

By: Senator(s) Huggins, Doxey, Harden,
Horhn, Jackson (11th), Jackson (32nd),
Simmons, Thomas, Walls

To: Corrections

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2988

1 AN ACT TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE EQUITY IN PAROLE ELIGIBILITY FOR CERTAIN FIRST TIME
3 OFFENDERS CONVICTED OF POSSESSION OF A CONTROLLED SUBSTANCE UNDER
4 THE 85% RULE; TO CLARIFY THE FELONY DRUG OFFENSES INELIGIBLE FOR
5 PAROLE; 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, is
8 amended as follows:

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

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

25 (b) Any person who shall have been convicted of a sex
26 crime shall not be released on parole except for a person under
27 the age of nineteen (19) who has been convicted under Section
28 97-3-67;

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

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

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

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

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

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

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

94 Law after July 1, 1995, shall be eligible for parole as provided
95 for such offenders in this paragraph after July 1, 2000.

96 (2) Notwithstanding any other provision of law, an inmate
97 shall not be eligible to receive earned time, good time or any
98 other administrative reduction of time which shall reduce the time
99 necessary to be served for parole eligibility as provided in
100 subsection (1) of this section; however, this subsection shall not
101 apply to the advancement of parole eligibility dates pursuant to
102 the Prison Overcrowding Emergency Powers Act. Moreover,
103 meritorious earned time allowances may be used to reduce the time
104 necessary to be served for parole eligibility as provided in
105 paragraph (c) of subsection (1) of this section.

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

119 (b) If an application for parole from an eligible
120 offender is rejected, the Parole Board shall reconsider the
121 application from that offender no later than one (1) year after
122 the initial application for parole is rejected, unless the crime
123 for which the offender was convicted is defined as a violent crime
124 under subsection (2)(g) of this section.

125 This paragraph shall stand repealed on July 1, 2005.

126 (4) Any inmate within twenty-four (24) months of his parole
127 eligibility date and who meets the criteria established by the
128 classification board shall receive priority for placement in any
129 educational development and job training programs. Any inmate
130 refusing to participate in an educational development or job
131 training program may be ineligible for parole.

132 **SECTION 2.** This act shall take effect and be in force from
133 and after its passage.