver applicable only to crimes of violence, except for those on the exclusion list
 - Added Aggravated battery and Aggravated Assault to the exclusion list
- L HB 745 Sentencing- Sentence Safety valve. DAs oppose. DA Association: very adamantly opposes. Scheduled for hearing before House Criminal Justice on 4/16/2014 but removed from the agenda prior to the meeting
- M SB 383 Parole - Cleansing period for parole eligibility DA Association: Does not oppose this bill. Passed Senate-Amended. Referred to House Criminal Justice.
Amendments: The amendments were technical in nature, generally clarifying language.
- N HB 731 Sentence –Calculation of Release Date: Sentence conditions for crimes of violence. House Administration of Criminal Justice Committee. DA Association: "new plan" HB 731 was reported by **substitute bill—HB 1255** by Representatives Jackson, Badon, Burrell, Honore, and Norton. HB 1255 passed the committee and has been referred to Appropriations before floor consideration. HB 1225 reduces the amount of time served by defendants convicted of crimes of violence from 85% to 75% prospectively. The bill also allows for a majority vote of the board to grant parole for such offenders as opposed to the current unanimous vote with the same conditions as exist in present law. It also allows for persons convicted of crimes of violence to participate in reentry preparation programs (prohibited under current law) and requires participation for those considered for parole (100 hours).

HB 1255 further creates the "Programs to Reduce Recidivism Fund" to be administered by the Louisiana Commission on Law Enforcement in order to:

- Defray the operational expenses of probation and parole, and reentry initiatives;
- To assist in the establishment and operation of local corrections rehabilitative programs.

The fund is financed through the savings derived from the reduction in incarceration time from 85% to 75% for defendants convicted of a crime of violence through the parole process.

(This is in lieu of the bill resulting from the Commission's recommendation)

- O Committee on Parole-Makes parole board able to be certified by American Correctional Association
1. SB 399 Defining "major disciplinary offense"- Passed Senate. Referred to House Criminal Justice

*Advisory and Guest lists are incomplete

2. SB 472 Committee on Parole membership qualifications. Passed Senate-Amended
Referred to House Criminal Justice Amendments: Applies to appointments made after August 1, 2014
3. SB 473 Committee on Parole membership qualifications DA Association: no position. Passed Senate-Amended. Referred to House Criminal Justice.

Amendments:

- Deleted requirement that ex-officio members have the same duties, authority, requirements and benefits.
- Makes applicable to appointments made after August 1, 2014

- P HB 210 Medical parole – DA Association: The DA's Association representatives are working with DOC on minor language adjustments to satisfy the DA's concerns. Passed House-Amended. Referred to Senate Judiciary B

Amendments:

- Persons convicted of 1st or 2nd degree murder are not eligible
- Removes mental condition from eligibility
- Modifies permanently disabled by removing mental impairment
- No recommendation can be made by the department until after full consideration of crime and criminal history, time served, institutional conduct, represents a low risk to himself or society and a medical assessment. In determining risk, priority is to be given to the medical condition and how this relates to risk
- Retains current subsection C giving sole authority to grant medical parole to the parole committee, and requires the parole committee to determine the risk to public safety and grant medical parole only after determining that the inmate does not pose a threat to public safety
- Proposed amendment to R.S. 15:574.20(A)(1) and (B) to expand permissible medical criteria for medical parole eligibility.

The proposed reforms would enable DOC to more efficiently and preemptively utilize the Medical Parole Procedure, further tap into existing cost-effective treatment alternatives to offset the medical cost of these infirm inmates, and curb DOC's increasing need to dedicate additional wings at Correctional institutes specifically to infirm inmates:

Proposal: Revise Governing Medical Criteria regarding consideration for Medical Parole. Revise the eligibility definition to include: any person who, because of an existing medical, physical or mental condition is determined by the department to be within one of the following designations:

1. Permanently disabled (rather than "incapacitated")

An inmate who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has or can be expected to have a duration of a continuous period of not less than twelve months" of "permanently incapacitated" and terminally ill inmate" to better medically define incapacitation and reduced life expectancy. (Consistent with Social Security Administration definitions)

- Q SB 240 Notice of Sentence or sentence document changes. Passed Senate. Referred to House Criminal Justice.

VI. Juvenile Reinvestment Initiative

Honorable Ricky Wicker and Angela Whittaker, DOC

Working with partnerships with DOC to educate on Administrative Sanctions, minimum mandatory waiver, First meeting went well. Need to add other pieces like Defense Bar and DA which will be done next week. JRI will travel statewide with videos from the conference. Dr. Ed Latessa may speak.

VII. Reports of Committees

A. Front End

Honorable Ricky Wicker

*Advisory and Guest lists are incomplete

Resuming ongoing projects this summer including expanding mental health court, Bail (with Law Institute), and home incarceration.

- B. Release Mechanisms –no report
- C. Re-Entry and Evidence Based Corrections – no report
- D. Research and Technology – no report

VIII. Other Legislation affecting the Commission
None

IX. Other Business

William Barnwell, Episcopal Clergyman

Rev. Barnwell summarized concerns he had relative to work done by the Commission. We must hold a discussion on what is best in the long term.

Objective studies by Tulane and other state colleges/Universities could provide us information on matters such as:
-Money spent on incarceration instead be used to 1. More effectively prevent crime 2. Divert offenders from prison to alcohol rehabilitation 3. Use money for better rehab in jails 4. Divert needed additional resources to mental health treatment. Mr. Barnwell asked if it was fair that people convicted of 1st and 2nd degree murder be kept in prison for life. He discussed a necessary distinction between sexual offenders and sexual predators. He asked why is 80% of incarcerated population black in Louisiana which has a 32% black population.

Barnwell posed several questions concerning Capital Punishment for consideration: Is capital punishment cruel and unusual? Is capital punishment a deterrent? Does it bring healing to survivors? What about those who are exonerated? What about men who undergo great change for the better? He will have a recommendation in more detail on the May 15th meeting.

IX. Adjourn Honorable Lou Daniel motioned to adjourn. Seconded by John DiGiulio . No objections. The meeting was adjourned at 2:05 p.m