

Rep. Roy, Rock. 31  
Rep. Rhodes, Ches. 17  
Rep. Lynn, Rock. 17  
Rep. D. Mannion, Rock. 25  
Rep. Proulx, Hills. 15  
Rep. Devoid, Merr. 1  
Rep. Paquette, Hills. 25  
Rep. Sabourin, Rock. 30  
October 15, 2025  
2025-3012h  
09/05

Amendment to SB 15-FN

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT relative to incorporating hard labor as a sentencing option for certain offenses;  
4 establishing medical exemptions and penalties for abuse thereof; providing  
5 alternative punitive measures for legitimate medical exemptions; and establishing a  
6 sentencing appeals panel for prosecution appeals related to hard labor sentences.  
7

8 Amend the bill by replacing all after the enacting clause with the following:

9

10 1 New Paragraph; Hard Labor for Certain Offenses. Amend RSA 651:2 by inserting after  
11 paragraph II-h the following new paragraph:

12 II-i.(a) For any person convicted of a serious offense, including capital murder under RSA  
13 630:1, first degree murder under RSA 630:1-a, second degree murder under RSA 630:1-b,  
14 manslaughter under RSA 630:2, first degree assault under RSA 631:1 (including on a current or  
15 former law enforcement officer, firefighter, emergency medical services worker, or public official),  
16 second degree assault under RSA 631:2 (including on a current or former law enforcement officer,  
17 firefighter, emergency medical services worker, or public official), simple assault under RSA 631:2-a  
18 (including on a current or former law enforcement officer, firefighter, emergency medical services  
19 worker, or public official), assault or harm to a current or former public official or their immediate  
20 family member under RSA 631:4-a, kidnapping under RSA 633:1, aggravated felonious sexual  
21 assault under RSA 632-A:2, felonious sexual assault under RSA 632-A:3, robbery under RSA 636:1,  
22 possession of child sexual abuse images under RSA 649-A:3, or trafficking in persons under RSA  
23 633:7, the defendant may elect, in writing and prior to sentencing, to serve any sentence of  
24 imprisonment at hard labor as defined in RSA 622:7. If the defendant does not elect hard labor, the  
25 court shall impose an additional minimum mandatory term equal to 50 percent of the base minimum  
26 term imposed, rounded up to the nearest whole year, which shall not be suspended, deferred, or  
27 reduced for good conduct or earned time credits under RSA 651-A:22 or RSA 651-A:22-a, and which

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1 shall be served consecutively to the original sentence imposed by the court. The total sentence shall  
2 not exceed the statutory maximum for the offense.

3 (b) Notwithstanding subparagraph II-i(a), the court may, in the interest of justice,  
4 depart from the hard labor requirement or the additional mandatory term upon making written  
5 findings explaining the departure and after hearing from the victim or victim's representative, if  
6 any. For purposes of this subparagraph, "in the interest of justice" means a departure based on  
7 objective, case-specific factors including, but not limited to, the defendant's age, physical, or mental  
8 health, short of qualifying for a medical exemption under RSA 622:7-c, lack of prior criminal history,  
9 evidence of rehabilitation potential, or extraordinary mitigating circumstances not adequately  
10 accounted for in the sentencing guidelines, provided such factors are applied consistently to similarly  
11 situated defendants to ensure equal protection under the law. Such departures shall be appealable  
12 by the prosecution to the sentencing appeals panel established under RSA 651:72, with a de novo  
13 resentencing hearing.

14 2 Duties of the Commissioner. Amend RSA 622:7, IX to read as follows:

15 IX. To ~~[conduct and manage the industries at the prisons.]~~ ***establish and operate an***  
16 ***industries program to aid in the rehabilitation of inmates of the state prisons, which may***  
17 ***include a hard labor component for sentences designated under RSA 651:2 or other***  
18 ***applicable statutes.***

19 (a) ***As used in this paragraph, "hard labor" means the mandatory performance***  
20 ***of physically intensive manual labor tasks assigned by the commissioner of corrections,***  
21 ***designed to serve as punishment, deterrence, and, where appropriate, rehabilitation for***  
22 ***convicted offenders. Such labor shall include, but not be limited to, activities such as***  
23 ***agricultural fieldwork (such as planting, harvesting, or soil preparation), construction or***  
24 ***infrastructure maintenance (such as road repair, building upkeep, or excavation),***  
25 ***sanitation and waste management (such as cleaning facilities or handling refuse),***  
26 ***manufacturing or assembly work requiring significant physical exertion (such as***  
27 ***furniture production or metalworking), or other comparable tasks that demand prolonged***  
28 ***physical effort under supervised conditions. No hard labor assignment shall pose an***  
29 ***unreasonable risk of serious injury or be conducted without regard to the offender's health***  
30 ***and safety.***

31 (b) ***Hard labor assignments shall require no less than 8 hours per day, 5 days***  
32 ***per week, unless adjusted for documented medical, age-related, or security reasons, and***  
33 ***shall be performed in compliance with basic health and safety standards to prevent injury***  
34 ***or undue hardship. Compensation, if any, shall be at the prevailing prison wage rate but***  
35 ***shall not exceed rates for non-hard labor assignments. The commissioner may incorporate***  
36 ***rehabilitative components, such as vocational training, but the primary purpose for***  
37 ***designated offenses shall be punitive retribution and societal deterrence. Refusal to***

1 *participate without valid exemption may result in disciplinary measures, including loss of*  
2 *good time credits under RSA 651-A:22 or extended confinement.*

3 *(c) For convictions of capital murder under RSA 630:1, including the murder of*  
4 *a law enforcement officer in the line of duty, the sentence shall be life imprisonment at*  
5 *hard labor without the possibility of parole or reduction. The offender shall be required to*  
6 *perform hard labor as defined herein for the duration of their natural life, subject only to*  
7 *exemptions for permanent medical incapacity as determined under RSA 622:7-c. No*  
8 *election or alternative sentencing option shall be available, and the punitive nature of the*  
9 *labor shall take precedence over rehabilitative goals.*

10 *(d) The commissioner shall ensure that all staff involved in assigning or*  
11 *supervising hard labor receive training on compliance with the Eighth Amendment to the*  
12 *United States Constitution and part I, article 18 of the New Hampshire constitution to*  
13 *prevent cruel and unusual punishment.*

14 3 New Sections; Medical Exemption from Hard Labor and Prevention of Abuse. Amend RSA  
15 622 by inserting after section 7-b the following new sections:

16 622:7-c Medical Exemptions from Hard Labor; Prevention of Abuse.

17 I. An offender may be exempted from hard labor only upon a determination of medical  
18 inability by a qualified physician employed by or contracted with the department of corrections.  
19 "Medical inability" means a documented physical or mental condition that substantially impairs the  
20 offender's capacity to perform the essential functions of assigned hard labor tasks, even with  
21 reasonable accommodations, as certified in writing with reference to specific diagnostic criteria, such  
22 as based on standards from the American Medical Association or equivalent.

23 II. The determination shall be based on an in-person evaluation, including review of medical  
24 records, and may incorporate standardized assessments for malingering, such as the Structured  
25 Inventory of Malingered Symptomatology (SIMS) or similar validated tools.

26 III. If the initial evaluation supports an exemption, a second opinion from an independent  
27 physician or medical review board appointed by the commissioner may be required at the discretion  
28 of the department or upon challenge by correctional staff.

29 IV. Exemptions shall be reviewed at least every 6 months, or sooner if the offender's  
30 condition improves or new evidence suggests abuse. Failure to cooperate with evaluations may result  
31 in revocation of the exemption and disciplinary action.

32 V. An offender who knowingly submits a false or exaggerated claim of medical inability, or  
33 who malingers to avoid hard labor, commits a disciplinary offense punishable by:

- 34 (a) Loss of good time credits (up to 90 days per incident) under RSA 651-A:22;  
35 (b) Extension of the minimum sentence by up to 6 months for repeated offenses;  
36 (c) Confinement in restrictive housing; or  
37 (d) Other sanctions as determined by department policy, consistent with due process.

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1 VI. The department shall maintain records of all exemption requests, determinations, and  
2 reviews, and submit an annual report to the legislature on exemption rates, patterns, and any  
3 detected instances of abuse, including recommendations for improvements.

4 622:7-d Alternative Punitive Measures for Medical Exemptions.

5 I. If an offender sentenced to hard labor under RSA 651:2 or other applicable statutes  
6 receives a legitimate medical exemption under RSA 622:7-c, the commissioner shall impose  
7 alternative punitive measures to ensure the sentence maintains a retributive component, including  
8 but not limited to:

9 (a) Placement in a restrictive housing unit (RHU) or special housing unit (SHU),  
10 involving up to 23 hours per day of isolation with minimal privileges, subject to periodic reviews  
11 every 6 months;

12 (b) Suspension or denial of privileges, including but not limited to non-contact visits  
13 only, limited telephone access, no recreation time beyond basic exercise, no canteen purchases except  
14 essentials, and no entertainment electronics;

15 (c) Automatic loss of good conduct credits under RSA 651-A:22 or earned time credits  
16 under RSA 651-A:22-a, up to the maximum allowable, to extend the effective term of confinement;

17 (d) Higher security classification, such as C-4 or C-5, with enhanced supervision,  
18 reduced yard time, and limited property;

19 (e) Mandatory participation in non-physical burdensome requirements, such as victim-  
20 impact programs, administrative duties if feasible, or restitution deductions from inmate funds.

21 II. These measures shall be tailored to the severity of the offense and the offender's  
22 classification, ensuring compliance with constitutional standards, and shall prioritize retribution  
23 and deterrence in lieu of hard labor.

24 4 New Subdivision; Review of State Prison Sentences Related to Hard Labor. Amend RSA 651  
25 by inserting after section 70 the following new subdivision:

26 Review of State Prison Sentences Related to Hard Labor

27 651:71 Purpose of Sentencing Appeals Panel. The purpose of this subdivision is to provide a  
28 structured appellate review process for prosecution appeals challenging sentences deemed outside  
29 sentencing norms, to promote judicial efficiency by reducing caseload congestion before the New  
30 Hampshire supreme court while preserving the court's ultimate appellate authority. This review  
31 panel will serve as an alternative to the appeal panel in RSA 651:57-61, and hear cases related to  
32 the implementation of the hard labor sentences authorized by RSA 651:2.

33 651:72 Superior Court Sentencing Appeals Panel.

34 I. The New Hampshire supreme court is authorized to designate a panel of superior court  
35 judges ("sentencing appeals panel") to hear appeals filed by the prosecution contesting sentencing  
36 decisions made by trial courts in criminal cases related to the crimes listed in RSA 651:2, II-i as

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1 being eligible for hard labor, where the prosecution claims the sentence is not sufficiently punitive or  
2 is otherwise outside local sentencing norms.

3 II. The panel shall be composed of not fewer than 3 superior court judges designated by the  
4 supreme court, with appropriate appellate training and experience.

5 651:73 Procedure for Prosecution Appeals on Sentencing.

6 I. The prosecution may file an appeal of a sentence eligible under RSA 651:72 with the  
7 sentencing appeals panel within 30 calendar days of sentencing. The appeal shall specify grounds  
8 for contending the sentence was inappropriate, including clear abuse of discretion in departures.  
9 Electing to file an appeal under this subdivision shall act as a waiver of the prosecution's right to  
10 seek review under RSA 651:57-61.

11 II. The sentencing appeals panel shall have jurisdiction to review sentencing decisions de  
12 novo, including conducting a resentencing hearing, considering statutory guidelines, sentencing  
13 norms, and mitigating/aggravating factors. The panel may modify the sentence to increase its  
14 punitiveness if necessary to conform with statutory requirements, provided such modifications are  
15 based solely on the record and shall not be presumed vindictive.

16 III. The panel may affirm, modify, or remand the sentence to the trial court consistent with  
17 applicable law.

18 651:74 Supreme Court Review.

19 I. Decisions of the sentencing appeals panel are subject to review by the supreme court  
20 upon petition for discretionary review filed within 14 days of the panel's decision.

21 II. The supreme court may grant or deny review and shall provide written reasons when  
22 review is denied.

23 651:75 Implementation and Rules.

24 I. The supreme court shall promulgate procedural rules necessary to implement this act,  
25 including filing, briefing, oral argument procedures, and standards of review.

26 II. The supreme court shall report annually to the legislature on the number, nature, and  
27 outcomes of cases handled by the sentencing appeals panel.

28 5 Severability. If any provision of this act or the application thereof to any person or  
29 circumstance is held invalid, such invalidity shall not affect other provisions or applications of the  
30 act which can be given effect without the invalid provision or application, and to this end the  
31 provisions of this act are declared to be severable.

32 6 Effective Date. This act shall take effect 60 days after its passage.

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AMENDED ANALYSIS

This bill incorporates hard labor as a sentencing option for certain offenses; establishes medical exemptions and penalties for abuse thereof; provides alternative punitive measures for legitimate medical exemptions; and establishes a sentencing appeals panel for prosecution appeals related to hard labor sentences.

UNAPPROVED