

Regular Session, 2012

SENATE BILL NO. 400

BY SENATOR MORRELL

PROBATION/PAROLE. Merges the board of Pardon and Parole. (8/1/12)

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

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

(b) Beginning with appointments made to the board, or appointments to fill

1 a vacancy on the board, which occur after August 15, 2010, at least one of the
 2 members shall be appointed from a list of names submitted by any victim's rights
 3 advocacy organization which is recognized as a nonprofit with the Internal Revenue
 4 Service, incorporated or organized in the state of Louisiana and in good standing,
 5 and does not engage in political activity, with each organization submitting a list of
 6 three names. ~~However;~~ **however**, no person nominated by any victim's rights
 7 advocacy organization shall be appointed to serve as a member of the board who has
 8 previously been confirmed by the Senate and has served as a member of the board.

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

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

16 * * *

17 §574.2. ~~Board of Parole~~ **Committee on Parole, Board of Pardons**; membership;
 18 qualifications; vacancies; compensation; domicile; venue; meetings;
 19 quorum; panels; powers and duties; transfer of property to board;
 20 representation of applicants before the board; prohibitions

21 A.(1) A ~~board of parole~~ **committee on parole**, hereinafter referred to as "the
 22 ~~board~~ **committee**", is hereby created in the Department of Public Safety and
 23 Corrections **which shall enforce the provisions of this Part and the rules,**
 24 **regulations, and orders issued pursuant to this Part. The committee on parole**
 25 **shall consist of the following persons:**

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

28 **(b) There shall be two at-large appointees to the committee on parole,**
 29 **appointed by the governor, who shall only serve as a member of the committee**

1 on parole and shall not serve as a member of the Board of Pardons. The at-
2 large appointees shall be compensated pursuant to R.S. 15:572.2.

3 (2) In addition to the seven members appointed by the governor, an ex
4 officio member shall serve on the committee pursuant to Paragraph (7) of this
5 Subsection.

6 (3) Each member, except for the ex officio member, shall possess not less
7 than five years actual experience in the field of penology, corrections, law
8 enforcement, sociology, law, education, social work, medicine, or a combination
9 thereof. The provisions of this Paragraph shall not apply to any person serving
10 as a member of the board on August 1, 2012.

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

29 (5) For the five members of the Board of Pardons who also serve as

1 members of the committee on parole, the powers and duties of the committee
2 and the educational and training criteria provided for by this Section shall be
3 in addition to the statutory and constitutional requirements applicable to the
4 Board of Pardons.

5 ~~(2)~~ (6) Each member, except for the ex officio member, shall devote full time
6 to the duties of his office and shall not engage in any other business or profession or
7 hold any other public office.

8 ~~(3)~~ The chairman of the board shall receive an annual salary not to exceed
9 fifty thousand dollars, the vice chairman shall receive an annual salary not to exceed
10 forty-seven thousand dollars, and each of the other members of the board, except for
11 the ex officio member, shall receive an annual salary not to exceed forty-four
12 thousand dollars payable on his own warrant, and shall be reimbursed for necessary
13 travel and other expenses actually incurred in the discharge of his duties. The actual
14 salaries, subject to the limits provided for in this Paragraph, shall be authorized by
15 executive order of the governor.

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

27 ~~(5)~~ (8)(a) Within ninety days of being appointed to the ~~Board of Parole~~
28 committee on parole, each member shall complete a comprehensive training course
29 developed by the Department of Public Safety and Corrections. The training course

1 shall be developed using training components consistent with those offered by the
2 National Institute of Corrections or the American Probation and Parole Association,
3 and shall include classes regarding the following topics:

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

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

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

10 (iv) The dynamics of criminal victimization.

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

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

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

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

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

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

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

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

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

7 C.(1) The ~~board~~ committee shall meet in a minimum of three-member
 8 panels at the adult correctional institutions on regular scheduled dates, not less than
 9 every three months. Such dates are to be determined by the chairman. Except as
 10 provided for in Paragraph (2) of this Subsection, three votes of a three-member panel
 11 shall be required to grant parole, or, if the number exceeds a three-member panel, a
 12 unanimous vote of those present shall be required to grant parole.

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

16 * * *

17 (3) Notwithstanding any other provision of law in this Section, no person
 18 convicted of a crime of violence against any peace officer as defined in R.S.
 19 14:30(B), shall be granted parole except after a meeting, duly noticed and held on a
 20 date to be determined by the chairman, at which at least five of the seven members
 21 of the ~~board~~ committee are present and all members present vote to grant parole.

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

24 * * *

25 (4) To transmit a report on the ~~board's~~ committee's performance for the
 26 previous calendar year to the secretary of the Department of Public Safety and
 27 Corrections, for inclusion in his report to the governor. The report shall be submitted
 28 annually, on or before the first day of February, and shall include statistical and other
 29 data with respect to the determinations and work of the board, relevant data of ~~board~~

1 committee decisions, a summary of past practices and outcomes, plans for the
2 upcoming year, research studies which the board may make of sentencing, parole,
3 or related functions, and may include a recommendation of legislation to further
4 improve the parole system of this state.

5 * * *

6 (9) To notify the victim, or the spouse or next of kin of a deceased victim,
7 when the offender is scheduled for a parole hearing. The notification shall be in
8 writing and sent no less than thirty days prior to the hearing date. The notice shall
9 advise the victim, or the spouse or next of kin of a deceased victim, of their rights
10 with regard to the hearing. The notice is not required when the victim, or the spouse
11 or next of kin of a deceased victim, advises the ~~board~~ committee in writing that such
12 notification is not desired. The victim, or the spouse or next of kin of a deceased
13 victim, shall be allowed to testify at the hearing. The victim, or the spouse or next
14 of kin of a deceased victim, shall be allowed to testify directly, or in rebuttal to
15 testimony or evidence offered by or on behalf of the offender, or both.

16 * * *

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

24 * * *

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

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

3 * * *

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

8 (2) Violation of the provisions of this Subsection shall immediately
9 disqualify the member from serving on the ~~board~~ **committee** and a vacancy shall be
10 declared.

11 (3) However, no decision of the ~~board~~ **committee** shall be nullified or
12 otherwise affected by the participation of a member who has violated this
13 Subsection, except as to a decision that involves the offender or any decision
14 rendered after the ~~board~~ **committee** is notified of the violation and the violation is
15 determined to have occurred.

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

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

23 (2) The establishment of procedures for the department on the use of the
24 validated assessment tool to guide the department, ~~parole board~~ **committee on**
25 **parole**, and agents of the department in determining supervision management and
26 strategies for all offenders under the department's supervision, including offender
27 risk classification, and case planning and treatment decisions to address criminal risk
28 factors and reduce offender risk of recidivism.

29 * * *

1 Section 2. Effective August 1, 2012, the Board of Pardons functioning as the
2 committee on parole shall be the successor to, and shall assume control of, the affairs of the
3 Board of Parole.

4 Section 3. All administrative rules and regulations adopted by the Board of Parole
5 shall be considered valid and remain in effect until amended or repealed by the committee
6 on parole. Furthermore, the Board of Pardons functioning as the committee on parole shall
7 adopt all rules necessary to implement the provisions of this Act no later than August 1,
8 2013.

9 Section 4. Effective August 1, 2012, all powers, duties, functions, and
10 responsibilities of the Board of Parole are hereby transferred to and shall be performed and
11 exercised by the committee on parole. In addition, all of the obligations of the Board of
12 Parole are transferred to the committee on parole. Upon the transfer of the powers, duties,
13 functions, and responsibilities provided by this Section, any pending or unfinished business
14 of the Board of Parole shall become the business of and be completed by the committee on
15 parole with the same power and authority as the entity from which the functions are
16 transferred.

17 Section 5. Any reference in rules, laws, and documents to or any designation by any
18 law or contract or other document of the Board of Parole shall be deemed to refer to the
19 committee on parole provided that, to the extent necessary to prevent the impairment of the
20 contractual obligations of any entity heretofore existing or of the state, the existence,
21 organization, and functions of any such entity shall be excluded from the provisions of this
22 Section. Any legal proceeding to which the Board of Parole is a party and which is filed,
23 initiated, or pending before any court on August 1, 2012, and all documents involved in or
24 affected by the legal proceeding, shall retain their effectiveness and shall be continued in the
25 name of the committee on parole. All further legal proceedings and documents in the
26 continuation, disposition, and enforcement of the legal proceeding shall be in the name of
27 the committee on parole, and the committee shall be substituted for the Board of Parole
28 without the necessity for amendment of any document. The committee on parole shall be
29 the successor in every way to the Board of Parole, including all of the obligations and debts

1 of the Board of Parole.

2 Section 6. The Louisiana State Law Institute is hereby directed to make technical
3 changes to statutory laws as necessary to reflect the name changes provided for in this Act.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Angela L. De Jean.

DIGEST

Present law provides for the Board of Pardons which consists of five members, appointed by the governor and confirmed by the Senate, and one ex officio member. Present law further provides for the duties, functions, and powers of the Board of Pardons.

Proposed law amends present law and provides that each member of the Board of Pardons shall have at least five years actual experience in the field of penology, corrections, law enforcement, sociology, law, education, social work, medicine, or a combination thereof. Provides an exception to proposed law requirements for any person serving as a member of the board on 8/1/12.

Present law provides for the Board of Parole which consists of seven members, appointed by the governor and confirmed by the Senate, and one ex officio member. Present law also provides for the qualifications, salaries, powers, duties, functions, and training requirements of the Board of Parole, and further provides the procedures by which the Board of Parole shall function and the procedures the board shall follow when deciding whether to grant or deny parole.

Proposed law merges the duties, functions, powers, and training requirements of the Board of Parole into the Board of Pardons, creates a committee on parole which shall be part of present law Board of Pardons, and further provides as follows:

- (1) Provides that the committee on parole shall consist of the following persons:
 - (a) The five members of the Board of Pardons.
 - (b) Two at-large appointees, appointed by the governor, who shall only serve as members of the committee on parole and shall not serve as a member of the board of pardons.
- (2) Provides that the two at-large appointees shall be compensated as a member of the Board of Pardons, and shall possess at least five years experience in the field of penology, corrections, law enforcement, sociology, law, education, social work, medicine, or a combination thereof. Provides an exception to proposed law requirements for any member serving as a member of the board on 8/1/12.
- (3) Provides for the transfer of all powers, duties, functions, responsibilities, and obligations of present law Board of Parole to proposed law committee on parole who shall exercise and perform each.
- (4) Provides that all administrative rules and regulations adopted by present law Board of Parole shall be considered valid and remain in effect until amended or repealed by proposed law committee on parole which shall adopt the rules necessary to implement proposed law.
- (5) Provides for the transfer of any pending and unfinished business of present law Board of Parole to proposed law committee on parole.

- (6) Provides that all references to present law Board of Parole shall be deemed to refer to proposed law committee on parole, and provides that all legal proceedings shall be continued in the name of the committee on parole without the necessity for amendment of any document.
- (7) Provides that proposed law committee on parole shall be the successor in every way to present law Board of Parole, including all of the obligations and debts thereof.
- (8) Directs the La. State Law Institute to make technical changes to statutory laws as necessary to reflect the name changes provided for in proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 15:572.1(A)(1) and 574.2(A), (B), (C)(1), (2)(intro para), and (3), (D)(intro para), (4), (9), and (11), (E), (F)(1)(intro para), (G), and (H)(1) and (2))