

By: Senator(s) Doxey, Butler, Chassaniol,
Dearing, Harden, Horhn, Jackson (11th),
Jackson (32nd), Jordan, Posey, Thomas, Walls

To: Corrections

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2804

1 AN ACT TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT FIRST-TIME OFFENDERS FOR SELLING A SMALL QUANTITY OF
3 DRUGS MAY BE ELIGIBLE FOR PAROLE; TO PROVIDE THAT A FIRST-TIME
4 OFFENDER CONVICTED FOR SELLING A CONTROLLED SUBSTANCE WHO MEETS
5 GOOD CONDUCT AND PERFORMANCE REQUIREMENTS OF THE DEPARTMENT OF
6 CORRECTIONS MAY BE REVIEWED BY THE PAROLE BOARD FOR POSSIBLE
7 INCLUSION IN A PAROLE ELIGIBLE CLASSIFICATION OF OFFENDERS; TO
8 PROVIDE THAT THE OFFENDER MAY BE CONSIDERED FOR PAROLE AFTER SUCH
9 INCLUSION; TO PROVIDE THAT AN HONORABLE DISCHARGE FROM THE ARMED
10 SERVICES SHALL BE A FACTOR CONSIDERED IN PAROLE ELIGIBILITY; AND
11 FOR RELATED PURPOSES.

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

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

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

28 (a) No prisoner convicted as a confirmed and habitual
29 criminal under the provisions of Sections 99-19-81 through
30 99-19-87 shall be eligible for parole;

31 (b) Any person who shall have been convicted of a sex
32 crime shall not be released on parole except for a person under
33 the age of nineteen (19) who has been convicted under Section
34 97-3-67;

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

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

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

63 attempted robbery, carjacking or a drive-by shooting on or after
64 October 1, 1994, through the display of a deadly weapon;

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

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

72 (g) No person shall be eligible for parole who is
73 convicted or whose suspended sentence is revoked after June 30,
74 1995, except that a first offender convicted of a nonviolent crime
75 after January 1, 2000, may be eligible for parole if the offender
76 meets the requirements in subsection (1) and this paragraph. In
77 addition to other requirements, if a first offender is convicted
78 of a drug or driving under the influence felony, the offender must
79 complete a drug and alcohol rehabilitation program prior to parole
80 or the offender may be required to complete a post-release drug
81 and alcohol program as a condition of parole. For purposes of
82 this paragraph, "nonviolent crime" means a felony other than
83 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
84 occupied dwelling, aggravated assault, kidnapping, felonious abuse
85 of vulnerable adults, felonies with enhanced penalties, the sale
86 or manufacture of a controlled substance under the Uniform
87 Controlled Substances Law, felony child abuse, or any crime under
88 Section 97-5-33 or Section 97-5-39(2) or a violation of Section
89 63-11-30(5) resulting in death, or serious bodily injury resulting
90 in the loss of a limb or dismemberment, loss of eyesight, a coma,
91 permanent dysfunction of any vital organ, paralysis or resulting
92 in an individual's permanent bedridden state. For purposes of
93 this paragraph, "first offender" means a person who at the time of
94 sentencing has not been convicted of a felony on a previous
95 occasion in any court or courts of the United States or in any

96 state or territory thereof. In addition, a first-time offender
97 incarcerated for committing the crime of possession of a
98 controlled substance under the Uniform Controlled Substances Law
99 after July 1, 1995, shall be eligible for parole as provided for
100 such offenders in this paragraph after July 1, 2000. In addition,
101 a first-time offender convicted of selling a small quantity of a
102 controlled substance under Section 41-29-139(b)(3),(c)(1)(A) or
103 (B), or (c)(3)(A) or (B) shall be eligible for parole.

104 In addition, a first-time offender convicted of selling a
105 controlled substance who meets the good conduct and performance
106 requirements of the department may be reviewed by the Parole Board
107 for possible inclusion in a parole eligible classification of
108 offenders. The board may review the good performance and conduct
109 status of such offender after the offender has served one-fourth
110 (1/4) of his sentence. The board shall consider the custody
111 status, the conduct and attitude of the offender, number of rules
112 violation reports, any disciplinary actions, participation in work
113 programs, education programs, alcohol and drug rehabilitation
114 programs, special incentive programs, and any other factors the
115 board deems necessary to evaluate the conduct and performance of
116 the offender. If the board finds that the offender has met the
117 good conduct and performance requirements of the department and
118 the board, the board may place the offender in a parole eligible
119 classification. After such classification, the board may consider
120 the offender for parole.

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

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

131 (3) * * * The State Parole Board shall by rules and
132 regulations establish a method of determining a tentative parole
133 hearing date for each eligible offender taken into the custody of
134 the Department of Corrections. The tentative parole hearing date
135 shall be determined within ninety (90) days after the department
136 has assumed custody of the offender. Such tentative parole
137 hearing date shall be calculated by a formula taking into account
138 the offender's age upon first commitment, number of prior
139 incarcerations, prior probation or parole failures, the severity
140 and the violence of the offense committed, employment history,
141 whether the offender served in the United States Armed Forces and
142 has an honorable discharge and other criteria which in the opinion
143 of the board tend to validly and reliably predict the length of
144 incarceration necessary before the offender can be successfully
145 paroled.

146 * * *

147 (4) Any inmate within twenty-four (24) months of his parole
148 eligibility date and who meets the criteria established by the
149 classification board shall receive priority for placement in any
150 educational development and job training programs. Any inmate
151 refusing to participate in an educational development or job
152 training program may be ineligible for parole.

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