

By: Representative Malone

To: Corrections

HOUSE BILL NO. 669

1 AN ACT TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THE TERM "FIRST OFFENDER" FOR PURPOSES OF DETERMINING IF
3 SUCH AN OFFENDER IS ELIGIBLE FOR PAROLE; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 47-7-3, Mississippi Code of 1972, is
6 amended as follows:

7 47-7-3. (1) Every prisoner who has been convicted of any
8 offense against the State of Mississippi, and is confined in the
9 execution of a judgment of such conviction in the Mississippi
10 State Penitentiary for a definite term or terms of one (1) year or
11 over, or for the term of his or her natural life, whose record of
12 conduct shows that such prisoner has observed the rules of the
13 penitentiary, and who has served not less than one-fourth (1/4) of
14 the total of such term or terms for which such prisoner was
15 sentenced, or, if sentenced to serve a term or terms of thirty
16 (30) years or more, or, if sentenced for the term of the natural
17 life of such prisoner, has served not less than ten (10) years of
18 such life sentence, may be released on parole as hereinafter
19 provided, except that:

20 (a) No prisoner convicted as a confirmed and habitual
21 criminal under the provisions of Sections 99-19-81 through
22 99-19-87 shall be eligible for parole;

23 (b) Any person who shall have been convicted of a sex
24 crime shall not be released on parole except for a person under
25 the age of nineteen (19) who has been convicted under Section
26 97-3-67;

27 (c) No one shall be eligible for parole until he shall
28 have served one (1) year of his sentence, unless such person has
29 accrued any meritorious earned time allowances, in which case he
30 shall be eligible for parole if he has served (i) nine (9) months
31 of his sentence or sentences, when his sentence or sentences is
32 two (2) years or less; (ii) ten (10) months of his sentence or
33 sentences when his sentence or sentences is more than two (2)
34 years but no more than five (5) years; and (iii) one (1) year of
35 his sentence or sentences when his sentence or sentences is more
36 than five (5) years;

37 (d) (i) No person shall be eligible for parole who
38 shall, on or after January 1, 1977, be convicted of robbery or
39 attempted robbery through the display of a firearm until he shall
40 have served ten (10) years if sentenced to a term or terms of more
41 than ten (10) years or if sentenced for the term of the natural
42 life of such person. If such person is sentenced to a term or
43 terms of ten (10) years or less, then such person shall not be
44 eligible for parole. The provisions of this paragraph (d) shall
45 also apply to any person who shall commit robbery or attempted
46 robbery on or after July 1, 1982, through the display of a deadly
47 weapon. This subparagraph (d)(i) shall not apply to persons
48 convicted after September 30, 1994;

49 (ii) No person shall be eligible for parole who
50 shall, on or after October 1, 1994, be convicted of robbery,
51 attempted robbery or carjacking as provided in Section 97-3-115 et
52 seq., through the display of a firearm or drive-by shooting as
53 provided in Section 97-3-109. The provisions of this subparagraph
54 (d)(ii) shall also apply to any person who shall commit robbery,
55 attempted robbery, carjacking or a drive-by shooting on or after
56 October 1, 1994, through the display of a deadly weapon;

57 (e) No person shall be eligible for parole who, on or
58 after July 1, 1994, is charged, tried, convicted and sentenced to

59 life imprisonment without eligibility for parole under the
60 provisions of Section 99-19-101;

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

64 (g) No person shall be eligible for parole who is
65 convicted or whose suspended sentence is revoked after June 30,
66 1995, except that a first offender convicted of a nonviolent crime
67 after January 1, 2000, may be eligible for parole if the offender
68 meets the requirements in subsection (1) and this paragraph. In
69 addition to other requirements, if a first offender is convicted
70 of a drug or driving under the influence felony, the offender must
71 complete a drug and alcohol rehabilitation program prior to parole
72 or the offender may be required to complete a post-release drug
73 and alcohol program as a condition of parole. For purposes of
74 this paragraph, "nonviolent crime" means a felony other than
75 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
76 occupied dwelling, aggravated assault, kidnapping, felonious abuse
77 of vulnerable adults, felonies with enhanced penalties, the sale
78 or manufacture of a controlled substance under the Uniform
79 Controlled Substances Law, and felony child abuse. For purposes
80 of this paragraph, "first offender" means a person who at the time
81 of sentencing has not been convicted of a felony on a previous
82 occasion in any court or courts of the United States or in any
83 state or territory thereof.

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

92 necessary to be served for parole eligibility as provided in
93 paragraph (c) of subsection (1) of this section.

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

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

113 **SECTION 2.** This act shall take effect and be in force from
114 and after July 1, 2004.