

By: Representative Kinkade

To: Corrections

HOUSE BILL NO. 1125

1 AN ACT TO AMEND SECTION 47-5-198, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT IF CORRECTIONAL STAFF IS CONVICTED OF SELLING,
 3 POSSESSING OR USING A CONTROLLED SUBSTANCE OR NARCOTIC DRUG WITHIN
 4 A CORRECTIONAL FACILITY, THEN SUCH STAFF IS NOT ELIGIBLE FOR
 5 PROBATION, PAROLE, SUSPENSION OF SENTENCE, EARNED TIME ALLOWANCE
 6 OR ANY OTHER REDUCTION OF SENTENCE; TO AMEND SECTIONS 47-5-138.1
 7 AND 47-5-139, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
 8 PRECEDING SECTION; TO BRING FORWARD SECTION 47-7-3, MISSISSIPPI
 9 CODE OF 1972, FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 47-5-198, Mississippi Code of 1972, is
 12 amended as follows:

13 47-5-198. (1) It is unlawful for any person to sell within,
 14 bring to, or be in possession of, in any correctional facility or
 15 convict camp within the state or any county, municipal or other
 16 jail within the state, except as authorized by law, any controlled
 17 substance or narcotic drug.

18 (2) It is unlawful for any person who is the keeper or
 19 officer in charge of the facility, camp or jail, or who is
 20 employed in or about the facility, camp or jail to knowingly



21 permit any controlled substance or narcotic drug to be sold,
22 possessed or used therein contrary to law.

23 (3) Any person who violates the provisions of this section
24 and is convicted shall be fined up to Twenty-five Thousand Dollars
25 (\$25,000.00) and be punished by imprisonment for not less than
26 three (3) years nor more than seven (7) years * * *, and if the
27 person is convicted under subsection (2), the person is not
28 eligible for probation, parole, suspension of sentence, earned
29 time allowance or any other reduction of sentence.

30 **SECTION 2.** Section 47-5-138.1, Mississippi Code of 1972, is
31 amended as follows:

32 47-5-138.1. (1) In addition to any other administrative
33 reduction of sentence, an offender in trusty status as defined by
34 the classification board of the Department of Corrections may be
35 awarded a trusty-time allowance of thirty (30) days' reduction of
36 sentence for each thirty (30) days of participation during any
37 calendar month in an approved program while in trusty status,
38 including satisfactory participation in education or instructional
39 programs, satisfactory participation in work projects and
40 satisfactory participation in any special incentive program.

41 (2) An offender in trusty status shall not be eligible for a
42 reduction of sentence under this section if:

43 (a) The offender was sentenced to life imprisonment;

44 (b) The offender was convicted as an habitual offender
45 under Sections 99-19-81 through 99-19-87;



46 (c) The offender was convicted of a sex crime;
47 (d) The offender has not served the mandatory time
48 required for parole eligibility, as prescribed under Section
49 47-7-3, for a conviction of robbery or attempted robbery through
50 the display of a deadly weapon, carjacking through the display of
51 a deadly weapon or a drive-by shooting; * * *
52 (e) The offender was convicted of trafficking in
53 controlled substances under Section 41-29-139; or
54 (f) The offender was convicted of selling, possessing
55 or using a controlled substance within a correctional facility
56 while employed at such facility under Section 47-5-198.

57 **SECTION 3.** Section 47-5-139, Mississippi Code of 1972, is
58 amended as follows:

59 47-5-139. (1) An inmate shall not be eligible for the
60 earned time allowance if:

61 (a) The inmate was sentenced to life imprisonment; but
62 an inmate, except an inmate sentenced to life imprisonment for
63 capital murder, who has reached the age of sixty-five (65) or
64 older and who has served at least fifteen (15) years may petition
65 the sentencing court for conditional release;

66 (b) The inmate was convicted as a habitual offender
67 under Sections 99-19-81 through 99-19-87;

68 (c) The inmate has forfeited his earned time allowance
69 by order of the commissioner;

70 (d) The inmate was convicted of a sex crime; * * *



71 (e) The inmate has not served the mandatory time
72 required for parole eligibility for a conviction of robbery or
73 attempted robbery with a deadly weapon * * *; or

74 (f) The inmate was convicted of selling, possessing or
75 using a controlled substance within a correctional facility while
76 employed at such facility under Section 47-5-198.

77 (2) An offender under two (2) or more consecutive sentences
78 shall be allowed commutation based upon the total term of the
79 sentences.

80 (3) All earned time shall be forfeited by the inmate in the
81 event of escape and/or aiding and abetting an escape. The
82 commissioner may restore all or part of the earned time if the
83 escapee returns to the institution voluntarily, without expense to
84 the state, and without act of violence while a fugitive from the
85 facility.

86 (4) Any officer or employee who shall willfully violate the
87 provisions of this section and be convicted therefor shall be
88 removed from office or employment.

89 **SECTION 4.** Section 47-7-3, Mississippi Code of 1972, is
90 brought forward as follows:

91 47-7-3. (1) Every prisoner who has been convicted of any
92 offense against the State of Mississippi, and is confined in the
93 execution of a judgment of such conviction in the Mississippi
94 Department of Corrections for a definite term or terms of one (1)
95 year or over, or for the term of his or her natural life, whose



96 record of conduct shows that such prisoner has observed the rules
97 of the department, and who has served not less than one-fourth
98 (1/4) of the total of such term or terms for which such prisoner
99 was sentenced, or, if sentenced to serve a term or terms of thirty
100 (30) years or more, or, if sentenced for the term of the natural
101 life of such prisoner, has served not less than ten (10) years of
102 such life sentence, may be released on parole as hereinafter
103 provided, except that:

104 (a) No prisoner convicted as a confirmed and habitual
105 criminal under the provisions of Sections 99-19-81 through
106 99-19-87 shall be eligible for parole;

107 (b) Any person who shall have been convicted of a sex
108 crime shall not be released on parole except for a person under
109 the age of nineteen (19) who has been convicted under Section
110 97-3-67;

111 (c) (i) No person shall be eligible for parole who
112 shall, on or after January 1, 1977, be convicted of robbery or
113 attempted robbery through the display of a firearm until he shall
114 have served ten (10) years if sentenced to a term or terms of more
115 than ten (10) years or if sentenced for the term of the natural
116 life of such person. If such person is sentenced to a term or
117 terms of ten (10) years or less, then such person shall not be
118 eligible for parole. The provisions of this paragraph (c)(i)
119 shall also apply to any person who shall commit robbery or
120 attempted robbery on or after July 1, 1982, through the display of



121 a deadly weapon. This paragraph (c)(i) shall not apply to persons
122 convicted after September 30, 1994;

123 (ii) No person shall be eligible for parole who
124 shall, on or after October 1, 1994, be convicted of robbery,
125 attempted robbery or carjacking as provided in Section 97-3-115 et
126 seq., through the display of a firearm or drive-by shooting as
127 provided in Section 97-3-109. The provisions of this paragraph
128 (c)(ii) shall also apply to any person who shall commit robbery,
129 attempted robbery, carjacking or a drive-by shooting on or after
130 October 1, 1994, through the display of a deadly weapon. This
131 paragraph (c)(ii) shall not apply to persons convicted after July
132 1, 2014;

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

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

140 (f) No person shall be eligible for parole who is
141 convicted or whose suspended sentence is revoked after June 30,
142 1995, except that an offender convicted of only nonviolent crimes
143 after June 30, 1995, may be eligible for parole if the offender
144 meets the requirements in subsection (1) and this paragraph. In
145 addition to other requirements, if an offender is convicted of a



146 drug or driving under the influence felony, the offender must
147 complete a drug and alcohol rehabilitation program prior to parole
148 or the offender may be required to complete a post-release drug
149 and alcohol program as a condition of parole. For purposes of
150 this paragraph, "nonviolent crime" means a felony other than
151 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
152 occupied dwelling, aggravated assault, kidnapping, felonious abuse
153 of vulnerable adults, felonies with enhanced penalties, the sale
154 or manufacture of a controlled substance under the Uniform
155 Controlled Substances Law, felony child abuse, or exploitation or
156 any crime under Section 97-5-33 or Section 97-5-39(2) or
157 97-5-39(1) (b), 97-5-39(1) (c) or a violation of Section
158 63-11-30(5). In addition, an offender incarcerated for committing
159 the crime of possession of a controlled substance under the
160 Uniform Controlled Substances Law after July 1, 1995, shall be
161 eligible for parole. An offender incarcerated for committing the
162 crime of sale or manufacture of a controlled substance shall be
163 eligible for parole after serving one-fourth (1/4) of the sentence
164 imposed by the trial court. This paragraph (f) shall not apply to
165 persons convicted on or after July 1, 2014;

166 (g) (i) No person who, on or after July 1, 2014, is
167 convicted of a crime of violence pursuant to Section 97-3-2, a sex
168 crime or an offense that specifically prohibits parole release,
169 shall be eligible for parole. All persons convicted of any other
170 offense on or after July 1, 2014, are eligible for parole after



171 they have served one-fourth (1/4) of the sentence or sentences
172 imposed by the trial court.

173 (ii) Notwithstanding the provisions in paragraph
174 (i) of this subsection, a person serving a sentence who has
175 reached the age of sixty (60) or older and who has served no less
176 than ten (10) years of the sentence or sentences imposed by the
177 trial court shall be eligible for parole. Any person eligible for
178 parole under this subsection shall be required to have a parole
179 hearing before the board prior to parole release. No inmate shall
180 be eligible for parole under this paragraph of this subsection if:

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

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

185 3. The inmate is sentenced for an offense
186 that specifically prohibits parole release;

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

189 5. The inmate is sentenced for a sex crime;

190 or

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

193 (iii) Notwithstanding the provisions of
194 paragraph * * * (a) of this subsection, any offender who has not
195 committed a crime of violence under Section 97-3-2 and has served



196 twenty-five percent (25%) or more of his sentence may be paroled
197 by the parole board if, after the sentencing judge or if the
198 sentencing judge is retired, disabled or incapacitated, the senior
199 circuit judge authorizes the offender to be eligible for parole
200 consideration.

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

206 (3) The State Parole Board shall, by rules and regulations,
207 establish a method of determining a tentative parole hearing date
208 for each eligible offender taken into the custody of the
209 Department of Corrections. The tentative parole hearing date
210 shall be determined within ninety (90) days after the department
211 has assumed custody of the offender. The parole hearing date
212 shall occur when the offender is within thirty (30) days of the
213 month of his parole eligibility date. The parole eligibility date
214 shall not be earlier than one-fourth (1/4) of the prison sentence
215 or sentences imposed by the court.

216 (4) Any inmate within twenty-four (24) months of his parole
217 eligibility date and who meets the criteria established by the
218 classification board shall receive priority for placement in any
219 educational development and job training programs that are part of
220 his or her parole case plan. Any inmate refusing to participate



221 in an educational development or job training program that is part
222 of the case plan may be in jeopardy of noncompliance with the case
223 plan and may be denied parole.

224 **SECTION 5.** This act shall take effect and be in force from
225 and after July 1, 2018.

