

By: Representative Blackmon

To: Judiciary B

HOUSE BILL NO. 116

1 AN ACT TO AUTHORIZE A CIRCUIT COURT, IN THE CASE OF A
2 NONVIOLENT FELONY PROPERTY OFFENSE, TO MODIFY THE ORIGINAL
3 SENTENCE IMPOSED, BY DECREASING SAME; TO REQUIRE NOTICE OF THE
4 MODIFICATION HEARING; TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF
5 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Any circuit court, in the case of a nonviolent
8 property offense that constitutes a felony, is hereby authorized
9 to modify a sentence as may be imposed by the judge of the court,
10 in accordance with the provisions of this section. At the time of
11 the sentencing, the judge shall set a date upon which to review
12 the sentence imposed, and provide notice thereof to the
13 prosecution and the defendant, provided that such date of review
14 shall not occur until at least six (6) months of the offender's
15 sentence has been served. The judge may modify the original
16 sentence at the time of such review, by decreasing the sentence
17 originally imposed.

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

20 47-7-3. (1) Every prisoner who has been convicted of any
21 offense against the State of Mississippi, and is confined in the
22 execution of a judgment of such conviction in the Mississippi
23 State Penitentiary for a definite term or terms of one (1) year or
24 over, or for the term of his or her natural life, whose record of
25 conduct shows that such prisoner has observed the rules of the
26 penitentiary, and who has served not less than one-fourth (1/4) of
27 the total of such term or terms for which such prisoner was

28 sentenced, or, if sentenced to serve a term or terms of thirty
29 (30) years or more, or, if sentenced for the term of the natural
30 life of such prisoner, has served not less than ten (10) years of
31 such life sentence, may be released on parole as hereinafter
32 provided, except that:

33 (a) No prisoner convicted as a confirmed and habitual
34 criminal under the provisions of Sections 99-19-81 through
35 99-19-87 shall be eligible for parole;

36 (b) Any person who shall have been convicted of a sex
37 crime shall not be released on parole except for a person under
38 the age of nineteen (19) who has been convicted under Section
39 97-3-67;

40 (c) Except as otherwise provided by paragraph (i) of
41 this subsection, no one shall be eligible for parole until he
42 shall have served one (1) year of his sentence, unless such person
43 has accrued any meritorious earned time allowances, in which case
44 he shall be eligible for parole if he has served (i) nine (9)
45 months of his sentence or sentences, when his sentence or
46 sentences is two (2) years or less; (ii) ten (10) months of his
47 sentence or sentences when his sentence or sentences is more than
48 two (2) years but no more than five (5) years; and (iii) one (1)
49 year of his sentence or sentences when his sentence or sentences
50 is more than five (5) years;

51 (d) (i) No person shall be eligible for parole who
52 shall, on or after January 1, 1977, be convicted of robbery or
53 attempted robbery through the display of a firearm until he shall
54 have served ten (10) years if sentenced to a term or terms of more
55 than ten (10) years or if sentenced for the term of the natural
56 life of such person. If such person is sentenced to a term or
57 terms of ten (10) years or less, then such person shall not be
58 eligible for parole. The provisions of this paragraph (d) shall
59 also apply to any person who shall commit robbery or attempted
60 robbery on or after July 1, 1982, through the display of a deadly
61 weapon. This subparagraph (d)(i) shall not apply to persons
62 convicted after September 30, 1994;

63 (ii) No person shall be eligible for parole who
64 shall, on or after October 1, 1994, be convicted of robbery,

65 attempted robbery or carjacking as provided in Section 97-3-115 et
66 seq., through the display of a firearm or drive-by shooting as
67 provided in Section 97-3-109. The provisions of this subparagraph
68 (d)(ii) shall also apply to any person who shall commit robbery,
69 attempted robbery, carjacking or a drive-by shooting on or after
70 October 1, 1994, through the display of a deadly weapon;

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

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

78 (g) No person shall be eligible for parole who is
79 convicted or whose suspended sentence is revoked after June 30,
80 1995;

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

83 (i) Any person who has been convicted of a nonviolent
84 property offense constituting a felony is eligible for a reduction
85 of his original sentence in accordance with the provisions of
86 Section 1 of House Bill No. _____, 1999 Regular Session.

87 (2) Notwithstanding any other provision of law, an inmate
88 shall not be eligible to receive earned time, good time or any
89 other administrative reduction of time which shall reduce the time
90 necessary to be served for parole eligibility as provided in
91 subsection (1) of this section; however, this subsection shall not
92 apply to the advancement of parole eligibility dates pursuant to
93 the Prison Overcrowding Emergency Powers Act. Moreover,
94 meritorious earned time allowances may be used to reduce the time
95 necessary to be served for parole eligibility as provided in
96 paragraph (c) of subsection (1) of this section.

97 (3) The State Parole Board shall by rules and regulations

98 establish a method of determining a tentative parole hearing date
99 for each eligible offender taken into the custody of the
100 Department of Corrections. The tentative parole hearing date
101 shall be determined within ninety (90) days after the department
102 has assumed custody of the offender. Such tentative parole
103 hearing date shall be calculated by a formula taking into account
104 the offender's age upon first commitment, number of prior
105 incarcerations, prior probation or parole failures, the severity
106 and the violence of the offense committed, employment history and
107 other criteria which in the opinion of the board tend to validly
108 and reliably predict the length of incarceration necessary before
109 the offender can be successfully paroled.

110 (4) Any inmate within twenty-four (24) months of his parole
111 eligibility date and who meets the criteria established by the
112 classification committee shall receive priority for placement in
113 any educational development and job training programs. Any inmate
114 refusing to participate in an educational development or job
115 training program may be ineligible for parole.

116 SECTION 3. This act shall take effect and be in force from
117 and after July 1, 1999.