

Regular Session, 2012

HOUSE BILL NO. 518

BY REPRESENTATIVE LOPINTO

1 AN ACT

2 To amend and reenact R.S. 15:572.1(A)(1) and 574.2(A), (B), (C)(1), (2)(introductory
3 paragraph), and (3), (D)(introductory paragraph), (4), (9), and (11), (E),
4 (F)(1)(introductory paragraph), (G), and (H)(1) and (2), to enact R.S.
5 42:1124.2(A)(7), and to repeal R.S. 15:572.2, relative to the Board of Pardons; to
6 merge the functions and duties of the Board of Parole into the Board of Pardons; to
7 create a committee on parole; to provide for the membership, duties, and functions
8 of the committee on parole; to provide for transitional provisions; to provide for
9 financial disclosures; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 15:572.1(A)(1) and 574.2(A), (B), (C)(1), (2)(introductory
12 paragraph), and (3), (D)(introductory paragraph), (4), (9), and (11), (E), (F)(1)(introductory
13 paragraph), (G), and (H)(1) and (2) are hereby amended and reenacted to read as follows:

14 §572.1. Board of Pardons; membership; domicile; session; quorum

15 A.(1)(a) The Board of Pardons shall consist of five members, who shall be
16 appointed by the governor to serve terms concurrent with the governor making the
17 appointments, or until their successors are appointed and take office.

18 (b) Beginning with appointments made to the board, or appointments to fill
19 a vacancy on the board, which occur after August 15, 2010, at least one of the
20 members shall be appointed from a list of names submitted by any victim's rights
21 advocacy organization which is recognized as a nonprofit with the Internal Revenue
22 Service, incorporated or organized in the state of Louisiana and in good standing,
23 and does not engage in political activity, with each organization submitting a list of
24 three names.—~~However;~~ however, no person nominated by any victim's rights

1 advocacy organization shall be appointed to serve as a member of the board who has
2 previously been confirmed by the Senate and has served as a member of the board.

3 (c) All members shall possess not less than five years actual experience in
4 the field of penology, corrections, law enforcement, sociology, law, education, social
5 work, medicine, or a combination thereof. The provisions of this Subparagraph shall
6 not apply to any person serving as a member of the board on August 1, 2012.

7 (d) All appointments shall be subject to confirmation by the Senate. The
8 governor shall designate the chairman of the board.

9 * * *

10 §574.2. ~~Board of Parole~~ Committee on parole, Board of Pardons; membership;
11 qualifications; vacancies; compensation; domicile; venue; meetings; quorum;
12 panels; powers and duties; transfer of property to board; representation of
13 applicants before the board; prohibitions

14 A.(1) A ~~board of parole~~ committee on parole, hereinafter referred to as "the
15 ~~board~~ committee", is hereby created in the Department of Public Safety and
16 Corrections which shall enforce the provisions of this Part and the rules, regulations,
17 and orders issued pursuant to this Part. The committee on parole shall consist of the
18 following persons:

19 (a) The five members of the Board of Pardons, as established in Article IV,
20 Section 5 of the Constitution of Louisiana and R.S. 15:572.1.

21 (b) There shall be two at-large appointees to the committee on parole,
22 appointed by the governor, who shall serve only as members of the committee on
23 parole and shall not serve as members of the Board of Pardons.

24 (2) In addition to the seven members appointed by the governor, an ex
25 officio member shall serve on the committee pursuant to Paragraph (8) of this
26 Subsection.

27 (3) Each member, except for the ex officio member, shall possess not less
28 than five years actual experience in the field of penology, corrections, law
29 enforcement, sociology, law, education, social work, medicine, or a combination

1 thereof. The provisions of this Paragraph shall not apply to any person serving as a
 2 member of the board on August 1, 2012.

3 (4) The chairman of the Board of Pardons shall also serve as the chairman
 4 of the committee on parole. The board shall consist of seven members who shall be
 5 appointed by the governor and one ex officio member. Of the seven members
 6 appointed by the governor, one shall be the chairman of the board, and all shall serve
 7 at the pleasure of the governor. All members shall possess not less than five years
 8 actual experience in the field of penology, corrections, law enforcement, sociology,
 9 law, education, social work, medicine, or a combination thereof, or were serving as
 10 a member of the board of parole on August 15, 2010. Beginning with appointments
 11 made to the board, or appointments to fill a vacancy on the board, which occur after
 12 August 15, 2010, at least one of the members shall be appointed from a list of names
 13 submitted by any victim's rights advocacy organization which is recognized as a
 14 nonprofit with the Internal Revenue Service, incorporated or organized in the state
 15 of Louisiana and in good standing, and does not engage in political activity, with
 16 each organization submitting a list of three names. However, no person nominated
 17 by any victim's rights advocacy organization shall be appointed to serve as a member
 18 of the board who has previously been confirmed by the Senate and has served as a
 19 member of the board. Each appointment by the governor shall be submitted to the
 20 Senate for confirmation.

21 (5) For the five members of the Board of Pardons who also serve as
 22 members of the committee on parole, the powers and duties of the committee and the
 23 educational and training criteria provided for by this Section shall be in addition to
 24 the statutory and constitutional requirements applicable to the Board of Pardons.

25 ~~(2)~~ (6) Each member, except for the ex officio member, shall devote full time
 26 to the duties of his office and shall not engage in any other business or profession or
 27 hold any other public office.

28 ~~(3)~~ (7) The chairman of the board shall receive an annual salary not to exceed
 29 fifty thousand dollars, the vice chairman shall receive an annual salary not to exceed
 30 forty-seven thousand dollars, the two-at-large appointees to the committee on parole

1 and each of the other members of the board, except for the ex officio member, shall
 2 receive an annual salary not to exceed forty-four thousand dollars payable on his
 3 own warrant, and shall be reimbursed for necessary travel and other expenses
 4 actually incurred in the discharge of his duties. The actual salaries, subject to the
 5 limits provided for in this Paragraph, shall be authorized by executive order of the
 6 governor.

7 ~~(4)~~ (8) The warden, or in his absence the deputy warden, of the correctional
 8 facility in which the offender is incarcerated shall be an ex officio member of the
 9 ~~board~~ committee. When the offender is housed in a local correctional facility and
 10 the warden, or deputy warden, of that facility is not able to attend the offender's
 11 parole hearing, the warden, or in his absence the deputy warden, of the facility where
 12 the offender's parole hearing is held may serve as an ex officio member. The ex
 13 officio member shall not be a voting member nor shall he be counted or permitted
 14 to be counted for purposes of the number of members necessary to take ~~board~~
 15 committee action or the number of members necessary to establish quorum. In all
 16 other respects, the ex officio member shall have all the duties, authority,
 17 requirements, and benefits of any other ~~board~~ committee member.

18 ~~(5)~~ (9)(a) Within ninety days of being appointed to the ~~Board of Parole~~
 19 committee on parole, each member shall complete a comprehensive training course
 20 developed by the Department of Public Safety and Corrections. The training course
 21 shall be developed using training components consistent with those offered by the
 22 National Institute of Corrections or the American Probation and Parole Association,
 23 and shall include classes regarding the following topics:

24 (i) The elements of the decision making process, through the use of
 25 evidence-based practices for determining offender risk, needs, and motivation to
 26 change, including the actuarial assessment tool used by the parole agent.

27 (ii) The security classifications as established by the department.

28 (iii) The programming and disciplinary processes and the department's
 29 supervision, case planning, and violation process.

30 (iv) The dynamics of criminal victimization.

1 (v) Collaboration with corrections related stakeholders, both public and
 2 private, to increase offender success and public safety.

3 (b) Each member shall complete a minimum of eight hours of training
 4 annually, which shall be provided for in the annual budget of the Department of
 5 Public Safety and Corrections. The annual training course shall be developed using
 6 the training components consistent with those offered by the National Institute of
 7 Corrections or American Probation and Parole Association and shall offer classes
 8 regarding the following topics:

9 (i) A review and analysis of the effectiveness of the assessment tool used by
 10 the parole agents.

11 (ii) A review of the department's progress toward public safety goals.

12 (iii) The use of data in decision making.

13 (iv) Any information regarding promising and evidence-based practices
 14 offered in the corrections related and crime victim dynamics field.

15 (c) The department shall promulgate regulations setting forth the specific
 16 criteria for the course that the members are required to complete under the provisions
 17 of this Subsection.

18 B.(1) The domicile of the ~~board~~ committee shall be in the parish of East
 19 Baton Rouge, city of Baton Rouge, Louisiana.

20 (2) Venue in any action in which an individual committed to the Department
 21 of Public Safety and Corrections contests any action of the ~~board~~ committee is East
 22 Baton Rouge Parish. Venue in a suit contesting the actions of the ~~board~~ committee
 23 shall be controlled by this Part and R.S. 15:571.15 and not the Code of Criminal
 24 Procedure, Title XXXI-A, Post Conviction Relief, or Title IX, Habeas Corpus,
 25 regardless of the captioned pleadings stating the contrary.

26 C.(1) The ~~board~~ committee shall meet in a minimum of three-member panels
 27 at the adult correctional institutions on regular scheduled dates, not less than every
 28 three months. Such dates are to be determined by the chairman. Except as provided
 29 for in Paragraph (2) of this Subsection, three votes of a three-member panel shall be

1 required to grant parole, or, if the number exceeds a three-member panel, a
2 unanimous vote of those present shall be required to grant parole.

3 (2) The ~~board~~ committee may grant parole with two votes of a three-member
4 panel, or, if the number exceeds a three-member panel, a majority vote of those
5 present if all of the following conditions are met:

6 * * *

7 (3) Notwithstanding any other provision of law in this Section, no person
8 convicted of a crime of violence against any peace officer as defined in R.S.
9 14:30(B), shall be granted parole except after a meeting, duly noticed and held on a
10 date to be determined by the chairman, at which at least five of the seven members
11 of the ~~board~~ committee are present and all members present vote to grant parole.

12 D. In accordance with the provisions of this Part, the ~~Board of Parole~~
13 committee on parole shall have the following powers and duties:

14 * * *

15 (4) To transmit a report on the ~~board's~~ committee's performance for the
16 previous calendar year to the secretary of the Department of Public Safety and
17 Corrections, for inclusion in his report to the governor. The report shall be submitted
18 annually, on or before the first day of February, and shall include statistical and other
19 data with respect to the determinations and work of the ~~board~~, committee, relevant
20 data of ~~board~~ committee decisions, a summary of past practices and outcomes, plans
21 for the upcoming year, research studies which the ~~board may make of sentencing,~~
22 parole, committee may conduct of sentencing, parole, or related functions, and may
23 include a recommendation of legislation to further improve the parole system of this
24 state.

25 * * *

26 (9) To notify the victim, or the spouse or next of kin of a deceased victim,
27 when the offender is scheduled for a parole hearing. The notification shall be in
28 writing and sent no less than thirty days prior to the hearing date. The notice shall
29 advise the victim, or the spouse or next of kin of a deceased victim, of their rights
30 with regard to the hearing. The notice is not required when the victim, or the spouse

1 or next of kin of a deceased victim, advises the ~~board~~ committee in writing that such
2 notification is not desired. The victim, or the spouse or next of kin of a deceased
3 victim, shall be allowed to testify at the hearing. The victim, or the spouse or next
4 of kin of a deceased victim, shall be allowed to testify directly, or in rebuttal to
5 testimony or evidence offered by or on behalf of the offender, or both.

6 * * *

7 (11) To sanction the applicant's disorderly, threatening, or insolent behavior,
8 or use of insulting, abusive, or obscene language or written communication in
9 connection with the application before the ~~board~~ committee. A decision to sanction
10 may result in the immediate and unfavorable termination of the proceedings and the
11 applicant's right to make future application for parole may be suspended for not more
12 than two years. The applicant shall be informed of the sanction of the ~~board~~
13 committee at the commencement of the proceedings.

14 * * *

15 E. The Board of Parole established by Act No. 162 of 1952, as last amended
16 by Act No. 90 of 1967, is hereby abolished and all books, papers, records, monies,
17 and other property heretofore used or possessed by ~~said the~~ board shall be transferred
18 to the ~~board of parole~~ committee on parole established by the provisions of this Part.

19 F.(1) The following persons shall not represent any applicant directly or
20 indirectly, before the ~~board~~ committee:

21 * * *

22 G.(1) On and after August 15, 1997, no member of the ~~Board of Parole~~
23 committee on parole shall transmit any correspondence to, or otherwise confer with,
24 a judge before whom a convicted offender is awaiting sentence to request or
25 recommend any action relating to the sentence imposed upon the offender.

26 (2) Violation of the provisions of this Subsection shall immediately
27 disqualify the member from serving on the ~~board~~ committee and a vacancy shall be
28 declared.

29 (3) However, no decision of the ~~board~~ committee shall be nullified or
30 otherwise affected by the participation of a member who has violated this

1 Subsection, except as to a decision that involves the offender or any decision
2 rendered after the ~~board~~ committee is notified of the violation and the violation is
3 determined to have occurred.

4 H. The department shall develop a plan that shall be submitted to the
5 legislature no later than January 1, 2012, and shall include the following:

6 (1) The establishment of a process for adopting a validated actuarial risk and
7 needs assessment tool consistent with evidence-based practices and factors that
8 contribute to criminal behavior, which shall be available to the ~~parole board~~
9 committee on parole for consideration and use in making parole decisions, including
10 additional objective criteria that may be used in parole decisions.

11 (2) The establishment of procedures for the department on the use of the
12 validated assessment tool to guide the department, ~~parole board~~ committee on parole,
13 and agents of the department in determining supervision management and strategies
14 for all offenders under the department's supervision, including offender risk
15 classification, and case planning and treatment decisions to address criminal risk
16 factors and reduce offender risk of recidivism.

17 * * *

18 Section 2. R.S. 42:1124.2(A)(7) is hereby enacted to read as follows:

19 §1124.2. Financial disclosure; certain elected officials; members of certain boards
20 and commissions; ethics administrator

21 A. Each of the following, except a person who is required to file a financial
22 statement pursuant to R.S. 42:1124, shall annually file a financial statement as
23 provided in this Section:

24 * * *

25 (7) Each member of the Board of Pardons.

26 * * *

27 Section 3. R.S. 15:572.2 is hereby repealed in its entirety.

28 Section 4. Effective August 1, 2012, the Board of Pardons functioning as the
29 committee on parole shall be the successor to, and shall assume control of, the affairs of the
30 Board of Parole.

1 Section 5. All administrative rules and regulations adopted by the Board of Parole
2 shall be considered valid and remain in effect until amended or repealed by the committee
3 on parole. Furthermore, the Board of Pardons functioning as the committee on parole shall
4 adopt all rules necessary to implement the provisions of this Act no later than August 1,
5 2013.

6 Section 6. Effective August 1, 2012, all powers, duties, functions, and
7 responsibilities of the Board of Parole are hereby transferred to and shall be performed and
8 exercised by the committee on parole. In addition, all of the obligations of the Board of
9 Parole are transferred to the committee on parole. Upon the transfer of the powers, duties,
10 functions, and responsibilities provided by this Section, any pending or unfinished business
11 of the Board of Parole shall become the business of and be completed by the committee on
12 parole with the same power and authority as the entity from which the functions are
13 transferred.

14 Section 7. Any reference in rules, laws, and documents to or any designation by any
15 law or contract or other document of the Board of Parole shall be deemed to refer to the
16 committee on parole provided that, to the extent necessary to prevent the impairment of the
17 contractual obligations of any entity heretofore existing or of the state, the existence,
18 organization, and functions of any such entity shall be excluded from the provisions of this
19 Section. Any legal proceeding to which the Board of Parole is a party and which is filed,
20 initiated, or pending before any court on August 1, 2012, and all documents involved in or
21 affected by the legal proceeding, shall retain their effectiveness and shall be continued in the
22 name of the committee on parole. All further legal proceedings and documents in the
23 continuation, disposition, and enforcement of the legal proceeding shall be in the name of
24 the committee on parole, and the committee shall be substituted for the Board of Parole
25 without the necessity for amendment of any document. The committee on parole shall be
26 the successor in every way to the Board of Parole, including all of the obligations and debts
27 of the Board of Parole.

1 Section 8. The Louisiana State Law Institute is hereby directed to make technical
2 changes to statutory laws as necessary to reflect the name changes provided for in this Act.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____