

By: Representative Moak

To: Corrections

HOUSE BILL NO. 1533

1 AN ACT TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT DELIVERY OR POSSESSION WITH INTENT TO DELIVER OR SELL  
3 A CONTROLLED SUBSTANCE SHALL NOT BE A NONVIOLENT CRIME FOR  
4 PURPOSES OF A FIRST OFFENDER AND PAROLE ELIGIBILITY IF CONVICTED  
5 OF A NONVIOLENT CRIME; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 47-7-3, Mississippi Code of 1972, is  
8 amended as follows:

9 47-7-3. (1) Every prisoner who has been convicted of any  
10 offense against the State of Mississippi, and is confined in the  
11 execution of a judgment of such conviction in the Mississippi  
12 State Penitentiary for a definite term or terms of one (1) year or  
13 over, or for the term of his or her natural life, whose record of  
14 conduct shows that such prisoner has observed the rules of the  
15 penitentiary, and who has served not less than one-fourth (1/4) of  
16 the total of such term or terms for which such prisoner was  
17 sentenced, or, if sentenced to serve a term or terms of thirty  
18 (30) years or more, or, if sentenced for the term of the natural  
19 life of such prisoner, has served not less than ten (10) years of  
20 such life sentence, may be released on parole as hereinafter  
21 provided, except that:

22 (a) No prisoner convicted as a confirmed and habitual  
23 criminal under the provisions of Sections 99-19-81 through  
24 99-19-87 shall be eligible for parole;

25 (b) Any person who shall have been convicted of a sex  
26 crime shall not be released on parole except for a person under  
27 the age of nineteen (19) who has been convicted under Section  
28 97-3-67;

29           (c) No one shall be eligible for parole until he shall  
30 have served one (1) year of his sentence, unless such person has  
31 accrued any meritorious earned time allowances, in which case he  
32 shall be eligible for parole if he has served (i) nine (9) months  
33 of his sentence or sentences, when his sentence or sentences is  
34 two (2) years or less; (ii) ten (10) months of his sentence or  
35 sentences when his sentence or sentences is more than two (2)  
36 years but no more than five (5) years; and (iii) one (1) year of  
37 his sentence or sentences when his sentence or sentences is more  
38 than five (5) years;

39           (d) (i) No person shall be eligible for parole who  
40 shall, on or after January 1, 1977, be convicted of robbery or  
41 attempted robbery through the display of a firearm until he shall  
42 have served ten (10) years if sentenced to a term or terms of more  
43 than ten (10) years or if sentenced for the term of the natural  
44 life of such person. If such person is sentenced to a term or  
45 terms of ten (10) years or less, then such person shall not be  
46 eligible for parole. The provisions of this paragraph (d) shall  
47 also apply to any person who shall commit robbery or attempted  
48 robbery on or after July 1, 1982, through the display of a deadly  
49 weapon. This subparagraph (d)(i) shall not apply to persons  
50 convicted after September 30, 1994;

51           (ii) No person shall be eligible for parole who  
52 shall, on or after October 1, 1994, be convicted of robbery,  
53 attempted robbery or carjacking as provided in Section 97-3-115 et  
54 seq., through the display of a firearm or drive-by shooting as  
55 provided in Section 97-3-109. The provisions of this subparagraph  
56 (d)(ii) shall also apply to any person who shall commit robbery,  
57 attempted robbery, carjacking or a drive-by shooting on or after  
58 October 1, 1994, through the display of a deadly weapon;

59           (e) No person shall be eligible for parole who, on or  
60 after July 1, 1994, is charged, tried, convicted and sentenced to

61 life imprisonment without eligibility for parole under the  
62 provisions of Section 99-19-101;

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

66 (g) No person shall be eligible for parole who is  
67 convicted or whose suspended sentence is revoked after June 30,  
68 1995, except that a first offender convicted of a nonviolent crime  
69 after January 1, 2000, may be eligible for parole if the offender  
70 meets the requirements in subsection (1) and this paragraph. In  
71 addition to other requirements, if a first offender is convicted  
72 of a drug or driving under the influence felony, the offender must  
73 complete a drug and alcohol rehabilitation program prior to parole  
74 or the offender may be required to complete a post-release drug  
75 and alcohol program as a condition of parole. For purposes of  
76 this paragraph, "nonviolent crime" means a felony other than  
77 homicide, robbery, manslaughter, sex crimes, arson, burglary of an  
78 occupied dwelling, aggravated assault, kidnapping, felonious abuse  
79 of vulnerable adults, felonies with enhanced penalties, the sale,  
80 manufacture, delivery, or possession with intent to sell or  
81 deliver, of a controlled substance under the Uniform Controlled  
82 Substances Law, and felony child abuse.

83 (2) Notwithstanding any other provision of law, an inmate  
84 shall not be eligible to receive earned time, good time or any  
85 other administrative reduction of time which shall reduce the time  
86 necessary to be served for parole eligibility as provided in  
87 subsection (1) of this section; however, this subsection shall not  
88 apply to the advancement of parole eligibility dates pursuant to  
89 the Prison Overcrowding Emergency Powers Act. Moreover,  
90 meritorious earned time allowances may be used to reduce the time  
91 necessary to be served for parole eligibility as provided in  
92 paragraph (c) of subsection (1) of this section.

93           (3) The State Parole Board shall by rules and regulations  
94 establish a method of determining a tentative parole hearing date  
95 for each eligible offender taken into the custody of the  
96 Department of Corrections. The tentative parole hearing date  
97 shall be determined within ninety (90) days after the department  
98 has assumed custody of the offender. Such tentative parole  
99 hearing date shall be calculated by a formula taking into account  
100 the offender's age upon first commitment, number of prior  
101 incarcerations, prior probation or parole failures, the severity  
102 and the violence of the offense committed, employment history and  
103 other criteria which in the opinion of the board tend to validly  
104 and reliably predict the length of incarceration necessary before  
105 the offender can be successfully paroled.

106           (4) Any inmate within twenty-four (24) months of his parole  
107 eligibility date and who meets the criteria established by the  
108 classification board shall receive priority for placement in any  
109 educational development and job training programs. Any inmate  
110 refusing to participate in an educational development or job  
111 training program may be ineligible for parole.

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