

By: Representative Gipson

To: Corrections

HOUSE BILL NO. 800

1 AN ACT TO CREATE A NEW CODE SECTION TO PROVIDE THAT BEFORE AN
 2 OFFENDER MAY BE RELEASED BY THE DEPARTMENT OF CORRECTIONS UNDER
 3 THE EARNED-TIME ALLOWANCE PROGRAM, THE STATE PAROLE BOARD MUST
 4 REVIEW AND APPROVE THE PROPOSED RELEASE OF THE OFFENDER; TO
 5 PROVIDE THE PROCEDURE FOR THE REVIEW PROCESS OF THE PAROLE BOARD
 6 FOR THE PROPOSED EARNED-TIME RELEASE SUPERVISION OF AN OFFENDER;
 7 TO AUTHORIZE A HEARING BE HELD REGARDING THE PROPOSED RELEASE OF
 8 AN OFFENDER AND THAT CERTAIN NOTICE BE PROVIDED TO VICTIMS
 9 REGARDING SUCH RELEASE, UNDER CERTAIN CIRCUMSTANCES; TO AMEND
 10 SECTIONS 47-5-138 AND 47-7-5, MISSISSIPPI CODE OF 1972, IN
 11 CONFORMITY TO THE PRECEDING SECTION AND TO EXTEND THE DATE OF
 12 REPEAL OF A CERTAIN SECTION; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** (1) Within one (1) year before the conditional
 15 earned-time release date of an inmate, if any, the Parole Board
 16 shall secure and consider all pertinent information regarding the
 17 offender who is eligible for release under the earned-time
 18 allowance program as prescribed under Sections 47-5-138 and
 19 47-5-139. Such pertinent information shall include the
 20 circumstances of his offense, his previous social history, his
 21 previous criminal record, including any records of law enforcement
 22 agencies or of a youth court regarding that offender's juvenile
 23 criminal history, his conduct, employment and attitude while in



24 the custody of the department and reports of physical and mental
25 examinations that have been made. The board, after being notified
26 by the Department of Corrections of the proposed earned-time
27 release supervision date, shall furnish at least three (3) months
28 written notice to the offender of the date on which he is eligible
29 for earned-time release supervision.

30 (2) Before ruling on the Department of Corrections' proposed
31 earned-time release supervision of any offender, the board may
32 require an eligible earned-time release supervision offender to
33 have a hearing before the board and to be interviewed. The board
34 shall, by rules and regulations, establish a method of determining
35 a tentative earned-time release supervision hearing; however, the
36 hearing shall be held no later than thirty (30) days prior to the
37 month of eligibility. No proposed earned-time release supervision
38 of a person convicted of a capital offense shall be considered by
39 the board unless and until notice of the filing of the proposed
40 earned-time release supervision date shall have been published at
41 least once a week for two (2) weeks in a newspaper published in or
42 having general circulation in the county in which the crime was
43 committed. The board shall, within thirty (30) days prior to the
44 scheduled hearing, also give notice of the filing of the
45 proposed earned-time release supervision of any offender to the
46 victim of the offense for which the prisoner is incarcerated and
47 being considered for earned-time release supervision or, in case
48 the offense be homicide, a designee of the immediate family of the



49 victim, provided the victim or designated family member has
50 furnished in writing a current address to the board for such
51 purpose. Earned-time release supervision may be ordered by the
52 board only for the best interest of society and not as an award of
53 clemency.

54 (3) Upon the approval or disapproval of the department's
55 proposed decision to release an offender on earned-time release
56 supervision, the board shall notify the department of its decision
57 in writing within three (3) business days of making its decision.

58 **SECTION 2.** Section 47-5-138, Mississippi Code of 1972, is
59 amended as follows:

60 47-5-138. (1) The department may promulgate rules and
61 regulations to carry out an earned-time allowance program based on
62 the good conduct and performance of an inmate. An inmate is
63 eligible to receive an earned-time allowance of one-half (1/2) of
64 the period of confinement imposed by the court except those
65 inmates excluded by law. When an inmate is committed to the
66 custody of the department, the department shall determine a
67 conditional earned-time release date by subtracting the
68 earned-time allowance from an inmate's term of sentence. This
69 subsection does not apply to any sentence imposed after June 30,
70 1995.

71 (2) An inmate may forfeit all or part of his earned-time
72 allowance for a serious violation of rules. No forfeiture of the
73 earned-time allowance shall be effective except upon approval of



74 the commissioner, or his designee, and forfeited earned time may
75 not be restored.

76 (3) (a) For the purposes of this subsection, "final order"
77 means an order of a state or federal court that dismisses a
78 lawsuit brought by an inmate while the inmate was in the custody
79 of the Department of Corrections as frivolous, malicious or for
80 failure to state a claim upon which relief could be granted.

81 (b) On receipt of a final order, the department shall
82 forfeit:

83 (i) Sixty (60) days of an inmate's accrued earned
84 time if the department has received one (1) final order as defined
85 herein;

86 (ii) One hundred twenty (120) days of an inmate's
87 accrued earned time if the department has received two (2) final
88 orders as defined herein;

89 (iii) One hundred eighty (180) days of an inmate's
90 accrued earned time if the department has received three (3) or
91 more final orders as defined herein.

92 (c) The department may not restore earned time
93 forfeited under this subsection.

94 (4) If an inmate who meets the good conduct and performance
95 requirements of the earned-time allowance program and such
96 inmate's record is examined and approved by the State Parole Board
97 for earned-time release supervision, as prescribed under Section 1
98 of this act, then the inmate may be released on his conditional



99 earned-time release date. Before an inmate may be considered for
100 release on his earned-time release date, the department shall
101 provide adequate notice to the Parole Board of such date, as
102 prescribed under Section 1 of this act.

103 (5) For any sentence imposed after June 30, 1995, an inmate
104 may receive an earned-time allowance of four and one-half (4-1/2)
105 days for each thirty (30) days served if the department determines
106 that the inmate has complied with the good conduct and performance
107 requirements of the earned-time allowance program. The
108 earned-time allowance under this subsection shall not exceed
109 fifteen percent (15%) of an inmate's term of sentence; however,
110 beginning July 1, 2006, no person under the age of twenty-one (21)
111 who has committed a nonviolent offense, and who is under the
112 jurisdiction of the Department of Corrections, shall be subject to
113 the fifteen percent (15%) limitation for earned-time allowances as
114 described in this subsection (5).

115 (6) Any inmate, who is released before the expiration of his
116 term of sentence under this section, shall be placed under
117 earned-release supervision until the expiration of the term of
118 sentence. The inmate shall retain inmate status and remain under
119 the jurisdiction of the department. The period of earned-release
120 supervision shall be conducted in the same manner as a period of
121 supervised parole. The department shall develop rules, terms and
122 conditions for the earned-release supervision program. The
123 commissioner shall designate the appropriate hearing officer



124 within the department to conduct revocation hearings for inmates
125 violating the conditions of earned-release supervision.

126 (7) If the earned-release supervision is revoked, the inmate
127 shall serve the remainder of the sentence, but the time the inmate
128 served on earned-release supervision before revocation * * * shall
129 be applied to reduce his sentence.

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

132 47-7-5. (1) The State Parole Board, created under former
133 Section 47-7-5, is hereby created, continued and reconstituted and
134 shall be composed of five (5) members. The Governor shall appoint
135 the members with the advice and consent of the Senate. All terms
136 shall be at the will and pleasure of the Governor. Any vacancy
137 shall be filled by the Governor, with the advice and consent of
138 the Senate. The Governor shall appoint a chairman of the board.

139 (2) Any person who is appointed to serve on the board shall
140 possess at least a bachelor's degree or a high school diploma and
141 four (4) years' work experience. Each member shall devote his
142 full time to the duties of his office and shall not engage in any
143 other business or profession or hold any other public office. A
144 member shall not receive compensation or per diem in addition to
145 his salary as prohibited under Section 25-3-38. Each member shall
146 keep such hours and workdays as required of full-time state
147 employees under Section 25-1-98. Individuals shall be appointed
148 to serve on the board without reference to their political



149 affiliations. Each board member, including the chairman, may be
150 reimbursed for actual and necessary expenses as authorized by
151 Section 25-3-41. Each member of the board shall complete annual
152 training developed based on guidance from the National Institute
153 of Corrections, the Association of Paroling Authorities
154 International, or the American Probation and Parole Association.
155 Each first-time appointee of the board shall, within sixty (60)
156 days of appointment, or as soon as practical, complete training
157 for first-time Parole Board members developed in consideration of
158 information from the National Institute of Corrections, the
159 Association of Paroling Authorities International, or the American
160 Probation and Parole Association.

161 (3) The board shall have exclusive responsibility for the
162 granting of parole as provided by Sections 47-7-3 and 47-7-17 and
163 shall have exclusive authority for revocation of the same. The
164 board shall have exclusive responsibility for investigating
165 clemency recommendations upon request of the Governor.

166 (4) The board, its members and staff, shall be immune from
167 civil liability for any official acts taken in good faith and in
168 exercise of the board's legitimate governmental authority.

169 (5) The budget of the board shall be funded through a
170 separate line item within the general appropriation bill for the
171 support and maintenance of the department. Employees of the
172 department which are employed by or assigned to the board shall
173 work under the guidance and supervision of the board. There shall



174 be an executive secretary to the board who shall be responsible
175 for all administrative and general accounting duties related to
176 the board. The executive secretary shall keep and preserve all
177 records and papers pertaining to the board.

178 (6) The board shall have no authority or responsibility for
179 supervision of offenders granted a release for any reason,
180 including, but not limited to, earned-time release supervision,
181 probation, parole or executive clemency or other offenders
182 requiring the same through interstate compact agreements. The
183 supervision shall be provided exclusively by the staff of the
184 Division of Community Corrections of the department.

185 (7) (a) The Parole Board is authorized to select and place
186 offenders in an electronic monitoring program under the conditions
187 and criteria imposed by the Parole Board. The conditions,
188 restrictions and requirements of Section 47-7-17 and Sections
189 47-5-1001 through 47-5-1015 shall apply to the Parole Board and
190 any offender placed in an electronic monitoring program by the
191 Parole Board.

192 (b) Any offender placed in an electronic monitoring
193 program under this subsection shall pay the program fee provided
194 in Section 47-5-1013. The program fees shall be deposited in the
195 special fund created in Section 47-5-1007.

196 (c) The department shall have absolute immunity from
197 liability for any injury resulting from a determination by the



198 Parole Board that an offender be placed in an electronic
199 monitoring program.

200 (8) (a) The Parole Board shall maintain a central registry
201 of paroled inmates. The Parole Board shall place the following
202 information on the registry: name, address, photograph, crime for
203 which paroled, the date of the end of parole or flat-time date and
204 other information deemed necessary. The Parole Board shall
205 immediately remove information on a parolee at the end of his
206 parole or flat-time date.

207 (b) When a person is placed on parole, the Parole Board
208 shall inform the parolee of the duty to report to the parole
209 officer any change in address ten (10) days before changing
210 address.

211 (c) The Parole Board shall utilize an Internet website
212 or other electronic means to release or publish the information.

213 (d) Records maintained on the registry shall be open to
214 law enforcement agencies and the public and shall be available no
215 later than July 1, 2003.

216 (9) An affirmative vote of at least four (4) members of the
217 Parole Board shall be required to grant parole to an inmate
218 convicted of capital murder or a sex crime.

219 (10) This section shall stand repealed on July 1, * * *
220 2021.

221 **SECTION 4.** This act shall take effect and be in force from
222 and after July 1, 2018.

