

By: Representative Harness

To: Judiciary B

HOUSE BILL NO. 712

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 SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO
 9 CONFORM TO THE PRECEDING SECTION AND TO EXTEND THE DATE OF REPEAL
 10 ON THAT SECTION, AND TO AMEND SECTION 47-5-138, MISSISSIPPI CODE
 11 OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; AND FOR RELATED
 12 PURPOSES.

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

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

16 (2) A circuit court may sentence as a youthful offender any
 17 person:

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

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



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

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

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

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

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



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

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

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



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

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

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

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



99 (a) **Habitual offenders.** Except as provided by Sections
100 99-19-81 through 99-19-87, no person sentenced as a confirmed and
101 habitual criminal shall be eligible for parole;

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

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

109 (i) Capital murder committed on or after July 1,
110 1994, as defined in Section 97-3-19(2);

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

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

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

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



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

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

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

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

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



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

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

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



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

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

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

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

190 3. The inmate is sentenced for an offense
191 that specifically prohibits parole release;

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

194 5. The inmate is sentenced for a sex crime;
195 or

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



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

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



222 eligibility date. Any parole eligibility date shall not be
223 earlier than as required in this section.

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

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

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

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



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

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

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

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

261 (10) This section shall stand repealed on July 1, * * *
262 2027.

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

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



271 custody of the department, the department shall determine a
272 conditional earned_time release date by subtracting the
273 earned_time allowance from an inmate's term of sentence. This
274 subsection does not apply to any sentence imposed after June 30,
275 1995.

276 (2) An inmate may forfeit all or part of his earned_time
277 allowance for a serious violation of rules. No forfeiture of the
278 earned_time allowance shall be effective except upon approval of
279 the commissioner, or his designee, and forfeited earned_time may
280 not be restored.

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

286 (b) On receipt of a final order, the department shall
287 forfeit:

288 (i) Sixty (60) days of an inmate's accrued
289 earned_time if the department has received one (1) final order as
290 defined herein;

291 (ii) One hundred twenty (120) days of an inmate's
292 accrued earned_time if the department has received two (2) final
293 orders as defined herein;



294 (iii) One hundred eighty (180) days of an inmate's
295 accrued earned_time if the department has received three (3) or
296 more final orders as defined herein.

297 (c) The department may not restore earned_time
298 forfeited under this subsection.

299 (4) An inmate who meets the good conduct and performance
300 requirements of the earned_time allowance program may be released
301 on his conditional earned_time release date.

302 (5) For any sentence imposed after June 30, 1995, an inmate
303 may receive an earned_time allowance of four and one half (4 1/2)
304 days for each thirty (30) days served if the department determines
305 that the inmate has complied with the good conduct and performance
306 requirements of the earned_time allowance program. The
307 earned_time allowance under this subsection shall not exceed
308 fifteen percent (15%) of an inmate's term of sentence; however,
309 beginning July 1, 2006, no person under the age of twenty-one (21)
310 who has committed a nonviolent offense, and who is under the
311 jurisdiction of the Department of Corrections, shall be subject to
312 the fifteen percent (15%) limitation for earned_time allowances as
313 described in this subsection (5). Beginning July 1, 2024, no
314 person under the age of twenty-one (21) who is sentenced as a
315 youthful offender pursuant to Section 1 of this act, and who is
316 under the jurisdiction of the department shall be subject to the
317 fifteen percent (15%) limitation for earned-time allowances as
318 described in this subsection (5).



319 (6) Any inmate, who is released before the expiration of his
320 term of sentence under this section, shall be placed under
321 earned-release supervision until the expiration of the term of
322 sentence. The inmate shall retain inmate status and remain under
323 the jurisdiction of the department. The period of earned-release
324 supervision shall be conducted in the same manner as a period of
325 supervised parole. The department shall develop rules, terms and
326 conditions for the earned-release supervision program. The
327 commissioner shall designate the appropriate hearing officer
328 within the department to conduct revocation hearings for inmates
329 violating the conditions of earned-release supervision.

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

334 **SECTION 4.** This act shall take effect and be in force from
335 and after July 1, 2024.

