

2018 Regular Session

SENATE BILL NO. 458

BY SENATORS GATTI AND PEACOCK

CRIME/PUNISHMENT. Prohibits medical treatment furlough to any offender serving a sentence for a conviction of first degree murder or second degree murder. (8/1/18)

1 AN ACT

2 To amend and reenact R.S. 15:574.20(A), (C)(1)(a), (D), and (E) and to enact R.S.
3 15:574.20(C)(4), relative to medical parole and medical treatment furloughs; to
4 prohibit a medical treatment furlough to any offender who is serving a sentence for
5 a conviction of first degree murder or second degree murder; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 15:574.20(A), (C)(1)(a), (D), and (E) are hereby amended and
9 reenacted and R.S. 15:574.20(C)(4) is hereby enacted to read as follows:

10 §574.20. Medical parole program; **medical treatment furlough**; eligibility;
11 revocation

12 A. Notwithstanding the provisions of this Part or any other law to the
13 contrary, **and except as provided in this Section**, any person sentenced to the
14 custody of the Department of Public Safety and Corrections may, upon referral by
15 the department, be considered for medical parole or medical treatment furlough by
16 the committee on parole. Consideration for medical parole or medical treatment
17 furlough pursuant to the provisions of this Section shall be in addition to any other

1 parole for which an inmate may be eligible.

2 * * *

3 C. Medical treatment furlough.

4 (1)(a) The committee on parole shall establish the medical treatment furlough
5 program to be administered by the Department of Public Safety and Corrections for
6 the purpose of utilizing off-site medical facilities for an eligible offender's medical
7 treatment. ~~Medical treatment furlough shall not be available to any offender who is~~
8 ~~awaiting execution.~~

9 * * *

10 **(4) A medical treatment furlough shall not be available to any offender**
11 **serving a sentence for a conviction of first degree murder (R.S. 14:30) or second**
12 **degree murder (R.S. 14:30.1) or an offender who is awaiting execution.**

13 D.(1) No offender shall be recommended for parole or medical treatment
14 furlough pursuant to this Section by the department until full consideration has been
15 given to the offender's crime and criminal history, length of time served in custody,
16 institutional conduct, an indication that the offender represents a low risk to himself
17 or society, and a medical assessment of the offender's condition. In the assessment
18 of risk, emphasis shall be given to the offender's medical condition and how this
19 relates to his overall risk to society.

20 **(2) Neither the department nor the warden of the correctional facility**
21 **shall recommend that the offender's sentence be commuted for any medical**
22 **reasons contemplated by this Section.**

23 E.(1) The authority to grant **medical** parole or medical treatment furlough
24 pursuant to this Section shall rest solely with the committee on parole, and the
25 committee shall establish additional conditions of the parole or medical treatment
26 furlough in accordance with the provisions of this Subpart.

27 (2) The Department of Public Safety and Corrections shall identify those
28 offenders who may be eligible for medical parole or medical treatment furlough
29 based upon available medical information. In considering an offender for medical

1 parole or medical treatment furlough, the committee may require that additional
2 medical evidence be produced or that additional medical examinations be conducted.

3 (3) The committee on parole shall determine the risk to public safety and
4 shall grant medical parole or medical treatment furlough only after determining that
5 the offender does not pose a threat to public safety.

6 (4) An offender who is denied medical parole or medical treatment
7 furlough may apply for a rehearing within the time frame applicable to a denial
8 of parole under any other provision of this Part.

9 (5)(a) Within seven business days of the decision of the committee on
10 parole to grant medical parole or medical leave furlough to an offender, the
11 department shall notify any off-site medical facility designated for an eligible
12 offender's medical treatment of the decision.

13 (b) The off-site medical facility shall, not less than fourteen days before
14 the offender begins treatment at the facility, provide notice to its patients or
15 residents that the offender will be receiving treatment at that facility.

16 (c) The off-site medical facility shall, not less than fourteen days before
17 the offender begins treatment at the facility, provide notice that the offender
18 will be receiving treatment at that facility to each patient's or resident's next of
19 kin, curator, tutor, or person having power of attorney for the patient or
20 resident.

21 * * *

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 458 Engrossed 2018 Regular Session Gatti

Present law provides that any person sentenced to the custody of the Dept. of Public Safety and Corrections may, upon referral by the department, be considered for medical parole or medical treatment furlough by the committee on parole. Present law further provides that consideration for medical parole or medical treatment furlough pursuant to present law is in addition to any other parole for which an inmate may be eligible.

Proposed law retains present law.

Present law provides that an offender who is determined by the department to be within one

of the following designations is eligible for medical parole:

- (1) "Permanently disabled offender", which means any offender who is unable to engage in any substantial gainful activity by reason of any medically determinable physical impairment which can be expected to result in death or which is or can be expected to be permanently irreversible.
- (2) "Terminally ill offender", which means any offender who, because of an existing medical condition, is irreversibly "terminally ill" (i.e., having a life expectancy of less than one year due to an underlying medical condition).

Proposed law retains present law.

Present law provides that medical parole is not available to any offender serving a sentence for a conviction of first degree murder or second degree murder, or an offender who is awaiting execution.

Proposed law retains present law.

Present law provides that an offender is eligible for a medical treatment furlough if the offender is ineligible for medical parole but is determined by the department to be a limited-mobility offender. Present law defines a "limited-mobility offender" as an offender who is unable to perform the activities of daily living without help, or who is bedbound, including prolonged coma and medical ventilation.

Proposed law retains present law.

Present law provides that a medical treatment furlough is not available to any offender who is awaiting execution.

Proposed law retains present law and adds that a medical treatment furlough is not available to any offender serving a sentence for a conviction of first degree murder or second degree murder.

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

Proposed law retains present law.

Proposed law provides that neither the Dept. of Public Safety and Corrections nor the warden of the correctional facility can recommend that the offender's sentence be commuted for any medical reasons contemplated by present law or proposed law.

Present law provides that the authority to grant medical parole or medical treatment furlough rests solely with the committee on parole, and the committee is to establish additional conditions of the parole or medical treatment furlough in accordance with the provisions of present law.

Proposed law retains present law.

Present law provides that the Dept. of Public Safety and Corrections is to identify those offenders who may be eligible for medical parole or medical treatment furlough based upon available medical information. Present law further provides that in considering an offender

for medical parole or medical treatment furlough, the committee may require that additional medical evidence be produced or that additional medical examinations be conducted.

Proposed law retains present law.

Present law provides that the committee on parole must determine the risk to public safety and grant medical parole or medical treatment furlough only after determining that the offender does not pose a threat to public safety.

Proposed law retains present law.

Proposed law provides that an offender who is denied medical parole or medical treatment furlough may apply for a rehearing within the time frame applicable to a denial of parole under any other provision of present law.

Proposed law provides that within seven business days of the decision of the committee on parole to grant medical parole or medical leave furlough to an offender, the department must notify any off-site medical facility designated for an eligible offender's medical treatment of the decision.

Proposed law provides that the off-site medical facility must, not less than 14 days before the offender begins treatment at the facility, provide notice to its patients or residents that the offender will be receiving treatment at that facility.

Proposed law provides that the off-site medical facility must, not less than 14 days before the offender begins treatment at the facility, provide notice that the offender will be receiving treatment at that facility to each patient's or resident's next of kin, curator, tutor, or person having power of attorney for the patient or resident.

Effective August 1, 2018.

(Amends R.S. 15:574.20(A), (C)(1)(a), (D), and (E); adds R.S. 15:574.20(C)(4))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Add provision that neither DPSC nor the warden of the correctional facility can recommend that the offender's sentence be commuted for any medical reasons contemplated by present law or proposed law.
2. Add provisions relative to applying for a medical parole or medical treatment furlough rehearing.
3. Add provisions relative to giving notice of the granting of medical parole or a medical treatment furlough to an off-site medical facility designated for an offender's treatment.
4. Add provisions relative to giving notice of the granting of medical parole or a medical treatment furlough to patients or residents of an off-site medical facility designated for an offender's treatment.