

Senate Amendments to House Bill No. 796

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE 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:

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

10 99-19-81. (1) Every person convicted in this state of a
11 felony who shall have been convicted twice previously of any
12 felony or federal crime upon charges separately brought and
13 arising out of separate incidents at different times and who shall
14 have been sentenced to separate terms of one (1) year or more in
15 any state and/or federal penal institution, whether in this state
16 or elsewhere, within fifteen (15) years of the prior conviction
17 shall be sentenced to the maximum term of imprisonment prescribed
18 for such felony unless the court provides an explanation in its
19 sentencing order setting forth the cause for deviating from the
20 maximum sentence, and such sentence shall not be reduced or
21 suspended nor shall such person be eligible for parole or
22 probation.

23 (2) For purposes of this section, "within fifteen (15) years
24 of the prior conviction" shall be counted:

25 (a) From the date of the first of the two (2) prior
26 convictions used to sentence the person under this section, if the
27 person was not incarcerated for the crime; or

28 (b) From the date that the person was physically
29 released from incarceration or subsequent incarceration for
30 violation of probation or parole, whichever is later, for the
31 prior conviction, if the person was incarcerated for the crime.

32 (3) Notwithstanding provisions to the contrary in subsection
33 (1) of this section, a person, who was sentenced under this
34 section before the effective date of this act, may be considered
35 for parole if the person's sentence would have been reduced if the
36 person had been sentenced under the present provisions of this
37 section.

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

40 99-19-83. Every person convicted in this state of a * * *
41 crime of violence defined in or sentenced pursuant to Section
42 97-3-2 who shall have been convicted twice previously of any
43 felony or federal crime upon charges separately brought and
44 arising out of separate incidents at different times and who shall
45 have been sentenced to and served separate terms of one (1) year
46 or more, whether served concurrently or not, in any state and/or
47 federal penal institution, whether in this state or elsewhere, and
48 where any one (1) of such felonies shall have been a crime of
49 violence, as defined by Section 97-3-2, shall be sentenced to life
50 imprisonment unless the court provides an explanation in its

51 sentencing order setting forth the cause for deviating from a
52 sentence to life imprisonment and sentences the person to the
53 maximum term, and such sentence shall not be reduced or suspended
54 nor shall such person be eligible for parole, probation or any
55 other form of early release from actual physical custody within
56 the Department of Corrections.

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

59 47-7-3. (1) Every prisoner who has been convicted of any
60 offense against the State of Mississippi, and is confined in the
61 execution of a judgment of such conviction in the Mississippi
62 Department of Corrections for a definite term or terms of one (1)
63 year or over, or for the term of his or her natural life, whose
64 record of conduct shows that such prisoner has observed the rules
65 of the department, and who has served not less than one-fourth
66 (1/4) of the total of such term or terms for which such prisoner
67 was sentenced, or, if sentenced to serve a term or terms of thirty
68 (30) years or more, or, if sentenced for the term of the natural
69 life of such prisoner, has served not less than ten (10) years of
70 such life sentence, may be released on parole as hereinafter
71 provided, except that:

72 (a) No prisoner convicted as a confirmed and habitual
73 criminal under the provisions of Sections 99-19-81 through
74 99-19-87 shall be eligible for parole, unless the person was
75 convicted prior to the effective date of this act, in which case
76 the person may be considered for parole if the person's conviction

77 would have resulted in a reduced sentence if the person had been
78 sentenced under the present provisions of Section 99-19-81;

79 (b) Any person who shall have been convicted of a sex
80 crime shall not be released on parole except for a person under
81 the age of nineteen (19) who has been convicted under Section
82 97-3-67;

83 (c) (i) No person shall be eligible for parole who
84 shall, on or after January 1, 1977, be convicted of robbery or
85 attempted robbery through the display of a firearm until he shall
86 have served ten (10) years if sentenced to a term or terms of more
87 than ten (10) years or if sentenced for the term of the natural
88 life of such person. If such person is sentenced to a term or
89 terms of ten (10) years or less, then such person shall not be
90 eligible for parole. The provisions of this paragraph (c)(i)
91 shall also apply to any person who shall commit robbery or
92 attempted robbery on or after July 1, 1982, through the display of
93 a deadly weapon. This paragraph (c)(i) shall not apply to persons
94 convicted after September 30, 1994;

95 (ii) No person shall be eligible for parole who
96 shall, on or after October 1, 1994, be convicted of robbery,
97 attempted robbery or carjacking as provided in Section 97-3-115 et
98 seq., through the display of a firearm or drive-by shooting as
99 provided in Section 97-3-109. The provisions of this paragraph
100 (c)(ii) shall also apply to any person who shall commit robbery,
101 attempted robbery, carjacking or a drive-by shooting on or after
102 October 1, 1994, through the display of a deadly weapon. This

paragraph (c)(ii) shall not apply to persons convicted after July 1, 2014;

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

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

(f) No person shall be eligible for parole who is convicted or whose suspended sentence is revoked after June 30, 1995, except that an offender convicted of only nonviolent crimes after June 30, 1995, may be eligible for parole if the offender meets the requirements in this subsection (1) and this paragraph. In addition to other requirements, if an offender is convicted of a drug or driving under the influence felony, the offender must complete a drug and alcohol rehabilitation program prior to parole or the offender may be required to complete a post-release drug and alcohol program as a condition of parole. For purposes of this paragraph, "nonviolent crime" means a felony other than homicide, robbery, manslaughter, sex crimes, arson, burglary of an occupied dwelling, aggravated assault, kidnapping, felonious abuse of vulnerable adults, felonies with enhanced penalties, except enhanced penalties for the crime of possession of a controlled substance under Section 41-29-147, the sale or manufacture of a controlled substance under the Uniform Controlled Substances Law,

felony child abuse, or exploitation or any crime under Section 97-5-33 or Section 97-5-39(2) or 97-5-39(1)(b), 97-5-39(1)(c) or a violation of Section 63-11-30(5). In addition, an offender incarcerated for committing the crime of possession of a 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) (i) 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.

(ii) Notwithstanding the provisions in subparagraph (i) of this paragraph (g), a person serving a sentence who has reached the age of sixty (60) or older and who has served no less than ten (10) years of the sentence or sentences imposed by the trial court shall be eligible for parole. Any person eligible for parole under this subsection shall be

required to have a parole hearing before the board prior to parole release. No inmate shall be eligible for parole under this subparagraph (ii) of this paragraph (g) if:

1. The inmate is sentenced as a habitual offender under Sections 99-19-81 through 99-19-87, unless the person was convicted prior to the effective date of this act, in which case the person may be considered for parole if the person's conviction would have resulted in a reduced sentence if the person had been sentenced under the present provisions of Section 99-19-81;

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

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

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

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

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

(iii) 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

181 authorizes the offender to be eligible for parole consideration;
182 or if that senior circuit judge must be recused, another circuit
183 judge of the same district or a senior status judge may hear and
184 decide the matter;

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

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

199 (3) The State Parole Board shall, by rules and regulations,
200 establish a method of determining a tentative parole hearing date
201 for each eligible offender taken into the custody of the
202 Department of Corrections. The tentative parole hearing date
203 shall be determined within ninety (90) days after the department
204 has assumed custody of the offender. The parole hearing date
205 shall occur when the offender is within thirty (30) days of the
206 month of his parole eligibility date. The parole eligibility date

shall not be earlier than one-fourth (1/4) of the prison sentence or sentences imposed by the court.

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

SECTION 4. This act shall take effect and be in force from and after July 1, 2021, and shall stand repealed on June 30, 2021.

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

AN ACT TO AMEND SECTION 99-19-81, MISSISSIPPI CODE OF 1972, TO PROVIDE A TIME PERIOD FOR QUALIFICATION OF CERTAIN HABITUAL OFFENDERS; TO AMEND SECTION 99-19-83, MISSISSIPPI CODE OF 1972, TO REVISE PROVISIONS THAT REGULATE HABITUAL OFFENDERS; TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

SS26\HB796A.1J

Eugene S. Clarke
Secretary of the Senate