

By: Representative Harness

To: Judiciary B

HOUSE BILL NO. 348

1 AN ACT TO CREATE THE YOUTHFUL OFFENDER LAW; TO AUTHORIZE ANY  
 2 CIRCUIT COURT TO SENTENCE AN OFFENDER AS A YOUTHFUL OFFENDER,  
 3 UNDER CERTAIN CIRCUMSTANCES, IF THE OFFENDER COMMITTED AN OFFENSE  
 4 BEFORE THE AGE OF TWENTY-ONE AND IS AT LEAST EIGHTEEN YEARS OF AGE  
 5 OR IF THE OFFENDER IS A JUVENILE DELINQUENT WHO HAS BEEN REMOVED  
 6 FROM THE JURISDICTION OF THE YOUTH COURT; TO PROVIDE CERTAIN  
 7 SENTENCING OPTIONS THAT THE COURT MAY IMPOSE ON THE YOUTHFUL  
 8 OFFENDER; TO AMEND SECTIONS 47-7-3 AND 47-5-138, MISSISSIPPI CODE  
 9 OF 1972, TO CONFORM TO THE PRECEDING SECTION; AND FOR RELATED  
 10 PURPOSES.

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

12 **SECTION 1.** (1) This section shall be referred to as the  
 13 "Youthful Offender Law."

14 (2) A circuit court may sentence as a youthful offender any  
 15 person:

16 (a) Who is at least eighteen (18) years of age or who  
 17 has been transferred for prosecution to the criminal court  
 18 pursuant to Section 43-21-57;

19 (b) Who is found guilty of or who has tendered, and the  
 20 court has accepted, a plea of nolo contendere or guilty to a crime  
 21 that is, under the laws of this state, a felony if such crime was



22 committed before the defendant turned twenty-one (21) years of  
23 age; and

24 (c) Who has not previously been classified as a  
25 youthful offender under this section; however, a person who has  
26 been found guilty of a capital offense or life imprisonment may  
27 not be sentenced as a youthful offender under this section.

28 (3) Notwithstanding any other provision of law to the  
29 contrary and notwithstanding any imposition of consecutive  
30 sentences, the court shall dispose of the criminal case as  
31 follows:

32 (a) The court may place a youthful offender under  
33 supervision on probation or parole, with or without an  
34 adjudication of guilt, under such conditions as the court may  
35 lawfully impose for a period of not more than six (6) years. Such  
36 period of supervision may not exceed the maximum sentence for the  
37 offense for which the youthful offender was found guilty.

38 (b) The court may impose a period of incarceration as a  
39 condition of probation or parole, which period of incarceration  
40 shall be served in a county facility, a restitution center, or a  
41 community residential facility that is owned and operated by any  
42 public or private entity providing such services. A youthful  
43 offender may not be required to serve a period of incarceration in  
44 a facility that is supervised by the Community Corrections  
45 Division of the Department of Corrections. Admission to such a  
46 department facility or center shall be contingent upon the



47 availability of bed space and shall take into account the purpose  
48 and function of such facility or center. Placement in such a  
49 facility or center may not exceed three hundred sixty-four (364)  
50 days.

51 (c) The court may impose a split sentence whereby the  
52 youthful offender is to be placed on probation or parole upon  
53 completion of any specified period of incarceration; however, if  
54 the incarceration period is to be served in a department facility  
55 other than a restitution center or community residential facility,  
56 such period shall be for not less than one (1) year or more than  
57 four (4) years. The period of probation or parole shall commence  
58 immediately upon the release of the youthful offender from  
59 incarceration. The period of incarceration imposed or served and  
60 the period of probation or parole, when added together, may not  
61 exceed six (6) years.

62 (d) The court may commit the youthful offender to the  
63 custody of the Department of Corrections for a period of not more  
64 than six (6) years, provided that any such commitment may not  
65 exceed the maximum sentence for the offense for which the youthful  
66 offender has been convicted. Successful participation in the  
67 youthful offender program by an offender who is sentenced as a  
68 youthful offender by the court pursuant to this act, or is  
69 classified as such by the department, may result in a  
70 recommendation to the court, by the department, for a modification  
71 or early termination of probation or parole of the sentence at any



72 time prior to the scheduled expiration of such term. The  
73 Department of Corrections shall adopt rules defining criteria for  
74 successful participation in the youthful offender program which  
75 shall include program participation, academic and vocational  
76 training and satisfactory adjustment. When a modification of the  
77 sentence results in the reduction of a term of incarceration, the  
78 court may impose a term of probation or parole which, when added  
79 to the term of incarceration, may not exceed the original sentence  
80 imposed.

81 (4) The provisions of this section shall not be used to  
82 impose a greater sentence than the permissible sentence range as  
83 authorized by law unless reasons are explained in writing by the  
84 trial court judge which reasonably justify departure. A sentence  
85 imposed outside of this section is subject to appeal.

86 **SECTION 2.** Section 47-7-3, Mississippi Code of 1972, is  
87 amended as follows:

88 47-7-3. (1) Every prisoner who has been convicted of any  
89 offense against the State of Mississippi, and is confined in the  
90 execution of a judgment of such conviction in the Mississippi  
91 Department of Corrections for a definite term or terms of one (1)  
92 year or over, or for the term of his or her natural life, whose  
93 record of conduct shows that such prisoner has observed the rules  
94 of the department, and who has served the minimum required time  
95 for parole eligibility, may be released on parole as set forth  
96 herein:



97 (a) **Habitual offenders.** Except as provided by Sections  
98 99-19-81 through 99-19-87, no person sentenced as a confirmed and  
99 habitual criminal shall be eligible for parole;

100 (b) **Sex offenders.** Except for a person sentenced as a  
101 youthful offender under Section 1 of this act, any person who has  
102 been sentenced for a sex offense as defined in Section 45-33-23(h)  
103 shall not be released on parole except for a person under the age  
104 of nineteen (19) who has been convicted under Section 97-3-67;

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

107 (i) Capital murder committed on or after July 1,  
108 1994, as defined in Section 97-3-19(2);

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

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

115 (d) **Murder.** Except for a person sentenced as a  
116 youthful offender under Section 1 of this act, no person sentenced  
117 for murder in the first degree, whose crime was committed on or  
118 after June 30, 1995, or murder in the second degree, as defined in  
119 Section 97-3-19, shall be eligible for parole;

120 (e) **Human trafficking.** Except for a person sentenced  
121 as a youthful offender under Section 1 of this act, no person



122 sentenced for human trafficking, as defined in Section 97-3-54.1,  
123 whose crime was committed on or after July 1, 2014, shall be  
124 eligible for parole;

125 (f) **Drug trafficking.** Except for a person sentenced as  
126 a youthful offender under Section 1 of this act, no person  
127 sentenced for trafficking and aggravated trafficking, as defined  
128 in Section 41-29-139(f) through (g), shall be eligible for parole;

129 (g) **Offenses specifically prohibiting parole release.**  
130 Except for a person sentenced as a youthful offender under Section  
131 1 of this act, no person shall be eligible for parole who is  
132 convicted of any offense that specifically prohibits parole  
133 release;

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

138 1. **Nonviolent crimes.** Except for persons  
139 sentenced as youthful offenders under Section 1 of this act, all  
140 persons sentenced for a nonviolent offense shall be eligible for  
141 parole only after they have served twenty five percent (25%) or  
142 ten (10) years, whichever is less, of the sentence or sentences  
143 imposed by the trial court. For purposes of this paragraph,  
144 "nonviolent crime" means a felony not designated as a crime of  
145 violence in Section 97-3-2.



146                                   2. **Violent crimes.** Except for a person  
147 sentenced as a youthful offender under Section 1 of this act, a  
148 person who is sentenced for a violent offense as defined in  
149 Section 97-3-2, except robbery with a deadly weapon as defined in  
150 Section 97-3-79, drive by shooting as defined in Section 97-3-109,  
151 and carjacking as defined in Section 97-3-117, shall be eligible  
152 for parole only after having served fifty percent (50%) or twenty  
153 (20) years, whichever is less, of the sentence or sentences  
154 imposed by the trial court. Those persons sentenced for robbery  
155 with a deadly weapon as defined in Section 97-3-79, drive by  
156 shooting as defined in Section 97-3-109, and carjacking as defined  
157 in Section 97-3-117, shall be eligible for parole only after  
158 having served sixty percent (60%) or twenty five (25) years,  
159 whichever is less, of the sentence or sentences imposed by the  
160 trial court.

161                                   3. **Nonviolent and nonhabitual drug offenses.**  
162 Except for a person sentenced as a youthful offender under Section  
163 1 of this act, a person who has been sentenced to a drug offense  
164 pursuant to Section 41-29-139(a) through (d), whose crime was  
165 committed after June 30, 1995, shall be eligible for parole only  
166 after he has served twenty five percent (25%) or ten (10) years,  
167 whichever is less, of the sentence or sentences imposed.

168                                   (ii) **Parole hearing required.** Except for all  
169 persons sentenced as youthful offenders under Section 1 of this  
170 act, all persons eligible for parole under subparagraph (i) of



171 this paragraph (h) who are serving a sentence or sentences for a  
172 crime of violence, as defined in Section 97-3-2, shall be required  
173 to have a parole hearing before the Parole Board pursuant to  
174 Section 47-7-17, prior to parole release.

175 (iii) **Geriatric parole.** Notwithstanding the  
176 provisions in subparagraph (i) of this paragraph (h), a person  
177 serving a sentence who has reached the age of sixty (60) or older  
178 and who has served no less than ten (10) years of the sentence or  
179 sentences imposed by the trial court shall be eligible for parole.  
180 Any person eligible for parole under this subparagraph (iii) shall  
181 be required to have a parole hearing before the board prior to  
182 parole release. No inmate shall be eligible for parole under this  
183 subparagraph (iii) of this paragraph (h) if:

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

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

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

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

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

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





196 (iv) **Parole consideration as authorized by the**  
197 **trial court.** Notwithstanding the provisions of paragraph (a) of  
198 this subsection, any offender who has not committed a crime of  
199 violence under Section 97-3-2 and has served twenty-five percent  
200 (25%) or more of his sentence may be paroled by the State Parole  
201 Board if, after the sentencing judge or if the sentencing judge is  
202 retired, disabled or incapacitated, the senior circuit judge  
203 authorizes the offender to be eligible for parole consideration;  
204 or if the senior circuit judge must be recused, another circuit  
205 judge of the same district or a senior status judge may hear and  
206 decide the matter. A petition for parole eligibility  
207 consideration pursuant to this subparagraph (iv) shall be filed in  
208 the original criminal cause or causes, and the offender shall  
209 serve an executed copy of the petition on the District Attorney.  
210 The court may, in its discretion, require the District Attorney to  
211 respond to the petition.

212 (2) The State Parole Board shall, by rules and regulations,  
213 establish a method of determining a tentative parole hearing date  
214 for each eligible offender taken into the custody of the  
215 Department of Corrections. The tentative parole hearing date  
216 shall be determined within ninety (90) days after the department  
217 has assumed custody of the offender. Except as provided in  
218 Section 47-7-18, the parole hearing date shall occur when the  
219 offender is within thirty (30) days of the month of his parole



220 eligibility date. Any parole eligibility date shall not be  
221 earlier than as required in this section.

222 (3) Notwithstanding any other provision of law, an inmate  
223 shall not be eligible to receive earned-time, good time or any  
224 other administrative reduction of time which shall reduce the time  
225 necessary to be served for parole eligibility as provided in  
226 subsection (1) of this section.

227 (4) Any inmate within forty-eight (48) months of his parole  
228 eligibility date and who meets the criteria established by the  
229 classification board shall receive priority for placement in any  
230 educational development and job training programs that are part of  
231 his or her parole case plan. Any inmate refusing to participate  
232 in an educational development or job training program, including,  
233 but not limited to, programs required as part of the case plan,  
234 shall be in jeopardy of noncompliance with the case plan and may  
235 be denied parole.

236 (5) In addition to other requirements, if an offender is  
237 convicted of a drug or driving under the influence felony, the  
238 offender must complete a drug and alcohol rehabilitation program  
239 prior to parole, or the offender shall be required to complete a  
240 postrelease drug and alcohol program as a condition of parole.

241 (6) Except as provided in subsection (1)(a) through (h) of  
242 this section, all other persons shall be eligible for parole after  
243 serving twenty-five percent (25%) of the sentence or sentences  
244 imposed by the trial court, or, if sentenced to thirty (30) years



245 or more, after serving ten (10) years of the sentence or sentences  
246 imposed by the trial court.

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

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

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

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

260 **SECTION 3.** Section 47-5-138, Mississippi Code of 1972, is  
261 amended as follows:

262 47-5-138. (1) The department may promulgate rules and  
263 regulations to carry out an earned-time allowance program based on  
264 the good conduct and performance of an inmate. An inmate is  
265 eligible to receive an earned time allowance of one-half (1/2) of  
266 the period of confinement imposed by the court except those  
267 inmates excluded by law. When an inmate is committed to the  
268 custody of the department, the department shall determine a  
269 conditional earned-time release date by subtracting the



270 earned\_time allowance from an inmate's term of sentence. This  
271 subsection does not apply to any sentence imposed after June 30,  
272 1995.

273 (2) An inmate may forfeit all or part of his earned\_time  
274 allowance for a serious violation of rules. No forfeiture of the  
275 earned\_time allowance shall be effective except upon approval of  
276 the commissioner, or his designee, and forfeited earned\_time may  
277 not be restored.

278 (3) (a) For the purposes of this subsection, "final order"  
279 means an order of a state or federal court that dismisses a  
280 lawsuit brought by an inmate while the inmate was in the custody  
281 of the Department of Corrections as frivolous, malicious or for  
282 failure to state a claim upon which relief could be granted.

283 (b) On receipt of a final order, the department shall  
284 forfeit:

285 (i) Sixty (60) days of an inmate's accrued  
286 earned\_time if the department has received one (1) final order as  
287 defined herein;

288 (ii) One hundred twenty (120) days of an inmate's  
289 accrued earned\_time if the department has received two (2) final  
290 orders as defined herein;

291 (iii) One hundred eighty (180) days of an inmate's  
292 accrued earned\_time if the department has received three (3) or  
293 more final orders as defined herein.



294 (c) The department may not restore earned-time  
295 forfeited under this subsection.

296 (4) An inmate who meets the good conduct and performance  
297 requirements of the earned-time allowance program may be released  
298 on his conditional earned-time release date.

299 (5) For any sentence imposed after June 30, 1995, an inmate  
300 may receive an earned-time allowance of four and one half (4 1/2)  
301 days for each thirty (30) days served if the department determines  
302 that the inmate has complied with the good conduct and performance  
303 requirements of the earned-time allowance program. The  
304 earned-time allowance under this subsection shall not exceed  
305 fifteen percent (15%) of an inmate's term of sentence; however,  
306 beginning July 1, 2006, no person under the age of twenty-one (21)  
307 who has committed a nonviolent offense, and who is under the  
308 jurisdiction of the Department of Corrections, shall be subject to  
309 the fifteen percent (15%) limitation for earned-time allowances as  
310 described in this subsection (5). Beginning July 1, 2023, no  
311 person under the age of twenty-one (21) who is sentenced as a  
312 youthful offender pursuant to Section 1 of this act, and who is  
313 under the jurisdiction of the department shall be subject to the  
314 fifteen percent (15%) limitation for earned-time allowances as  
315 described in this subsection (5).

316 (6) Any inmate, who is released before the expiration of his  
317 term of sentence under this section, shall be placed under



318 earned-release supervision until the expiration of the term of  
319 sentence. The inmate shall retain inmate status and remain under  
320 the jurisdiction of the department. The period of earned-release  
321 supervision shall be conducted in the same manner as a period of  
322 supervised parole. The department shall develop rules, terms and  
323 conditions for the earned-release supervision program. The  
324 commissioner shall designate the appropriate hearing officer  
325 within the department to conduct revocation hearings for inmates  
326 violating the conditions of earned-release supervision.

327 (7) If the earned-release supervision is revoked, the inmate  
328 shall serve the remainder of the sentence, but the time the inmate  
329 served on earned-release supervision before revocation \* \* \* shall  
330 be applied to reduce his sentence.

331 **SECTION 4.** This act shall take effect and be in force from  
332 and after July 1, 2023.

