

By: Jackson, Simmons, Harden, Jordan, Horhn To: Judiciary

SENATE BILL NO. 2800
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 47-7-5, MISSISSIPPI CODE OF 1972, TO
2 EXTEND THE REPEALER ON THE STATE PAROLE BOARD; TO AMEND SECTION
3 47-7-53, MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION
4 47-5-1003, MISSISSIPPI CODE OF 1972, TO REVISE ELIGIBILITY FOR
5 HOUSE ARREST; TO CREATE CODE SECTION 47-7-72, MISSISSIPPI CODE OF
6 1972, TO PROHIBIT THE DEPARTMENT OF CORRECTIONS FROM ACCEPTING FOR
7 SUPERVISION AN OUT-OF-STATE PAROLEE WHO HAS THREE OR MORE VIOLENT
8 FELONY CONVICTIONS; AND FOR RELATED PURPOSES.

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

10 SECTION 1. Section 47-7-5, Mississippi Code of 1972, is
11 amended as follows:[CSQ1]

12 47-7-5. (1) The State Parole Board, created under former
13 Section 47-7-5, is hereby created, continued and reconstituted and
14 shall be composed of five (5) members, one (1) from each
15 congressional district. The Governor shall appoint the members
16 with the advice and consent of the Senate. The terms of the
17 members serving on the board from Supreme Court districts shall
18 expire on June 30, 1997. The three (3) members may be reappointed
19 to the board. The terms of the members of the reconstituted board
20 shall begin on July 1, 1997. All terms shall be coterminous with
21 the term of the Governor. Any vacancy shall be filled for the
22 unexpired term by the Governor, with the advice and consent of the
23 Senate. The board shall elect a chairman of the board annually.
24 No member may serve consecutive terms as chairman.

25 (2) Any person who is appointed to serve on the board shall
26 possess at least a bachelor's degree or a high school diploma and
27 four (4) years' work experience. Each member shall devote his
28 full time to the duties of his office and shall not engage in any
29 other business or profession or hold any other public office. A

30 member shall not receive compensation or per diem in addition to
31 his salary as prohibited under Section 25-3-38. Each member shall
32 keep such hours and workdays as required of full-time state
33 employees under Section 25-1-98. Individuals shall be appointed
34 to serve on the board without reference to their political
35 affiliations. Each board member, including the chairman, may be
36 reimbursed for actual and necessary expenses as authorized by
37 Section 25-3-41; but a member shall not be reimbursed for travel
38 expenses from his residence to the nearest state penitentiary. In
39 addition, a member must use a state vehicle, if available, for
40 travel and a member who refuses to use an available state vehicle
41 shall not receive reimbursement for mileage expenses for use of a
42 privately owned motor vehicle.

43 (3) The board shall have exclusive responsibility for the
44 granting of parole as provided by Sections 47-7-3 and 47-7-17 and
45 shall have exclusive authority for revocation of the same. The
46 board shall have exclusive responsibility for investigating
47 clemency recommendations upon request of the Governor.

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

51 (5) The budget of the board shall be funded through a
52 separate line item within the general appropriation bill for the
53 support and maintenance of the department. Employees of the
54 department which are employed by or assigned to the board shall
55 work under the guidance and supervision of the board. There shall
56 be an executive secretary to the board who shall be responsible
57 for all administrative and general accounting duties related to
58 the board. The executive secretary shall keep and preserve all
59 records and papers pertaining to board.

60 (6) The board shall have no authority or responsibility for
61 supervision of offenders granted probation, parole or executive
62 clemency or other offenders requiring the same through interstate
63 compact agreements. The supervision shall be provided exclusively
64 by the staff of the Division of Community Services of the
65 department.

66 (7) This section shall stand repealed on July 1, 2003.

67 SECTION 2. Section 47-7-53, Mississippi Code of 1972, is
68 amended as follows:[CSQ2]

69 47-7-53. * * * If the Parole Board is abolished, the
70 Department of Corrections shall assume and exercise all the
71 duties, powers and responsibilities of the State Parole Board.
72 The commissioner * * * may assign to the appropriate officers and
73 divisions any powers and duties deemed appropriate to carry out
74 the duties and powers of the Parole Board. Wherever the terms
75 "State Parole Board" or "Parole Board" appear in any state law,
76 they shall mean the Department of Corrections.

77 SECTION 3. Section 47-5-1003, Mississippi Code of 1972, is
78 amended as follows:[CSQ3]

79 47-5-1003. (1) An intensive supervision program may be used
80 as an alternative to incarceration for offenders who are low risk
81 and nonviolent as selected by the department or court. Any
82 offender convicted of a sex crime or a felony for the sale or
83 manufacture of a controlled substance under the Uniform Controlled
84 Substances Law shall not be placed in the program.

85 (2) The court placing an offender in the intensive
86 supervision program may, acting upon the advice and consent of the
87 commissioner at the time of the initial sentencing only, and not
88 later than one (1) year after the defendant has been delivered to
89 the custody of the department, suspend the further execution of
90 the sentence and place the defendant on intensive supervision,
91 except when a death sentence or life imprisonment is the maximum
92 penalty which may be imposed or if the defendant has been confined
93 for the conviction of a felony on a previous occasion in any court
94 or courts of the United States and of any state or territories
95 thereof or has been convicted of a felony involving the use of a
96 deadly weapon.

97 (3) To protect and to ensure the safety of the state's
98 citizens, any offender who violates an order or condition of the
99 intensive supervision program shall be arrested by the

100 correctional field officer and placed in the actual custody of the
101 Department of Corrections. Such offender is under the full and
102 complete jurisdiction of the department and subject to removal
103 from the program by the classification committee.

104 (4) From and after July 1, 2001, all persons who are within
105 one (1) year of eligibility for parole or release may be
106 considered by the Parole Board for house arrest under the
107 electronic home detention program. Any offender who violates an
108 order or condition of the program shall be required to serve the
109 full term to which sentenced either under house arrest or while
110 incarcerated, in the discretion of the Parole Board.

111 SECTION 4. The following shall be codified as Section
112 47-7-72, Mississippi Code of 1972:

113 47-7-72. (1) The Department of Corrections shall not accept
114 any person convicted of three (3) or more violent felony offenses
115 placed on probation or released on parole under the Uniform Act
116 for Out-of-State Parolee Suspension.

117 (2) The Department of Corrections shall not consent to any
118 person convicted of three (3) or more violent felony offenses
119 being sent to reside in Mississippi under Section 47-7-71.

120 (3) The Department of Corrections shall immediately notify
121 any state having an out-of-state parolee agreement with
122 Mississippi of this condition and take immediate action to modify
123 such agreements, or to renounce such agreement if a contracting
124 state refuses to agree with the restrictions placed on such
125 agreements with the Department of Corrections under this section.

126 SECTION 5. This act shall take effect and be in force from
127 and after July 1, 2000.