

By: Representatives Gipson, Sykes, Karriem

To: Judiciary B

HOUSE BILL NO. 387
(As Sent to Governor)

1 AN ACT TO PROVIDE THAT INCARCERATION SHALL NOT AUTOMATICALLY
 2 FOLLOW THE NONPAYMENT OF A FINE, RESTITUTION, OR COURT COSTS; TO
 3 PROVIDE THAT THE AGGREGATE TOTAL OF THE PERIOD OF INCARCERATION
 4 IMPOSED PURSUANT TO THIS SECTION AND THE TERM OF THE SENTENCE
 5 ORIGINALLY IMPOSED MAY NOT EXCEED THE MAXIMUM TERM OF IMPRISONMENT
 6 AUTHORIZED FOR THE OFFENSE; TO AMEND SECTIONS 99-19-20, 99-37-7
 7 AND 47-1-1, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
 8 PRECEDING SECTIONS; TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF
 9 1972, TO PROVIDE THAT AN OTHERWISE INELIGIBLE INMATE FOR PAROLE
 10 SHALL BE ELIGIBLE FOR PAROLE IF AN INMATE HAS NOT BEEN CONVICTED
 11 OF COMMITTING A CRIME OF VIOLENCE, DRUG TRAFFICKING OR AS A
 12 HABITUAL OFFENDER AND HE OR SHE HAS SERVED AT LEAST 25% OF HIS OR
 13 HER SENTENCE; TO REQUIRE THE JOINT LEGISLATIVE COMMITTEE ON
 14 PERFORMANCE EVALUATION AND EXPENDITURE REVIEW TO CONDUCT A
 15 ONE-TIME CENSUS OF JAIL POPULATIONS THROUGHOUT THE STATE; TO
 16 CREATE THE MISSISSIPPI SENTENCING DISPARITY TASK FORCE; TO APPOINT
 17 THE MEMBERS TO THE TASK FORCE; TO AMEND SECTIONS 47-7-27 and
 18 47-7-37, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE NUMBER OF
 19 PRIOR REVOCATIONS RATHER THAN THE NUMBER OF ALLEGED TECHNICAL
 20 VIOLATIONS SHALL BE CONSIDERED FOR PURPOSES OF REVOCATION
 21 SENTENCING; TO AMEND SECTION 99-19-81, MISSISSIPPI CODE OF 1972,
 22 TO REVISE SENTENCING OF CERTAIN OFFENDERS AS HABITUAL OFFENDERS;
 23 AND FOR RELATED PURPOSES.

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

25 **SECTION 1.** (1) Incarceration shall not automatically follow
 26 the nonpayment of a fine, restitution or court costs.
 27 Incarceration may be employed only after the court has conducted a
 28 hearing and examined the reasons for nonpayment and finds, on the



29 record, that the defendant was not indigent or could have made
30 payment but refused to do so. When determining whether a person
31 is indigent, the court shall use the current Federal Poverty
32 Guidelines and there shall be a presumption of indigence when a
33 defendant's income is at or below one hundred twenty-five percent
34 (125%) of the Federal Poverty Guidelines, subject to a review of
35 his or her assets. A defendant at or below one hundred
36 twenty-five percent (125%) of the Federal Poverty Guidelines
37 without substantial liquid assets available to pay fines, fees,
38 and costs shall be deemed indigent. In determining whether a
39 defendant has substantial liquid assets, the judge shall not
40 consider up to Ten Thousand Dollars (\$10,000.00) in tangible
41 personal property, including motor vehicles, household goods, or
42 any other assets exempted from seizure under execution or
43 attachment as provided under Section 85-3-1. If the defendant is
44 above one hundred twenty-five percent (125%) of the Federal
45 Poverty Guidelines, the judge shall make an individualized
46 assessment of his or her ability to pay based on the totality of
47 the circumstances including, but not limited to, the defendant's
48 disposable income, financial obligations and liquid assets. If
49 the judge determines that a defendant who claims indigence is not
50 indigent and the defendant could have made payment but refused to
51 do so, the case file shall include a written explanation of the
52 basis for the determination of the judge. In justice and



53 municipal court, such finding shall be included in the court's
54 order.

55 (2) If it appears to the satisfaction of the court that
56 nonpayment is not willful, the court shall enter an order that
57 allows the defendant additional time for payment, reduces the
58 amount of each installment, revokes the fine, in whole or in part,
59 or allows the defendant to perform community service at the state
60 minimum wage per hour rate. If the court finds nonpayment is
61 willful after consideration of the defendant's situation, means,
62 and conduct with regard to the nonpayment, the court shall
63 determine the period of incarceration, if any, subject to the
64 limitations set by law and subsection (3) of this section.

65 (3) If at the time the fine, restitution or court cost is
66 ordered, a sentence of incarceration is also imposed, the
67 aggregate total of the period of incarceration imposed pursuant to
68 this section and the term of the sentence originally imposed
69 may not exceed the maximum term of imprisonment authorized for the
70 offense.

71 (4) A minor who is to serve as a confidential informant must
72 be notified that the minor has the right to contact one (1) or
73 both parents.

74 **SECTION 2.** Section 99-19-20, Mississippi Code of 1972, is
75 amended as follows:

76 99-19-20. (1) Except as otherwise provided under Section 1
77 of this act, when any court sentences a defendant to pay a fine,



78 the court may order (a) that the fine be paid immediately, or (b)
79 that the fine be paid in installments to the clerk of * * *~~said~~
80 the court or to the judge, if there be no clerk, or (c) that
81 payment of the fine be a condition of probation, or (d) that the
82 defendant be required to work on public property for public
83 benefit under the direction of the sheriff for a specific number
84 of hours, or (e) any combination of the above.

85 (2) Except as otherwise provided under Section 1 of this
86 act, the defendant may be imprisoned until the fine is paid if the
87 defendant is financially able to pay a fine and the court so
88 finds, subject to the limitations * * *~~hereinafter set out~~
89 provided under this section. The defendant shall not be
90 imprisoned if the defendant is financially unable to pay a fine
91 and so states to the court in writing, under oath, after sentence
92 is pronounced, and the court so finds, except if the defendant is
93 financially unable to pay a fine and such defendant failed or
94 refused to comply with a prior sentence as specified in subsection
95 (1) of this section, the defendant may be imprisoned.

96 This subsection shall be limited as follows:

97 (a) In no event shall such period of imprisonment
98 exceed one (1) day for each * * *~~Twenty-five Dollars (\$25.00)~~ One
99 Hundred Dollars (\$100.00) of the fine. * * *~~If a defendant is~~
100 ~~unable to work or if the county or the municipality is unable to~~
101 ~~provide work for the defendant, the defendant shall receive a~~



102 ~~credit of Twenty-five Dollars (\$25.00) for each day of~~
103 ~~imprisonment.~~

104 (b) If a sentence of imprisonment, as well as a fine,
105 were imposed, the aggregate of such term for nonpayment of a fine
106 and the original sentence of imprisonment shall not exceed the
107 maximum authorized term of imprisonment.

108 (c) It shall be in the discretion of the judge to
109 determine the rate of the credit to be earned for work performed
110 under subsection (1)(d), but the rate shall be no lower than the
111 rate of the highest current federal minimum wage.

112 (3) Periods of confinement imposed for nonpayment of two (2)
113 or more fines shall run consecutively unless specified by the
114 court to run concurrently.

115 **SECTION 3.** Section 99-37-7, Mississippi Code of 1972, is
116 amended as follows:

117 99-37-7. (1) Subject to the provisions of Section 1 of this
118 act, when a defendant sentenced to pay a fine or to make
119 restitution defaults in the payment thereof or of any installment,
120 the court, on motion of the district attorney, or upon its own
121 motion, may require him to show cause why his default should not
122 be treated as contempt of court, and may issue a show cause
123 citation or a warrant of arrest for his appearance.

124 (2) Subject to the provisions of Section 1 of this act,
125 unless the defendant shows that his default was not attributable
126 to an intentional refusal to obey the order of the court or to a



127 failure on his part to make a good faith effort to make the
128 payment, the court may find that his default constitutes contempt
129 and may order him committed until the fine or the restitution, or
130 a specified part thereof, is paid.

131 (3) A judicial officer shall not be held criminally or
132 civilly liable for failure of any defendant to pay any fine or to
133 make restitution if the officer exercises his judicial authority
134 in accordance with subsections (1) and (2) of this section to
135 require the payment of such fine or restitution.

136 (4) When a fine or an order of restitution is imposed on a
137 corporation or unincorporated association, it is the duty of the
138 person authorized to make disbursement from the assets of the
139 corporation or association to pay the fine or make the restitution
140 from those assets, and his failure to do so may be held to be
141 contempt unless he makes the showing required in subsection (2) of
142 this section.

143 **SECTION 4.** Section 47-1-1, Mississippi Code of 1972, is
144 amended as follows:

145 47-1-1. Every convict sentenced to imprisonment in the
146 county jail, or to such imprisonment and the payment of a fine, or
147 the payment of a fine, shall be committed to jail, and shall
148 remain in close confinement for the full time specified for
149 imprisonment in the sentence of the court, and in like
150 confinement, subject to the provisions of Section 1 of this act,
151 until the fine, costs and jail fees be fully paid, unless



152 discharged in due course of law, or as hereinafter
153 provided. * * *~~But~~ Subject to the provisions of Section 1 of this
154 act, no convict shall be held in continuous confinement under a
155 conviction for any one (1) offense for failure to pay fine and
156 costs in such case for a period of more than * * *~~two (2) years~~
157 one (1) year.

158 **SECTION 5.** Section 47-7-3, Mississippi Code of 1972, is
159 amended as follows:

160 47-7-3. (1) Every prisoner who has been convicted of any
161 offense against the State of Mississippi, and is confined in the
162 execution of a judgment of such conviction in the Mississippi
163 Department of Corrections for a definite term or terms of one (1)
164 year or over, or for the term of his or her natural life, whose
165 record of conduct shows that such prisoner has observed the rules
166 of the department, and who has served not less than one-fourth
167 (1/4) of the total of such term or terms for which such prisoner
168 was sentenced, or, if sentenced to serve a term or terms of thirty
169 (30) years or more, or, if sentenced for the term of the natural
170 life of such prisoner, has served not less than ten (10) years of
171 such life sentence, may be released on parole as hereinafter
172 provided, except that:

173 (a) No prisoner convicted as a confirmed and habitual
174 criminal under the provisions of Sections 99-19-81 through
175 99-19-87 shall be eligible for parole;



176 (b) Any person who shall have been convicted of a sex
177 crime shall not be released on parole except for a person under
178 the age of nineteen (19) who has been convicted under Section
179 97-3-67;

180 (c) (i) No person shall be eligible for parole who
181 shall, on or after January 1, 1977, be convicted of robbery or
182 attempted robbery through the display of a firearm until he shall
183 have served ten (10) years if sentenced to a term or terms of more
184 than ten (10) years or if sentenced for the term of the natural
185 life of such person. If such person is sentenced to a term or
186 terms of ten (10) years or less, then such person shall not be
187 eligible for parole. The provisions of this paragraph (c)(i)
188 shall also apply to any person who shall commit robbery or
189 attempted robbery on or after July 1, 1982, through the display of
190 a deadly weapon. This paragraph (c)(i) shall not apply to persons
191 convicted after September 30, 1994;

192 (ii) No person shall be eligible for parole who
193 shall, on or after October 1, 1994, be convicted of robbery,
194 attempted robbery or carjacking as provided in Section 97-3-115 et
195 seq., through the display of a firearm or drive-by shooting as
196 provided in Section 97-3-109. The provisions of this paragraph
197 (c)(ii) shall also apply to any person who shall commit robbery,
198 attempted robbery, carjacking or a drive-by shooting on or after
199 October 1, 1994, through the display of a deadly weapon. This



200 paragraph (c)(ii) shall not apply to persons convicted after July
201 1, 2014;

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

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

209 (f) No person shall be eligible for parole who is
210 convicted or whose suspended sentence is revoked after June 30,
211 1995, except that an offender convicted of only nonviolent crimes
212 after June 30, 1995, may be eligible for parole if the offender
213 meets the requirements in subsection (1) and this paragraph. In
214 addition to other requirements, if an offender is convicted of a
215 drug or driving under the influence felony, the offender must
216 complete a drug and alcohol rehabilitation program prior to parole
217 or the offender may be required to complete a post-release drug
218 and alcohol program as a condition of parole. For purposes of
219 this paragraph, "nonviolent crime" means a felony other than
220 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
221 occupied dwelling, aggravated assault, kidnapping, felonious abuse
222 of vulnerable adults, felonies with enhanced penalties, except
223 enhanced penalties for the crime of possession of a controlled
224 substance under Section 41-29-147, the sale or manufacture of a



225 controlled substance under the Uniform Controlled Substances Law,
226 felony child abuse, or exploitation or any crime under Section
227 97-5-33 or Section 97-5-39(2) or 97-5-39(1)(b), 97-5-39(1)(c) or a
228 violation of Section 63-11-30(5). In addition, an offender
229 incarcerated for committing the crime of possession of a
230 controlled substance under the Uniform Controlled Substances Law
231 after July 1, 1995, including an offender who receives an enhanced
232 penalty under the provisions of Section 41-29-147 for such
233 possession, shall be eligible for parole. An offender
234 incarcerated for committing the crime of sale or manufacture of a
235 controlled substance shall be eligible for parole after serving
236 one-fourth (1/4) of the sentence imposed by the trial court. This
237 paragraph (f) shall not apply to persons convicted on or after
238 July 1, 2014;

239 (g) (i) No person who, on or after July 1, 2014, is
240 convicted of a crime of violence pursuant to Section 97-3-2, a sex
241 crime or an offense that specifically prohibits parole release,
242 shall be eligible for parole. All persons convicted of any other
243 offense on or after July 1, 2014, are eligible for parole after
244 they have served one-fourth (1/4) of the sentence or sentences
245 imposed by the trial court.

246 (ii) Notwithstanding the provisions in paragraph
247 (i) of this subsection, a person serving a sentence who has
248 reached the age of sixty (60) or older and who has served no less
249 than ten (10) years of the sentence or sentences imposed by the



250 trial court shall be eligible for parole. Any person eligible for
251 parole under this subsection shall be required to have a parole
252 hearing before the board prior to parole release. No inmate shall
253 be eligible for parole under this paragraph of this subsection if:

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

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

258 3. The inmate is sentenced for an offense
259 that specifically prohibits parole release;

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

262 5. The inmate is sentenced for a sex crime;
263 or

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

266 (iii) Notwithstanding the provisions of
267 paragraph * * * ~~(1)~~ (a) of this subsection, any offender who has
268 not committed a crime of violence under Section 97-3-2 and has
269 served twenty-five percent (25%) or more of his sentence may be
270 paroled by the parole board if, after the sentencing judge or if
271 the sentencing judge is retired, disabled or incapacitated, the
272 senior circuit judge authorizes the offender to be eligible for
273 parole consideration.



274 (h) Notwithstanding any other provision of law, an
275 inmate who has not been convicted as a habitual offender under
276 Sections 99-19-81 through 99-19-87, has not been convicted of
277 committing a crime of violence, as defined under Section 97-3-2,
278 has not been convicted of a sex crime or any other crime that
279 specifically prohibits parole release, and has not been convicted
280 of drug trafficking under Section 41-29-139 is eligible for parole
281 if the inmate has served twenty-five percent (25%) or more of his
282 or her sentence, but is otherwise ineligible for parole.

283 (2) Notwithstanding any other provision of law, an inmate
284 shall not be eligible to receive earned time, good time or any
285 other administrative reduction of time which shall reduce the time
286 necessary to be served for parole eligibility as provided in
287 subsection (1) of this section.

288 (3) The State Parole Board shall, by rules and regulations,
289 establish a method of determining a tentative parole hearing date
290 for each eligible offender taken into the custody of the
291 Department of Corrections. The tentative parole hearing date
292 shall be determined within ninety (90) days after the department
293 has assumed custody of the offender. The parole hearing date
294 shall occur when the offender is within thirty (30) days of the
295 month of his parole eligibility date. The parole eligibility date
296 shall not be earlier than one-fourth (1/4) of the prison sentence
297 or sentences imposed by the court.



298 (4) Any inmate within twenty-four (24) months of his parole
299 eligibility date and who meets the criteria established by the
300 classification board shall receive priority for placement in any
301 educational development and job training programs that are part of
302 his or her parole case plan. Any inmate refusing to participate
303 in an educational development or job training program that is part
304 of the case plan may be in jeopardy of noncompliance with the case
305 plan and may be denied parole.

306 **SECTION 6.** Any person who supervises an individual placed on
307 parole by the Parole Board or placed on probation by the court
308 shall set the times and locations for meetings that are required
309 for parole or probation at such times and locations that are
310 reasonably designed to accommodate the work schedule of an
311 individual on parole or probation who is employed by another
312 person or entity. To effectuate the provisions of this section,
313 the parole officer or probation officer may utilize technology
314 portals such as Skype, FaceTime or Google video chat, or any other
315 technology portal that allows communication between the individual
316 on parole or probation and the parole or probation officer, as
317 applicable, to occur simultaneously in real time by voice and
318 video in lieu of requiring a face-to-face in person meeting of
319 such individual and the parole or probation officer, as
320 applicable. For individuals who are self-employed, the provisions
321 of this section shall only apply with the agreement of their
322 supervising parole or probation officer.



323 **SECTION 7.** (1) The Joint Legislative Committee on
324 Performance Evaluation and Expenditure Review (PEER) shall conduct
325 a one-time census of populations in juvenile detention centers and
326 in county and municipal jails in the State of Mississippi. The
327 data collected shall reflect the populations at a given date or
328 date range, as determined by PEER. The following data shall be
329 collected and aggregated by individual facility, as well as by
330 inmate or detainee characteristics, including race, gender, and
331 adult or juvenile status:

332 (a) The number of individuals detained for a new
333 offense or delinquent act.

334 (b) The number of individuals detained for pretrial.

335 (c) The number of offenders detained for a revocation
336 of supervision.

337 (d) The average sentence length for new jail sentences
338 by offense type.

339 (e) The average sentence length for offenders in jail
340 for a probation revocation.

341 (f) The average sentence length for offenders in jail
342 for a parole revocation.

343 (g) The percentage of sentences in each category
344 offense type, including whether the offense was violent, property,
345 drug, or public order. All drug offenses shall include the type
346 of drug implicated in the offense, as well as type of offense,
347 such as possession, sale or manufacture.



348 (h) The average length of stay by offense type.

349 (i) For individuals awaiting trial, the average length
350 of stay from the time of their arrest to the time of indictment,
351 and from the time of indictment to trial.

352 (2) PEER shall also make recommendations to the Legislature
353 for a reporting mechanism that would facilitate the regular
354 reporting of this information to the Legislature to guide
355 policymaking decisions.

356 (3) This report shall be provided to the Legislature by no
357 later than November 30, 2018.

358 **SECTION 8.** (1) There is created the Mississippi Sentencing
359 Disparity Task Force. The purpose of the task force is to study
360 and report the existence of possible disparity in sentencing for
361 crimes as documented by the Mississippi Department of Corrections
362 in order to promote the interest of uniform justice throughout the
363 State of Mississippi.

364 (2) The Mississippi Sentencing Disparity Task Force shall be
365 composed of the following fourteen (14) members, who shall serve
366 for two-year terms:

367 (a) Two (2) members of the Mississippi House of
368 Representatives, appointed by the Speaker of the House;

369 (b) Two (2) members of the Mississippi State Senate,
370 appointed by the Lieutenant Governor;

371 (c) Two (2) members appointed by the Governor;



372 (d) The Commissioner of the Mississippi Department of
373 Corrections, or a designee;

374 (e) The Attorney General of the State of Mississippi,
375 or his or her designee;

376 (f) The director of a faith-based organization involved
377 in re-entry programs, or a designee appointed by the Lieutenant
378 Governor;

379 (g) The Chief Justice of the Mississippi Supreme Court,
380 or a designee;

381 (h) The Chairman of the Parole Board, or a designee;

382 (i) A person who is a former offender appointed by the
383 Chairman of the Parole Board;

384 (j) The President of the Mississippi Prosecutors
385 Association, or a designee; and

386 (k) A sentencing circuit or county court judge, or a
387 designee to be appointed by the Chief Justice of the Mississippi
388 Supreme Court.

389 (3) The Chief Justice of the Mississippi Supreme Court shall
390 call the first meeting of the task force. The task force shall
391 hold its first meeting no later than thirty (30) days after the
392 effective date of this act. At its first meeting, the task force
393 shall elect a chairman and vice chairman from its membership and
394 adopt rules for transacting its business and keeping records. The
395 chairman and vice chairman shall serve one-year terms or until
396 such time as a successor is elected.



397 **SECTION 9.** Upon the request of any county for eligible
398 inmates, the Department of Corrections shall make available for
399 participation in the state-county work program in the requesting
400 county any eligible inmates. Upon request and approval of such
401 request by the Department of Corrections, the requesting county
402 shall arrange for transportation of such inmates from the
403 Department of Corrections to such county. Upon receiving any
404 inmates, the county shall be responsible for all expenses related
405 to housing and caring for such inmates. The Department of
406 Corrections shall not be obligated to pay the county for any costs
407 associated with housing or caring for such inmates, while the
408 inmates are in the custody of the county for the purposes of the
409 state-county work program. Regardless of any eligibility criteria
410 established by the Department of Corrections, no inmate convicted
411 of a sex crime, a crime of violence as defined by Section 97-3-2,
412 or any other crime which specifically prohibits parole shall be
413 eligible for participation in the program. The requesting county
414 may, in its sole discretion, refuse any inmate deemed to present
415 an undue risk to such county.

416 **SECTION 10.** Section 47-7-27, Mississippi Code of 1972, is
417 amended as follows:

418 47-7-27. (1) The board may, at any time and upon a showing
419 of probable violation of parole, issue a warrant for the return of
420 any paroled offender to the custody of the department. The
421 warrant shall authorize all persons named therein to return the



422 paroled offender to actual custody of the department from which he
423 was paroled.

424 (2) Any field supervisor may arrest an offender without a
425 warrant or may deputize any other person with power of arrest by
426 giving him a written statement setting forth that the offender
427 has, in the judgment of that field supervisor, violated the
428 conditions of his parole or earned-release supervision. The
429 written statement delivered with the offender by the arresting
430 officer to the official in charge of the department facility from
431 which the offender was released or other place of detention
432 designated by the department shall be sufficient warrant for the
433 detention of the offender.

434 (3) The field supervisor, after making an arrest, shall
435 present to the detaining authorities a similar statement of the
436 circumstances of violation. The field supervisor shall at once
437 notify the board or department of the arrest and detention of the
438 offender and shall submit a written report showing in what manner
439 the offender has violated the conditions of parole or
440 earned-release supervision. An offender for whose return a
441 warrant has been issued by the board shall, after the issuance of
442 the warrant, be deemed a fugitive from justice.

443 (4) Whenever an offender is arrested on a warrant for an
444 alleged violation of parole as herein provided, the board shall
445 hold an informal preliminary hearing within seventy-two (72) hours
446 to determine whether there is reasonable cause to believe the



447 person has violated a condition of parole. A preliminary hearing
448 shall not be required when the offender is not under arrest on a
449 warrant or the offender signed a waiver of a preliminary hearing.
450 The preliminary hearing may be conducted electronically.

451 (5) The right of the State of Mississippi to extradite
452 persons and return fugitives from justice, from other states to
453 this state, shall not be impaired by this chapter and shall remain
454 in full force and effect. An offender convicted of a felony
455 committed while on parole, whether in the State of Mississippi or
456 another state, shall immediately have his parole revoked upon
457 presentment of a certified copy of the commitment order to the
458 board. If an offender is on parole and the offender is convicted
459 of a felony for a crime committed prior to the offender being
460 placed on parole, whether in the State of Mississippi or another
461 state, the offender may have his parole revoked upon presentment
462 of a certified copy of the commitment order to the board.

463 (6) (a) The board shall hold a hearing for any parolee who
464 is detained as a result of a warrant or a violation report within
465 twenty-one (21) days of the parolee's admission to detention. The
466 board may, in its discretion, terminate the parole or modify the
467 terms and conditions thereof. If the board revokes parole
468 for * * * a one or more technical violations the board shall impose
469 a period of imprisonment to be served in a technical violation
470 center operated by the department not to exceed ninety (90) days
471 for the first * * * technical violation revocation and not to



472 exceed one hundred twenty (120) days for the second * * *~~technical~~
473 violation revocation. For the third * * *~~technical violation~~
474 revocation, the board may impose a period of imprisonment to be
475 served in a technical violation center for up to one hundred and
476 eighty (180) days or the board may impose the remainder of the
477 suspended portion of the sentence. For the fourth and any
478 subsequent * * *~~technical violation~~ revocation, the board may
479 impose up to the remainder of the suspended portion of the
480 sentence. The period of imprisonment in a technical violation
481 center imposed under this section shall not be reduced in any
482 manner.

483 (b) If the board does not hold a hearing or does not
484 take action on the violation within the twenty-one-day time frame
485 in paragraph (a) of this subsection, the parolee shall be released
486 from detention and shall return to parole status. The board may
487 subsequently hold a hearing and may revoke parole or may continue
488 parole and modify the terms and conditions of parole. If the
489 board revokes parole for * * *~~a~~ one or more technical violations
490 the board shall impose a period of imprisonment to be served in a
491 technical violation center operated by the department not to
492 exceed ninety (90) days for the first * * *~~technical violation~~
493 revocation and not to exceed one hundred twenty (120) days for the
494 second * * *~~technical violation~~ revocation. For the
495 third * * *~~technical violation~~ revocation, the board may impose a
496 period of imprisonment to be served in a technical violation



497 center for up to one hundred eighty (180) days or the board may
498 impose the remainder of the suspended portion of the sentence.
499 For the fourth and any subsequent * * * ~~technical violation~~
500 revocation, the board may impose up to the remainder of the
501 suspended portion of the sentence. The period of imprisonment in
502 a technical violation center imposed under this section shall not
503 be reduced in any manner.

504 (c) For a parolee charged with * * * ~~a~~ one or more
505 technical violations who has not been detained awaiting the
506 revocation hearing, the board may hold a hearing within a
507 reasonable time. The board may revoke parole or may continue
508 parole and modify the terms and conditions of parole. If the
509 board revokes parole for * * * ~~a~~ one or more technical violations
510 the board shall impose a period of imprisonment to be served in a
511 technical violation center operated by the department not to
512 exceed ninety (90) days for the first * * * ~~technical violation~~
513 revocation and not to exceed one hundred twenty (120) days for the
514 second * * * ~~technical violation~~ revocation. For the
515 third * * * ~~technical violation~~ revocation, the board may impose a
516 period of imprisonment to be served in a technical violation
517 center for up to one hundred eighty (180) days or the board may
518 impose the remainder of the suspended portion of the sentence.
519 For the fourth and any subsequent * * * ~~technical violation~~
520 revocation, the board may impose up to the remainder of the
521 suspended portion of the sentence. The period of imprisonment in



522 a technical violation center imposed under this section shall not
523 be reduced in any manner.

524 (7) Unless good cause for the delay is established in the
525 record of the proceeding, the parole revocation charge shall be
526 dismissed if the revocation hearing is not held within the thirty
527 (30) days of the issuance of the warrant.

528 (8) The chairman and each member of the board and the
529 designated parole revocation hearing officer may, in the discharge
530 of their duties, administer oaths, summon and examine witnesses,
531 and take other steps as may be necessary to ascertain the truth of
532 any matter about which they have the right to inquire.

533 (9) The board shall provide semiannually to the Oversight
534 Task Force the number of warrants issued for an alleged violation
535 of parole, the average time between detention on a warrant and
536 preliminary hearing, the average time between detention on a
537 warrant and revocation hearing, the number of ninety-day sentences
538 in a technical violation center issued by the board, the number of
539 one-hundred-twenty-day sentences in a technical violation center
540 issued by the board, the number of one-hundred-eighty-day
541 sentences issued by the board, and the number and average length
542 of the suspended sentences imposed by the board in response to a
543 violation.

544 **SECTION 11.** Section 47-7-37, Mississippi Code of 1972, is
545 amended as follows:



546 47-7-37. (1) The period of probation shall be fixed by the
547 court, and may at any time be extended or terminated by the court,
548 or judge in vacation. Such period with any extension thereof
549 shall not exceed five (5) years, except that in cases of desertion
550 and/or failure to support minor children, the period of probation
551 may be fixed and/or extended by the court for so long as the duty
552 to support such minor children exists. The time served on
553 probation or post-release supervision may be reduced pursuant to
554 Section 47-7-40.

555 (2) At any time during the period of probation, the court,
556 or judge in vacation, may issue a warrant for violating any of the
557 conditions of probation or suspension of sentence and cause the
558 probationer to be arrested. Any probation and parole officer may
559 arrest a probationer without a warrant, or may deputize any other
560 officer with power of arrest to do so by giving him a written
561 statement setting forth that the probationer has, in the judgment
562 of the probation and parole officer, violated the conditions of
563 probation. Such written statement delivered with the probationer
564 by the arresting officer to the official in charge of a county
565 jail or other place of detention shall be sufficient warrant for
566 the detention of the probationer.

567 (3) Whenever an offender is arrested on a warrant for an
568 alleged violation of probation as herein provided, the department
569 shall hold an informal preliminary hearing within seventy-two (72)
570 hours of the arrest to determine whether there is reasonable cause



571 to believe the person has violated a condition of probation. A
572 preliminary hearing shall not be required when the offender is not
573 under arrest on a warrant or the offender signed a waiver of a
574 preliminary hearing. The preliminary hearing may be conducted
575 electronically. If reasonable cause is found, the offender may be
576 confined no more than twenty-one (21) days from the admission to
577 detention until a revocation hearing is held. If the revocation
578 hearing is not held within twenty-one (21) days, the probationer
579 shall be released from custody and returned to probation status.

580 (4) If a probationer or offender is subject to registration
581 as a sex offender, the court must make a finding that the
582 probationer or offender is not a danger to the public prior to
583 release with or without bail. In determining the danger posed by
584 the release of the offender or probationer, the court may consider
585 the nature and circumstances of the violation and any new offenses
586 charged; the offender or probationer's past and present conduct,
587 including convictions of crimes and any record of arrests without
588 conviction for crimes involving violence or sex crimes; any other
589 evidence of allegations of unlawful sexual conduct or the use of
590 violence by the offender or probationer; the offender or
591 probationer's family ties, length of residence in the community,
592 employment history and mental condition; the offender or
593 probationer's history and conduct during the probation or other
594 supervised release and any other previous supervisions, including
595 disciplinary records of previous incarcerations; the likelihood



596 that the offender or probationer will engage again in a criminal
597 course of conduct; the weight of the evidence against the offender
598 or probationer; and any other facts the court considers relevant.

599 (5) (a) The probation and parole officer after making an
600 arrest shall present to the detaining authorities a similar
601 statement of the circumstances of violation. The probation and
602 parole officer shall at once notify the court of the arrest and
603 detention of the probationer and shall submit a report in writing
604 showing in what manner the probationer has violated the conditions
605 of probation. Within twenty-one (21) days of arrest and detention
606 by warrant as herein provided, the court shall cause the
607 probationer to be brought before it and may continue or revoke all
608 or any part of the probation or the suspension of sentence. If
609 the court revokes probation for * * * ~~a~~ one or more technical
610 violations, the court shall impose a period of imprisonment to be
611 served in either a technical violation center or a restitution
612 center not to exceed ninety (90) days for the first * * * ~~technical~~
613 violation revocation and not to exceed one hundred twenty (120)
614 days for the second * * * ~~technical violation~~ revocation. For the
615 third * * * ~~technical violation~~ revocation, the court may impose a
616 period of imprisonment to be served in either a technical
617 violation center or a restitution center for up to one hundred
618 eighty (180) days or the court may impose the remainder of the
619 suspended portion of the sentence. For the fourth and any
620 subsequent * * * ~~technical violation~~ revocation, the court may



621 impose up to the remainder of the suspended portion of the
622 sentence. The period of imprisonment in a technical violation
623 center imposed under this section shall not be reduced in any
624 manner.

625 (b) If the offender is not detained as a result of the
626 warrant, the court shall cause the probationer to be brought
627 before it within a reasonable time and may continue or revoke all
628 or any part of the probation or the suspension of sentence, and
629 may cause the sentence imposed to be executed or may impose any
630 part of the sentence which might have been imposed at the time of
631 conviction. If the court revokes probation for * * * a one or more
632 technical violations, the court shall impose a period of
633 imprisonment to be served in either a technical violation center
634 or a restitution center not to exceed ninety (90) days for the
635 first * * * technical violation revocation and not to exceed one
636 hundred twenty (120) days for the second * * * technical violation
637 revocation. For the third * * * technical violation revocation,
638 the court may impose a period of imprisonment to be served in
639 either a technical violation center or a restitution center for up
640 to one hundred eighty (180) days or the court may impose the
641 remainder of the suspended portion of the sentence. For the
642 fourth and any subsequent * * * technical violation revocation, the
643 court may impose up to the remainder of the suspended portion of
644 the sentence. The period of imprisonment in a technical violation



645 center imposed under this section shall not be reduced in any
646 manner.

647 (c) If the court does not hold a hearing or does not
648 take action on the violation within the twenty-one-day period, the
649 offender shall be released from detention and shall return to
650 probation status. The court may subsequently hold a hearing and
651 may revoke probation or may continue probation and modify the
652 terms and conditions of probation. If the court revokes probation
653 for * * *~~a~~ one or more technical violations, the court shall
654 impose a period of imprisonment to be served in either a technical
655 violation center operated by the department or a restitution
656 center not to exceed ninety (90) days for the first * * *~~technical~~
657 violation revocation and not to exceed one hundred twenty (120)
658 days for the second * * *~~technical violation~~ revocation. For the
659 third * * *~~technical violation~~ revocation, the court may impose a
660 period of imprisonment to be served in either a technical
661 violation center or a restitution center for up to one
662 hundred * * *~~and~~ eighty (180) days or the court may impose the
663 remainder of the suspended portion of the sentence. For the
664 fourth and any subsequent * * *~~technical violation~~ revocation, the
665 court may impose up to the remainder of the suspended portion of
666 the sentence. The period of imprisonment in a technical violation
667 center imposed under this section shall not be reduced in any
668 manner.



669 (d) For an offender charged with a technical violation
670 who has not been detained awaiting the revocation hearing, the
671 court may hold a hearing within a reasonable time. The court may
672 revoke probation or may continue probation and modify the terms
673 and conditions of probation. If the court revokes probation
674 for * * *~~a~~ one or more technical violations~~s~~ the court shall impose
675 a period of imprisonment to be served in either a technical
676 violation center operated by the department or a restitution
677 center not to exceed ninety (90) days for the first * * *~~technical~~
678 ~~violation~~ revocation and not to exceed one hundred twenty (120)
679 days for the second * * *~~technical violation~~ revocation. For the
680 third * * *~~technical violation~~ revocation, the court may impose a
681 period of imprisonment to be served in either a technical
682 violation center or a restitution center for up to one hundred
683 eighty (180) days or the court may impose the remainder of the
684 suspended portion of the sentence. For the fourth and any
685 subsequent * * *~~technical violation~~ revocation, the court may
686 impose up to the remainder of the suspended portion of the
687 sentence. The period of imprisonment in a technical violation
688 center imposed under this section shall not be reduced in any
689 manner.

690 (6) If the probationer is arrested in a circuit court
691 district in the State of Mississippi other than that in which he
692 was convicted, the probation and parole officer, upon the written
693 request of the sentencing judge, shall furnish to the circuit



694 court or the county court of the county in which the arrest is
695 made, or to the judge of such court, a report concerning the
696 probationer, and such court or the judge in vacation shall have
697 authority, after a hearing, to continue or revoke all or any part
698 of probation or all or any part of the suspension of sentence, and
699 may in case of revocation proceed to deal with the case as if
700 there had been no probation. In such case, the clerk of the court
701 in which the order of revocation is issued shall forward a
702 transcript of such order to the clerk of the court of original
703 jurisdiction, and the clerk of that court shall proceed as if the
704 order of revocation had been issued by the court of original
705 jurisdiction. Upon the revocation of probation or suspension of
706 sentence of any offender, such offender shall be placed in the
707 legal custody of the State Department of Corrections and shall be
708 subject to the requirements thereof.

709 (7) Any probationer who removes himself from the State of
710 Mississippi without permission of the court placing him on
711 probation, or the court to which jurisdiction has been
712 transferred, shall be deemed and considered a fugitive from
713 justice and shall be subject to extradition as now provided by
714 law. No part of the time that one is on probation shall be
715 considered as any part of the time that he shall be sentenced to
716 serve.

717 (8) The arresting officer, except when a probation and
718 parole officer, shall be allowed the same fees as now provided by



719 law for arrest on warrant, and such fees shall be taxed against
720 the probationer and paid as now provided by law.

721 (9) The arrest, revocation and recommitment procedures of
722 this section also apply to persons who are serving a period of
723 post-release supervision imposed by the court.

724 (10) Unless good cause for the delay is established in the
725 record of the proceeding, the probation revocation charge shall be
726 dismissed if the revocation hearing is not held within thirty (30)
727 days of the warrant being issued.

728 (11) The Department of Corrections shall provide
729 semiannually to the Oversight Task Force the number of warrants
730 issued for an alleged violation of probation or post-release
731 supervision, the average time between detention on a warrant and
732 preliminary hearing, the average time between detention on a
733 warrant and revocation hearing, the number of ninety-day sentences
734 in a technical violation center issued by the court, the number of
735 one-hundred-twenty-day sentences in a technical violation center
736 issued by the court, the number of one-hundred-eighty-day
737 sentences issued by the court, and the number and average length
738 of the suspended sentences imposed by the court in response to a
739 violation.

740 **SECTION 12.** Section 99-19-81, Mississippi Code of 1972, is
741 amended as follows:

742 99-19-81. Every person convicted in this state of a felony
743 who shall have been convicted twice previously of any felony or



744 federal crime upon charges separately brought and arising out of
745 separate incidents at different times and who shall have been
746 sentenced to separate terms of one (1) year or more in any state
747 and/or federal penal institution, whether in this state or
748 elsewhere, shall be sentenced to the maximum term of imprisonment
749 prescribed for such felony unless the court provides an
750 explanation in its sentencing order setting forth the cause for
751 deviating from the maximum sentence, and such sentence shall not
752 be reduced or suspended nor shall such person be eligible for
753 parole or probation.

754 **SECTION 13.** This act shall take effect and be in force from
755 and after July 1, 2018.

