

By: Representative Fleming

To: Corrections

HOUSE BILL NO. 758

1 AN ACT TO AMEND SECTION 47-5-138.1, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE CLASSIFICATION BOARD OF THE DEPARTMENT OF
3 CORRECTIONS TO CONSIDER AN INMATE'S MILITARY RECORD AS A FACTOR
4 WHEN DETERMINING ELIGIBILITY FOR TRUSTY STATUS FOR AN INMATE; TO
5 AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
6 STATE PAROLE BOARD TO CONSIDER AN INMATE'S MILITARY RECORD AS A
7 FACTOR WHEN DETERMINING A TENTATIVE PAROLE HEARING DATE FOR AN
8 INMATE; AND FOR RELATED PURPOSES.

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

10 SECTION 1. Section 47-5-138.1, Mississippi Code of 1972, is
11 amended as follows:

12 47-5-138.1. In addition to any other administrative
13 reduction of sentence, an offender in trusty status as defined by
14 the classification board of the Department of Corrections may be
15 awarded a trusty time allowance of ten (10) days' reduction of
16 sentence for each thirty (30) days of participation in an approved
17 program while in trusty status, including satisfactory
18 participation in education or instructional programs, satisfactory
19 participation in work projects and satisfactory participation in
20 any special incentive program. When deciding whether an inmate is
21 eligible for trusty status, one (1) of the factors that the
22 classification board may use is whether an inmate has served in
23 the United States Armed Forces and whether he or she had an
24 honorable discharge.

25 SECTION 2. Section 47-7-3, Mississippi Code of 1972, is
26 amended as follows:

27 47-7-3. (1) Every prisoner who has been convicted of any
28 offense against the State of Mississippi, and is confined in the
29 execution of a judgment of such conviction in the Mississippi
30 State Penitentiary for a definite term or terms of one (1) year or

31 over, or for the term of his or her natural life, whose record of
32 conduct shows that such prisoner has observed the rules of the
33 penitentiary, and who has served not less than one-fourth (1/4) of
34 the total of such term or terms for which such prisoner was
35 sentenced, or, if sentenced to serve a term or terms of thirty
36 (30) years or more, or, if sentenced for the term of the natural
37 life of such prisoner, has served not less than ten (10) years of
38 such life sentence, may be released on parole as hereinafter
39 provided, except that:

40 (a) No prisoner convicted as a confirmed and habitual
41 criminal under the provisions of Sections 99-19-81 through
42 99-19-87 shall be eligible for parole;

43 (b) Any person who shall have been convicted of a sex
44 crime shall not be released on parole except for a person under
45 the age of nineteen (19) who has been convicted under Section
46 97-3-67;

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

57 (d) (i) No person shall be eligible for parole who
58 shall, on or after January 1, 1977, be convicted of robbery or
59 attempted robbery through the display of a firearm until he shall
60 have served ten (10) years if sentenced to a term or terms of more
61 than ten (10) years or if sentenced for the term of the natural
62 life of such person. If such person is sentenced to a term or
63 terms of ten (10) years or less, then such person shall not be

64 eligible for parole. The provisions of this paragraph (d) shall
65 also apply to any person who shall commit robbery or attempted
66 robbery on or after July 1, 1982, through the display of a deadly
67 weapon. This subparagraph (d)(i) shall not apply to persons
68 convicted after September 30, 1994;

69 (ii) No person shall be eligible for parole who
70 shall, on or after October 1, 1994, be convicted of robbery,
71 attempted robbery or carjacking as provided in Section 97-3-115 et
72 seq., through the display of a firearm or drive-by shooting as
73 provided in Section 97-3-109. The provisions of this subparagraph
74 (d)(ii) shall also apply to any person who shall commit robbery,
75 attempted robbery, carjacking or a drive-by shooting on or after
76 October 1, 1994, through the display of a deadly weapon;

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

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

84 (g) No person shall be eligible for parole who is
85 convicted or whose suspended sentence is revoked after June 30,
86 1995, except that a first offender convicted of a nonviolent crime
87 after January 1, 2000, may be eligible for parole if the offender
88 meets the requirements in subsection (1) and this paragraph. In
89 addition to other requirements, if a first offender is convicted
90 of a drug or driving under the influence felony, the offender must
91 complete a drug and alcohol rehabilitation program prior to parole
92 or the offender may be required to complete a post-release drug
93 and alcohol program as a condition of parole. For purposes of
94 this paragraph, "nonviolent crime" means a felony other than
95 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
96 occupied dwelling, aggravated assault, kidnapping, felonious abuse

97 of vulnerable adults, felonies with enhanced penalties, the sale
98 or manufacture of a controlled substance under the Uniform
99 Controlled Substances Law, and felony child abuse.

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

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

125 (4) Any inmate within twenty-four (24) months of his parole
126 eligibility date and who meets the criteria established by the
127 classification board shall receive priority for placement in any
128 educational development and job training programs. Any inmate

129 refusing to participate in an educational development or job
130 training program may be ineligible for parole.

131 **SECTION 2.** This act shall take effect and be in force from
132 and after July 1, 2004.