

By: Representative Johnson

To: Corrections; Judiciary B

HOUSE BILL NO. 217

1 AN ACT TO PROVIDE THAT ANY PERSON WHO IS CONVICTED OF A DRUG
2 OFFENSE OR A NONVIOLENT CRIME AND IS SENTENCED TO FIVE YEARS OR
3 LESS AND IS HELD IN THE PHYSICAL CUSTODY OF THE DEPARTMENT OF
4 CORRECTIONS SHALL HAVE HIS OR HER SENTENCE COMMUTED TO TIME
5 SERVED; TO BRING FORWARD SECTION 47-7-3, MISSISSIPPI CODE OF 1972,
6 FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Notwithstanding any other provision of law, any
9 person who is convicted of a drug offense or a nonviolent crime,
10 as defined under Section 97-3-2, and is sentenced to five (5)
11 years or less and is held in the physical custody of the
12 Department of Corrections shall have his or her sentence commuted
13 to time served.

14 **SECTION 2.** Section 47-7-3, Mississippi Code of 1972, is
15 brought forward as follows:

16 47-7-3. (1) Every prisoner who has been convicted of any
17 offense against the State of Mississippi, and is confined in the
18 execution of a judgment of such conviction in the Mississippi
19 Department of Corrections for a definite term or terms of one (1)
20 year or over, or for the term of his or her natural life, whose



21 record of conduct shows that such prisoner has observed the rules
22 of the department, and who has served the minimum required time
23 for parole eligibility, may be released on parole as set forth
24 herein:

25 (a) **Habitual offenders.** Except as provided by Sections
26 99-19-81 through 99-19-87, no person sentenced as a confirmed and
27 habitual criminal shall be eligible for parole;

28 (b) **Sex offenders.** Any person who has been sentenced
29 for a sex offense as defined in Section 45-33-23(h) shall not be
30 released on parole except for a person under the age of nineteen
31 (19) who has been convicted under Section 97-3-67;

32 (c) **Capital offenders.** No person sentenced for the
33 following offenses shall be eligible for parole:

34 (i) Capital murder committed on or after July 1,
35 1994, as defined in Section 97-3-19(2);

36 (ii) Any offense to which an offender is sentenced
37 to life imprisonment under the provisions of Section 99-19-101; or

38 (iii) Any offense to which an offender is
39 sentenced to life imprisonment without eligibility for parole
40 under the provisions of Section 99-19-101, whose crime was
41 committed on or after July 1, 1994;

42 (d) **Murder.** No person sentenced for murder in the
43 first degree, whose crime was committed on or after June 30, 1995,
44 or murder in the second degree, as defined in Section 97-3-19,
45 shall be eligible for parole;



46 (e) **Human trafficking.** No person sentenced for human
47 trafficking, as defined in Section 97-3-54.1, whose crime was
48 committed on or after July 1, 2014, shall be eligible for parole;

49 (f) **Drug trafficking.** No person sentenced for
50 trafficking and aggravated trafficking, as defined in Section
51 41-29-139(f) through (g), shall be eligible for parole;

52 (g) **Offenses specifically prohibiting parole release.**
53 No person shall be eligible for parole who is convicted of any
54 offense that specifically prohibits parole release;

55 (h) (i) **Offenders eligible for parole consideration**
56 **for offenses committed after June 30, 1995.** Except as provided in
57 paragraphs (a) through (g) of this subsection, offenders may be
58 considered eligible for parole release as follows:

59 1. **Nonviolent crimes.** All persons sentenced
60 for a nonviolent offense shall be eligible for parole only after
61 they have served twenty-five percent (25%) or ten (10) years,
62 whichever is less, of the sentence or sentences imposed by the
63 trial court. For purposes of this paragraph, "nonviolent crime"
64 means a felony not designated as a crime of violence in Section
65 97-3-2.

66 2. **Violent crimes.** A person who is sentenced
67 for a violent offense as defined in Section 97-3-2, except robbery
68 with a deadly weapon as defined in Section 97-3-79, drive-by
69 shooting as defined in Section 97-3-109, and carjacking as defined
70 in Section 97-3-117, shall be eligible for parole only after



71 having served fifty percent (50%) or twenty (20) years, whichever
72 is less, of the sentence or sentences imposed by the trial court.
73 Those persons sentenced for robbery with a deadly weapon as
74 defined in Section 97-3-79, drive-by shooting as defined in
75 Section 97-3-109, and carjacking as defined in Section 97-3-117,
76 shall be eligible for parole only after having served sixty
77 percent (60%) or twenty-five (25) years, whichever is less, of the
78 sentence or sentences imposed by the trial court.

79 **3. Nonviolent and nonhabitual drug offenses.**

80 A person who has been sentenced to a drug offense pursuant to
81 Section 41-29-139(a) through (d), whose crime was committed after
82 June 30, 1995, shall be eligible for parole only after he has
83 served twenty-five percent (25%) or ten (10) years, whichever is
84 less, of the sentence or sentences imposed.

85 (ii) **Parole hearing required.** All persons
86 eligible for parole under subparagraph (i) of this paragraph (h)
87 who are serving a sentence or sentences for a crime of violence,
88 as defined in Section 97-3-2, shall be required to have a parole
89 hearing before the Parole Board pursuant to Section 47-7-17, prior
90 to parole release.

91 (iii) **Geriatric parole.** Notwithstanding the
92 provisions in subparagraph (i) of this paragraph (h), a person
93 serving a sentence who has reached the age of sixty (60) or older
94 and who has served no less than ten (10) years of the sentence or
95 sentences imposed by the trial court shall be eligible for parole.



96 Any person eligible for parole under this subparagraph (iii) shall
97 be required to have a parole hearing before the board prior to
98 parole release. No inmate shall be eligible for parole under this
99 subparagraph (iii) of this paragraph (h) if:

- 100 1. The inmate is sentenced as a habitual
101 offender under Sections 99-19-81 through 99-19-87;
- 102 2. The inmate is sentenced for a crime of
103 violence under Section 97-3-2;
- 104 3. The inmate is sentenced for an offense
105 that specifically prohibits parole release;
- 106 4. The inmate is sentenced for trafficking in
107 controlled substances under Section 41-29-139(f);
- 108 5. The inmate is sentenced for a sex crime;
109 or
- 110 6. The inmate has not served one-fourth (1/4)
111 of the sentence imposed by the court.

112 (iv) **Parole consideration as authorized by the**
113 **trial court.** Notwithstanding the provisions of paragraph (a) of
114 this subsection, any offender who has not committed a crime of
115 violence under Section 97-3-2 and has served twenty-five percent
116 (25%) or more of his sentence may be paroled by the State Parole
117 Board if, after the sentencing judge or if the sentencing judge is
118 retired, disabled or incapacitated, the senior circuit judge
119 authorizes the offender to be eligible for parole consideration;
120 or if the senior circuit judge must be recused, another circuit



121 judge of the same district or a senior status judge may hear and
122 decide the matter. A petition for parole eligibility
123 consideration pursuant to this subparagraph (iv) shall be filed in
124 the original criminal cause or causes, and the offender shall
125 serve an executed copy of the petition on the District Attorney.
126 The court may, in its discretion, require the District Attorney to
127 respond to the petition.

128 (2) The State Parole Board shall, by rules and regulations,
129 establish a method of determining a tentative parole hearing date
130 for each eligible offender taken into the custody of the
131 Department of Corrections. The tentative parole hearing date
132 shall be determined within ninety (90) days after the department
133 has assumed custody of the offender. Except as provided in
134 Section 47-7-18, the parole hearing date shall occur when the
135 offender is within thirty (30) days of the month of his parole
136 eligibility date. Any parole eligibility date shall not be
137 earlier than as required in this section.

138 (3) Notwithstanding any other provision of law, an inmate
139 shall not be eligible to receive earned time, good time or any
140 other administrative reduction of time which shall reduce the time
141 necessary to be served for parole eligibility as provided in
142 subsection (1) of this section.

143 (4) Any inmate within forty-eight (48) months of his parole
144 eligibility date and who meets the criteria established by the
145 classification board shall receive priority for placement in any



146 educational development and job-training programs that are part of
147 his or her parole case plan. Any inmate refusing to participate
148 in an educational development or job-training program, including,
149 but not limited to, programs required as part of the case plan,
150 shall be in jeopardy of noncompliance with the case plan and may
151 be denied parole.

152 (5) In addition to other requirements, if an offender is
153 convicted of a drug or driving under the influence felony, the
154 offender must complete a drug and alcohol rehabilitation program
155 prior to parole, or the offender shall be required to complete a
156 postrelease drug and alcohol program as a condition of parole.

157 (6) Except as provided in subsection (1)(a) through (h) of
158 this section, all other persons shall be eligible for parole after
159 serving twenty-five percent (25%) of the sentence or sentences
160 imposed by the trial court, or, if sentenced to thirty (30) years
161 or more, after serving ten (10) years of the sentence or sentences
162 imposed by the trial court.

163 (7) The Corrections and Criminal Justice Oversight Task
164 Force established in Section 47-5-6 shall develop and submit
165 recommendations to the Governor and to the Legislature annually on
166 or before December 1st concerning issues relating to juvenile and
167 habitual offender parole reform and to review and monitor the
168 implementation of Chapter 479, Laws of 2021.

169 (8) The amendments contained in Chapter 479, Laws of 2021,
170 shall apply retroactively from and after July 1, 1995.



171 (9) Notwithstanding provisions to the contrary in this
172 section, a person who was sentenced before July 1, 2021, may be
173 considered for parole if the person's sentence would have been
174 parole eligible before July 1, 2021.

175 (10) This section shall stand repealed on July 1, 2024.

176 **SECTION 3.** This act shall take effect and be in force from
177 and after July 1, 2022.

