

House Committee on Administration of Criminal Justice

Minutes of Meeting
2017 Regular Session
May 31, 2017

I. CALL TO ORDER

Representative Sherman Q. Mack, chairman of the House Committee on Administration of Criminal Justice, called the meeting to order at 9:06 a.m. in Room 6, in the state capitol in Baton Rouge, Louisiana.

II. ROLL CALL

MEMBERS PRESENT:

Representative Sherman Q. Mack, chairman
Representative Tony Bacala
Representative John H. Bagneris
Representative Raymond J. Crews
Representative Stephen C. Dwight
Representative Randal L. Gaines
Representative Lowell C. "Chris" Hazel
Representative Valarie Hodges
Representative Frank A. Howard
Representative Edward C. "Ted" James, II
Representative Terry C. Landry, Sr.
Representative C. Denise Marcelle
Representative Joseph A. Marino, III
Representative Barbara M. Norton
Representative Steve E. Pylant, vice chairman
Representative John M. Stefanski

MEMBERS ABSENT:

Representative Barbara W. Carpenter

STAFF MEMBERS PRESENT:

Kelly C. Fogleman, attorney
Katie LeLeux, attorney
Alicia Spivey, secretary

ADDITIONAL ATTENDEES PRESENT:

Janet Anthony, sergeant at arms
Angela McKnight, sergeant at arms
Jordan Zeringue, clerk
Madeline Murphy, clerk

III. DISCUSSION OF LEGISLATION**Senate Bill No. 220 by Senator Alario**

Senator Alario presented Senate Bill No. 220, which provides relative to penalties for certain offenses.

Representative Marino offered amendments to:

- (1) Restore present law prohibition on suspension of sentence for persons convicted of the present law crime of possession of firearm or carrying concealed weapon by a person convicted of certain felonies.
- (2) Change the date by which the names of persons who are to serve on the task force shall be submitted to the chief justice of the Louisiana Supreme Court from July 1, 2017, to September 1, 2017.
- (3) Change the date by which the first meeting of the task force shall be held from July 15, 2017, to September 15, 2017.
- (4) Make technical corrections with respect to citations.

Representative Marino offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 13 yeas, 0 nays, and 1 abstention. Representatives Bagneris, Crews, Dwight, Gaines, Hazel, Hodges, Howard, James, Terry Landry, Marino, Norton, Pylant, and Stefanski voted yea. Representative Mack abstained.

James T. Dixon Jr., Louisiana Public Defender Board, 301 Main Street, Suite 700, Baton Rouge, Louisiana, 70825, (225) 219-9305, spoke for informational purposes only on Senate Bill No. 220.

Elain Ellerbe, State Director, Right on Crime, 174 Highland Meadows Drive, Jackson, Louisiana, 70747, (225) 963-2074, spoke in support of Senate Bill No. 220.

Scott Huffman, 11072 Mollylea Drive, Baton Rouge, Louisiana, 70815, (225) 305-3917, spoke in support of Senate Bill No. 220.

Tracey Tatman, 10726 Toledo Bend Avenue, Baton Rouge, Louisiana, 70814, (225) 936-5744, spoke in support of Senate Bill No. 220.

Representative Bagneris offered a motion to report Senate Bill No. 220 with amendments. Without objection, Senate Bill No. 220 was reported with amendments by a vote of 13 yeas, 0 nays, and 1 abstention. Representatives Bagneris, Crews, Dwight, Gaines, Hazel, Hodges, Howard, James, Terry Landry, Marcelle, Marino, Pylant, and Stefanski voted yea. Representative Mack abstained.

Witness cards submitted by individuals who did not speak are as follows: 42 in support. Witness cards are included in the committee records.

Senate Bill No. 221 by Senator Alario

Senator Alario presented Senate Bill No. 221, which provides relative to the cleansing period for certain crimes applicable to habitual offender penalty enhancements.

Representative Marino offered amendments to:

- (1) Restore present law which provides that for a fourth or subsequent felony, the person shall be sentenced for a determinate term not less than the longest prescribed for a first conviction but in no event less than 20 years and not more than his natural life.
- (2) Provide that the five- or 10-year period which must elapse between the current and prior offense for the habitual offender law not to apply begins upon the expiration of the correctional supervision, or term of imprisonment if the offender is not placed on supervision following imprisonment, for the previous conviction or convictions.
- (3) Amend the citation to provide the specific provision of present law that defines "sex offense" (R.S. 15:541).
- (4) Make technical corrections.

E. Pete Adams, Louisiana District Attorneys Association, 1645 Nicholson Drive, Baton Rouge, 70802, no number provided, spoke in support of Senate Bill No. 221.

Representative Marino offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 12 yeas, 0 nays, and 1 abstention. Representatives Bagneris, Crews, Dwight, Hodges, Howard, James, Terry Landry, Marcelle, Marino, Norton, Pylant, and Stefanski voted yea. Representative Mack abstained.

Representative Terry Landry offered a motion to report Senate Bill No. 221 with amendments. Without objection, Senate Bill No. 221 was reported with amendments by a vote of 13 yeas, 0 nays, and 1 abstention. Representatives Bagneris, Crews, Dwight, Gaines, Hodges, Howard, James, Terry Landry, Marcelle, Marino, Norton, Pylant, and Stefanski voted yea. Representative Mack abstained.

Witness cards submitted by individuals who did not speak are as follows: 41 in support and 1 for informational purposes only. Witness cards are included in the committee records.

Senate Bill No. 139 by Senator Martiny

Senator Martiny presented Senate Bill No. 139, which provides relative to criminal justice.

Representative Marino offered amendments to:

- (1) Provide that the terms household member, family member, dating partner, as used throughout proposed law, are defined by present law, clarifies proposed law language regarding battery committed by one household member, family member, or dating partner against another, and clarifies proposed law language regarding a violation of protective order issued against the defendant for the protection of a household member, family member, or dating partner.
- (2) With regard to probation:
 - (a) Provide that if the court suspends a first conviction for pornography involving juveniles (R.S. 14:81.1) or molestation of a juvenile (R.S. 14:81.2), the period of probation shall be specified and shall not be more than five years.
 - (b) Add mental health court programs, Veterans Court programs, and reentry court programs to the list of programs for which the court may extend an offender's probation period beyond three or five years.
- (3) With regard to proposed law provisions regarding earned compliance credits:
 - (a) Authorize an offender to receive earned compliance credits in conjunction with any other credits the offender may receive toward a defendant's term of probation or parole.
 - (b) Remove proposed law provision that prohibits the defendant from receiving credits for any partial calendar month of felony probation.
 - (c) Amend the procedure by which earned compliance credits are rescinded authorizing the probation and parole officer to rescind credits as an administrative sanction without a ruling from the court.

- (d) Remove the requirement that the department notify the defendant of his earned compliance discharge date every six months.
 - (e) Remove the requirement that the department notify the court in cases of probation, or the committee on parole in cases of parole, no less than 60 days prior to the offender's expected discharge date. Also remove the department's authority to request the termination of the defendant's period of probation or parole prior to the expected discharge date.
 - (f) Remove the definition of "calendar month of compliance".
 - (g) Provide that when the defendant's total term of probation or parole is satisfied through a combination of time served and earned compliance credits, the department shall order the termination of the defendant's probation or parole.
 - (h) Move the provisions relative to earned compliance credits for parole from the Code of Criminal Procedure to Title 15.
- (4) Provide that present law administrative sanctions applies only to persons convicted of a crime of violence or a sex offense, and retain administrative sanctions provided for by proposed law which applies only to those persons convicted of offenses other than a crime of violence or a sex offense.
- (5) With regard to parole and probation violations:
- (a) Amend proposed law relative to the use of incarceration for probation or parole violations to provide that incarceration shall not be used for the lowest tier violations and certain other violations including the failure to initially report or report as instructed. Provide that for probation violations, incarceration may be used if, after a contradictory hearing, the court finds that the person willfully failed to report to avoid supervision.
 - (b) Amend the definition of and list of exceptions to the definition of "technical violation". Further add two exceptions to the definition of "technical violation" including being in possession of a firearm or other prohibited weapon and absconding from the jurisdiction of the court.
 - (c) Authorize the court to order a defendant whose probation or parole has been revoked to serve up to 90 days for custodial substance abuse treatment programs.

- (d) Remove the proposed law provision providing that the defendant could receive 90 days credit toward his term of probation for completion of a 90-day court-recommended substance abuse treatment program.
- (6) With regard to diminution of sentence for good behavior or "good time":
- (a) Amend applicability relative to the good time rate of 13 days for every seven days in actual custody to remove applicability based on a person's parole or probation revocation date.
 - (b) Amend applicability relative to the change in the good time rate for offenders convicted of a first crime of violence to be based on the date of commission of the offense rather than the date of conviction.
 - (c) Clarify that good time shall not be allowed to an offender whose instant offense is a sex offense or a second offense crime of violence.
- (7) With regard to administrative parole as provided by proposed law:
- (a) Amend applicability regarding administrative parole to be based on the date of the commission of the offense rather than the date of conviction.
 - (b) Exclude persons who are sentenced in a reentry division of court and sentencing program from being eligible for administrative parole.
 - (c) Remove the delayed effective date of Jan. 1, 2021, for the requirement that the defendant complete a case plan in order to be released on administrative parole, and provide that the exception which allows an offender to be released on administrative parole without a case plan (because one was never created for him at no fault of the offender) shall no longer apply on and after Jan. 1, 2021.
 - (d) Require a victim and the district attorney to be notified and not have requested that the committee on parole conduct a hearing in order for an offender to be released on administrative parole.
- (8) Amend applicability relative to the proposed reduction in parole eligibility for persons convicted of a first time crime of violence from 75% to 65% of the sentence imposed to be based on the date of the commission of the offense rather than the date of conviction.
- (9) With regard to the issuance of detainers:

- (a) Provide that when a judge sets bond on allegations of a new felony offense for a parolee, the division of probation and parole of the Dept. of Public Safety and Corrections and the committee on parole must be notified within three business days.
 - (b) Provide that the detainer will expire 10 days after the bond has been set unless the division of probation and parole seeks to maintain the detainer.
- (10) With regard to medical parole and proposed law medical treatment furlough:
- (a) Define "off-site medical facility".
 - (b) Provide that release of protected health information to the Dept. of Public Safety and Corrections or the committee on parole for purposes of medical treatment furlough shall be in accordance with all state and federal laws and regulations.
 - (c) Provide that the case plan developed by the Dept. of Public Safety and Corrections for the purpose of an offender's administrative parole should be reasonably achievable prior to the offender's administrative parole eligibility date.

Representative Marino offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 12 yeas, 0 nays, and 1 abstention. Representatives Bagneris, Crews, Dwight, Gaines, Hazel, James, Terry Landry, Marcelle, Marino, Norton, Pylant, and Stefanski voted yea. Representative Mack abstained.

James LeBlanc, Department of Public Safety and Corrections, 504 Mayflower Street, Baton Rouge, Louisiana, 70802, no number provided, spoke in support of Senate Bill No. 139.

Judge Bob Morrison, Louisiana District Judges Association, P. O. Box 70422, (985) 748-9445, spoke for informational purposes only on Senate Bill No. 139.

E. Pete Adams, Louisiana District Attorneys Association, 1645 Nicholson Drive, Baton Rouge, Louisiana, 70802, no number provided, spoke in support of Senate Bill No. 139.

Representative Mack offered amendments to amend the definition of and list of exceptions to the definition of "technical violation" and further add two exceptions to the definition of "technical violation" including being in possession of a firearm or other prohibited weapon and absconding from the jurisdiction of the court. Representative Mack offered a motion to adopt the proposed amendment. Without objection, the amendment was adopted by a vote of 14 yeas and 0 nays. Representatives Mack, Bagneris, Crews, Dwight, Gaines, Hazel, Hodges, Howard, James, Marcelle, Marino, Norton, Pylant, and Stefanski voted yea.

Natalie LaBorde, Department of Public Safety and Corrections, 504 Mayflower Street, Baton Rouge, Louisiana, 70802, (225) 342-8131, spoke in support of Senate Bill No. 139.

Representative Mack offered an amendment remove the provision allowing parole eligibility for offenders convicted of second degree murder after July 2, 1973, and prior to June 29, 1979. Representative Mack offered a motion to adopt the proposed amendment, to which Representative Marcelle objected. The secretary called the roll, and the motion failed to pass by a vote of 7 yeas and 8 nays. Representatives Mack, Crews, Dwight, Hazel, Hodges, Howard, and Pylant voted yea. Representatives Bagneris, Gaines, James, Terry Landry, Marcelle, Marino, Norton, and Stefanski voted nay.

Representative Marcelle offered a motion to report Senate Bill No. 139 with amendments, to which Representative Pylant objected. The secretary called the roll, and Senate Bill No. 139 was reported with amendments by a vote of 10 yeas and 6 nays. Representatives Bagneris, Dwight, Gaines, Howard, James, Terry Landry, Marcelle, Marino, Norton, and Stefanski voted yea. Representatives Mack, Bacala, Crews, Hazel, Hodges, and Pylant voted nay.

Witness cards submitted by individuals who did not speak are as follows: 47 in support and 1 for informational purposes only. Witness cards are included in the committee records.

Senate Bill No. 54 by Senator Mizell

Senator Mizell presented Senate Bill No. 54, which provides relative to exploited children.

Representative Mack offered amendments to:

- (1) Make technical changes to clarify the definition of "shelter care facility".
- (2) Add present law citation for human trafficking (R.S. 14:46.2) as it relates to the grounds for which a child is alleged to be a child in need of care pursuant to present law.
- (3) Clarify that the list of safe houses maintained by the Department of Children and Family Services includes all safe houses regardless of whether the facility receives taxpayer funding.

Representative Mack offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 9 yeas, 0 nays, and 1 abstention. Representatives Bacala, Crews, Hazel, Hodges, Howard, James, Norton, Pylant, and Stefanski voted yea. Representative Mack abstained.

Representative Norton offered a motion to report Senate Bill No. 54 with amendments. Without objection, Senate Bill No. 54 was reported with amendments by a vote of 9 yeas, 0 nays, and 1

abstention. Representatives Bacala, Crews, Dwight, Hazel, Hodges, Howard, Norton, Pylant, and Stefanski voted yea. Representative Mack abstained.

Witness cards submitted by individuals who did not speak are as follows: 7 in support and 1 for informational purposes only. Witness cards are included in the committee records.

Senate Concurrent Resolution No. 31 by Senator White

Senator White presented Senate Concurrent Resolution No. 31, which provides for the Louisiana Law Enforcement Body Camera Implementation Task Force.

Representative Mack offered amendments to:

- (1) Reduce the number of task force members from 21 to 19.
- (2) Authorize the chairmen of the House Committee on Administration of Criminal Justice and Senate Committee on Judiciary C to each appoint a designee to serve on the task force.
- (3) Remove representatives of the LSU Police Department and the Southern University Police Department from the task force.
- (4) Make technical corrections.

Representative Mack offered a motion to adopt the proposed amendments. Without objection, the amendments were adopted by a vote of 8 yeas, 0 nays, and 1 abstention. Representatives Bacala, Crews, Dwight, Hodges, Howard, Norton, Pylant, and Stefanski voted yea. Representative Mack abstained.

Representative Mack offered a motion to report Senate Concurrent Resolution No. 31 with amendments. Without objection, Senate Concurrent Resolution No. 31 was reported with amendments by a vote of 9 yeas, 0 nays, and 1 abstention. Representatives Bacala, Crews, Dwight, Hodges, Howard, Marcelle, Norton, Pylant, and Stefanski voted yea. Representative Mack abstained.

Senate Concurrent Resolution No. 38 by Senator Morrell

Senator Morrell presented Senate Concurrent Resolution No. 38, which creates the Task Force on Secure Care Standards and Auditing.

Representative Stefanski offered a motion to report Senate Concurrent Resolution No. 38 favorably. Without objection, Senate Concurrent Resolution No. 38 was reported favorably by a vote of 11 yeas, 0 nays, and 1 abstention. Representatives Bacala, Crews, Dwight, Hazel, Hodges, Howard, Terry Landry, Marcelle, Norton, Pylant, and Stefanski voted yea. Representative Mack abstained.

IV. OTHER BUSINESS

There was no other business.

V. ANNOUNCEMENTS

There were no announcements.

VI. ADJOURNMENT

The meeting was adjourned at 11:47 a.m.

Respectfully submitted,

Chairman Sherman Q. Mack
House Committee on Administration of Criminal Justice

Date adopted: