

By: Senator(s) Sparks

To: Judiciary, Division B

SENATE BILL NO. 2564

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 AMEND
5 SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR
6 RELATED PURPOSES.

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

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

68 (a) **Habitual offenders.** Except as provided by Sections
69 99-19-81 through 99-19-87, no person sentenced as a confirmed and
70 habitual criminal shall be eligible for parole, unless the person



71 was convicted prior to the effective date of this act, in which
72 case the person may be considered for parole if the person's
73 conviction would have resulted in a reduced sentence if the person
74 had been sentenced under the present provisions of Section
75 99-19-81;

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

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

82 (i) Capital murder committed on or after July 1,
83 1994, as defined in Section 97-3-19(2);

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

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

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



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

97 (f) **Drug trafficking.** No person sentenced for
98 trafficking and aggravated trafficking, as defined in Section
99 41-29-139(f) through (g), shall be eligible for parole;

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

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

107 1. **Nonviolent crimes.** All persons sentenced
108 for a nonviolent offense shall be eligible for parole only after
109 they have served twenty-five percent (25%) or ten (10) years,
110 whichever is less, of the sentence or sentences imposed by the
111 trial court. For purposes of this paragraph, "nonviolent crime"
112 means a felony not designated as a crime of violence in Section
113 97-3-2.

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



119 having served fifty percent (50%) or twenty (20) years, whichever
120 is less, of the sentence or sentences imposed by the trial court.
121 Those persons sentenced for robbery with a deadly weapon as
122 defined in Section 97-3-79, drive-by shooting as defined in
123 Section 97-3-109, and carjacking as defined in Section 97-3-117,
124 shall be eligible for parole only after having served sixty
125 percent (60%) or twenty-five (25) years, whichever is less, of the
126 sentence or sentences imposed by the trial court.

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

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

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

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



144 Any person eligible for parole under this subparagraph (iii) shall
145 be required to have a parole hearing before the board prior to
146 parole release. No inmate shall be eligible for parole under this
147 subparagraph (iii) of this paragraph (h) if:

148 1. The inmate is sentenced as a habitual
149 offender under Sections 99-19-81 through 99-19-87, unless the
150 person was convicted prior to the effective date of this act, in
151 which case the person may be considered for parole if the person's
152 conviction would have resulted in a reduced sentence if the person
153 had been sentenced under the present provisions of Section
154 99-19-81;

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

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

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

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

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

165 (iv) **Parole consideration as authorized by the**
166 **trial court.** Notwithstanding the provisions of paragraph (a) of
167 this subsection, any offender who has not committed a crime of
168 violence under Section 97-3-2 and has served twenty-five percent



169 (25%) or more of his sentence may be paroled by the State Parole
170 Board if, after the sentencing judge or if the sentencing judge is
171 retired, disabled or incapacitated, the senior circuit judge
172 authorizes the offender to be eligible for parole consideration;
173 or if the senior circuit judge must be recused, another circuit
174 judge of the same district or a senior status judge may hear and
175 decide the matter. A petition for parole eligibility
176 consideration pursuant to this subparagraph (iv) shall be filed in
177 the original criminal cause or causes, and the offender shall
178 serve an executed copy of the petition on the District Attorney.
179 The court may, in its discretion, require the District Attorney to
180 respond to the petition.

181 (2) The State Parole Board shall, by rules and regulations,
182 establish a method of determining a tentative parole hearing date
183 for each eligible offender taken into the custody of the
184 Department of Corrections. The tentative parole hearing date
185 shall be determined within ninety (90) days after the department
186 has assumed custody of the offender. Except as provided in
187 Section 47-7-18, the parole hearing date shall occur when the
188 offender is within thirty (30) days of the month of his parole
189 eligibility date. Any parole eligibility date shall not be
190 earlier than as required in this section.

191 (3) Notwithstanding any other provision of law, an inmate
192 shall not be eligible to receive earned time, good time or any
193 other administrative reduction of time which shall reduce the time



194 necessary to be served for parole eligibility as provided in
195 subsection (1) of this section.

196 (4) Any inmate within forty-eight (48) months of his parole
197 eligibility date and who meets the criteria established by the
198 classification board shall receive priority for placement in any
199 educational development and job-training programs that are part of
200 his or her parole case plan. Any inmate refusing to participate
201 in an educational development or job-training program, including,
202 but not limited to, programs required as part of the case plan,
203 shall be in jeopardy of noncompliance with the case plan and may
204 be denied parole.

205 (5) In addition to other requirements, if an offender is
206 convicted of a drug or driving under the influence felony, the
207 offender must complete a drug and alcohol rehabilitation program
208 prior to parole, or the offender shall be required to complete a
209 postrelease drug and alcohol program as a condition of parole.

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

216 (7) The Corrections and Criminal Justice Oversight Task
217 Force established in Section 47-5-6 shall develop and submit
218 recommendations to the Governor and to the Legislature annually on



219 or before December 1st concerning issues relating to juvenile and
220 habitual offender parole reform and to review and monitor the
221 implementation of Chapter 479, Laws of 2021.

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

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

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

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

