

By: Senator(s) Posey, Dearing

To: Corrections

SENATE BILL NO. 2533

1 AN ACT TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE THAT A FIRST-TIME OFFENDER CONVICTED FOR SELLING A
 3 CONTROLLED SUBSTANCE WHO MEETS GOOD CONDUCT AND PERFORMANCE
 4 REQUIREMENTS OF THE DEPARTMENT OF CORRECTIONS MAY BE REVIEWED BY
 5 THE PAROLE BOARD FOR POSSIBLE INCLUSION IN A PAROLE ELIGIBLE
 6 CLASSIFICATION OF OFFENDERS; TO PROVIDE THAT THE OFFENDER MAY BE
 7 CONSIDERED FOR PAROLE AFTER SUCH INCLUSION; AND FOR RELATED
 8 PURPOSES.

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

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

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

25 (a) No prisoner convicted as a confirmed and habitual
 26 criminal under the provisions of Sections 99-19-81 through
 27 99-19-87 shall be eligible for parole;

28 (b) Any person who shall have been convicted of a sex
 29 crime shall not be released on parole except for a person under

30 the age of nineteen (19) who has been convicted under Section
31 97-3-67;

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

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

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

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

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

69 (g) No person shall be eligible for parole who is
70 convicted or whose suspended sentence is revoked after June 30,
71 1995, except that a first offender convicted of a nonviolent crime
72 after January 1, 2000, may be eligible for parole if the offender
73 meets the requirements in subsection (1) and this paragraph. In
74 addition to other requirements, if a first offender is convicted
75 of a drug or driving under the influence felony, the offender must
76 complete a drug and alcohol rehabilitation program prior to parole
77 or the offender may be required to complete a post-release drug
78 and alcohol program as a condition of parole. For purposes of
79 this paragraph, "nonviolent crime" means a felony other than
80 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
81 occupied dwelling, aggravated assault, kidnapping, felonious abuse
82 of vulnerable adults, felonies with enhanced penalties, the sale
83 or manufacture of a controlled substance under the Uniform
84 Controlled Substances Law, felony child abuse, or any crime under
85 Section 97-5-33 or Section 97-5-39(2) or a violation of Section
86 63-11-30(5) resulting in death, or serious bodily injury resulting
87 in the loss of a limb or dismemberment, loss of eyesight, a coma,
88 permanent dysfunction of any vital organ, paralysis or resulting
89 in an individual's permanent bedridden state. For purposes of
90 this paragraph, "first offender" means a person who at the time of
91 sentencing has not been convicted of a felony on a previous
92 occasion in any court or courts of the United States or in any
93 state or territory thereof. In addition, a first time offender
94 incarcerated for committing the crime of possession of a

95 controlled substance under the Uniform Controlled Substances Law
96 after July 1, 1995, shall be eligible for parole as provided for
97 such offenders in this paragraph after July 1, 2000.

98 In addition, a first-time offender convicted of selling a
99 controlled substance who meets the good conduct and performance
100 requirements of the department may be reviewed by the Parole Board
101 for possible inclusion in a parole eligible classification of
102 offenders. The board may review the good performance and conduct
103 status of such offender after the offender has served one-fourth
104 (1/4) of his sentence. The board shall consider the custody
105 status, the conduct and attitude of the offender, number of rules
106 violation reports, any disciplinary actions, participation in work
107 programs, education programs, alcohol and drug rehabilitation
108 programs, special incentive programs, and any other factors the
109 board deems necessary to evaluate the conduct and performance of
110 the offender. If the board finds that the offender has met the
111 good conduct and performance requirements of the department and
112 the board, the board may place the offender in a parole eligible
113 classification. After such classification, the board may consider
114 the offender for parole.

115 (2) Notwithstanding any other provision of law, an inmate
116 shall not be eligible to receive earned time, good time or any
117 other administrative reduction of time which shall reduce the time
118 necessary to be served for parole eligibility as provided in
119 subsection (1) of this section; however, this subsection shall not
120 apply to the advancement of parole eligibility dates pursuant to
121 the Prison Overcrowding Emergency Powers Act. Moreover,
122 meritorious earned time allowances may be used to reduce the time
123 necessary to be served for parole eligibility as provided in
124 paragraph (c) of subsection (1) of this section.

125 (3) (a) The State Parole Board shall by rules and
126 regulations establish a method of determining a tentative parole
127 hearing date for each eligible offender taken into the custody of

128 the Department of Corrections. The tentative parole hearing date
129 shall be determined within ninety (90) days after the department
130 has assumed custody of the offender. Such tentative parole
131 hearing date shall be calculated by a formula taking into account
132 the offender's age upon first commitment, number of prior
133 incarcerations, prior probation or parole failures, the severity
134 and the violence of the offense committed, employment history and
135 other criteria which in the opinion of the board tend to validly
136 and reliably predict the length of incarceration necessary before
137 the offender can be successfully paroled.

138 (b) [Repealed].

139 (4) Any inmate within twenty-four (24) months of his parole
140 eligibility date and who meets the criteria established by the
141 classification board shall receive priority for placement in any
142 educational development and job training programs. Any inmate
143 refusing to participate in an educational development or job
144 training program may be ineligible for parole.

145 **SECTION 2.** This act shall take effect and be in force from
146 and after July 1, 2007.