

By: Senator(s) Doxey

To: Corrections

SENATE BILL NO. 2746

1 AN ACT TO AMEND SECTION 47-5-139, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE PROVISION ALLOWING THE RELEASE OF AN INMATE
3 SENTENCED TO LIFE IMPRISONMENT WHO IS 65 YEARS OLD AND WHO HAS
4 SERVED AT LEAST 15 YEARS; TO AMEND SECTION 47-7-3, MISSISSIPPI
5 CODE OF 1972, TO ALLOW PERSONS CONVICTED OF CERTAIN HOMICIDES TO
6 BE ELIGIBLE FOR PAROLE AFTER SERVING AT LEAST 25 YEARS; AND FOR
7 RELATED PURPOSES.

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

9 SECTION 1. Section 47-5-139, Mississippi Code of 1972, is
10 amended as follows:

11 47-5-139. (1) An inmate shall not be eligible for the
12 earned time allowance if:

13 (a) The inmate was sentenced to life
14 imprisonment; * * *

15 (b) The inmate was convicted as a habitual offender
16 under Sections 99-19-81 through 99-19-87;

17 (c) The inmate has forfeited his earned time allowance
18 by order of the commissioner;

19 (d) The inmate was convicted of a sex crime; or

20 (e) The inmate has not served the mandatory time
21 required for parole eligibility for a conviction of robbery or
22 attempted robbery with a deadly weapon.

23 (2) An offender under two (2) or more consecutive sentences
24 shall be allowed commutation based upon the total term of the
25 sentences.

26 (3) All earned time shall be forfeited by the inmate in the
27 event of escape and/or aiding and abetting an escape. The
28 commissioner may restore all or part of the earned time if the
29 escapee returns to the institution voluntarily, without expense to

30 the state, and without act of violence while a fugitive from the
31 facility.

32 (4) Any officer or employee who shall willfully violate the
33 provisions of this section and be convicted therefore shall be
34 removed from office or employment.

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

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

50 (a) No prisoner convicted as a confirmed and habitual
51 criminal under the provisions of Sections 99-19-81 through
52 99-19-87 shall be eligible for parole;

53 (b) Any person who shall have been convicted of a sex
54 crime shall not be released on parole except for a person under
55 the age of nineteen (19) who has been convicted under Section
56 97-3-67;

57 (c) No one shall be eligible for parole until he shall
58 have served one (1) year of his sentence, unless such person has
59 accrued any meritorious earned time allowances, in which case he
60 shall be eligible for parole if he has served (i) nine (9) months
61 of his sentence or sentences, when his sentence or sentences is
62 two (2) years or less; (ii) ten (10) months of his sentence or

63 sentences when his sentence or sentences is more than two (2)
64 years but no more than five (5) years; and (iii) one (1) year of
65 his sentence or sentences when his sentence or sentences is more
66 than five (5) years;

67 (d) (i) No person shall be eligible for parole who
68 shall, on or after January 1, 1977, be convicted of robbery or
69 attempted robbery through the display of a firearm until he shall
70 have served ten (10) years if sentenced to a term or terms of more
71 than ten (10) years or if sentenced for the term of the natural
72 life of such person. If such person is sentenced to a term or
73 terms of ten (10) years or less, then such person shall not be
74 eligible for parole. The provisions of this paragraph (d) shall
75 also apply to any person who shall commit robbery or attempted
76 robbery on or after July 1, 1982, through the display of a deadly
77 weapon. This subparagraph (d)(i) shall not apply to persons
78 convicted after September 30, 1994;

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

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

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

94 (g) No person shall be eligible for parole who is
95 convicted or whose suspended sentence is revoked after June 30,

96 1995, except that a first offender convicted of a nonviolent crime
97 after January 1, 2000, may be eligible for parole if the offender
98 meets the requirements in subsection (1) and this paragraph. In
99 addition to other requirements, if a first offender is convicted
100 of a drug or driving under the influence felony, the offender must
101 complete a drug and alcohol rehabilitation program prior to parole
102 or the offender may be required to complete a post-release drug
103 and alcohol program as a condition of parole. For purposes of
104 this paragraph, "nonviolent crime" means a felony other than
105 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
106 occupied dwelling, aggravated assault, kidnapping, felonious abuse
107 of vulnerable adults, felonies with enhanced penalties, the sale
108 or manufacture of a controlled substance under the Uniform
109 Controlled Substances Law, and felony child abuse; and

110 (h) Notwithstanding any other provision of law, a
111 person who is convicted of murder, other than capital murder, may
112 be eligible for parole if he meets the good conduct requirements
113 under subsection (1) and has served not less than twenty-five (25)
114 years.

115 (2) Notwithstanding any other provision of law, an inmate
116 shall not be eligible to receive earned time, good time or any
117 other administrative reduction of time which shall reduce the time
118 necessary to be served for parole eligibility as provided in
119 subsection (1) of this section; however, this subsection shall not
120 apply to the advancement of parole eligibility dates pursuant to
121 the Prison Overcrowding Emergency Powers Act. Moreover,
122 meritorious earned time allowances may be used to reduce the time
123 necessary to be served for parole eligibility as provided in
124 paragraph (c) of subsection (1) of this section.

125 (3) The State Parole Board shall by rules and regulations
126 establish a method of determining a tentative parole hearing date
127 for each eligible offender taken into the custody of the
128 Department of Corrections. The tentative parole hearing date

129 shall be determined within ninety (90) days after the department
130 has assumed custody of the offender. Such tentative parole
131 hearing date shall be calculated by a formula taking into account
132 the offender's age upon first commitment, number of prior
133 incarcerations, prior probation or parole failures, the severity
134 and the violence of the offense committed, employment history and
135 other criteria which in the opinion of the board tend to validly
136 and reliably predict the length of incarceration necessary before
137 the offender can be successfully paroled.

138 (4) Any inmate within twenty-four (24) months of his parole
139 eligibility date and who meets the criteria established by the
140 classification board shall receive priority for placement in any
141 educational development and job training programs. Any inmate
142 refusing to participate in an educational development or job
143 training program may be ineligible for parole.

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