

By: Senator(s) Wiggins

To: Judiciary, Division B

SENATE BILL NO. 2385

1 AN ACT TO AMEND SECTION 63-11-30, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE A JUDGE TO FIND THAT A CONVICTION OF AGGRAVATED DUI
3 IS NOT ELIGIBLE FOR PAROLE OR EARLY RELEASE UNDER CERTAIN
4 CIRCUMSTANCES; TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972,
5 TO CONFORM; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 63-11-30, Mississippi Code of 1972, is
8 amended as follows:

9 63-11-30. (1) It is unlawful for a person to drive or
10 otherwise operate a vehicle within this state if the person:

11 (a) Is under the influence of intoxicating liquor;

12 (b) Is under the influence of any other substance that
13 has impaired the person's ability to operate a motor vehicle;

14 (c) Is under the influence of any drug or controlled
15 substance, the possession of which is unlawful under the

16 Mississippi Controlled Substances Law; or

17 (d) Has an alcohol concentration in the person's blood,
18 based upon grams of alcohol per one hundred (100) milliliters of
19 blood, or grams of alcohol per two hundred ten (210) liters of



20 breath, as shown by a chemical analysis of the person's breath,
21 blood or urine administered as authorized by this chapter, of:

22 (i) Eight one-hundredths percent (.08%) or more
23 for a person who is above the legal age to purchase alcoholic
24 beverages under state law;

25 (ii) Two one-hundredths percent (.02%) or more for
26 a person who is below the legal age to purchase alcoholic
27 beverages under state law; or

28 (iii) Four one-hundredths percent (.04%) or more
29 for a person operating a commercial motor vehicle.

30 (2) Except as otherwise provided in subsection (3) of this
31 section (Zero Tolerance for Minors):

32 (a) **First offense DUI.** (i) Upon conviction of any
33 person for the first offense of violating subsection (1) of this
34 section where chemical tests under Section 63-11-5 were given, or
35 where chemical test results are not available, the person shall be
36 fined not less than Two Hundred Fifty Dollars (\$250.00) nor more
37 than One Thousand Dollars (\$1,000.00), or imprisoned for not more
38 than forty-eight (48) hours in jail, or both; the court shall
39 order the person to attend and complete an alcohol safety
40 education program as provided in Section 63-11-32 within six (6)
41 months of sentencing. The court may substitute attendance at a
42 victim impact panel instead of forty-eight (48) hours in jail.

43 (ii) Suspension of commercial driving privileges
44 is governed by Section 63-1-216.



45 (iii) A qualifying first offense may be
46 nonadjudicated by the court under subsection (14) of this section.
47 The holder of a commercial driver's license or a commercial
48 learning permit at the time of the offense is ineligible for
49 nonadjudication.

50 (iv) Eligibility for an interlock-restricted
51 license is governed by Section 63-11-31 and suspension of regular
52 driving privileges is governed by Section 63-11-23.

53 (b) **Second offense DUI.** (i) Upon any second
54 conviction of any person violating subsection (1) of this section,
55 the offenses being committed within a period of five (5) years,
56 the person shall be guilty of a misdemeanor, fined not less than
57 Six Hundred Dollars (\$600.00) nor more than One Thousand Five
58 Hundred Dollars (\$1,500.00), shall be imprisoned not less than
59 five (5) days nor more than six (6) months and sentenced to
60 community service work for not less than ten (10) days nor more
61 than six (6) months. The minimum penalties shall not be suspended
62 or reduced by the court and no prosecutor shall offer any
63 suspension or sentence reduction as part of a plea bargain.

64 (ii) Suspension of commercial driving privileges
65 is governed by Section 63-1-216.

66 (iii) Eligibility for an interlock-restricted
67 license is governed by Section 63-11-31 and suspension of regular
68 driving privileges is governed by Section 63-11-23.



69 (c) **Third offense DUI.** (i) For a third conviction of
70 a person for violating subsection (1) of this section, the
71 offenses being committed within a period of five (5) years, the
72 person shall be guilty of a felony and fined not less than Two
73 Thousand Dollars (\$2,000.00) nor more than Five Thousand Dollars
74 (\$5,000.00), and shall serve not less than one (1) year nor more
75 than five (5) years in the custody of the Department of
76 Corrections. For any offense that does not result in serious
77 injury or death to any person, the sentence of incarceration may
78 be served in the county jail rather than in the State Penitentiary
79 at the discretion of the circuit court judge. The minimum
80 penalties shall not be suspended or reduced by the court and no
81 prosecutor shall offer any suspension or sentence reduction as
82 part of a plea bargain.

83 (ii) The suspension of commercial driving
84 privileges is governed by Section 63-1-216.

85 (iii) The suspension of regular driving privileges
86 is governed by Section 63-11-23.

87 (d) **Fourth and subsequent offense DUI.** (i) For any
88 fourth or subsequent conviction of a violation of subsection (1)
89 of this section, without regard to the time period within which
90 the violations occurred, the person shall be guilty of a felony
91 and fined not less than Three Thousand Dollars (\$3,000.00) nor
92 more than Ten Thousand Dollars (\$10,000.00), and shall serve not



93 less than two (2) years nor more than ten (10) years in the
94 custody of the Department of Corrections.

95 (ii) The suspension of commercial driving
96 privileges is governed by Section 63-1-216.

97 (iii) A person convicted of a fourth or subsequent
98 offense is ineligible to exercise the privilege to operate a motor
99 vehicle that is not equipped with an ignition-interlock device for
100 ten (10) years.

101 (e) Any person convicted of a second or subsequent
102 violation of subsection (1) of this section shall receive an
103 in-depth diagnostic assessment, and if as a result of the
104 assessment is determined to be in need of treatment for alcohol or
105 drug abuse, the person must successfully complete treatment at a
106 program site certified by the Department of Mental Health. Each
107 person who receives a diagnostic assessment shall pay a fee
108 representing the cost of the assessment. Each person who
109 participates in a treatment program shall pay a fee representing
110 the cost of treatment.

111 (f) The use of ignition-interlock devices is governed
112 by Section 63-11-31.

113 (3) **Zero Tolerance for Minors.** (a) This subsection shall
114 be known and may be cited as Zero Tolerance for Minors. The
115 provisions of this subsection shall apply only when a person under
116 the age of twenty-one (21) years has a blood alcohol concentration
117 of two one-hundredths percent (.02%) or more, but lower than eight



118 one-hundredths percent (.08%). If the person's blood alcohol
119 concentration is eight one-hundredths percent (.08%) or more, the
120 provisions of subsection (2) shall apply.

121 (b) (i) A person under the age of twenty-one (21) is
122 eligible for nonadjudication of a qualifying first offense by the
123 court pursuant to subsection (14) of this section.

124 (ii) Upon conviction of any person under the age
125 of twenty-one (21) years for the first offense of violating
126 subsection (1) of this section where chemical tests provided for
127 under Section 63-11-5 were given, or where chemical test results
128 are not available, the person shall be fined Two Hundred Fifty
129 Dollars (\$250.00); the court shall order the person to attend and
130 complete an alcohol safety education program as provided in
131 Section 63-11-32 within six (6) months. The court may also
132 require attendance at a victim impact panel.

133 (c) A person under the age of twenty-one (21) years who
134 is convicted of a second violation of subsection (1) of this
135 section, the offenses being committed within a period of five (5)
136 years, shall be fined not more than Five Hundred Dollars
137 (\$500.00).

138 (d) A person under the age of twenty-one (21) years who
139 is convicted of a third or subsequent violation of subsection (1)
140 of this section, the offenses being committed within a period of
141 five (5) years, shall be fined not more than One Thousand Dollars
142 (\$1,000.00).



143 (e) License suspension is governed by Section 63-11-23
144 and ignition interlock is governed by Section 63-11-31.

145 (f) Any person under the age of twenty-one (21) years
146 convicted of a third or subsequent violation of subsection (1) of
147 this section must complete treatment of an alcohol or drug abuse
148 program at a site certified by the Department of Mental Health.

149 (4) **DUI test refusal.** In addition to the other penalties
150 provided in this section, every person refusing a law enforcement
151 officer's request to submit to a chemical test of the person's
152 breath as provided in this chapter, or who was unconscious at the
153 time of a chemical test and refused to consent to the introduction
154 of the results of the test in any prosecution, shall suffer an
155 additional administrative suspension of driving privileges as set
156 forth in Section 63-11-23.

157 (5) **Aggravated DUI.** (a) Every person who operates any
158 motor vehicle in violation of the provisions of subsection (1) of
159 this section and who in a negligent manner causes the death of
160 another or mutilates, disfigures, permanently disables or destroys
161 the tongue, eye, lip, nose or any other limb, organ or member of
162 another shall, upon conviction, be guilty of a separate felony for
163 each victim who suffers death, mutilation, disfigurement or other
164 injury and shall be committed to the custody of the State
165 Department of Corrections for a period of time of not less than
166 five (5) years and not to exceed twenty-five (25) years for each
167 death, mutilation, disfigurement or other injury, and the



168 imprisonment for the second or each subsequent conviction, in the
169 discretion of the court, shall commence either at the termination
170 of the imprisonment for the preceding conviction or run
171 concurrently with the preceding conviction. Any person charged
172 with causing the death of another as described in this subsection
173 shall be required to post bail before being released after arrest.

174 (b) A holder of a commercial driver's license who is
175 convicted of operating a commercial motor vehicle with an alcohol
176 concentration of eight one-hundredths percent (.08%) or more shall
177 be guilty of a felony and shall be committed to the custody of the
178 Department of Corrections for not less than two (2) years and not
179 more than ten (10) years.

180 (c) The court shall order an ignition-interlock
181 restriction on the offender's privilege to drive as a condition of
182 probation or post-release supervision not to exceed five (5) years
183 unless a longer restriction is required under other law. The
184 ignition-interlock restriction shall not be applied to commercial
185 license privileges until the driver serves the full
186 disqualification period required by Section 63-1-216.

187 (d) Upon conviction of a violation of this subsection,
188 if it is found that the defendant acted with a callous disregard
189 for human life, he or she shall be committed to the Mississippi
190 Department of Corrections for a period not to exceed forty (40)
191 years and shall be prohibited from parole release.



192 (6) **DUI citations.** (a) Upon conviction of a violation of
193 subsection (1) of this section, the trial judge shall sign in the
194 place provided on the traffic ticket, citation or affidavit
195 stating that the person arrested either employed an attorney or
196 waived his right to an attorney after having been properly
197 advised. If the person arrested employed an attorney, the name,
198 address and telephone number of the attorney shall be written on
199 the ticket, citation or affidavit. The court clerk must
200 immediately send a copy of the traffic ticket, citation or
201 affidavit, and any other pertinent documents concerning the
202 conviction or other order of the court, to the Department of
203 Public Safety as provided in Section 63-11-37.

204 (b) A copy of the traffic ticket, citation or affidavit
205 and any other pertinent documents, having been attested as true
206 and correct by the Commissioner of Public Safety, or his designee,
207 shall be sufficient proof of the conviction for purposes of
208 determining the enhanced penalty for any subsequent convictions of
209 violations of subsection (1) of this section. The Department of
210 Public Safety shall maintain a central database for verification
211 of prior offenses and convictions.

212 (7) **Out-of-state prior convictions.** Convictions in another
213 state, territory or possession of the United States, or under the
214 law of a federally recognized Native American tribe, of violations
215 for driving or operating a vehicle while under the influence of an
216 intoxicating liquor or while under the influence of any other



217 substance that has impaired the person's ability to operate a
218 motor vehicle occurring within five (5) years before an offense
219 shall be counted for the purposes of determining if a violation of
220 subsection (1) of this section is a second, third, fourth or
221 subsequent offense and the penalty that shall be imposed upon
222 conviction for a violation of subsection (1) of this section.

223 (8) **Charging of subsequent offenses.** (a) For the purposes
224 of determining how to impose the sentence for a second, third,
225 fourth or subsequent conviction under this section, the affidavit
226 or indictment shall not be required to enumerate previous
227 convictions. It shall only be necessary that the affidavit or
228 indictment states the number of times that the defendant has been
229 convicted and sentenced within the past five (5) years for a
230 second or third offense, or without a time limitation for a fourth
231 or subsequent offense, under this section to determine if an
232 enhanced penalty shall be imposed. The amount of fine and
233 imprisonment imposed in previous convictions shall not be
234 considered in calculating offenses to determine a second, third,
235 fourth or subsequent offense of this section.

236 (b) Before a defendant enters a plea of guilty to an
237 offense under this section, law enforcement must submit
238 certification to the prosecutor that the defendant's driving
239 record, the confidential registry and National Crime Information
240 Center record have been searched for all prior convictions,
241 nonadjudications, pretrial diversions and arrests for driving or



242 operating a vehicle while under the influence of an intoxicating
243 liquor or while under the influence of any other substance that
244 has impaired the person's ability to operate a motor vehicle. The
245 results of the search must be included in the certification.

246 (9) **License eligibility for underage offenders.** A person
247 who is under the legal age to obtain a license to operate a motor
248 vehicle at the time of the offense and who is convicted under this
249 section shall not be eligible to receive a driver's license until
250 the person reaches the age of eighteen (18) years.

251 (10) **License suspensions and restrictions to run**
252 **consecutively.** Suspension or restriction of driving privileges
253 for any person convicted of or nonadjudicated for violations of
254 subsection (1) of this section shall run consecutively to and not
255 concurrently with any other administrative license suspension.

256 (11) **Ignition interlock.** If the court orders installation
257 and use of an ignition-interlock device as provided in Section
258 63-11-31 for every vehicle operated by a person convicted or
259 nonadjudicated under this section, each device shall be installed,
260 maintained and removed as provided in Section 63-11-31.

261 (12) **DUI child endangerment.** A person over the age of
262 twenty-one (21) who violates subsection (1) of this section while
263 transporting in a motor vehicle a child under the age of sixteen
264 (16) years is guilty of the separate offense of endangering a
265 child by driving under the influence of alcohol or any other
266 substance which has impaired the person's ability to operate a



267 motor vehicle. The offense of endangering a child by driving
268 under the influence of alcohol or any other substance which has
269 impaired the person's ability to operate a motor vehicle shall not
270 be merged with an offense of violating subsection (1) of this
271 section for the purposes of prosecution and sentencing. An
272 offender who is convicted of a violation of this subsection shall
273 be punished as follows:

274 (a) A person who commits a violation of this subsection
275 which does not result in the serious injury or death of a child
276 and which is a first conviction shall be guilty of a misdemeanor
277 and, upon conviction, shall be fined not more than One Thousand
278 Dollars (\$1,000.00) or shall be imprisoned for not more than
279 twelve (12) months, or both;

280 (b) A person who commits a violation of this subsection
281 which does not result in the serious injury or death of a child
282 and which is a second conviction shall be guilty of a misdemeanor
283 and, upon conviction, shall be fined not less than One Thousand
284 Dollars (\$1,000.00) nor more than Five Thousand Dollars
285 (\$5,000.00) or shall be imprisoned for one (1) year, or both;

286 (c) A person who commits a violation of this subsection
287 which does not result in the serious injury or death of a child
288 and which is a third or subsequent conviction shall be guilty of a
289 felony and, upon conviction, shall be fined not less than Ten
290 Thousand Dollars (\$10,000.00) or shall be imprisoned for not less
291 than one (1) year nor more than five (5) years, or both; and



292 (d) A person who commits a violation of this subsection
293 which results in the serious injury or death of a child, without
294 regard to whether the offense was a first, second, third or
295 subsequent offense, shall be guilty of a felony and, upon
296 conviction, shall be punished by a fine of not less than Ten
297 Thousand Dollars (\$10,000.00) and shall be imprisoned for not less
298 than five (5) years nor more than twenty-five (25) years.

299 (13) **Expunction.** (a) Any person convicted under subsection
300 (2) or (3) of this section of a first offense of driving under the
301 influence and who was not the holder of a commercial driver's
302 license or a commercial learning permit at the time of the offense
303 may petition the circuit court of the county in which the
304 conviction was had for an order to expunge the record of the
305 conviction at least five (5) years after successful completion of
306 all terms and conditions of the sentence imposed for the
307 conviction. Expunction under this subsection will only be
308 available to a person:

309 (i) Who has successfully completed all terms and
310 conditions of the sentence imposed for the conviction;

311 (ii) Who did not refuse to submit to a test of his
312 blood or breath;

313 (iii) Whose blood alcohol concentration tested
314 below sixteen one-hundredths percent (.16%) if test results are
315 available;



316 (iv) Who has not been convicted of and does not
317 have pending any other offense of driving under the influence;

318 (v) Who has provided the court with justification
319 as to why the conviction should be expunged; and

320 (vi) Who has not previously had a nonadjudication
321 or expunction of a violation of this section.

322 (b) A person is eligible for only one (1) expunction
323 under this subsection, and the Department of Public Safety shall
324 maintain a permanent confidential registry of all cases of
325 expunction under this subsection for the sole purpose of
326 determining a person's eligibility for expunction, for
327 nonadjudication, or as a first offender under this section.

328 (c) The court in its order of expunction shall state in
329 writing the justification for which the expunction was granted and
330 forward the order to the Department of Public Safety within five
331 (5) days of the entry of the order.

332 (14) **Nonadjudication.** (a) For the purposes of this
333 chapter, "nonadjudication" means that the court withholds
334 adjudication of guilt and sentencing, either at the conclusion of
335 a trial on the merits or upon the entry of a plea of guilt by a
336 defendant, and places the defendant in a nonadjudication program
337 conditioned upon the successful completion of the requirements
338 imposed by the court under this subsection.

339 (b) A person is eligible for nonadjudication of an
340 offense under this Section 63-11-30 only one (1) time under any



341 provision of a law that authorizes nonadjudication and only for an
342 offender:

343 (i) Who has successfully completed all terms and
344 conditions imposed by the court after placement of the defendant
345 in a nonadjudication program;

346 (ii) Who was not the holder of a commercial
347 driver's license or a commercial learning permit at the time of
348 the offense;

349 (iii) Who has not previously been convicted of and
350 does not have pending any former or subsequent charges under this
351 section; and

352 (iv) Who has provided the court with justification
353 as to why nonadjudication is appropriate.

354 (c) Nonadjudication may be initiated upon the filing of
355 a petition for nonadjudication or at any stage of the proceedings
356 in the discretion of the court; the court may withhold
357 adjudication of guilt, defer sentencing, and upon the agreement of
358 the offender to participate in a nonadjudication program, enter an
359 order imposing requirements on the offender for a period of court
360 supervision before the order of nonadjudication is entered.
361 Failure to successfully complete a nonadjudication program
362 subjects the person to adjudication of the charges against him and
363 to imposition of all penalties previously withheld due to entrance
364 into a nonadjudication program. The court shall immediately



365 inform the commissioner of the conviction as required in Section
366 63-11-37.

367 (i) The court shall order the person to:

368 1. Pay the nonadjudication fee imposed under
369 Section 63-11-31 if applicable;

370 2. Pay all fines, penalties and assessments
371 that would have been imposed for conviction;

372 3. Attend and complete an alcohol safety
373 education program as provided in Section 63-11-32 within six (6)
374 months of the date of the order;

375 4. a. If the court determines that the
376 person violated this section with respect to alcohol or
377 intoxicating liquor, the person must install an ignition-interlock
378 device on every motor vehicle operated by the person, obtain an
379 interlock-restricted license, and maintain that license for one
380 hundred twenty (120) days or suffer a one-hundred-twenty-day
381 suspension of the person's regular driver's license, during which
382 time the person must not operate any vehicle.

383 b. If the court determines that the
384 person violated this section by operating a vehicle when under the
385 influence of a substance other than alcohol that has impaired the
386 person's ability to operate a motor vehicle, including any drug or
387 controlled substance which is unlawful to possess under the
388 Mississippi Controlled Substances Law, the person must submit to a
389 one-hundred-twenty-day period of a nonadjudication program that



390 includes court-ordered drug testing at the person's own expense
391 not less often than every thirty (30) days, during which time the
392 person may drive if compliant with the terms of the program, or
393 suffer a one-hundred-twenty-day suspension of the person's regular
394 driver's license, during which time the person will not operate
395 any vehicle.

396 (ii) Other conditions that may be imposed by the
397 court include, but are not limited to, alcohol or drug screening,
398 or both, proof that the person has not committed any other traffic
399 violations while under court supervision, proof of immobilization
400 or impoundment of vehicles owned by the offender if required, and
401 attendance at a victim-impact panel.

402 (d) The court may enter an order of nonadjudication
403 only if the court finds, after a hearing or after ex parte
404 examination of reliable documentation of compliance, that the
405 offender has successfully completed all conditions imposed by law
406 and previous orders of the court. The court shall retain
407 jurisdiction over cases involving nonadjudication for a period of
408 not more than two (2) years.

409 (e) (i) The clerk shall immediately forward a record
410 of every person placed in a nonadjudication program and of every
411 nonadjudication order to the Department of Public Safety for
412 inclusion in the permanent confidential registry of all cases that
413 are nonadjudicated under this subsection (14).



414 (ii) Judges, clerks and prosecutors involved in
415 the trial of implied consent violations and law enforcement
416 officers involved in the issuance of citations for implied consent
417 violations shall have secure online access to the confidential
418 registry for the purpose of determining whether a person has
419 previously been the subject of a nonadjudicated case and 1. is
420 therefore ineligible for another nonadjudication; 2. is ineligible
421 as a first offender for a violation of this section; or 3. is
422 ineligible for expunction of a conviction of a violation of this
423 section.

424 (iii) The Driver Services Bureau of the department
425 shall have access to the confidential registry for the purpose of
426 determining whether a person is eligible for a form of license not
427 restricted to operating a vehicle equipped with an
428 ignition-interlock device.

429 (iv) The Mississippi Alcohol Safety Education
430 Program shall have secure online access to the confidential
431 registry for research purposes only.

432 (15) The provisions of this section are fully applicable to
433 any person who is under the influence of medical cannabis that is
434 lawful under the Mississippi Medical Cannabis Act and in
435 compliance with rules and regulations adopted thereunder which has
436 impaired the person's ability to operate a motor vehicle.

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



439 47-7-3. (1) Every prisoner who has been convicted of any
440 offense against the State of Mississippi, and is confined in the
441 execution of a judgment of such conviction in the Mississippi
442 Department of Corrections for a definite term or terms of one (1)
443 year or over, or for the term of his or her natural life, whose
444 record of conduct shows that such prisoner has observed the rules
445 of the department, and who has served the minimum required time
446 for parole eligibility, may be released on parole as set forth
447 herein:

448 (a) **Habitual offenders.** Except as provided by Sections
449 99-19-81 through 99-19-87, no person sentenced as a confirmed and
450 habitual criminal shall be eligible for parole;

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

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

457 (i) Capital murder committed on or after July 1,
458 1994, as defined in Section 97-3-19(2);

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

461 (iii) Any offense to which an offender is
462 sentenced to life imprisonment without eligibility for parole



463 under the provisions of Section 99-19-101, whose crime was
464 committed on or after July 1, 1994;

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

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

472 (f) **Drug trafficking.** No person sentenced for
473 trafficking and aggravated trafficking, as defined in Section
474 41-29-139(f) through (g), shall be eligible for parole;

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

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

482 1. **Nonviolent crimes.** All persons sentenced
483 for a nonviolent offense shall be eligible for parole only after
484 they have served twenty-five percent (25%) or ten (10) years,
485 whichever is less, of the sentence or sentences imposed by the
486 trial court. For purposes of this paragraph, "nonviolent crime"



487 means a felony not designated as a crime of violence in Section
488 97-3-2.

489 2. **Violent crimes.** a. Except as provided in
490 subitem b. of this item, a person who is sentenced for a violent
491 offense as defined in Section 97-3-2, except robbery with a deadly
492 weapon as defined in Section 97-3-79, drive-by shooting as defined
493 in Section 97-3-109, and carjacking as defined in Section
494 97-3-117, shall be eligible for parole only after having served
495 fifty percent (50%) or twenty (20) years, whichever is less, of
496 the sentence or sentences imposed by the trial court. Those
497 persons sentenced for robbery with a deadly weapon as defined in
498 Section 97-3-79, drive-by shooting as defined in Section 97-3-109,
499 and carjacking as defined in Section 97-3-117, shall be eligible
500 for parole only after having served sixty percent (60%) or
501 twenty-five (25) years, whichever is less, of the sentence or
502 sentences imposed by the trial court.

503 b. A person sentenced for aggravated
504 DUI, pursuant to Section 63-11-30(5)(d), is not eligible for
505 parole release.

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

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



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

518 (iii) **Geriatric parole.** Notwithstanding the
519 provisions in subparagraph (i) of this paragraph (h), a person
520 serving a sentence who has reached the age of sixty (60) or older
521 and who has served no less than ten (10) years of the sentence or
522 sentences imposed by the trial court shall be eligible for parole.
523 Any person eligible for parole under this subparagraph (iii) shall
524 be required to have a parole hearing before the board prior to
525 parole release. No inmate shall be eligible for parole under this
526 subparagraph (iii) of this paragraph (h) if:

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

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

531 3. The inmate is sentenced for an offense
532 that specifically prohibits parole release;

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

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

536 or



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

539 (iv) **Parole consideration as authorized by the**
540 **trial court.** Notwithstanding the provisions of paragraph (a) of
541 this subsection, any offender who has not committed a crime of
542 violence under Section 97-3-2 and has served twenty-five percent
543 (25%) or more of his sentence may be paroled by the State Parole
544 Board if, after the sentencing judge or if the sentencing judge is
545 retired, disabled or incapacitated, the senior circuit judge
546 authorizes the offender to be eligible for parole consideration;
547 or if the senior circuit judge must be recused, another circuit
548 judge of the same district or a senior status judge may hear and
549 decide the matter. A petition for parole eligibility
550 consideration pursuant to this subparagraph (iv) shall be filed in
551 the original criminal cause or causes, and the offender shall
552 serve an executed copy of the petition on the District Attorney.
553 The court may, in its discretion, require the District Attorney to
554 respond to the petition.

555 (2) The State Parole Board shall, by rules and regulations,
556 establish a method of determining a tentative parole hearing date
557 for each eligible offender taken into the custody of the
558 Department of Corrections. The tentative parole hearing date
559 shall be determined within ninety (90) days after the department
560 has assumed custody of the offender. Except as provided in
561 Section 47-7-18, the parole hearing date shall occur when the



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

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

570 (4) Any inmate within forty-eight (48) months of his parole
571 eligibility date and who meets the criteria established by the
572 classification board shall receive priority for placement in any
573 educational development and job-training programs that are part of
574 his or her parole case plan. Any inmate refusing to participate
575 in an educational development or job-training program, including,
576 but not limited to, programs required as part of the case plan,
577 shall be in jeopardy of noncompliance with the case plan and may
578 be denied parole.

579 (5) In addition to other requirements, if an offender is
580 convicted of a drug or driving under the influence felony, the
581 offender must complete a drug and alcohol rehabilitation program
582 prior to parole, or the offender shall be required to complete a
583 postrelease drug and alcohol program as a condition of parole.

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



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

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

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

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

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

603 **SECTION 3.** This act shall take effect and be in force from
604 and after July 1, 2024.

