

By: Representative Malone

To: Corrections

HOUSE BILL NO. 668
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THE TERM "FIRST OFFENDER" FOR PURPOSES OF DETERMINING IF
3 SUCH AN OFFENDER IS ELIGIBLE FOR PAROLE; TO PROVIDE THAT ANY
4 PERSON CONVICTED OF A DUI RESULTING IN DEATH OR SERIOUS BODILY
5 INJURY SHALL SERVE 85% OF THE SENTENCE IMPOSED ON THAT PERSON; TO
6 PROVIDE THAT THE PAROLE BOARD SHALL RECONSIDER AN APPLICATION FOR
7 PAROLE FROM AN ELIGIBLE OFFENDER NO LATER THAN ONE YEAR AFTER THE
8 INITIAL APPLICATION IS REJECTED, UNLESS AN OFFENDER IS CONVICTED
9 OF CERTAIN CRIMES; TO AMEND SECTION 47-7-5, MISSISSIPPI CODE OF
10 1972, TO DELETE THE REQUIREMENT THAT THE STATE PAROLE BOARD SHALL
11 REVIEW CASES WHERE OFFENDERS HAVE BEEN DIAGNOSED WITH A SERIOUS
12 ILLNESS; TO AMEND SECTION 47-7-53, MISSISSIPPI CODE OF 1972, TO
13 PROVIDE THAT THE DEPARTMENT OF CORRECTIONS SHALL ASSUME THE DUTIES
14 OF PAROLE BOARD IN THE EVENT IT IS ABOLISHED; AND FOR RELATED
15 PURPOSES.

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

17 **SECTION 1.** Section 47-7-3, Mississippi Code of 1972, as
18 amended by Senate Bill No. 2680, 2004 Regular Session, which
19 became law after approval by the Governor, and House Bill No. 669,
20 2004 Regular Session, which is due from the Governor on May 4,
21 2004, is amended as follows:

22 47-7-3. (1) Every prisoner who has been convicted of any
23 offense against the State of Mississippi, and is confined in the
24 execution of a judgment of such conviction in the Mississippi
25 State Penitentiary for a definite term or terms of one (1) year or
26 over, or for the term of his or her natural life, whose record of
27 conduct shows that such prisoner has observed the rules of the
28 penitentiary, and who has served not less than one-fourth (1/4) of
29 the total of such term or terms for which such prisoner was
30 sentenced, or, if sentenced to serve a term or terms of thirty
31 (30) years or more, or, if sentenced for the term of the natural
32 life of such prisoner, has served not less than ten (10) years of

33 such life sentence, may be released on parole as hereinafter
34 provided, except that:

35 (a) No prisoner convicted as a confirmed and habitual
36 criminal under the provisions of Sections 99-19-81 through
37 99-19-87 shall be eligible for parole;

38 (b) Any person who shall have been convicted of a sex
39 crime shall not be released on parole except for a person under
40 the age of nineteen (19) who has been convicted under Section
41 97-3-67;

42 (c) No one shall be eligible for parole until he shall
43 have served one (1) year of his sentence, unless such person has
44 accrued any meritorious earned time allowances, in which case he
45 shall be eligible for parole if he has served (i) nine (9) months
46 of his sentence or sentences, when his sentence or sentences is
47 two (2) years or less; (ii) ten (10) months of his sentence or
48 sentences when his sentence or sentences is more than two (2)
49 years but no more than five (5) years; and (iii) one (1) year of
50 his sentence or sentences when his sentence or sentences is more
51 than five (5) years;

52 (d) (i) No person shall be eligible for parole who
53 shall, on or after January 1, 1977, be convicted of robbery or
54 attempted robbery through the display of a firearm until he shall
55 have served ten (10) years if sentenced to a term or terms of more
56 than ten (10) years or if sentenced for the term of the natural
57 life of such person. If such person is sentenced to a term or
58 terms of ten (10) years or less, then such person shall not be
59 eligible for parole. The provisions of this paragraph (d) shall
60 also apply to any person who shall commit robbery or attempted
61 robbery on or after July 1, 1982, through the display of a deadly
62 weapon. This subparagraph (d)(i) shall not apply to persons
63 convicted after September 30, 1994;

64 (ii) No person shall be eligible for parole who
65 shall, on or after October 1, 1994, be convicted of robbery,

66 attempted robbery or carjacking as provided in Section 97-3-115 et
67 seq., through the display of a firearm or drive-by shooting as
68 provided in Section 97-3-109. The provisions of this subparagraph
69 (d)(ii) shall also apply to any person who shall commit robbery,
70 attempted robbery, carjacking or a drive-by shooting on or after
71 October 1, 1994, through the display of a deadly weapon;

72 (e) No person shall be eligible for parole who, on or
73 after July 1, 1994, is charged, tried, convicted and sentenced to
74 life imprisonment without eligibility for parole under the
75 provisions of Section 99-19-101;

76 (f) No person shall be eligible for parole who is
77 charged, tried, convicted and sentenced to life imprisonment under
78 the provisions of Section 99-19-101;

79 (g) No person shall be eligible for parole who is
80 convicted or whose suspended sentence is revoked after June 30,
81 1995, except that a first offender convicted of a nonviolent crime
82 after January 1, 2000, may be eligible for parole if the offender
83 meets the requirements in subsection (1) and this paragraph. In
84 addition to other requirements, if a first offender is convicted
85 of a drug or driving under the influence felony, the offender must
86 complete a drug and alcohol rehabilitation program prior to parole
87 or the offender may be required to complete a post-release drug
88 and alcohol program as a condition of parole. For purposes of
89 this paragraph, "nonviolent crime" means a felony other than
90 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
91 occupied dwelling, aggravated assault, kidnapping, felonious abuse
92 of vulnerable adults, felonies with enhanced penalties, the sale
93 or manufacture of a controlled substance under the Uniform
94 Controlled Substances Law, felony child abuse and a violation of
95 63-11-30 (5) resulting in death, or serious bodily injury
96 resulting in the loss of a limb or dismemberment, loss of
97 eyesight, a coma, permanent dysfunction of any vital organ,
98 paralysis or resulting in an individual's permanent bedridden

99 state. For purposes of this paragraph, "first offender" means a
100 person who at the time of sentencing has not been convicted of a
101 felony on a previous occasion in any court or courts of the United
102 States or in any state or territory thereof.

103 (2) Notwithstanding any other provision of law, an inmate
104 shall not be eligible to receive earned time, good time or any
105 other administrative reduction of time which shall reduce the time
106 necessary to be served for parole eligibility as provided in
107 subsection (1) of this section; however, this subsection shall not
108 apply to the advancement of parole eligibility dates pursuant to
109 the Prison Overcrowding Emergency Powers Act. Moreover,
110 meritorious earned time allowances may be used to reduce the time
111 necessary to be served for parole eligibility as provided in
112 paragraph (c) of subsection (1) of this section.

113 (3) (a) The State Parole Board shall by rules and
114 regulations establish a method of determining a tentative parole
115 hearing date for each eligible offender taken into the custody of
116 the Department of Corrections. The tentative parole hearing date
117 shall be determined within ninety (90) days after the department
118 has assumed custody of the offender. Such tentative parole
119 hearing date shall be calculated by a formula taking into account
120 the offender's age upon first commitment, number of prior
121 incarcerations, prior probation or parole failures, the severity
122 and the violence of the offense committed, employment history and
123 other criteria which in the opinion of the board tend to validly
124 and reliably predict the length of incarceration necessary before
125 the offender can be successfully paroled.

126 (b) If an application for parole from an eligible
127 offender is rejected, the Parole Board shall reconsider the
128 application from that offender no later than one (1) year after
129 the initial application for parole is rejected, unless the crime
130 for which the offender was convicted is defined as a violent crime
131 under subsection (2)(g) of this section.

132 This paragraph shall stand repealed on July 1, 2005.

133 (4) Any inmate within twenty-four (24) months of his parole
134 eligibility date and who meets the criteria established by the
135 classification board shall receive priority for placement in any
136 educational development and job training programs. Any inmate
137 refusing to participate in an educational development or job
138 training program may be ineligible for parole.

139 **SECTION 2.** Section 47-7-5, Mississippi Code of 1972, is
140 amended as follows:

141 47-7-5. (1) The State Parole Board, created under former
142 Section 47-7-5, is hereby created, continued and reconstituted and
143 shall be composed of five (5) members. The Governor shall appoint
144 the members with the advice and consent of the Senate. All terms
145 shall be at the will and pleasure of the Governor. Any vacancy
146 shall be filled by the Governor, with the advice and consent of
147 the Senate. The Governor shall appoint a chairman of the board.

148 (2) Any person who is appointed to serve on the board shall
149 possess at least a bachelor's degree or a high school diploma and
150 four (4) years' work experience. Each member shall devote his
151 full time to the duties of his office and shall not engage in any
152 other business or profession or hold any other public office. A
153 member shall not receive compensation or per diem in addition to
154 his salary as prohibited under Section 25-3-38. Each member shall
155 keep such hours and workdays as required of full-time state
156 employees under Section 25-1-98. Individuals shall be appointed
157 to serve on the board without reference to their political
158 affiliations. Each board member, including the chairman, may be
159 reimbursed for actual and necessary expenses as authorized by
160 Section 25-3-41; but a member shall not be reimbursed for travel
161 expenses from his residence to the nearest State Penitentiary.

162 (3) The board shall have exclusive responsibility for the
163 granting of parole as provided by Sections 47-7-3 and 47-7-17 and
164 shall have exclusive authority for revocation of the same. The

165 board shall have exclusive responsibility for investigating
166 clemency recommendations upon request of the Governor.

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

170 (5) The budget of the board shall be funded through a
171 separate line item within the general appropriation bill for the
172 support and maintenance of the department. Employees of the
173 department which are employed by or assigned to the board shall
174 work under the guidance and supervision of the board. There shall
175 be an executive secretary to the board who shall be responsible
176 for all administrative and general accounting duties related to
177 the board. The executive secretary shall keep and preserve all
178 records and papers pertaining to the board.

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

186 * * *

187 (7) (a) The Parole Board shall maintain a central registry
188 of paroled inmates. The Parole Board shall place the following
189 information on the registry: name, address, photograph, crime for
190 which paroled, the date of the end of parole or flat-time date and
191 other information deemed necessary. The Parole Board shall
192 immediately remove information on a parolee at the end of his
193 parole or flat-time date.

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

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

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

203 (8) This section shall stand repealed on July 1, 2005.

204 **SECTION 3.** Section 47-7-53, Mississippi Code of 1972, is
205 amended as follows:

206 47-7-53. If the Parole Board is abolished, the Department of
207 Corrections shall assume and exercise all the duties, powers and
208 responsibilities of the State Parole Board. The Commissioner of
209 Corrections may assign to the appropriate officers and divisions
210 any powers and duties deemed appropriate to carry out the duties
211 and powers of the Parole Board. Wherever the terms "State Parole
212 Board" or "Parole Board" appear in any state law, they shall mean
213 the Department of Corrections.

214 **SECTION 4.** It is the intent that the amendments to Section
215 47-7-3, Mississippi Code of 1972, contained in this House Bill No.
216 668, 2004 Regular Session, shall supersede the amendments to
217 Section 47-7-3, contained in Senate Bill No. 2680, 2004 Regular
218 Session, and House Bill No. 669, 2004 Regular Session.

219 **SECTION 5.** This act shall take effect and be in force from
220 and after its passage.