

By: Senator(s) Turner-Ford

To: Judiciary, Division B;
Corrections

SENATE BILL NO. 2098

1 AN ACT TO AMEND SECTION 97-3-21, MISSISSIPPI CODE OF 1972, TO
 2 ESTABLISH SENTENCING GUIDELINES FOR PERSONS WHO WERE UNDER THE AGE
 3 OF 18 WHEN THEY COMMITTED THE OFFENSE OF FIRST-DEGREE MURDER,
 4 SECOND-DEGREE MURDER OR CAPITAL MURDER; TO REMOVE LIFE WITHOUT THE
 5 POSSIBILITY OF PAROLE AS A SENTENCING OPTION FOR JUVENILES
 6 CONVICTED OF THESE OFFENSES; TO PROVIDE THAT JUVENILES CONVICTED
 7 OF THESE OFFENSES MAY BE ELIGIBLE FOR PAROLE AND TO PROVIDE FOR
 8 THE RETROACTIVE APPLICATION OF PAROLE ELIGIBILITY; TO AMEND
 9 SECTION 97-3-2, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN
 10 JUVENILE OFFENDERS MAY BE RELEASED FROM THE CUSTODY OF THE
 11 MISSISSIPPI DEPARTMENT OF CORRECTIONS (MDOC) BEFORE SERVING 50% OF
 12 THE SENTENCE IMPOSED BY THE COURT; TO AMEND SECTION 47-7-3,
 13 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JUVENILE OFFENDERS
 14 CONVICTED OF CERTAIN OFFENSES MAY BE ELIGIBLE FOR PAROLE AFTER
 15 SERVING 25% OF A DEFINITE SENTENCE OR AFTER SERVING TEN YEARS OF A
 16 LIFE SENTENCE; TO AUTHORIZE THE PAROLE BOARD TO ESTABLISH A METHOD
 17 OF DETERMINING TENTATIVE PAROLE HEARING DATES FOR PAROLE-ELIGIBLE
 18 JUVENILE OFFENDERS WHO WERE CONVICTED BEFORE JULY 1, 2022; TO
 19 AMEND SECTION 47-7-3.1, MISSISSIPPI CODE OF 1972, TO CHANGE THE
 20 DEADLINE BY WHICH MDOC MUST COMPLETE CASE PLANS FOR
 21 PAROLE-ELIGIBLE JUVENILE OFFENDERS WHO WERE CONVICTED BEFORE JULY
 22 1, 2022; AND FOR RELATED PURPOSES.

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

24 **SECTION 1.** Section 97-3-21, Mississippi Code of 1972, is
 25 amended as follows:

26 97-3-21. (1) (a) Except as otherwise provided in paragraph
 27 (b) of this subsection for a juvenile offender, every person who
 28 shall be convicted of first-degree murder shall be sentenced by



29 the court to imprisonment for life in the custody of the
30 Department of Corrections.

31 (b) Every juvenile offender who shall be convicted of
32 first-degree murder may be sentenced to forty (40) years in the
33 custody of the Department of Corrections if the punishment is so
34 fixed by the jury after a separate sentencing proceeding. If the
35 jury fails to agree on fixing the penalty at forty (40) years, the
36 court shall fix the penalty at not less than ten (10) nor more
37 than twenty (20) years in the custody of the Department of
38 Corrections.

39 (2) (a) Except as otherwise provided in paragraph (b) of
40 this subsection for a juvenile offender, every person who shall be
41 convicted of second-degree murder shall be imprisoned for life in
42 the custody of the Department of Corrections if the punishment is
43 so fixed by the jury in its verdict after a separate sentencing
44 proceeding. If the jury fails to agree on fixing the penalty at
45 imprisonment for life, the court shall fix the penalty at not less
46 than twenty (20) nor more than forty (40) years in the custody of
47 the Department of Corrections.

48 (b) Every juvenile offender who shall be convicted of
49 second-degree murder may be sentenced to thirty (30) years in the
50 custody of the Department of Corrections if the punishment is so
51 fixed by the jury after a separate sentencing proceeding. If the
52 jury fails to agree on fixing the penalty at thirty (30) years,
53 the court shall fix the penalty at not less than five (5) nor more



54 than fifteen (15) years in the custody of the Department of
55 Corrections.

56 (3) (a) Except as otherwise provided in paragraph (b) of
57 this subsection for a juvenile offender, every person who shall be
58 convicted of capital murder shall be sentenced (* * *i) to death;
59 (* * *ii) to imprisonment for life in the State Penitentiary
60 without parole; or (* * *iii) to imprisonment for life in the
61 State Penitentiary with eligibility for parole as provided in
62 Section 47-7-3(1) (f) .

63 (b) Every juvenile offender who shall be convicted of
64 capital murder may be sentenced to fifty (50) years in the custody
65 of the Department of Corrections if the punishment is so fixed by
66 the jury after a separate sentencing proceeding. If the jury
67 fails to agree on fixing the penalty at fifty (50) years, the
68 court shall fix the penalty at not less than fifteen (15) nor more
69 than twenty-five (25) years in the custody of the Department of
70 Corrections.

71 (4) A juvenile offender sentenced under this section may be
72 eligible for parole as provided in Section 47-7-3(1) (i) .
73 Notwithstanding Section 99-19-1, the provisions of this subsection
74 shall apply retroactively to any juvenile offender regardless of
75 the date on which an offense in violation of Section 97-3-19 is
76 committed.



77 (5) For purposes of this section, "juvenile offender" means
78 a person who was under the age of eighteen (18) at the time of the
79 commission of an offense in violation of Section 97-3-19.

80 **SECTION 2.** Section 97-3-2, Mississippi Code of 1972, is
81 amended as follows:

82 97-3-2. (1) The following shall be classified as crimes of
83 violence:

84 (a) Driving under the influence as provided in Sections
85 63-11-30(5) and 63-11-30(12)(d);

86 (b) Murder and attempted murder as provided in Sections
87 97-1-7(2), 97-3-19, 97-3-23 and 97-3-25;

88 (c) Aggravated assault as provided in Sections
89 97-3-7(2)(a) and (b) and 97-3-7(4)(a);

90 (d) Manslaughter as provided in Sections 97-3-27,
91 97-3-29, 97-3-31, 97-3-33, 97-3-35, 97-3-39, 97-3-41, 97-3-43,
92 97-3-45 and 97-3-47;

93 (e) Killing of an unborn child as provided in Sections
94 97-3-37(2)(a) and 97-3-37(2)(b);

95 (f) Kidnapping as provided in Section 97-3-53;

96 (g) Human trafficking as provided in Section 97-3-54.1;

97 (h) Poisoning as provided in Section 97-3-61;

98 (i) Rape as provided in Sections 97-3-65 and 97-3-71;

99 (j) Robbery as provided in Sections 97-3-73 and
100 97-3-79;

101 (k) Sexual battery as provided in Section 97-3-95;



102 (1) Drive-by shooting or bombing as provided in Section
103 97-3-109;

104 (m) Carjacking as provided in Section 97-3-117;

105 (n) Felonious neglect, abuse or battery of a child as
106 provided in Section 97-5-39;

107 (o) Burglary of a dwelling as provided in Sections
108 97-17-23 and 97-17-37;

109 (p) Use of explosives or weapons of mass destruction as
110 provided in Section 97-37-25;

111 (q) Statutory rape as provided in Section 97-3-65(1),
112 but this classification is rebuttable on hearing by a judge;

113 (r) Exploitation of a child as provided in Section
114 97-5-33;

115 (s) Gratification of lust as provided in Section
116 97-5-23; and

117 (t) Shooting into a dwelling as provided in Section
118 97-37-29.

119 (2) In any felony offense with a maximum sentence of no less
120 than five (5) years, upon conviction, the judge may find and place
121 in the sentencing order, on the record in open court, that the
122 offense, while not listed in subsection (1) of this section, shall
123 be classified as a crime of violence if the facts show that the
124 defendant used physical force, or made a credible attempt or
125 threat of physical force against another person as part of the
126 criminal act. Except as otherwise provided by law, no person



127 convicted of a crime of violence listed in this section is
128 eligible for parole or for early release from the custody of the
129 Department of Corrections until the person has served at least
130 fifty percent (50%) of the sentence imposed by the court.

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

133 47-7-3. (1) Every prisoner who has been convicted of any
134 offense against the State of Mississippi, and is confined in the
135 execution of a judgment of such conviction in the Mississippi
136 Department of Corrections for a definite term or terms of one (1)
137 year or over, or for the term of his or her natural life, whose
138 record of conduct shows that such prisoner has observed the rules
139 of the department, and who has served the minimum required time
140 for parole eligibility, may be released on parole as set forth
141 herein:

142 (a) **Habitual offenders.** Except as provided by Sections
143 99-19-81 through 99-19-87, no person sentenced as a confirmed and
144 habitual criminal shall be eligible for parole;

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

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



151 (i) Capital murder committed on or after July 1,
152 1994, as defined in Section 97-3-19(2);

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

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

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

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

166 (f) **Drug trafficking.** No person sentenced for
167 trafficking and aggravated trafficking, as defined in Section
168 41-29-139(f) through (g), shall be eligible for parole;

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

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



176 1. **Nonviolent crimes.** All persons sentenced
177 for a nonviolent offense shall be eligible for parole only after
178 they have served twenty-five percent (25%) or ten (10) years,
179 whichever is less, of the sentence or sentences imposed by the
180 trial court. For purposes of this paragraph, "nonviolent crime"
181 means a felony not designated as a crime of violence in Section
182 97-3-2.

183 2. **Violent crimes.** A person who is sentenced
184 for a violent offense as defined in Section 97-3-2, except robbery
185 with a deadly weapon as defined in Section 97-3-79, drive-by
186 shooting as defined in Section 97-3-109, and carjacking as defined
187 in Section 97-3-117, shall be eligible for parole only after
188 having served fifty percent (50%) or twenty (20) years, whichever
189 is less, of the sentence or sentences imposed by the trial court.
190 Those persons sentenced for robbery with a deadly weapon as
191 defined in Section 97-3-79, drive-by shooting as defined in
192 Section 97-3-109, and carjacking as defined in Section 97-3-117,
193 shall be eligible for parole only after having served sixty
194 percent (60%) or twenty-five (25) years, whichever is less, of the
195 sentence or sentences imposed by the trial court.

196 3. **Nonviolent and nonhabitual drug offenses.**
197 A person who has been sentenced to a drug offense pursuant to
198 Section 41-29-139(a) through (d), whose crime was committed after
199 June 30, 1995, shall be eligible for parole only after he has



200 served twenty-five percent (25%) or ten (10) years, whichever is
201 less, of the sentence or sentences imposed.

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

208 (iii) **Geriatric parole.** Notwithstanding the
209 provisions in subparagraph (i) of this paragraph (h), a person
210 serving a sentence who has reached the age of sixty (60) or older
211 and who has served no less than ten (10) years of the sentence or
212 sentences imposed by the trial court shall be eligible for parole.
213 Any person eligible for parole under this subparagraph (iii) shall
214 be required to have a parole hearing before the board prior to
215 parole release. No inmate shall be eligible for parole under this
216 subparagraph (iii) of this paragraph (h) if:

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

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

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

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



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

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

229 (iv) **Parole consideration as authorized by the**
230 **trial court.** Notwithstanding the provisions of paragraph (a) of
231 this subsection, any offender who has not committed a crime of
232 violence under Section 97-3-2 and has served twenty-five percent
233 (25%) or more of his sentence may be paroled by the State Parole
234 Board if, after the sentencing judge or if the sentencing judge is
235 retired, disabled or incapacitated, the senior circuit judge
236 authorizes the offender to be eligible for parole consideration;
237 or if the senior circuit judge must be recused, another circuit
238 judge of the same district or a senior status judge may hear and
239 decide the matter. A petition for parole eligibility
240 consideration pursuant to this subparagraph (iv) shall be filed in
241 the original criminal cause or causes, and the offender shall
242 serve an executed copy of the petition on the District Attorney.
243 The court may, in its discretion, require the District Attorney to
244 respond to the petition * * *;

245 (i) (i) Notwithstanding any other provision of law, a
246 person who was under the age of eighteen (18) at the time of the
247 commission of an offense in violation of Section 97-3-19 is
248 eligible for parole as follows:



249 1. After having served twenty-five percent
250 (25%) of the sentence imposed by the court if sentenced to serve a
251 term of years; or

252 2. After having served not less than ten (10)
253 years if sentenced to a term of life imprisonment.

254 (ii) A person eligible for parole under
255 subparagraph (i) of this paragraph (i) is required to have a
256 parole hearing before the board before parole release.

257 (iii) This paragraph (i) shall apply retroactively
258 to any person who was under the age of eighteen (18) at the time
259 of the commission of an offense in violation of Section 97-3-19
260 regardless of the date on which the offense was committed.

261 (2) (a) Except as provided in paragraph (b) of this
262 subsection, the State Parole Board shall, by rules and
263 regulations, establish a method of determining a tentative parole
264 hearing date for each eligible offender taken into the custody of
265 the Department of Corrections. The tentative parole hearing date
266 shall be determined within ninety (90) days after the department
267 has assumed custody of the offender. Except as provided in
268 Section 47-7-18, the parole hearing date shall occur when the
269 offender is within thirty (30) days of the month of his parole
270 eligibility date. Any parole eligibility date shall not be
271 earlier than as required in this section.

272 (b) The State Parole Board shall, by rules and
273 regulations, establish a method of determining a tentative parole



274 hearing date for offenders who were convicted before July 1, 2022,
275 and who are eligible for parole under subsection (1)(i) of this
276 section. The board shall establish the method of determining the
277 tentative parole hearing date for such eligible offenders before
278 December 31, 2022.

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

284 (4) Any inmate within forty-eight (48) months of his parole
285 eligibility date and who meets the criteria established by the
286 classification board shall receive priority for placement in any
287 educational development and job-training programs that are part of
288 his or her parole case plan. Any inmate refusing to participate
289 in an educational development or job-training program, including,
290 but not limited to, programs required as part of the case plan,
291 shall be in jeopardy of noncompliance with the case plan and may
292 be denied parole.

293 (5) In addition to other requirements, if an offender is
294 convicted of a drug or driving under the influence felony, the
295 offender must complete a drug and alcohol rehabilitation program
296 prior to parole, or the offender shall be required to complete a
297 postrelease drug and alcohol program as a condition of parole.



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

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

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

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

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

317 **SECTION 4.** Section 47-7-3.1, Mississippi Code of 1972, is
318 amended as follows:

319 47-7-3.1. (1) In consultation with the Parole Board, the
320 department shall develop a case plan for all parole-eligible
321 inmates to guide an inmate's rehabilitation while in the



322 department's custody and to reduce the likelihood of recidivism
323 after release.

324 (2) The case plan shall include, but not be limited to:

325 (a) Programming and treatment requirements based on the
326 results of a risk and needs assessment;

327 (b) Any programming or treatment requirements contained
328 in the sentencing order; and

329 (c) General behavior requirements in accordance with
330 the rules and policies of the department.

331 (3) Except as provided in subsection (9) of this section,
332 with respect to parole-eligible inmates admitted to the
333 department's custody on or after July 1, 2021, the department
334 shall complete the case plan within ninety (90) days of admission.
335 With respect to parole-eligible inmates admitted to the
336 department's custody before July 1, 2021, the department shall
337 complete the case plan by January 1, 2022.

338 (4) The department shall provide the inmate with a written
339 copy of the case plan and the inmate's caseworker shall explain
340 the conditions set forth in the case plan.

341 (a) Except as provided in subsection (9) of this
342 section, within ninety (90) days of admission, the caseworker
343 shall notify the inmate of their parole eligibility date as
344 calculated in accordance with Section 47-7-3(3);



345 (b) At the time a parole-eligible inmate receives the
346 case plan, the department shall send the case plan to the Parole
347 Board for approval.

348 (5) With respect to parole-eligible inmates admitted to the
349 department's custody after July 1, 2021, the department shall
350 ensure that the case plan is achievable prior to the inmate's
351 parole eligibility date. With respect to parole-eligible inmates
352 admitted to the department's custody before July 1, 2021, the
353 department shall, to the extent possible, ensure that the case
354 plan is achievable prior to the inmate's parole eligibility date
355 or next parole hearing date, or date of release, whichever is
356 sooner.

357 (6) The caseworker shall meet with the inmate every eight
358 (8) weeks from the date the offender received the case plan to
359 review the inmate's case plan progress.

360 (7) Every four (4) months the department shall
361 electronically submit a progress report on each parole-eligible
362 inmate's case plan to the Parole Board. The board may meet to
363 review an inmate's case plan and may provide written input to the
364 caseworker on the inmate's progress toward completion of the case
365 plan.

366 (8) The Parole Board shall provide semiannually to the
367 Oversight Task Force the number of parole hearings held, the
368 number of prisoners released to parole without a hearing and the
369 number of parolees released after a hearing.



370 (9) The ninety-day deadlines imposed under subsections (2)
371 and (3) (a) of this section shall not apply in the case of juvenile
372 offenders who were convicted before July 1, 2022, and who are
373 eligible for parole under Section 47-7-3(1)(i). For those
374 offenders, the department shall complete the case plan and the
375 caseworker shall notify the offender of his parole eligibility
376 date before December 31, 2022. In all other respects, the case
377 plans for such juvenile offenders shall be governed by this
378 section.

379 (* * *10) If the Department of Corrections fails to
380 adequately provide opportunity and access for the completion of
381 such case plans, the Department of Corrections shall, to the
382 extent possible, contract with regional jail facilities that offer
383 educational development and job-training programs to facilitate
384 the fulfillment of the case plans of parole-eligible inmates.

385 **SECTION 5.** This act shall take effect and be in force from
386 and after July 1, 2023.

