

By: Senator(s) Hill, Carter, Doty, Branning To: Corrections

SENATE BILL NO. 2434

1 AN ACT TO AUTHORIZE THE MISSISSIPPI PAROLE BOARD TO REVIEW
2 AND APPROVE THE RELEASE OF AN OFFENDER UNDER THE EARNED-TIME
3 ALLOWANCE PROGRAM; TO ESTABLISH THE PROCEDURE TO BE FOLLOWED BY
4 THE PAROLE BOARD IN REVIEWING THE MISSISSIPPI DEPARTMENT OF
5 CORRECTIONS' RECOMMENDATION TO PLACE AN OFFENDER UNDER
6 EARNED-RELEASE SUPERVISION; TO AUTHORIZE A HEARING BE HELD
7 REGARDING THE PROPOSED RELEASE OF AN OFFENDER AND THAT CERTAIN
8 NOTICE BE PROVIDED TO VICTIMS REGARDING SUCH RELEASE, UNDER
9 CERTAIN CIRCUMSTANCES; TO AMEND SECTIONS 47-5-138 AND 47-7-5,
10 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING SECTION;
11 TO AMEND SECTION 47-5-177, MISSISSIPPI CODE OF 1972, TO PROVIDE
12 THAT CERTAIN LOCAL LAW ENFORCEMENT OFFICIALS SHALL BE NOTIFIED 15
13 DAYS BEFORE OFFENDERS ARE PLACED UNDER EARNED-RELEASE SUPERVISION;
14 AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** (1) The Parole Board shall review and issue a
17 ruling on the department's recommendation to place an offender on
18 earned-release supervision under the earned-time allowance program
19 as provided in Sections 47-5-138 and 47-5-139.

20 (2) The department shall provide the board with all
21 pertinent information regarding an offender who is eligible for
22 release under the earned-time allowance program. Within one (1)
23 year before the offender's conditional earned-time release date,



the department shall provide to the board the following information about the offender in writing:

- (a) The circumstances of the offense;
- (b) The offender's previous social history;
- (c) The offender's previous criminal record, including any records of law enforcement agencies or of a youth court regarding the offender's juvenile criminal history;
- (d) The offender's conduct, employment and attitude while in the department's custody; and
- (e) Any reports of physical and mental examinations that have been made.

(3) (a) Except as provided in paragraph (b) of this subsection, the board may require an offender to have a hearing before the board and to be interviewed before ruling on the department's recommendation to place the offender on earned-release supervision.

(b) The board shall not issue a ruling on the department's recommendation to place an offender convicted of a capital offense on earned-release supervision without holding a hearing and providing notice as follows:

(i) Notice of the department's recommended earned-time release supervision date for the offender shall be published at least once a week for two (2) weeks in a newspaper published in or having general circulation in the county in which the crime was committed.



49 (ii) Within thirty (30) days prior to the
50 scheduled hearing, the board shall provide notice of the
51 department's recommended earned-release supervision of an offender
52 to the victim of the offense for which the offender is sentenced
53 and may be approved to serve under earned-release supervision or,
54 if offense is homicide, to a designee of the victim's immediate
55 family. Notice is contingent on the victim or the victim's
56 designee, whichever applies, providing in writing a current
57 address to the board for this purpose.

58 (c) The hearing, if required by this subsection or by
59 the board, shall be held no later than thirty (30) days prior to
60 the month of eligibility.

61 (4) The department's recommendation to place an offender
62 under earned-release supervision may be approved by the board only
63 for the best interest of society. If the board determines that
64 releasing the offender poses a substantial public safety risk, the
65 board shall deny the department's recommendation to place the
66 offender under earned-release supervision. The board shall notify
67 the department of its ruling in writing within three (3) business
68 days.

69 (5) The board shall establish rules and regulations related
70 to its duty to review and approve earned-release supervision.
71 Those rules and regulations shall be promulgated in accordance
72 with the Mississippi Administrative Procedures Act and shall be
73 consistent with the provisions of this section.



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

76 47-5-138. (1) The department may promulgate rules and
77 regulations to carry out an earned-time allowance program based on
78 the good conduct and performance of an inmate. An inmate is
79 eligible to receive an earned-time allowance of one-half (1/2) of
80 the period of confinement imposed by the court except those
81 inmates excluded by law. When an inmate is committed to the
82 custody of the department, the department shall determine a
83 conditional earned-time release date by subtracting the
84 earned-time allowance from an inmate's term of sentence. This
85 subsection does not apply to any sentence imposed after June 30,
86 1995.

87 (2) For any sentence imposed after June 30, 1995, an inmate
88 may receive an earned-time allowance of four and one-half (4-1/2)
89 days for each thirty (30) days served if the department determines
90 that the inmate has complied with the good conduct and performance
91 requirements of the earned-time allowance program. The
92 earned-time allowance under this subsection shall not exceed
93 fifteen percent (15%) of an inmate's term of sentence; however,
94 beginning July 1, 2006, no person under the age of twenty-one (21)
95 who has committed a nonviolent offense, and who is under the
96 jurisdiction of the Department of Corrections, shall be subject to
97 the fifteen percent (15%) limitation for earned-time allowances as
98 described in this subsection (2). When an inmate is committed to



99 the custody of the department, the department shall determine a
100 conditional earned-time release date by subtracting the
101 earned-time allowance from an inmate's term of sentence.

102 (* * *3) An inmate may forfeit all or part of his
103 earned-time allowance for a serious violation of rules. No
104 forfeiture of the earned-time allowance shall be effective except
105 upon approval of the commissioner, or his designee, and forfeited
106 earned time may not be restored.

107 (* * *4) (a) For the purposes of this subsection, "final
108 order" means an order of a state or federal court that dismisses a
109 lawsuit brought by an inmate while the inmate was in the custody
110 of the Department of Corrections as frivolous, malicious or for
111 failure to state a claim upon which relief could be granted.

112 (b) On receipt of a final order, the department shall
113 forfeit:

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

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

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



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

(* * *5) (a) The department shall furnish at least three (3) months' written notice to the offender of the date on which he may be placed under earned-release supervision.

(b) If an inmate * * * meets the good conduct and performance requirements of the earned-time allowance program and the inmate's record is examined and approved by the State Parole Board for earned-time release supervision, as prescribed under Section 1 of this act, then the inmate may be released on his conditional earned-time release date. Before an inmate may be considered for release on his earned-time release date, the department shall provide adequate notice to the Parole Board of such date, as prescribed under Section 1 of this act.

* * *

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



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

149 (7) If the earned-release supervision is revoked, the inmate
150 shall serve the remainder of the sentence, but the time the inmate
151 served on earned-release supervision before revocation * * * shall
152 be applied to reduce his sentence.

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

155 47-7-5. (1) The State Parole Board, created under former
156 Section 47-7-5, is hereby created, continued and reconstituted and
157 shall be composed of five (5) members. The Governor shall appoint
158 the members with the advice and consent of the Senate. All terms
159 shall be at the will and pleasure of the Governor. Any vacancy
160 shall be filled by the Governor, with the advice and consent of
161 the Senate. The Governor shall appoint a chairman of the board.

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



172 affiliations. Each board member, including the chairman, may be
173 reimbursed for actual and necessary expenses as authorized by
174 Section 25-3-41. Each member of the board shall complete annual
175 training developed based on guidance from the National Institute
176 of Corrections, the Association of Paroling Authorities
177 International, or the American Probation and Parole Association.
178 Each first-time appointee of the board shall, within sixty (60)
179 days of appointment, or as soon as practical, complete training
180 for first-time Parole Board members developed in consideration of
181 information from the National Institute of Corrections, the
182 Association of Paroling Authorities International, or the American
183 Probation and Parole Association.

184 (3) The board shall have exclusive responsibility for the
185 granting of parole as provided by Sections 47-7-3 and 47-7-17 and
186 shall have exclusive authority for revocation of the same. The
187 board shall have exclusive responsibility for investigating
188 clemency recommendations upon request of the Governor. The board
189 shall have the authority to review and approve the department's
190 recommendation to place an offender under earned-release
191 supervision.

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

195 (5) The budget of the board shall be funded through a
196 separate line item within the general appropriation bill for the



197 support and maintenance of the department. Employees of the
198 department which are employed by or assigned to the board shall
199 work under the guidance and supervision of the board. There shall
200 be an executive secretary to the board who shall be responsible
201 for all administrative and general accounting duties related to
202 the board. The executive secretary shall keep and preserve all
203 records and papers pertaining to the board.

204 (6) The board shall have no authority or responsibility for
205 supervision of offenders granted a release for any reason,
206 including, but not limited to, earned-release supervision,
207 probation, parole or executive clemency or other offenders
208 requiring the same through interstate compact agreements. The
209 supervision shall be provided exclusively by the staff of the
210 Division of Community Corrections of the department.

211 (7) (a) The Parole Board is authorized to select and place
212 offenders in an electronic monitoring program under the conditions
213 and criteria imposed by the Parole Board. The conditions,
214 restrictions and requirements of Section 47-7-17 and Sections
215 47-5-1001 through 47-5-1015 shall apply to the Parole Board and
216 any offender placed in an electronic monitoring program by the
217 Parole Board.

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



222 (c) The department shall have absolute immunity from
223 liability for any injury resulting from a determination by the
224 Parole Board that an offender be placed in an electronic
225 monitoring program.

226 (8) (a) The Parole Board shall maintain a central registry
227 of paroled inmates. The Parole Board shall place the following
228 information on the registry: name, address, photograph, crime for
229 which paroled, the date of the end of parole or flat-time date and
230 other information deemed necessary. The Parole Board shall
231 immediately remove information on a parolee at the end of his
232 parole or flat-time date.

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

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

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

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

245 (10) This section shall stand repealed on July 1, 2022.



246 **SECTION 4.** Section 47-5-177, Mississippi Code of 1972, is
247 amended as follows:

248 47-5-177. At least fifteen (15) days prior to the placement
249 of an offender under earned-release supervision or the release of
250 an offender from the physical custody of the department because of
251 discharge, parole, pardon, temporary personal leave or pass, or
252 otherwise, except for sickness or death in the offender's family,
253 the director of records of the department shall give written or
254 electronic notice of such earned-release supervision or release to
255 the sheriff of the county and to the chief of police of the
256 municipality where the offender was convicted. If the offender is
257 serving the period of earned-release supervision in or is paroled
258 to a county other than the county of conviction, the director of
259 records shall give written or electronic notice of the
260 earned-release supervision or release to the sheriff, district
261 attorney and circuit judge of the county and to the chief of
262 police of the municipality where the offender is serving the
263 period of earned-release supervision in or is paroled and to the
264 sheriff of the county and to the chief of police of the
265 municipality where the offender was convicted. The department
266 shall notify the parole officer of the county where the offender
267 is serving the period of earned-release supervision, paroled or
268 discharged to probation of any chronic mental disorder incurred by
269 the offender, of any type of infectious disease for which the



270 offender has been examined and treated, and of any medications
271 provided to the offender for such conditions.

272 The commissioner shall require the director of records to
273 clearly identify the notice of release of an offender who has been
274 convicted of arson at any time. The fact that the offender to be
275 released had been convicted of arson at any time shall appear
276 prominently on the notice of release and the sheriff shall notify
277 all officials who are responsible for investigation of arson
278 within the county of such offender's release and the chief of
279 police shall notify all such officials within the municipality of
280 such offender's release.

281 **SECTION 5.** This act shall take effect and be in force from
282 and after July 1, 2019.

