

By: Representative Malone

To: Corrections

## HOUSE BILL NO. 668

1 AN ACT TO AMEND SECTION 47-7-5, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT THE PAROLE BOARD SHALL RECONSIDER APPLICATIONS FOR  
3 PAROLE FROM ELIGIBLE OFFENDERS NO LATER THAN ONE YEAR AFTER  
4 REJECTION OF SUCH APPLICATIONS, TO EXTEND THE DATE OF REPEAL ON  
5 THIS SECTION FROM JULY 1, 2004 TO JULY 1, 2005; TO AMEND SECTION  
6 47-7-3, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR  
7 RELATED PURPOSES.

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

9 **SECTION 1.** Section 47-7-5, Mississippi Code of 1972, is  
10 amended as follows:

11 47-7-5. (1) The State Parole Board, created under former  
12 Section 47-7-5, is hereby created, continued and reconstituted and  
13 shall be composed of five (5) members. The Governor shall appoint  
14 the members with the advice and consent of the Senate. All terms  
15 shall be at the will and pleasure of the Governor. Any vacancy  
16 shall be filled by the Governor, with the advice and consent of  
17 the Senate. The Governor shall appoint a chairman of the board.

18 (2) Any person who is appointed to serve on the board shall  
19 possess at least a bachelor's degree or a high school diploma and  
20 four (4) years' work experience. Each member shall devote his  
21 full time to the duties of his office and shall not engage in any  
22 other business or profession or hold any other public office. A  
23 member shall not receive compensation or per diem in addition to  
24 his salary as prohibited under Section 25-3-38. Each member shall  
25 keep such hours and workdays as required of full-time state  
26 employees under Section 25-1-98. Individuals shall be appointed  
27 to serve on the board without reference to their political  
28 affiliations. Each board member, including the chairman, may be  
29 reimbursed for actual and necessary expenses as authorized by

30 Section 25-3-41; but a member shall not be reimbursed for travel  
31 expenses from his residence to the nearest State Penitentiary.

32 (3) The board shall have exclusive responsibility for the  
33 granting of parole as provided by Sections 47-7-3 and 47-7-17 and  
34 shall have exclusive authority for revocation of the same. The  
35 board shall have exclusive responsibility for investigating  
36 clemency recommendations upon request of the Governor.

37 (4) The board, its members and staff, shall be immune from  
38 civil liability for any official acts taken in good faith and in  
39 exercise of the board's legitimate governmental authority.

40 (5) The budget of the board shall be funded through a  
41 separate line item within the general appropriation bill for the  
42 support and maintenance of the department. Employees of the  
43 department which are employed by or assigned to the board shall  
44 work under the guidance and supervision of the board. There shall  
45 be an executive secretary to the board who shall be responsible  
46 for all administrative and general accounting duties related to  
47 the board. The executive secretary shall keep and preserve all  
48 records and papers pertaining to the board.

49 (6) The board shall have no authority or responsibility for  
50 supervision of offenders granted a release for any reason,  
51 including, but not limited to, probation, parole or executive  
52 clemency or other offenders requiring the same through interstate  
53 compact agreements. The supervision shall be provided exclusively  
54 by the staff of the Division of Community Corrections of the  
55 department.

56 (7) The State Parole Board shall review and investigate all  
57 cases where offenders have been diagnosed with a serious illness.  
58 If the Medical Director of the Department of Corrections certifies  
59 to the State Parole Board that an offender is suffering from a  
60 terminal illness, the State Parole Board shall parole the offender  
61 with the approval and consent of the Commissioner of the  
62 Department of Corrections and the medical director.

63           (8) (a) The Parole Board shall maintain a central registry  
64 of paroled inmates. The Parole Board shall place the following  
65 information on the registry: name, address, photograph, crime for  
66 which paroled, the date of the end of parole or flat-time date and  
67 other information deemed necessary. The Parole Board shall  
68 immediately remove information on a parolee at the end of his  
69 parole or flat-time date.

70           (b) When a person is placed on parole, the Parole Board  
71 shall inform the parolee of the duty to report to the Parole  
72 Officer any change in address ten (10) days before changing  
73 address.

74           (c) The Parole Board shall utilize an Internet website  
75 or other electronic means to release or publish the information.

76           (d) Records maintained on the registry shall be open to  
77 law enforcement agencies and the public and shall be available no  
78 later than July 1, 2003.

79           (9) The Parole Board shall reconsider an eligible offender  
80 for parole no later than one (1) year after an application for  
81 parole is rejected.

82           (10) This section shall stand repealed on July 1, 2005.

83           **SECTION 2.** Section 47-7-3, Mississippi Code of 1972, is  
84 amended as follows:

85           47-7-3. (1) Every prisoner who has been convicted of any  
86 offense against the State of Mississippi, and is confined in the  
87 execution of a judgment of such conviction in the Mississippi  
88 State Penitentiary for a definite term or terms of one (1) year or  
89 over, or for the term of his or her natural life, whose record of  
90 conduct shows that such prisoner has observed the rules of the  
91 penitentiary, and who has served not less than one-fourth (1/4) of  
92 the total of such term or terms for which such prisoner was  
93 sentenced, or, if sentenced to serve a term or terms of thirty  
94 (30) years or more, or, if sentenced for the term of the natural  
95 life of such prisoner, has served not less than ten (10) years of

96 such life sentence, may be released on parole as hereinafter  
97 provided, except that:

98 (a) No prisoner convicted as a confirmed and habitual  
99 criminal under the provisions of Sections 99-19-81 through  
100 99-19-87 shall be eligible for parole;

101 (b) Any person who shall have been convicted of a sex  
102 crime shall not be released on parole except for a person under  
103 the age of nineteen (19) who has been convicted under Section  
104 97-3-67;

105 (c) No one shall be eligible for parole until he shall  
106 have served one (1) year of his sentence, unless such person has  
107 accrued any meritorious earned time allowances, in which case he  
108 shall be eligible for parole if he has served (i) nine (9) months  
109 of his sentence or sentences, when his sentence or sentences is  
110 two (2) years or less; (ii) ten (10) months of his sentence or  
111 sentences when his sentence or sentences is more than two (2)  
112 years but no more than five (5) years; and (iii) one (1) year of  
113 his sentence or sentences when his sentence or sentences is more  
114 than five (5) years;

115 (d) (i) No person shall be eligible for parole who  
116 shall, on or after January 1, 1977, be convicted of robbery or  
117 attempted robbery through the display of a firearm until he shall  
118 have served ten (10) years if sentenced to a term or terms of more  
119 than ten (10) years or if sentenced for the term of the natural  
120 life of such person. If such person is sentenced to a term or  
121 terms of ten (10) years or less, then such person shall not be  
122 eligible for parole. The provisions of this paragraph (d) shall  
123 also apply to any person who shall commit robbery or attempted  
124 robbery on or after July 1, 1982, through the display of a deadly  
125 weapon. This subparagraph (d)(i) shall not apply to persons  
126 convicted after September 30, 1994;

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

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

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

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

142 (g) No person shall be eligible for parole who is  
143 convicted or whose suspended sentence is revoked after June 30,  
144 1995, except that a first offender convicted of a nonviolent crime  
145 after January 1, 2000, may be eligible for parole if the offender  
146 meets the requirements in subsection (1) and this paragraph. In  
147 addition to other requirements, if a first offender is convicted  
148 of a drug or driving under the influence felony, the offender must  
149 complete a drug and alcohol rehabilitation program prior to parole  
150 or the offender may be required to complete a post-release drug  
151 and alcohol program as a condition of parole. For purposes of  
152 this paragraph, "nonviolent crime" means a felony other than  
153 homicide, robbery, manslaughter, sex crimes, arson, burglary of an  
154 occupied dwelling, aggravated assault, kidnapping, felonious abuse  
155 of vulnerable adults, felonies with enhanced penalties, the sale  
156 or manufacture of a controlled substance under the Uniform  
157 Controlled Substances Law, and felony child abuse.

158 (2) Notwithstanding any other provision of law, an inmate  
159 shall not be eligible to receive earned time, good time or any  
160 other administrative reduction of time which shall reduce the time  
161 necessary to be served for parole eligibility as provided in

162 subsection (1) of this section; however, this subsection shall not  
163 apply to the advancement of parole eligibility dates pursuant to  
164 the Prison Overcrowding Emergency Powers Act. Moreover,  
165 meritorious earned time allowances may be used to reduce the time  
166 necessary to be served for parole eligibility as provided in  
167 paragraph (c) of subsection (1) of this section.

168 (3) The State Parole Board shall by rules and regulations  
169 establish a method of determining a tentative parole hearing date  
170 for each eligible offender taken into the custody of the  
171 Department of Corrections. The tentative parole hearing date  
172 shall be determined within ninety (90) days after the department  
173 has assumed custody of the offender. Such tentative parole  
174 hearing date shall be calculated by a formula taking into account  
175 the offender's age upon first commitment, number of prior  
176 incarcerations, prior probation or parole failures, the severity  
177 and the violence of the offense committed, employment history and  
178 other criteria which in the opinion of the board tend to validly  
179 and reliably predict the length of incarceration necessary before  
180 the offender can be successfully paroled. In the event an  
181 application for parole from an eligible offender is rejected, the  
182 parole board shall reconsider the application from that offender  
183 no later than one (1) year after the initial application for  
184 parole is rejected.

185 (4) Any inmate within twenty-four (24) months of his parole  
186 eligibility date and who meets the criteria established by the  
187 classification board shall receive priority for placement in any  
188 educational development and job training programs. Any inmate  
189 refusing to participate in an educational development or job  
190 training program may be ineligible for parole.

191 **SECTION 3.** This act shall take effect and be in force from  
192 and after July 1, 2004.