

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 capital murder and  
4 serious sexual assaults on children, defining hard labor, establishing medical  
5 exemptions and penalties for abuse thereof, providing alternative punitive measures  
6 for legitimate medical exemptions, and authorizing jury determination of hard labor  
7 in qualifying cases.  
8

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

10

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

13 II-i.(a) In any case in which the defendant is convicted of capital murder under RSA 630:1 or  
14 aggravated felonious sexual assault on a child under the age of 13 under RSA 632-A:2, I(a), I(b), or  
15 I(c), the court shall conduct a separate sentencing hearing before the same jury that determined  
16 guilt, unless the defendant waives a jury and elects sentencing by the court.

17 (b) At the sentencing hearing, the state and the defendant may present evidence and  
18 argument relevant to the imposition of hard labor. The jury shall be instructed that hard labor may  
19 be imposed only if it finds beyond a reasonable doubt that:

20 (1) The defendant's conduct was especially heinous, atrocious, or cruel; or

21 (2) The defendant acted with deliberate cruelty; or

22 (3) The offense involved the infliction of serious physical, emotional, or psychological  
23 injury on the victim; and

24 (4) The aggravating factors substantially outweigh any mitigating factors presented.

25 (c) A verdict to impose hard labor requires the affirmative vote of at least 9 jurors in a  
26 12-person jury. If fewer than 9 jurors vote to impose hard labor, the sentence shall be life  
27 imprisonment without parole.

28 (d) If hard labor is imposed, the sentence shall be life imprisonment at hard labor  
29 without parole, to be served as defined in RSA 622:7. The defendant shall perform hard labor for the  
30 duration of their natural life, subject only to medical exemptions under RSA 622:7-a or suspension  
31 under RSA 622:7, III.

32 (e) The court shall enter the sentence in accordance with the jury's verdict. There shall  
33 be no judicial departure from a jury verdict imposing or rejecting hard labor.

Amendment to SB 15-FN

- Page 2 -

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

IX. To [~~conduct and manage the industries at the prisons.~~] ***establish and operate an industries program to aid in the rehabilitation of inmates of the state prisons, which shall include a hard labor component for sentences designated under RSA 651:2, II-i.***

(a) ***As used in this paragraph, "hard labor" means the mandatory performance of physically intensive manual labor tasks assigned by the commissioner of corrections, designed to serve as punishment, deterrence, and, where appropriate, rehabilitation for offenders sentenced under RSA 651:2, II-i. Such labor shall include, but not be limited to, activities such as agricultural fieldwork, construction or infrastructure maintenance, sanitation and waste management, manufacturing or assembly work requiring significant physical exertion, or other comparable tasks that demand prolonged physical effort under supervised conditions. No hard labor assignment shall pose an unreasonable risk of serious injury or be conducted without regard to the offender's health and safety.***

(b) ***Hard labor assignments shall require no less than 8 hours per day, 5 days per week, unless adjusted for documented medical, age-related, or security reasons, and shall be performed in compliance with basic health and safety standards to prevent injury or undue hardship. The commissioner shall have the final authority to determine the specific tasks to be accomplished, the conditions under which they will be performed, and whether hard labor will occur on any given day based on the commissioner's determination that it is safe for the public, staff, and offenders. This determination may include considerations such as staffing levels, equipment availability, weather conditions, or any other factors affecting safety. If the commissioner determines that there is insufficient staffing to safely supervise inmates in hard labor, the commissioner may suspend hard labor for any or all affected inmates, and alternative punitive measures shall be implemented in accordance with RSA 622:7-d. Compensation, if any, shall be at the prevailing prison wage rate but shall not exceed rates for non-hard labor assignments. The commissioner may incorporate rehabilitative components, such as vocational training, but the primary purpose for designated offenses shall be punitive retribution and societal deterrence. Refusal to participate without valid exemption may result in disciplinary measures, including loss of good time credits under RSA 651-A:22 or extended confinement.***

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

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

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

**Amendment to SB 15-FN**  
**- Page 3 -**

1           I. An offender may be exempted from hard labor only upon a determination of medical  
2 inactivity by a qualified physician employed by or contracted with the department of corrections.  
3 “Medical inability” means a documented physical or mental condition that substantially impairs the  
4 offender’s capacity to perform the essential functions of assigned hard labor tasks, even with  
5 reasonable accommodations, as certified in writing with reference to specific diagnostic criteria, such  
6 as based on standards from the American Medical Association or equivalent.

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

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

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

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

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

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

25           622:7-d Alternative Punitive Measures for Medical Exemptions.

26           I. If an offender sentenced to hard labor under RSA 651:2, II(i) receives a legitimate medical  
27 exemption under RSA 622:7-a or if hard labor is suspended due to insufficient staffing under RSA  
28 622:7, III, the commissioner shall impose alternative punitive measures to ensure the sentence  
29 maintains a retributive component, including but not limited to:

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

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

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

**Amendment to SB 15-FN**  
**- Page 4 -**

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

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

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

8           4 Severability. If any provision of this act or the application thereof to any person or  
9 circumstance is held invalid, such invalidity shall not affect other provisions or applications of the  
10 act which can be given effect without the invalid provision or application, and to this end the  
11 provisions of this act are declared to be severable.

12           5 Effective Date. This act shall take effect 6 months after its passage.

**Amendment to SB 15-FN**  
**- Page 5 -**

2025-3096h

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.