

By: Senator(s) Huggins, Doxey

To: Corrections

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; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

123 (4) Any inmate within twenty-four (24) months of his parole
124 eligibility date and who meets the criteria established by the
125 classification board shall receive priority for placement in any

126 educational development and job training programs. Any inmate
127 refusing to participate in an educational development or job
128 training program may be ineligible for parole.

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