

By: Representative Bain

To: Judiciary B

HOUSE BILL NO. 413

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.

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

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 the minimum required time
53 for parole eligibility, may be released on parole as set forth
54 herein:

55 (a) **Habitual offenders.** Except as provided by Sections
56 99-19-81 through 99-19-87, no person sentenced as a confirmed and
57 habitual criminal shall be eligible for parole, unless the person
58 was convicted before the effective date of this act, in which case
59 the person may be considered for parole if their conviction would
60 result in reduced sentence based on the changes in Sections 1 and
61 2 of this act;

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

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

68 (i) Capital murder committed on or after July 1,
69 1994, as defined in Section 97-3-19(2);



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

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

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

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

83 (f) **Drug trafficking.** No person sentenced for
84 trafficking and aggravated trafficking, as defined in Section
85 41-29-139(f) through (g), shall be eligible for parole;

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

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

93 1. **Nonviolent crimes.** All persons sentenced
94 for a nonviolent offense shall be eligible for parole only after



95 they have served twenty-five percent (25%) or ten (10) years,
96 whichever is less, of the sentence or sentences imposed by the
97 trial court. For purposes of this paragraph, "nonviolent crime"
98 means a felony not designated as a crime of violence in Section
99 97-3-2.

100 2. **Violent crimes.** A person who is sentenced
101 for a violent offense as defined in Section 97-3-2, except robbery
102 with a deadly weapon as defined in Section 97-3-79, drive-by
103 shooting as defined in Section 97-3-109, and carjacking as defined
104 in Section 97-3-117, shall be eligible for parole only after
105 having served fifty percent (50%) or twenty (20) years, whichever
106 is less, of the sentence or sentences imposed by the trial court.
107 Those persons sentenced for robbery with a deadly weapon as
108 defined in Section 97-3-79, drive-by shooting as defined in
109 Section 97-3-109, and carjacking as defined in Section 97-3-117,
110 shall be eligible for parole only after having served sixty
111 percent (60%) or twenty-five (25) years, whichever is less, of the
112 sentence or sentences imposed by the trial court.

113 3. **Nonviolent and nonhabitual drug offenses.**
114 A person who has been sentenced to a drug offense pursuant to
115 Section 41-29-139(a) through (d), whose crime was committed after
116 June 30, 1995, shall be eligible for parole only after he has
117 served twenty-five percent (25%) or ten (10) years, whichever is
118 less, of the sentence or sentences imposed.



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

125 (iii) **Geriatric parole.** Notwithstanding the
126 provisions in subparagraph (i) of this paragraph (h), a person
127 serving a sentence who has reached the age of sixty (60) or older
128 and who has served no less than ten (10) years of the sentence or
129 sentences imposed by the trial court shall be eligible for parole.
130 Any person eligible for parole under this subparagraph (iii) shall
131 be required to have a parole hearing before the board prior to
132 parole release. No inmate shall be eligible for parole under this
133 subparagraph (iii) of this paragraph (h) if:

134 1. The inmate is sentenced as a habitual
135 offender under Sections 99-19-81 through 99-19-87;

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

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

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

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

143 or



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

146 (iv) **Parole consideration as authorized by the**
147 **trial court.** Notwithstanding the provisions of paragraph (a) of
148 this subsection, any offender who has not committed a crime of
149 violence under Section 97-3-2 and has served twenty-five percent
150 (25%) or more of his sentence may be paroled by the State Parole
151 Board if, after the sentencing judge or if the sentencing judge is
152 retired, disabled or incapacitated, the senior circuit judge
153 authorizes the offender to be eligible for parole consideration;
154 or if the senior circuit judge must be recused, another circuit
155 judge of the same district or a senior status judge may hear and
156 decide the matter. A petition for parole eligibility
157 consideration pursuant to this subparagraph (iv) shall be filed in
158 the original criminal cause or causes, and the offender shall
159 serve an executed copy of the petition on the District Attorney.
160 The court may, in its discretion, require the District Attorney to
161 respond to the petition.

162 (2) The State Parole Board shall, by rules and regulations,
163 establish a method of determining a tentative parole hearing date
164 for each eligible offender taken into the custody of the
165 Department of Corrections. The tentative parole hearing date
166 shall be determined within ninety (90) days after the department
167 has assumed custody of the offender. Except as provided in
168 Section 47-7-18, the parole hearing date shall occur when the



169 offender is within thirty (30) days of the month of his parole
170 eligibility date. Any parole eligibility date shall not be
171 earlier than as required in this section.

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

177 (4) Any inmate within forty-eight (48) months of his parole
178 eligibility date and who meets the criteria established by the
179 classification board shall receive priority for placement in any
180 educational development and job-training programs that are part of
181 his or her parole case plan. Any inmate refusing to participate
182 in an educational development or job-training program, including,
183 but not limited to, programs required as part of the case plan,
184 shall be in jeopardy of noncompliance with the case plan and may
185 be denied parole.

186 (5) In addition to other requirements, if an offender is
187 convicted of a drug or driving under the influence felony, the
188 offender must complete a drug and alcohol rehabilitation program
189 prior to parole, or the offender shall be required to complete a
190 postrelease drug and alcohol program as a condition of parole.

191 (6) Except as provided in subsection (1)(a) through (h) of
192 this section, all other persons shall be eligible for parole after
193 serving twenty-five percent (25%) of the sentence or sentences



194 imposed by the trial court, or, if sentenced to thirty (30) years
195 or more, after serving ten (10) years of the sentence or sentences
196 imposed by the trial court.

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

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

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

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

210 **SECTION 4.** This act shall take effect and be in force from
211 and after July 1, 2022.

