

By: Representatives Horan, Kinkade, Karriem,
Porter, Faulkner, Brown (70th), Hudson,
Mickens

To: Corrections;
Appropriations

HOUSE BILL NO. 1476
(As Passed the House)

1 AN ACT TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT AN INMATE, AS LONG AS THE INMATE IS NOT CONVICTED OF
3 CAPITAL MURDER OR SENTENCED TO DEATH, SHALL BE ELIGIBLE FOR PAROLE
4 IF HE OR SHE HAS BEEN DIAGNOSED WITH A TERMINAL ILLNESS OR DISEASE
5 AND HAS A LIFE EXPECTANCY OF A YEAR OR LESS OR IS COMPLETELY
6 DISABLED AND DOES NOT HAVE THE ABILITY TO PROVIDE SELF-CARE AND HE
7 OR SHE IS BEDRIDDEN OR THE INMATE HAS LIMITED SELF-CARE CAPACITY
8 AND IS BEDRIDDEN AT LEAST 50% OF WAKING HOURS; TO REQUIRE THE
9 DEPARTMENT OF CORRECTIONS TO PROVIDE TO THE PAROLE BOARD, EVERY
10 THIRTY DAYS, A LIST OF INMATES WHO MAY BE ELIGIBLE FOR PAROLE
11 ELIGIBILITY DUE TO CERTAIN MEDICAL CONDITIONS; TO REQUIRE THE
12 DEPARTMENT OR ITS MEDICAL DIRECTOR TO NOTIFY THE PAROLE BOARD OF
13 ANY INMATE WHO IS DIAGNOSED WITH A TERMINAL ILLNESS OR DISEASE
14 WITHIN SEVENTY-TWO HOURS OF THE DIAGNOSIS; TO AMEND SECTION
15 47-7-4, TO AUTHORIZE THE PAROLE BOARD, ALONG WITH THE COMMISSIONER
16 OF CORRECTIONS AND THE DEPARTMENT OF CORRECTION'S MEDICAL
17 DIRECTOR, TO PLACE CERTAIN OFFENDERS ON CONDITIONAL MEDICAL
18 RELEASE IF THE OFFENDERS HAVE BEEN DIAGNOSED WITH A TERMINAL
19 ILLNESS OR DISEASE AND HAVE A LIFE EXPECTANCY OF A YEAR OR LESS OR
20 IS COMPLETELY DISABLED AND DOES NOT HAVE THE ABILITY TO PROVIDE
21 SELF-CARE AND IS BEDRIDDEN OR THE OFFENDER HAS LIMITED SELF-CARE
22 CAPACITY AND IS BEDRIDDEN AT LEAST 50% OF WAKING HOURS; TO REQUIRE
23 THE DEPARTMENT OF CORRECTIONS TO PROVIDE TO THE PAROLE BOARD,
24 EVERY THIRTY DAYS, A LIST OF INMATES WHO MAY BE ELIGIBLE FOR
25 CONDITIONAL MEDICAL RELEASE DUE TO CERTAIN MEDICAL CONDITIONS; TO
26 REQUIRE THE DEPARTMENT OR ITS MEDICAL DIRECTOR TO NOTIFY THE
27 PAROLE BOARD OF ANY INMATE WHO IS DIAGNOSED WITH A TERMINAL
28 ILLNESS OR DISEASE WITHIN SEVENTY-TWO HOURS OF THE DIAGNOSIS; TO
29 AMEND SECTION 47-7-5, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
30 PRECEDING SECTION; AND FOR RELATED PURPOSES.

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



32 **SECTION 1.** Section 47-7-3, Mississippi Code of 1972, is
33 amended as follows:

34 47-7-3. (1) Every prisoner who has been convicted of any
35 offense against the State of Mississippi, and is confined in the
36 execution of a judgment of such conviction in the Mississippi
37 Department of Corrections for a definite term or terms of one (1)
38 year or over, or for the term of his or her natural life, whose
39 record of conduct shows that such prisoner has observed the rules
40 of the department, and who has served not less than one-fourth
41 (1/4) of the total of such term or terms for which such prisoner
42 was sentenced, or, if sentenced to serve a term or terms of thirty
43 (30) years or more, or, if sentenced for the term of the natural
44 life of such prisoner, has served not less than ten (10) years of
45 such life sentence, may be released on parole as hereinafter
46 provided, except that:

47 (a) No prisoner convicted as a confirmed and habitual
48 criminal under the provisions of Sections 99-19-81 through
49 99-19-87 shall be eligible for parole;

50 (b) Any person who shall have been convicted of a sex
51 crime shall not be released on parole except for a person under
52 the age of nineteen (19) who has been convicted under Section
53 97-3-67;

54 (c) (i) No person shall be eligible for parole who
55 shall, on or after January 1, 1977, be convicted of robbery or
56 attempted robbery through the display of a firearm until he shall



57 have served ten (10) years if sentenced to a term or terms of more
58 than ten (10) years or if sentenced for the term of the natural
59 life of such person. If such person is sentenced to a term or
60 terms of ten (10) years or less, then such person shall not be
61 eligible for parole. The provisions of this paragraph (c)(i)
62 shall also apply to any person who shall commit robbery or
63 attempted robbery on or after July 1, 1982, through the display of
64 a deadly weapon. This paragraph (c)(i) shall not apply to persons
65 convicted after September 30, 1994;

66 (ii) No person shall be eligible for parole who
67 shall, on or after October 1, 1994, be convicted of robbery,
68 attempted robbery or carjacking as provided in Section 97-3-115 et
69 seq., through the display of a firearm or drive-by shooting as
70 provided in Section 97-3-109. The provisions of this paragraph
71 (c)(ii) shall also apply to any person who shall commit robbery,
72 attempted robbery, carjacking or a drive-by shooting on or after
73 October 1, 1994, through the display of a deadly weapon. This
74 paragraph (c)(ii) shall not apply to persons convicted after July
75 1, 2014;

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



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

83 (f) No person shall be eligible for parole who is
84 convicted or whose suspended sentence is revoked after June 30,
85 1995, except that an offender convicted of only nonviolent crimes
86 after June 30, 1995, may be eligible for parole if the offender
87 meets the requirements in this subsection (1) and this paragraph.
88 In addition to other requirements, if an offender is convicted of
89 a drug or driving under the influence felony, the offender must
90 complete a drug and alcohol rehabilitation program prior to parole
91 or the offender may be required to complete a post-release drug
92 and alcohol program as a condition of parole. For purposes of
93 this paragraph, "nonviolent crime" means a felony other than
94 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
95 occupied dwelling, aggravated assault, kidnapping, felonious abuse
96 of vulnerable adults, felonies with enhanced penalties, except
97 enhanced penalties for the crime of possession of a controlled
98 substance under Section 41-29-147, the sale or manufacture of a
99 controlled substance under the Uniform Controlled Substances Law,
100 felony child abuse, or exploitation or any crime under Section
101 97-5-33 or Section 97-5-39(2) or 97-5-39(1)(b), 97-5-39(1)(c) or a
102 violation of Section 63-11-30(5). In addition, an offender
103 incarcerated for committing the crime of possession of a
104 controlled substance under the Uniform Controlled Substances Law



after July 1, 1995, including an offender who receives an enhanced penalty under the provisions of Section 41-29-147 for such possession, shall be eligible for parole. An offender incarcerated for committing the crime of sale or manufacture of a controlled substance shall be eligible for parole after serving one-fourth (1/4) of the sentence imposed by the trial court. This paragraph (f) shall not apply to persons convicted on or after July 1, 2014;

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

* * *

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



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

(2) Notwithstanding any other provision of law, an inmate, except an inmate who has been convicted of capital murder as defined in 97-13-13 or who has been sentenced to death for another capital offense pursuant to 99-19-101, shall be eligible for parole if:

(a) The inmate has been diagnosed with a terminal illness or disease and has a life expectancy of twelve (12) months or less;

(b) The inmate is completely disabled such that he or she cannot carry out any self-care and he or she is bedridden; or

(c) The inmate is at limited self-care capacity such that he or she is bedridden at least fifty percent (50%) percent of waking hours. An inmate who has been convicted of a sex offense, as defined by Section 45-33-23(h), shall not be eligible for parole pursuant to this paragraph (c).



153 (* * *3) Notwithstanding any other provision of law, an
154 inmate shall not be eligible to receive earned time, good time or
155 any other administrative reduction of time which shall reduce the
156 time necessary to be served for parole eligibility as provided in
157 subsection (1) of this section.

158 (* * *4) The State Parole Board shall, by rules and
159 regulations, establish a method of determining a tentative parole
160 hearing date for each eligible offender taken into the custody of
161 the Department of Corrections. The tentative parole hearing date
162 shall be determined within ninety (90) days after the department
163 has assumed custody of the offender. The parole hearing date
164 shall occur when the offender is within thirty (30) days of the
165 month of his parole eligibility date. The parole eligibility date
166 shall not be earlier than one-fourth (1/4) of the prison sentence
167 or sentences imposed by the court.

168 (* * *5) Any inmate within twenty-four (24) months of his
169 parole eligibility date and who meets the criteria established by
170 the classification board shall receive priority for placement in
171 any educational development and job training programs that are
172 part of his or her parole case plan. Any inmate refusing to
173 participate in an educational development or job training program
174 that is part of the case plan may be in jeopardy of noncompliance
175 with the case plan and may be denied parole.

176 (6) (a) The Department of Corrections shall provide to the
177 State Parole Board a listing of all inmates who meet the criteria



under subsection (2) of this section every thirty (30) days, regardless of whether an inmate has made such a request. The State Parole Board may request necessary documentation from the Department of Corrections and/or the state medical director at any time in order to determine the parole eligibility of any inmate pursuant to this section.

(b) The Department of Corrections or the medical director of the department shall notify the parole board of any inmate who is diagnosed with a terminal illness or disease within seventy-two (72) hours of such diagnosis.

(c) The Department of Corrections shall assist any inmate in making a request for parole eligibility if such a request is made by an inmate.

SECTION 2. Section 47-7-4, Mississippi Code of 1972, is amended as follows:

47-7-4. (1) The commissioner and the medical director of the department or the State Parole Board may place an offender who has served not less than one (1) year of his or her sentence, except an offender convicted of * * * except an inmate who has been convicted of capital murder as defined in 97-13-13 or who has been sentenced to death for another capital offense pursuant to 99-19-101, may be placed on conditional medical release if:

(a) The offender has been diagnosed with a terminal illness or disease and has a life expectancy of twelve (12) months or less;



203 (b) The offender is completely disabled such that he or
204 she cannot carry out any self-care and he or she is bedridden; or

205 (c) The offender is at limited self-care capacity such
206 that he or she is bedridden at least fifty percent (50%) percent
207 of waking hours. An offender who has been convicted of a sex
208 offense, as defined by Section 45-33-23(h), shall not be eligible
209 for parole pursuant to this paragraph (c).

210 * * *

211 (2) (a) The Department of Corrections shall provide to the
212 State Parole Board a listing of all inmates who meet the criteria
213 under subsection (1) of this section every thirty (30) days,
214 regardless of whether an inmate has made such a request. The
215 State Parole Board may request necessary documentation from the
216 Department of Corrections and/or the state medical director at any
217 time in order to determine whether an offender may be placed on
218 conditional medical release pursuant to this section.

219 (b) The Department of Corrections or the medical
220 director of the department shall notify the parole board of any
221 inmate who is diagnosed with a terminal illness or disease within
222 seventy-two (72) hours of such diagnosis.

223 (c) The Department of Corrections or the State Parole
224 Board, as the case may be, shall assist any inmate in making a
225 request for conditional medical release if such a request is made
226 by an inmate.



227 (3) Upon the release of * * * an offender * * * pursuant to
228 this section, the state shall not be responsible or liable for any
229 medical costs that may be incurred if such costs are acquired
230 after the offender is no longer incarcerated due to his or her
231 placement on conditional medical release. The commissioner or the
232 parole board shall not place an offender on conditional medical
233 release unless the medical director of the department certifies to
234 the commissioner that (a) the offender is suffering from a * * *
235 medical condition prescribed in subsection (1) of this section;
236 (b) that his or her further incarceration will serve no
237 rehabilitative purposes; and (c) that the state would incur
238 unreasonable expenses as a result of his or her continued
239 incarceration. Any offender placed on conditional medical release
240 shall be supervised by the Division of Community Corrections of
241 the department for the remainder of his or her sentence. An
242 offender's conditional medical release may be revoked and the
243 offender returned and placed in actual custody of the department
244 if the offender violates an order or condition of his or her
245 conditional medical release. An offender who is no longer
246 bedridden shall be returned and placed in the actual custody of
247 the department.

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

250 47-7-5. (1) The State Parole Board, created under former
251 Section 47-7-5, is hereby created, continued and reconstituted and



shall be composed of five (5) members. The Governor shall appoint the members with the advice and consent of the Senate. All terms shall be at the will and pleasure of the Governor. Any vacancy shall be filled by the Governor, with the advice and consent of the Senate. The Governor shall appoint a chairman of the board.

(2) Any person who is appointed to serve on the board shall possess at least a bachelor's degree or a high school diploma and four (4) years' work experience. Each member shall devote his full time to the duties of his office and shall not engage in any other business or profession or hold any other public office. A member shall not receive compensation or per diem in addition to his salary as prohibited under Section 25-3-38. Each member shall keep such hours and workdays as required of full-time state employees under Section 25-1-98. Individuals shall be appointed to serve on the board without reference to their political affiliations. Each board member, including the chairman, may be reimbursed for actual and necessary expenses as authorized by Section 25-3-41. Each member of the board shall complete annual training developed based on guidance from the National Institute of Corrections, the Association of Paroling Authorities International, or the American Probation and Parole Association. Each first-time appointee of the board shall, within sixty (60) days of appointment, or as soon as practical, complete training for first-time Parole Board members developed in consideration of information from the National Institute of Corrections, the



277 Association of Paroling Authorities International, or the American
278 Probation and Parole Association.

279 (3) The board shall have exclusive responsibility for the
280 granting of parole as provided by Sections 47-7-3 and 47-7-17 and
281 shall have exclusive authority for revocation of the same. The
282 board shall have exclusive responsibility for investigating
283 clemency recommendations upon request of the Governor.

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

287 (5) The budget of the board shall be funded through a
288 separate line item within the general appropriation bill for the
289 support and maintenance of the department. Employees of the
290 department which are employed by or assigned to the board shall
291 work under the guidance and supervision of the board. There shall
292 be an executive secretary to the board who shall be responsible
293 for all administrative and general accounting duties related to
294 the board. The executive secretary shall keep and preserve all
295 records and papers pertaining to the board.

296 (6) The board shall have no authority or responsibility for
297 supervision of offenders granted a release for any reason,
298 including, but not limited to, probation, parole or executive
299 clemency or other offenders requiring the same through interstate
300 compact agreements. The supervision shall be provided exclusively



by the staff of the Division of Community Corrections of the department.

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

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

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

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



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

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

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

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

(10) The Parole Board is authorized to place offenders on conditional medical release pursuant to Section 47-7-4.

(* * *11) This section shall stand repealed on July 1, 2022.

SECTION 4. This act shall take effect and be in force from and after July 1, 2020.

