

By: Senator(s) Tate

To: Corrections

SENATE BILL NO. 2236

1 AN ACT TO AUTHORIZE AND DIRECT THE MISSISSIPPI PAROLE BOARD
2 TO REVIEW AND APPROVE THE RELEASE OF AN OFFENDER UNDER THE
3 EARNED-TIME ALLOWANCE PROGRAM; TO ESTABLISH THE PROCEDURE TO BE
4 FOLLOWED BY THE PAROLE BOARD IN REVIEWING THE MISSISSIPPI
5 DEPARTMENT OF CORRECTIONS' RECOMMENDATION TO PLACE AN OFFENDER
6 UNDER EARNED-RELEASE SUPERVISION; TO AUTHORIZE A HEARING BE HELD
7 REGARDING THE PROPOSED RELEASE OF AN OFFENDER AND THAT CERTAIN
8 NOTICE BE PROVIDED TO VICTIMS REGARDING SUCH RELEASE, UNDER
9 CERTAIN CIRCUMSTANCES; TO AMEND SECTIONS 47-5-138 AND 47-7-5,
10 MISSISSIPPI CODE OF 1972, TO PROVIDE AUTHORITY FOR GRANTING AN
11 EARNED-TIME ALLOWANCE FOR CERTAIN OFFENDERS AND IN CONFORMITY TO
12 THE PRECEDING SECTION; TO AMEND SECTION 47-5-177, MISSISSIPPI CODE
13 OF 1972, TO PROVIDE THAT CERTAIN LOCAL LAW ENFORCEMENT OFFICIALS
14 SHALL BE NOTIFIED 15 DAYS BEFORE OFFENDERS ARE PLACED UNDER
15 EARNED-RELEASE SUPERVISION; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** (1) The Parole Board shall review and issue a
18 ruling on the department's recommendation to place an offender on
19 earned-release supervision under the earned-time allowance program
20 as provided in Sections 47-5-138 and 47-5-139.

21 (2) The department shall provide the board with all
22 pertinent information regarding an offender who is eligible for
23 release under the earned-time allowance program. Within one (1)
24 year before the offender's conditional earned-time release date,



the department shall provide to the board the following information about the offender in writing:

- (a) The circumstances of the offense;
- (b) The offender's previous social history;
- (c) The offender's previous criminal record, including any records of law enforcement agencies or of a youth court regarding the offender's juvenile criminal history;
- (d) The offender's conduct, employment and attitude while in the department's custody; and
- (e) Any reports of physical and mental examinations that have been made.

(3) (a) Except as provided in paragraph (b) of this subsection, the board may require an offender to have a hearing before the board and to be interviewed before ruling on the department's recommendation to place the offender on earned-release supervision.

(b) The board shall not issue a ruling on the department's recommendation to place an offender convicted of a capital offense on earned-release supervision without holding a hearing and providing notice as follows:

(i) Notice of the department's recommended earned-time release supervision date for the offender shall be published at least once a week for two (2) weeks in a newspaper published in or having general circulation in the county in which the crime was committed.



50 (ii) Within thirty (30) days prior to the
51 scheduled hearing, the board shall provide notice of the
52 department's recommended earned-release supervision of an offender
53 to the victim of the offense for which the offender is sentenced
54 and may be approved to serve under earned-release supervision or,
55 if offense is homicide, to a designee of the victim's immediate
56 family. Notice is contingent on the victim or the victim's
57 designee, whichever applies, providing in writing a current
58 address to the board for this purpose.

59 (c) The hearing, if required by this subsection or by
60 the board, shall be held no later than thirty (30) days prior to
61 the month of eligibility.

62 (4) The department's recommendation to place an offender
63 under earned-release supervision may be approved by the board only
64 for the best interest of society. If the board determines that
65 releasing the offender poses a substantial public safety risk, the
66 board shall deny the department's recommendation to place the
67 offender under earned-release supervision. The board shall notify
68 the department of its ruling in writing within three (3) business
69 days.

70 (5) The board shall establish rules and regulations related
71 to its duty to review and approve earned-release supervision.
72 Those rules and regulations shall be promulgated in accordance
73 with the Mississippi Administrative Procedures Act and shall be
74 consistent with the provisions of this section.



75 **SECTION 2.** Section 47-5-138, Mississippi Code of 1972, is
76 amended as follows:

77 47-5-138. (1) The department may promulgate rules and
78 regulations to carry out an earned-time allowance program based on
79 the good conduct and performance of an inmate. An inmate is
80 eligible to receive an earned-time allowance of one-half (1/2) of
81 the period of confinement imposed by the court except those
82 inmates excluded by law. When an inmate is committed to the
83 custody of the department, the department shall determine a
84 conditional earned-time release date by subtracting the
85 earned-time allowance from an inmate's term of sentence. This
86 subsection does not apply to any sentence imposed after June 30,
87 1995.

88 (2) For any sentence imposed after June 30, 1995, an inmate
89 may receive an earned-time allowance of four and one-half (4-1/2)
90 days for each thirty (30) days served if the department determines
91 that the inmate has complied with the good conduct and performance
92 requirements of the earned-time allowance program. The
93 earned-time allowance under this subsection shall not exceed
94 fifteen percent (15%) of an inmate's term of sentence; however,
95 beginning July 1, 2006, no person under the age of twenty-one (21)
96 who has committed a nonviolent offense, and who is under the
97 jurisdiction of the Department of Corrections, shall be subject to
98 the fifteen percent (15%) limitation for earned-time allowances as
99 described in this subsection (2). When an inmate is committed to



the custody of the department, the department shall determine a conditional earned-time release date by subtracting the earned-time allowance from an inmate's term of sentence.

(* * *3) An inmate may forfeit all or part of his earned-time allowance for a serious violation of rules. No forfeiture of the earned-time allowance shall be effective except upon approval of the commissioner, or his designee, and forfeited earned time may not be restored.

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

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

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

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

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



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

(* * *5) (a) The department shall furnish at least three (3) months' written notice to the offender of the date on which he may be placed under earned-release supervision.

(b) If an inmate * * * meets the good conduct and performance requirements of the earned-time allowance program and the inmate's record is examined and approved by the State Parole Board for earned-time release supervision, as prescribed under Section 1 of this act, then the inmate may be released on his conditional earned-time release date. Before an inmate may be considered for release on his earned-time release date, the department shall provide adequate notice to the Parole Board of such date, as prescribed under Section 1 of this act.

* * *

(6) Any inmate, who is released before the expiration of his term of sentence under this section, shall be placed under earned-release supervision until the expiration of the term of sentence. The inmate shall retain inmate status and remain under the jurisdiction of the department. The period of earned-release supervision shall be conducted in the same manner as a period of supervised parole. The department shall develop rules, terms and conditions for the earned-release supervision program. The commissioner shall designate the appropriate hearing officer



148 within the department to conduct revocation hearings for inmates
149 violating the conditions of earned-release supervision.

150 (7) If the earned-release supervision is revoked, the inmate
151 shall serve the remainder of the sentence, but the time the inmate
152 served on earned-release supervision before revocation * * * shall
153 be applied to reduce his sentence.

154 **SECTION 3.** Section 47-7-5, Mississippi Code of 1972, is
155 amended as follows:

156 47-7-5. (1) Effective January 1, 2028, the State Parole
157 Board, created under former Section 47-7-5, is hereby created,
158 continued and reconstituted and shall be composed of five (5)
159 members, one (1) appointed from each Mississippi Supreme Court
160 District and two (2) from the state at large. The Governor shall
161 appoint the members to serve at the will and pleasure of the
162 Governor, with the advice and consent of the Senate, not less than
163 every four (4) years, provided that three (3) members shall be
164 appointed in 2028 to a term ending December 31, 2031, and two (2)
165 members shall be appointed in 2030 to a term ending December 31,
166 2033. Appointments made at the beginning of the four-year cycle
167 shall be made to fill any member's term which actually expires
168 that year and any member's term which expires next until the
169 majority of the membership of the board or commission is reached.
170 Appointments made at the beginning of the third year of the
171 four-year cycle shall be made for the remainder of the membership
172 positions irrespective of the time of their prior appointment.



Any question regarding the order of appointments shall be determined by the Secretary of State in accordance with the specific statute. All appointment procedures, vacancy provisions, interim appointment provisions and removal provisions specifically provided for in Section 7-1-35, Mississippi Code of 1972, shall be fully applicable to appointments to the State Parole Board. Any vacancy shall be filled by the Governor, with the advice and consent of the Senate. The Governor shall appoint a chairman of the board.

(2) Any person who is appointed to serve on the board shall possess at least a bachelor's degree or a high school diploma and four (4) years' work experience. Each member shall devote his full time to the duties of his office and shall not engage in any other business or profession or hold any other public office. A member shall receive compensation or per diem in addition to his or her salary. Each member shall keep such hours and workdays as required of full-time state employees under Section 25-1-98. Individuals shall be appointed to serve on the board without reference to their political affiliations. Each board member, including the chairman, may be reimbursed for actual and necessary expenses as authorized by Section 25-3-41. Each member of the board shall complete annual training developed based on guidance from the National Institute of Corrections, the Association of Paroling Authorities International, or the American Probation and Parole Association. Each first-time appointee of the board shall,



198 within sixty (60) days of appointment, or as soon as practical,
199 complete training for first-time Parole Board members developed in
200 consideration of information from the National Institute of
201 Corrections, the Association of Paroling Authorities
202 International, or the American Probation and Parole Association.

203 (3) The board shall have exclusive responsibility for the
204 granting of parole as provided by Sections 47-7-3 and 47-7-17 and
205 shall have exclusive authority for revocation of the same. The
206 board shall have exclusive responsibility for investigating
207 clemency recommendations upon request of the Governor. The board
208 shall have the authority to review and approve the departments
209 recommendation to place an offender under earned-release
210 supervision.

211 (4) The board, its members and staff, shall be immune from
212 civil liability for any official acts taken in good faith and in
213 exercise of the board's legitimate governmental authority.

214 (5) The budget of the board shall be funded through a
215 separate line item within the general appropriation bill for the
216 support and maintenance of the department. Employees of the
217 department which are employed by or assigned to the board shall
218 work under the guidance and supervision of the board. There shall
219 be an executive secretary to the board who shall be responsible
220 for all administrative and general accounting duties related to
221 the board. The executive secretary shall keep and preserve all
222 records and papers pertaining to the board.



(6) The board shall have no authority or responsibility for supervision of offenders granted a release for any reason, including, but not limited to, earned-release supervision, probation, parole or executive clemency or other offenders requiring the same through interstate compact agreements. The supervision shall be provided exclusively by the staff of the Division of Community Corrections of the department.

(7) (a) The Parole Board is authorized to select and place offenders in an electronic monitoring program under the conditions and criteria imposed by the Parole Board. The conditions, restrictions and requirements of Section 47-7-17 and Sections 47-5-1001 through 47-5-1015 shall apply to the Parole Board and any offender placed in an electronic monitoring program by the Parole Board.

(b) Any offender placed in an electronic monitoring program under this subsection shall pay the program fee provided in Section 47-5-1013. The program fees shall be deposited in the special fund created in Section 47-5-1007.

(c) The department shall have absolute immunity from liability for any injury resulting from a determination by the Parole Board that an offender be placed in an electronic monitoring program.

(8) (a) The Parole Board shall maintain a central registry of paroled inmates. The Parole Board shall place the following information on the registry: name, address, photograph, crime for



which paroled, the date of the end of parole or flat-time date and other information deemed necessary. The Parole Board shall immediately remove information on a parolee at the end of his parole or flat-time date.

(b) When a person is placed on parole, the Parole Board shall inform the parolee of the duty to report to the parole officer any change in address ten (10) days before changing address.

(c) The Parole Board shall utilize an Internet website or other electronic means to release or publish the information.

(d) Records maintained on the registry shall be open to law enforcement agencies and the public and shall be available no later than July 1, 2003.

(9) An affirmative vote of at least four (4) members of the Parole Board shall be required to grant parole to an inmate convicted of capital murder or a sex crime.

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

SECTION 4. Section 47-5-177, Mississippi Code of 1972, is amended as follows:

47-5-177. At least fifteen (15) days prior to the placement of an offender under earned-release supervision or the release of an offender from the physical custody of the department because of discharge, parole, pardon, temporary personal leave or pass, or otherwise, except for sickness or death in the offender's family, the director of records of the department shall give written or



273 electronic notice of such earned-release supervision or release to
274 the sheriff of the county and to the chief of police of the
275 municipality where the offender was convicted. If the offender is
276 serving the period of earned-release supervision in or is paroled
277 to a county other than the county of conviction, the director of
278 records shall give written or electronic notice of the
279 earned-release supervision or release to the sheriff, district
280 attorney and circuit judge of the county and to the chief of
281 police of the municipality where the offender is serving the
282 period of earned-release supervision in or is paroled and to the
283 sheriff of the county and to the chief of police of the
284 municipality where the offender was convicted. The department
285 shall notify the parole officer of the county where the offender
286 is serving the period of earned-release supervision, paroled or
287 discharged to probation of any chronic mental disorder incurred by
288 the offender, of any type of infectious disease for which the
289 offender has been examined and treated, and of any medications
290 provided to the offender for such conditions.

291 The commissioner shall require the director of records to
292 clearly identify the notice of release of an offender who has been
293 convicted of arson at any time. The fact that the offender to be
294 released had been convicted of arson at any time shall appear
295 prominently on the notice of release and the sheriff shall notify
296 all officials who are responsible for investigation of arson
297 within the county of such offender's release and the chief of



298 police shall notify all such officials within the municipality of
299 such offender's release.

300 **SECTION 5.** This act shall take effect and be in force from
301 and after July 1, 2025.

