

Minutes of the Louisiana Sentencing Commission
Department of Corrections Headquarters, Building 1
504 Mayflower, Baton Rouge, LA 70802
February 20th, 2014
1:00 p.m.

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

Members Present

Honorable Ricky Babin
Honorable Charles J. Ballay (by phone)
Honorable Louis Daniel
Mr. John DiGuilio (proxy for David Dugas)
Mr. James Dixon
Honorable Ricky Wicker (proxy for Greg Guidry)
Honorable Robert Kostelka
Ms. Angela Whittaker (proxy for Secretary James LeBlanc)
Ms. Judith Rhodes (proxy for Ms. Cecile Guin)
Honorable Dalton Honore (proxy for Honorable Joseph Lopinto)
Honorable Hans J. Liljeberg (proxy for Honorable Michael McDonald)
Mr. Rustin Legendre (proxy for Mr. Robert Mehrtens)
Honorable Laurie White
Honorable Laurie White (proxy for Honorable Helena Moreno)

Committee and Advisory Members

Lauren Butler, LCLE
Darryl Campbell, DOC
Robb Farmer, ABLU
Christine Fuido, Orleans Parish DA
Sheryl Ranatza, DOC
Carla Sigler, Calcasieu Parish DA
Jennifer Watson, LCLE
Opal West, LCLE

Guests

Meredith Angelson, Southern Poverty Law Center
Betty Carter, Cure
Linda Lala Duscoe, CURE
Sheila Feigley, Private Citizen, Crime Victim
Justin Hadnett, CAPARC
Dan Krutz, LA Interchurch Conference
David LaCerte, LA Dept. of Veterans Affairs
Jan Ross, Huey & Angelina Wilson Foundation
Theo Shaw, Southern Poverty Law Center
Carole Turner, CAPARC
Rachel Veal, CAPARC
Lydia Williams, CAPARC
James Windom, CAPARC
Ashanti Witherspoon, SOCL
Checo Yancy, CAPARC

I. Welcome and Introductions
Honorable Ricky Babin, Chairman

Honorable Ricky Babin, Chairman, welcomed special guest Senator Troy Brown.

II. Approval of Minutes
Honorable Ricky Babin

Motion by Honorable Mrs. Angela Whittaker; seconded by Mr. John DiGuilio. No objections.

Honorable Ricky Babin, Chairman, motioned to reorganize meeting agenda to take Front End and Release Mechanisms Committee reports first. The motion passed without objection.

III. Reports and Proposed Recommendation of Committees

A. Front End Committee

1. Veteran's Court (Team 2; Group 3)
Carla Sigler ADA, Calcasieu Parish

The problems suffered by veterans often differ in nature and severity from those of other offenders within the criminal justice system. Veteran's Court operates like existing Drug and DWI Courts. The legislation will be placed under Title 13. This legislation includes the following parts: LSA-R.S. 13:5308 – purpose; LSA-R.S. 13:5309 – goals; LSA-R.S. 13:5310 – definitions; LSA-R.S. 13:5311-operation, which offenders can participate; and LSA-R.S. 13:5312 - veteran indicator documents based on federal definition

2. Marijuana Statutes (Team 2; Group 1)
Greg Thompson (Private Attorney, New Orleans)

Analysis of HB-14 shows the proposal would reduce the maximum jail term for 2nd offenses from 5 to 2 years and the fine from \$2,000.00 to \$500.00, as well as reduce the maximum jail term for 3rd offenses from 20 to 5 years and the fine from \$5,000.00 to \$2,000.00. The proposal would create a fourth offense punishable by up to 8 years imprisonment with a fine of up to \$2,000.00. Analysis of other state statutes indicates that neither Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Texas, nor Virginia provide felony sentence enhancements for subsequent simple possession offenses.

Cost Savings – The total cost for incarcerating and supervising Simple Possession of Marijuana Offenders for FY 2012-13: \$19,828,839. HB-14 purports to save 1.6 million dollars this year and an additional 8.1 million dollars over subsequent years.

Public Safety – Analysis showed only 17.5% were sentenced pursuant to Louisiana's habitual offender statute; 76.1 % are incarcerated solely for drug offenses; and only a combined 5.7% are also serving sentences for violent and sex offenses

A majority of Louisiana citizens support reducing all simple marijuana possession offenses to a fine without jail time.

B. Re-Entry Evidence Based Corrections

Mr. Rhett Covington

1. Re-Entry/Specialty Courts - *Honorable Laurie White*

Moving forward with policies and procedures with the cooperation of the DOC, Probation officers, and Courts to see how to best serve Lafayette and Jefferson Parish

2. Education – not met, Kim Barnette trained in administration of Hi-Set which will offset cost of test
3. Substance Abuse- contacted Judge Knight 2/19/14 to use ACT 389 provide services to offenders
4. Transitional Work Programs
5. Housing – currently defunded, looking for other ways to resolve problem
6. Social Support – still preparing best practices mentoring and peer support (not train better criminals)

C. Release Mechanisms

Honorable Hans Liljeberg

The following prefiled legislation were reviewed by the Release Mechanisms Committee, and no serious issues identified.

1. HB 16 – Authorizes the 15th JDC to provide for a reentry division of court. Authored by Rep. Terry Landry
2. HB 18 – Repeals the statutory authorization for DPS&C to conduct certain pilot programs involving alternative methods of incarceration and electronic monitoring Authored by Rep. Joseph Lopinto”
3. HB 55 Revises provisions of law regarding expungement Authored by Rep. Lopinto, Armes, Wesley Bishop, Dixon, Gaines, Honore, Katrina Jackson, Jefferson, Moreno, Jim Morris, and Smith and Senators Gallot, Martiny, Mills, and Morrell
4. HB 130 – Removes convictions for offenses involving marijuana, tetrahydrocannabinol or chemical derivatives thereof, or synthetic cannabinoids from the habitual offender law. Authored by Rep. Honore
5. HB 210 – Amends eligibility criteria for medical parole. Authored by Rep. Jefferson

IV. Presentation on OWI proposal

Honorable Doug Saloom

Honorable Doug Saloom presented a proposal for changes to DWI laws

- adds the present law crime of third degree feticide to the list of crimes constituting a prior conviction.
- changes the requirement of community service from four eight-hour days to 32 hours. Proposed law also adds the requirement of participation in a court approved substance abuse program, which may include an assessment to determine if the offender has a substance abuse disorder. Proposed law further provides that the court may require an ignition interlock device be installed on the offender's vehicle.
- Proposed law requires a minimum of 15 days in jail rather than a fixed period of 15 days in jail as provided for by present law. Proposed law provides that the total period of imprisonment for first offense DWI, including imprisonment for default in payment of a fine or costs, cannot exceed six months. Proposed law further provides that the substance abuse program provided for by present law may include assessment to determine if the offender has a substance abuse disorder. Proposed law further provides that the court is to require an ignition interlock device be installed on the offender's vehicle for at least six months.
- clarifies that the defendant convicted of a second offense within one year of the first offense is also to be fined \$1,000.
- adds the present law crime of third degree feticide to the list of crimes resulting in an enhanced sentence for second offense DWI. Proposed law adds that the substance abuse program provided for by present law may include an assessment to determine if the offender has a substance abuse disorder. Proposed law also adds that an offender placed on probation must be placed in a home incarceration program for at least six months.
- Proposed law provides that if the offender convicted of a third offense DWI has previously received the benefit of parole, probation, or suspension of sentence, then on a subsequent conviction the offender is to be fined \$2,000 and imprisoned at hard labor for between two and five years. Proposed law further provides that at least two years of the sentence must be served without benefit of parole, probation, or suspension of sentence. Proposed law further provides that such offender cannot be sentenced to home incarceration unless certain proposed law conditions are met.
- adds that the mandatory minimum sentence of two years for fourth offense DWI cannot be served on home incarceration.
- adds that the offender is not to be eligible to have the mandatory portion of his sentence suspended because of his participation in a drug division program.
- provides that if the offender has previously been required to participate in substance abuse treatment or home incarceration pursuant to a sentence imposed on a conviction of a third offense DWI violation, then on a conviction of a fourth or subsequent offense the offender is to be imprisoned at hard labor for not less than ten nor more than 30 years, at least five years of which are to be imposed without benefit of parole, probation, or suspension of sentence, and a \$5000 fine.

V. Recommendation for the 2014 Term

RECOMMENDATIONS:

1. **Permissive cash deposit bail system**
Motion by Honorable Ricky Wicker, seconded by Mr. John DiGiulio. No opposition. Motion passes.
2. **Theft statutes**-creation of more penalty categories to accommodate large thefts and elimination of specialized statutes not frequently utilized
Motion by Honorable Ricky Wicker, seconded by Mr. John DiGiulio. No opposition. Motion passes.
3. **OWI statute** rewrite and amendment
Motion by Honorable Laurie White, seconded by Honorable Ricky Wicker. No opposition. Motion passes.
4. **Drug Statutes –Veteran’s Court:** Authorize creation of veterans’ courts
Motion by Honorable Ricky Wicker, seconded by Mr. John DiGiulio. No opposition. Motion passes.
5. **Drug Statutes - Drug court eligibility**
Motion by Honorable Ricky Wicker, seconded by Mr. John DiGiulio. No opposition. Motion passes.
6. **Drug Statutes – benefit restrictions and weight enhancements-Schedule II**
Motion by Honorable Ricky Wicker, seconded by Honorable Laurie White. No opposition. Motion passes.
7. **Drug Statutes-Drug Traffic Loitering-repeal**
Motion by Mr. John DiGiulio, seconded by Honorable Laurie White. No opposition. Motion passes.
8. **Drug Statutes-Clandestine labs-misdemeanor option for functionaries on first offense**
Motion by Mr. John DiGiulio, seconded by Honorable Ricky Wicker. **Opposed by Honorable Laurie White.** Motion passes.
9. **Drug Statutes- Heroin life sentences:** modify to study entire subject matter
Motion to send to committee for 1 year study, including all bills, filed and any recommendations made, related to heroin. Motion by Honorable Ricky Wicker, seconded by Mr. John DiGiulio. No opposition. Motion passes.
10. **Reentry Courts:** authorize additional reentry courts
Motion by Honorable Laurie White, seconded by Honorable Louis Daniel. No oppositions. Motion passes.
11. **Sentencing - Agreed upon mandatory minimum and benefit restriction waiver**
Motion by Honorable Ricky Wicker, seconded by Mr. James Dixon. No oppositions. Motion passes.
12. **Sentencing- Sentence Safety valve**
Motion by Honorable Laurie White, seconded by Mr. James Dixon. **Opposed by Honorable Charles Ballay, Honorable Ricky Babin, Chairman, Honorable Louis Daniel, Honorable Hans Liljeberg.** Motion passes.
13. **Parole - Cleansing period** for parole eligibility: period apply to non-violent, and non-sex offenses only
Motion by Honorable Hans Liljeberg, seconded by Honorable Ricky Wicker. No oppositions.; Motion passes
14. **Sentence –Calculation of Release Date:** Sentence conditions for crimes of violence
Motion by Honorable Laurie White, seconded by Honorable Hans Liljeberg. No oppositions. Motion passes.
15. **Committee on Parole - Parole Committee strengthening**
Motion by Mr. James Dixon, seconded by Mr. John DiGiulio. No oppositions. Motion passes.

16. **Medical parole-process and responsibilities**
Motion by Honorable Hans Liljeberg, seconded by Honorable Laurie White. No oppositions; Motion passes
17. **Notice of Sentence or sentence document changes**
Motion by Honorable Ricky Wicker, seconded by Mrs. Angela Whittaker. No oppositions; Motion passes

PREFILED BILLS REVIEWED AND RECOMMENDATION:

1. **SB 9 by Senator Amedee** It adds possession of heroin to 40:966 (B) which addresses distribution or possession with intent to distribute.
Recommend to send to Front End committee for 1 year study relative to heroin. **Motion by Honorable Ricky Wicker. Seconded by Mr. John DiGiulio (motion covered in discussion of R.S. 15:574.4 (a)(3))**
2. **HB 103 by Representatives Foil and Edwards** increase the sentence for all schedule I asterisked drugs (narcotics-specifically heroin)
Recommend to send to Front End committee for 1 year study relative to heroin. **Motion by Honorable Ricky Wicker. Seconded by Mr. John DiGiulio (motion covered in discussion of R.S. 15:574.4 (a)(3))**
3. **HB 130 by Representative Honore** to amend R.S. 15:529.1 (habitual offender statute) to state that no conviction for an offense involving marijuana
Recommend excluding "synthetic cannabinoids". Voted in favor by Mr. John DiGiulio, Mr. James Dixon, and Honorable Dalton Honore. Motion failed.

Recommend excluding "synthetic cannabinoids" and limiting to "simple possession"; Opposed by Honorable Ricky Babin, Chairman, and Honorable Louis Daniel. Motion passes
4. **HB "A" by Representative Moreno** increase membership Sentencing Commission by three to specifically address juvenile justice issues
Motion by Honorable Ricky Wicker, seconded by Honorable Laurie White; No opposition; Motion passes
5. **HB 55 by Representatives Lopinto, Armes, Wesley Bishop, Dixon, Jefferson, Moreno, Jim Morris, and Smith and Senators Gallot, Martiny, Mills and Morrell** Expungement
Motion by Honorable Ricky Wicker, seconded by Mr. John DiGiulio; No opposition; Motion passes
6. **HB 150 by Representative Gislair** creates the misdemeanor crime of "involuntary vehicular homicide"
Motion by Honorable Ricky Wicker, seconded by Mr. John DiGiulio; Motion passes
7. **SB 55 by Senator Kostelka** vehicular homicide when the offender's blood alcohol level exceeds .20 to crimes of violence
Recommend to send to committee for 1 year study. **Motioned by Honorable Ricky Wicker, seconded by Honorable Hans Liljeberg; No opposition; Motion passes**
8. **SB 63 by Senator Morrell** misdemeanor crime of "solar tax credit fraud".
Motion to send to committee for 1 year study. **Motioned by Honorable Ricky Wicker, seconded by Mr. John DiGiulio; No opposition; Motion passes.**

- VI. Other Business
 Honorable Ricky Wicker – no other business
- VII. Lafayette Meeting – The March Commission meeting and all subcommittee meetings will be held at a to-be-determined facility in Lafayette.
- VIII. Honorable Charles Ballay motioned to adjourn; Seconded by Mr. James Dixon; No objections
 The meeting was adjourned at 3:25 p.m.