

By: Representative Malone

To: Corrections

HOUSE BILL NO. 669
(As Sent to Governor)

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 TO PROVIDE THAT ANY
4 PERSON CONVICTED OF A DUI RESULTING IN DEATH SHALL SERVE 85% OF
5 THE SENTENCE IMPOSED UPON HIM; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 47-7-3, Mississippi Code of 1972, as
8 amended by Senate Bill No. 2680, 2004 Regular Session, is amended
9 as follows:

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

23 (a) No prisoner convicted as a confirmed and habitual
24 criminal under the provisions of Sections 99-19-81 through
25 99-19-87 shall be eligible for parole;

26 (b) Any person who shall have been convicted of a sex
27 crime shall not be released on parole except for a person under

28 the age of nineteen (19) who has been convicted under Section
29 97-3-67;

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

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

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

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

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

67 (g) No person shall be eligible for parole who is
68 convicted or whose suspended sentence is revoked after June 30,
69 1995, except that a first offender convicted of a nonviolent crime
70 after January 1, 2000, may be eligible for parole if the offender
71 meets the requirements in subsection (1) and this paragraph. In
72 addition to other requirements, if a first offender is convicted
73 of a drug or driving under the influence felony, the offender must
74 complete a drug and alcohol rehabilitation program prior to parole
75 or the offender may be required to complete a post-release drug
76 and alcohol program as a condition of parole. For purposes of
77 this paragraph, "nonviolent crime" means a felony other than
78 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
79 occupied dwelling, aggravated assault, kidnapping, felonious abuse
80 of vulnerable adults, felonies with enhanced penalties, the sale
81 or manufacture of a controlled substance under the Uniform
82 Controlled Substances Law, a violation of Section 63-11-30(5)
83 resulting in death, and felony child abuse. For purposes of this
84 paragraph, "first offender" means a person who at the time of
85 sentencing has not been convicted of a felony on a previous
86 occasion in any court or courts of the United States or in any
87 state or territory thereof.

88 (2) Notwithstanding any other provision of law, an inmate
89 shall not be eligible to receive earned time, good time or any
90 other administrative reduction of time which shall reduce the time
91 necessary to be served for parole eligibility as provided in
92 subsection (1) of this section; however, this subsection shall not

93 apply to the advancement of parole eligibility dates pursuant to
94 the Prison Overcrowding Emergency Powers Act. Moreover,
95 meritorious earned time allowances may be used to reduce the time
96 necessary to be served for parole eligibility as provided in
97 paragraph (c) of subsection (1) of this section.

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

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

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