

By: Representative Scott (80th)

To: Judiciary B;
Penitentiary

HOUSE BILL NO. 67

1 AN ACT TO PROHIBIT THE USE OF ARMOR PIERCING AMMUNITION AND
2 TO PRESCRIBE PENALTIES THEREFOR; TO AMEND SECTION 47-7-3,
3 MISSISSIPPI CODE OF 1972, TO PROHIBIT PAROLE FOR A PERSON
4 CONVICTED UNDER THE PROVISIONS OF THIS ACT; AND FOR RELATED
5 PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. (1) (a) Whoever, during and in relation to the
8 commission of a crime of violence or drug trafficking crime
9 (including a crime of violence or drug trafficking crime which
10 provides for an enhanced punishment if committed by the use of a
11 deadly or dangerous weapon or device), uses or carries a firearm
12 and is in possession of armor piercing ammunition capable of being
13 fired in that firearm, shall, in addition to the punishment
14 provided for the commission of such crime of violence or drug
15 trafficking crime be sentenced to a term of imprisonment for not
16 less than five (5) years.

17 (b) For purposes of this subsection, the term "drug
18 trafficking crime" means any felony punishable under the
19 Controlled Substances Laws.

20 (2) Notwithstanding any other provision of law, the court
21 shall not suspend the sentence of any person convicted of a
22 violation of this section, nor place the person on probation, nor
23 shall the terms of imprisonment run concurrently with any other
24 terms of imprisonment, including that imposed for the crime in
25 which the armor piercing ammunition was used or possessed. No
26 person sentenced under this section shall be eligible for parole
27 during the term of imprisonment imposed herein.

28 SECTION 2. Section 47-7-3, Mississippi Code of 1972, is
29 amended as follows:

30 47-7-3. (1) Every prisoner who has been convicted of any
31 offense against the State of Mississippi, and is confined in the
32 execution of a judgment of such conviction in the Mississippi
33 State Penitentiary for a definite term or terms of one (1) year or
34 over, or for the term of his or her natural life, whose record of
35 conduct shows that such prisoner has observed the rules of the
36 penitentiary, and who has served not less than one-fourth (1/4) of
37 the total of such term or terms for which such prisoner was
38 sentenced, or, if sentenced to serve a term or terms of thirty
39 (30) years or more, or, if sentenced for the term of the natural
40 life of such prisoner, has served not less than ten (10) years of
41 such life sentence, may be released on parole as hereinafter
42 provided, except that:

43 (a) No prisoner convicted as a confirmed and habitual
44 criminal under the provisions of Sections 99-19-81 through
45 99-19-87 shall be eligible for parole;

46 (b) Any person who shall have been convicted of a sex
47 crime shall not be released on parole except for a person under
48 the age of nineteen (19) who has been convicted under Section
49 97-3-67;

50 (c) No one shall be eligible for parole until he shall
51 have served one (1) year of his sentence, unless such person has
52 accrued any meritorious earned time allowances, in which case he
53 shall be eligible for parole if he has served (i) nine (9) months
54 of his sentence or sentences, when his sentence or sentences is
55 two (2) years or less; (ii) ten (10) months of his sentence or
56 sentences when his sentence or sentences is more than two (2)
57 years but no more than five (5) years; and (iii) one (1) year of
58 his sentence or sentences when his sentence or sentences is more
59 than five (5) years;

60 (d) (i) No person shall be eligible for parole who

61 shall, on or after January 1, 1977, be convicted of robbery or
62 attempted robbery through the display of a firearm until he shall
63 have served ten (10) years if sentenced to a term or terms of more
64 than ten (10) years or if sentenced for the term of the natural
65 life of such person. If such person is sentenced to a term or
66 terms of ten (10) years or less, then such person shall not be
67 eligible for parole. The provisions of this paragraph (d) shall
68 also apply to any person who shall commit robbery or attempted
69 robbery on or after July 1, 1982, through the display of a deadly
70 weapon. This subparagraph (d)(i) shall not apply to persons
71 convicted after September 30, 1994;

72 (ii) No person shall be eligible for parole who
73 shall, on or after October 1, 1994, be convicted of robbery,
74 attempted robbery or carjacking as provided in Section 97-3-115 et
75 seq., through the display of a firearm or drive-by shooting as
76 provided in Section 97-3-109. The provisions of this subparagraph
77 (d)(ii) shall also apply to any person who shall commit robbery,
78 attempted robbery, carjacking or a drive-by shooting on or after
79 October 1, 1994, through the display of a deadly weapon;

80 (e) No person shall be eligible for parole who, on or
81 after July 1, 1994, is charged, tried, convicted and sentenced to
82 life imprisonment without eligibility for parole under the
83 provisions of Section 99-19-101;

84 (f) No person shall be eligible for parole who is
85 charged, tried, convicted and sentenced to life imprisonment under
86 the provisions of Section 99-19-101;

87 (g) No person shall be eligible for parole who is
88 convicted or whose suspended sentence is revoked after June 30,
89 1995;

90 (h) An offender may be eligible for medical release
91 under Section 47-7-4;

92 (i) No person shall be eligible for parole who is
93 charged, tried, convicted and sentenced under the provisions of

94 House Bill No. _____, 1999 Regular Session.

95 (2) Notwithstanding any other provision of law, an inmate
96 shall not be eligible to receive earned time, good time or any
97 other administrative reduction of time which shall reduce the time
98 necessary to be served for parole eligibility as provided in
99 subsection (1) of this section; however, this subsection shall not
100 apply to the advancement of parole eligibility dates pursuant to
101 the Prison Overcrowding Emergency Powers Act. Moreover,
102 meritorious earned time allowances may be used to reduce the time
103 necessary to be served for parole eligibility as provided in
104 paragraph (c) of subsection (1) of this section.

105 (3) The State Parole Board shall by rules and regulations
106 establish a method of determining a tentative parole hearing date
107 for each eligible offender taken into the custody of the
108 Department of Corrections. The tentative parole hearing date
109 shall be determined within ninety (90) days after the department
110 has assumed custody of the offender. Such tentative parole
111 hearing date shall be calculated by a formula taking into account
112 the offender's age upon first commitment, number of prior
113 incarcerations, prior probation or parole failures, the severity
114 and the violence of the offense committed, employment history and
115 other criteria which in the opinion of the board tend to validly
116 and reliably predict the length of incarceration necessary before
117 the offender can be successfully paroled.

118 (4) Any inmate within twenty-four (24) months of his parole
119 eligibility date and who meets the criteria established by the
120 classification committee shall receive priority for placement in
121 any educational development and job training programs. Any inmate
122 refusing to participate in an educational development or job
123 training program may be ineligible for parole.

124 SECTION 3. This act shall take effect and be in force from
125 and after its passage.