

By: Representatives Gipson, Dixon

To: Judiciary B; Corrections

HOUSE BILL NO. 1267  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE POWERS AND DUTIES OF THE PAROLE BOARD; TO AMEND SECTION  
3 99-19-71, MISSISSIPPI CODE OF 1972, TO REVISE THE EXPUNCTION OF A  
4 FELONY RECORD UNDER CERTAIN LIMITED CIRCUMSTANCES; TO CLARIFY  
5 AUTHORITY OF THE COURT TO REVOKE PROBATION; AND FOR RELATED  
6 PURPOSES.

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

8 **SECTION 1.** Section 47-7-3, Mississippi Code of 1972, is  
9 amended 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 Department of Corrections for a definite term or terms of one (1)  
14 year or over, or for the term of his or her natural life, whose  
15 record of conduct shows that such prisoner has observed the rules  
16 of the department, and who has served not less than one-fourth  
17 (1/4) of the total of such term or terms for which such prisoner  
18 was 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) (i) No person shall be eligible for parole who  
31 shall, on or after January 1, 1977, be convicted of robbery or  
32 attempted robbery through the display of a firearm until he shall  
33 have served ten (10) years if sentenced to a term or terms of more  
34 than ten (10) years or if sentenced for the term of the natural  
35 life of such person. If such person is sentenced to a term or  
36 terms of ten (10) years or less, then such person shall not be  
37 eligible for parole. The provisions of this paragraph (c)(i)  
38 shall also apply to any person who shall commit robbery or  
39 attempted robbery on or after July 1, 1982, through the display of  
40 a deadly weapon. This paragraph (c)(i) shall not apply to persons  
41 convicted after September 30, 1994;

42 (ii) No person shall be eligible for parole who  
43 shall, on or after October 1, 1994, be convicted of robbery,  
44 attempted robbery or carjacking as provided in Section 97-3-115 et  
45 seq., through the display of a firearm or drive-by shooting as



46 provided in Section 97-3-109. The provisions of this paragraph  
47 (c)(ii) shall also apply to any person who shall commit robbery,  
48 attempted robbery, carjacking or a drive-by shooting on or after  
49 October 1, 1994, through the display of a deadly weapon. This  
50 paragraph (c)(ii) shall not apply to persons convicted after July  
51 1, 2014;

52 (d) No person shall be eligible for parole who, on or  
53 after July 1, 1994, is charged, tried, convicted and sentenced to  
54 life imprisonment without eligibility for parole under the  
55 provisions of Section 99-19-101;

56 (e) No person shall be eligible for parole who is  
57 charged, tried, convicted and sentenced to life imprisonment under  
58 the provisions of Section 99-19-101;

59 (f) No person shall be eligible for parole who is  
60 convicted or whose suspended sentence is revoked after June 30,  
61 1995, except that an offender convicted of only nonviolent crimes  
62 after June 30, 1995, may be eligible for parole if the offender  
63 meets the requirements in subsection (1) and this paragraph. In  
64 addition to other requirements, if an offender is convicted of a  
65 drug or driving under the influence felony, the offender must  
66 complete a drug and alcohol rehabilitation program prior to parole  
67 or the offender may be required to complete a post-release drug  
68 and alcohol program as a condition of parole. For purposes of  
69 this paragraph, "nonviolent crime" means a felony other than  
70 homicide, robbery, manslaughter, sex crimes, arson, burglary of an



71 occupied dwelling, aggravated assault, kidnapping, felonious abuse  
72 of vulnerable adults, felonies with enhanced penalties, the sale  
73 or manufacture of a controlled substance under the Uniform  
74 Controlled Substances Law, felony child abuse, or exploitation or  
75 any crime under Section 97-5-33 or Section 97-5-39(2) or  
76 97-5-39(1) (b), 97-5-39(1) (c) or a violation of Section  
77 63-11-30(5). An offender convicted of a violation under Section  
78 41-29-139(a), not exceeding the amounts specified under Section  
79 41-29-139(b), may be eligible for parole. In addition, an  
80 offender incarcerated for committing the crime of possession of a  
81 controlled substance under the Uniform Controlled Substances Law  
82 after July 1, 1995, shall be eligible for parole. This paragraph  
83 (f) shall not apply to persons convicted on or after July 1, 2014;  
84 (g) (i) No person who, on or after July 1, 2014, is  
85 convicted of a crime of violence pursuant to Section 97-3-2, a sex  
86 crime or an offense that specifically prohibits parole release,  
87 shall be eligible for parole. All persons convicted of any other  
88 offense on or after July 1, 2014, are eligible for parole after  
89 they have served one-fourth (1/4) of the sentence or sentences  
90 imposed by the trial court.

91 (ii) Notwithstanding the provisions in paragraph  
92 (i) of this subsection, a person serving a sentence who has  
93 reached the age of sixty (60) or older and who has served no less  
94 than ten (10) years of the sentence or sentences imposed by the  
95 trial court shall be eligible for parole. Any person eligible for



96 parole under this subsection shall be required to have a parole  
97 hearing before the board prior to parole release. No inmate shall  
98 be eligible for parole under this paragraph of this subsection if:

99 1. The inmate is sentenced as a habitual  
100 offender under Sections 99-19-81 through 99-19-87;

101 2. The inmate is sentenced for a crime of  
102 violence under Section 97-3-2;

103 3. The inmate is sentenced for an offense  
104 that specifically prohibits parole release;

105 4. The inmate is sentenced for trafficking in  
106 controlled substances under Section 41-29-139(f);

107 5. The inmate is sentenced for a sex crime;  
108 or

109 6. The inmate has not served one-fourth (1/4)  
110 of the sentence imposed by the court.

111 (iii) Notwithstanding the provisions of paragraph  
112 (1)(a) of this section, any \* \* \* offender who has not committed a  
113 crime of violence under Section 97-3-2 and has served twenty-five  
114 percent (25%) or more of his sentence may be paroled by the parole  
115 board if, after the sentencing judge or if the sentencing judge is  
116 retired, disabled or incapacitated, the senior circuit judge \* \* \*  
117 authorizes the offender to be eligible for parole consideration.

118 (2) Notwithstanding any other provision of law, an inmate  
119 shall not be eligible to receive earned time, good time or any  
120 other administrative reduction of time which shall reduce the time



121 necessary to be served for parole eligibility as provided in  
122 subsection (1) of this section.

123 (3) The State Parole Board shall, by rules and regulations,  
124 establish a method of determining a tentative parole hearing date  
125 for each eligible offender taken into the custody of the  
126 Department of Corrections. The tentative parole hearing date  
127 shall be determined within ninety (90) days after the department  
128 has assumed custody of the offender. The parole hearing date  
129 shall occur when the offender is within thirty (30) days of the  
130 month of his parole eligibility date. The parole eligibility date  
131 shall not be earlier than one-fourth (1/4) of the prison sentence  
132 or sentences imposed by the court.

133 (4) Any inmate within twenty-four (24) months of his parole  
134 eligibility date and who meets the criteria established by the  
135 classification board shall receive priority for placement in any  
136 educational development and job training programs that are part of  
137 his or her parole case plan. Any inmate refusing to participate  
138 in an educational development or job training program that is part  
139 of the case plan may be in jeopardy of noncompliance with the case  
140 plan and may be denied parole.

141 **SECTION 2.** Section 99-19-71, Mississippi Code of 1972, is  
142 amended as follows:

143 99-19-71. (1) Any person who has been convicted of a  
144 misdemeanor \* \* \* that is not a traffic violation, and who is a  
145 first offender, may petition the justice, county, circuit or



146 municipal court in which the conviction was had for an order to  
147 expunge any such conviction from all public records.

148 (2) (a) Any person who has been convicted of one (1) of the  
149 following felonies may petition the court in which the conviction  
150 was had for an order to expunge one (1) conviction from all public  
151 records five (5) years after the successful completion of all  
152 terms and conditions of the sentence for the conviction: a bad  
153 check offense under Section 97-19-55; possession of a controlled  
154 substance or paraphernalia under Section 41-29-139(c) or (d);  
155 false pretense under Section 97-19-39; larceny under Section  
156 97-17-41; malicious mischief under Section 97-17-67; or  
157 shoplifting under Section 97-23-93. A person is eligible for only  
158 one (1) felony expunction under this paragraph.

159 (b) Any person who was under the age of \* \* \*  
160 twenty-one (21) years when he committed a felony may petition the  
161 court in which the conviction was had for an order to expunge one  
162 (1) conviction from all public records five (5) years after the  
163 successful completion of all terms and conditions of the sentence  
164 for the conviction; however, eligibility for expunction shall not  
165 apply to \* \* \* a felony classified as a crime of violence under  
166 Section 97-3-2 and any felony that, in the determination of the  
167 circuit court, is \* \* \* related to the distribution of a  
168 controlled substance and in the court's discretion it should not  
169 be expunged. A person is eligible for only one (1) felony  
170 expunction under this paragraph.



171           (c) The petitioner shall give ten (10) days' written  
172 notice to the district attorney before any hearing on the  
173 petition. In all cases, the court wherein the petition is filed  
174 may grant the petition if the court determines, on the record or  
175 in writing, that the applicant is rehabilitated from the offense  
176 which is the subject of the petition. In those cases where the  
177 court denies the petition, the findings of the court in this  
178 respect shall be identified specifically and not generally.

179           (3) Upon entering an order of expunction under this section,  
180 a nonpublic record thereof shall be retained by the Mississippi  
181 Criminal Information Center solely for the purpose of determining  
182 whether, in subsequent proceedings, the person is a first  
183 offender. The order of expunction shall not preclude a district  
184 attorney's office from retaining a nonpublic record thereof for  
185 law enforcement purposes only. The existence of an order of  
186 expunction shall not preclude an employer from asking a  
187 prospective employee if the employee has had an order of  
188 expunction entered on his behalf. The effect of the expunction  
189 order shall be to restore the person, in the contemplation of the  
190 law, to the status he occupied before any arrest or indictment for  
191 which convicted. No person as to whom an expunction order has  
192 been entered shall be held thereafter under any provision of law  
193 to be guilty of perjury or to have otherwise given a false  
194 statement by reason of his failure to recite or acknowledge such  
195 arrest, indictment or conviction in response to any inquiry made





196 of him for any purpose other than the purpose of determining, in  
197 any subsequent proceedings under this section, whether the person  
198 is a first offender. A person as to whom an order has been  
199 entered, upon request, shall be required to advise the court, in  
200 camera, of the previous conviction and expunction in any legal  
201 proceeding wherein the person has been called as a prospective  
202 juror. The court shall thereafter and before the selection of the  
203 jury advise the attorneys representing the parties of the previous  
204 conviction and expunction.

205 (4) Upon petition therefor, a justice, county, circuit or  
206 municipal court shall expunge the record of any case in which an  
207 arrest was made, the person arrested was released and the case was  
208 dismissed or the charges were dropped or there was no disposition  
209 of such case.

210 (5) No public official is eligible for expunction under this  
211 section for any conviction related to his official duties.

212 **SECTION 3.** Notwithstanding any other provision of law to the  
213 contrary, if a court finds by a preponderance of the evidence,  
214 that a probationer or a person under post-release supervision has  
215 committed a felony or absconded, the court may revoke his  
216 probation and impose any or all of the sentence. For purposes of  
217 this section, "absconding from supervision" means the failure of a  
218 probationer to report to his supervising officer for six (6) or  
219 more consecutive months.



220           **SECTION 4.** Sections 1 and 2 of this act shall take effect  
221 and be in force from and after July 1, 2015. Section 3 of this  
222 act shall take effect and be in force from and after its passage.

