

House Amendments to Senate Bill No. 2117

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

9 **SECTION 1.** Section 99-19-81, Mississippi Code of 1972, is
10 amended as follows:

11 99-19-81. Every person convicted in this state of a felony
12 who shall have been convicted twice previously of any felony or
13 federal crime upon charges separately brought and arising out of
14 separate incidents at different times and who shall have been
15 sentenced to separate terms of one (1) year or more in any state
16 and/or federal penal institution, whether in this state or
17 elsewhere, within fifteen (15) years shall be sentenced to the
18 maximum term of imprisonment prescribed for such felony unless the
19 court provides an explanation in its sentencing order setting
20 forth the cause for deviating from the maximum sentence, and such
21 sentence shall not be reduced or suspended nor shall such person
22 be eligible for * * * probation.

23 For purposes of this section, fifteen (15) years shall be
24 counted:

25 (a) From the date of the conviction for the crime, if
26 the person was not incarcerated for the crime; or

27 (b) From the date that the person was physically
28 released from incarceration for the crime, if the person was
29 incarcerated for the crime.

30 **SECTION 2.** Section 99-19-83, Mississippi Code of 1972, is
31 amended as follows:

32 99-19-83. Every person convicted in this state of a felony
33 that is defined as a crime of violence in Section 97-3-2 who shall
34 have been convicted twice previously of any felony or federal
35 crime upon charges separately brought and arising out of separate
36 incidents at different times and who shall have been sentenced to
37 and served separate terms of one (1) year or more, whether served
38 concurrently or not, in any state and/or federal penal
39 institution, whether in this state or elsewhere, and where any one
40 (1) of such felonies shall have been a crime of violence, as
41 defined by Section 97-3-2, shall be sentenced to life
42 imprisonment, and such sentence shall not be reduced or suspended
43 nor shall such person be eligible for * * * probation * * *.

44 **SECTION 3.** Section 47-7-3, Mississippi Code of 1972, is
45 amended as follows:

46 47-7-3. (1) Every prisoner who has been convicted of any
47 offense against the State of Mississippi, and is confined in the
48 execution of a judgment of such conviction in the Mississippi
49 Department of Corrections for a definite term or terms of one (1)
50 year or over, or for the term of his or her natural life, whose

51 record of conduct shows that such prisoner has observed the rules
52 of the department, and who has served not less than one-fourth
53 (1/4) of the total of such term or terms for which such prisoner
54 was sentenced, or, if sentenced to serve a term or terms of thirty
55 (30) years or more, or, if sentenced for the term of the natural
56 life of such prisoner, has served not less than ten (10) years of
57 such life sentence, may be released on parole as hereinafter
58 provided, except that:

59 (a) No prisoner convicted as a confirmed and habitual
60 criminal under the provisions of Sections 99-19-81 through
61 99-19-87 shall be eligible for parole, unless the person was
62 convicted before the effective date of this act, in which case the
63 person may be considered for parole if their conviction would
64 result in a reduced sentence based on the changes in Sections 1
65 and 2 of this act;

66 (b) Any person who shall have been convicted of a sex
67 crime shall not be released on parole except for a person under
68 the age of nineteen (19) who has been convicted under Section
69 97-3-67;

70 (c) (i) No person shall be eligible for parole who
71 shall, on or after January 1, 1977, be convicted of robbery or
72 attempted robbery through the display of a firearm until he shall
73 have served ten (10) years if sentenced to a term or terms of more
74 than ten (10) years or if sentenced for the term of the natural
75 life of such person. If such person is sentenced to a term or
76 terms of ten (10) years or less, then such person shall not be

77 eligible for parole. The provisions of this paragraph (c)(i)
78 shall also apply to any person who shall commit robbery or
79 attempted robbery on or after July 1, 1982, through the display of
80 a deadly weapon. This paragraph (c)(i) shall not apply to persons
81 convicted after September 30, 1994;

82 (ii) No person shall be eligible for parole who
83 shall, on or after October 1, 1994, be convicted of robbery,
84 attempted robbery or carjacking as provided in Section 97-3-115 et
85 seq., through the display of a firearm or drive-by shooting as
86 provided in Section 97-3-109. The provisions of this paragraph
87 (c)(ii) shall also apply to any person who shall commit robbery,
88 attempted robbery, carjacking or a drive-by shooting on or after
89 October 1, 1994, through the display of a deadly weapon. This
90 paragraph (c)(ii) shall not apply to persons convicted after July
91 1, 2014;

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

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

99 (f) No person shall be eligible for parole who is
100 convicted or whose suspended sentence is revoked after June 30,
101 1995, except that an offender convicted of only nonviolent crimes
102 after June 30, 1995, may be eligible for parole if the offender

103 meets the requirements in this subsection (1) and this paragraph.
104 In addition to other requirements, if an offender is convicted of
105 a drug or driving under the influence felony, the offender must
106 complete a drug and alcohol rehabilitation program prior to parole
107 or the offender may be required to complete a post-release drug
108 and alcohol program as a condition of parole. For purposes of
109 this paragraph, "nonviolent crime" means a felony other than
110 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
111 occupied dwelling, aggravated assault, kidnapping, felonious abuse
112 of vulnerable adults, felonies with enhanced penalties, except
113 enhanced penalties for the crime of possession of a controlled
114 substance under Section 41-29-147, the sale or manufacture of a
115 controlled substance under the Uniform Controlled Substances Law,
116 felony child abuse, or exploitation or any crime under Section
117 97-5-33 or Section 97-5-39(2) or 97-5-39(1)(b), 97-5-39(1)(c) or a
118 violation of Section 63-11-30(5). In addition, an offender
119 incarcerated for committing the crime of possession of a
120 controlled substance under the Uniform Controlled Substances Law
121 after July 1, 1995, including an offender who receives an enhanced
122 penalty under the provisions of Section 41-29-147 for such
123 possession, shall be eligible for parole. An offender
124 incarcerated for committing the crime of sale or manufacture of a
125 controlled substance shall be eligible for parole after serving
126 one-fourth (1/4) of the sentence imposed by the trial court. This
127 paragraph (f) shall not apply to persons convicted on or after
128 July 1, 2014;

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

136 (ii) Notwithstanding the provisions in
137 subparagraph (i) of this paragraph (g), a person serving a
138 sentence who has reached the age of sixty (60) or older and who
139 has served no less than ten (10) years of the sentence or
140 sentences imposed by the trial court shall be eligible for parole.
141 Any person eligible for parole under this subsection shall be
142 required to have a parole hearing before the board prior to parole
143 release. No inmate shall be eligible for parole under this
144 subparagraph (ii) of this paragraph (g) if:

145 1. The inmate is sentenced as a habitual
146 offender under Sections 99-19-81 through 99-19-87, unless the
147 person was convicted before the effective date of this act, in
148 which case the person may be considered for parole if their
149 conviction would result in a reduced sentence based on the changes
150 in Sections 1 and 2 of this act;

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

153 3. The inmate is sentenced for an offense
154 that specifically prohibits parole release;

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

157 5. The inmate is sentenced for a sex crime;
158 or

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

161 (iii) Notwithstanding the provisions of paragraph
162 (a) of this subsection, any offender who has not committed a crime
163 of violence under Section 97-3-2 and has served twenty-five
164 percent (25%) or more of his sentence may be paroled by the parole
165 board if, after the sentencing judge or if the sentencing judge is
166 retired, disabled or incapacitated, the senior circuit judge
167 authorizes the offender to be eligible for parole consideration;
168 or if that senior circuit judge must be recused, another circuit
169 judge of the same district or a senior status judge may hear and
170 decide the matter;

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

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

185 (3) The State Parole Board shall, by rules and regulations,
186 establish a method of determining a tentative parole hearing date
187 for each eligible offender taken into the custody of the
188 Department of Corrections. The tentative parole hearing date
189 shall be determined within ninety (90) days after the department
190 has assumed custody of the offender. The parole hearing date
191 shall occur when the offender is within thirty (30) days of the
192 month of his parole eligibility date. The parole eligibility date
193 shall not be earlier than one-fourth (1/4) of the prison sentence
194 or sentences imposed by the court.

195 (4) Any inmate within twenty-four (24) months of his parole
196 eligibility date and who meets the criteria established by the
197 classification board shall receive priority for placement in any
198 educational development and job training programs that are part of
199 his or her parole case plan. Any inmate refusing to participate
200 in an educational development or job training program that is part
201 of the case plan may be in jeopardy of noncompliance with the case
202 plan and may be denied parole.

203 **SECTION 4.** This act shall take effect and be in force from
204 and after July 1, 2021.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 99-19-81, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE A TIME PERIOD FOR QUALIFICATION OF CERTAIN HABITUAL
3 OFFENDERS; TO AMEND SECTION 99-19-83, MISSISSIPPI CODE OF 1972, TO
4 REVISE PROVISIONS THAT REGULATE HABITUAL OFFENDERS; TO REMOVE
5 RESTRICTIONS FOR REDUCTION OF PAROLE; TO AMEND SECTION 47-7-3,
6 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING CHANGES; AND
7 FOR RELATED PURPOSES.

HR43\SB2117A.J

Andrew Ketchings
Clerk of the House of Representatives