

By: Representative Clark

To: Judiciary B

HOUSE BILL NO. 225

1 AN ACT TO AMEND SECTIONS 99-19-81 AND 99-19-83, MISSISSIPPI
2 CODE OF 1972, TO REVISE STATUTES GOVERNING PENALTIES FOR HABITUAL
3 OFFENDERS; TO FURTHER AMEND SECTION 99-19-83, MISSISSIPPI CODE OF
4 1972, TO EXTEND THE DATE OF REPEAL; TO AMEND SECTIONS 47-7-3,
5 47-5-139 AND 47-5-138.1, MISSISSIPPI CODE OF 1972, TO REVISE THE
6 REGULATIONS FOR INMATES WHO WERE CLASSIFIED AS HABITUAL OFFENDERS;
7 AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 99-19-81, Mississippi Code of 1972, is
10 amended as follows:

11 99-19-81. Every person convicted in this state of a * * *
12 crime of violence as defined by Section 97-3-2 who shall have been
13 convicted twice previously of any such felony or federal crime
14 upon charges separately brought and arising out of separate
15 incidents at different times and who shall have been sentenced to
16 separate terms of one (1) year or more in any state and/or federal
17 penal institution, whether in this state or elsewhere, and where
18 any one (1) of such felonies is defined as a crime of violence by
19 Section 97-3-2 shall be sentenced to the maximum term of
20 imprisonment prescribed for such felony unless the court provides



21 an explanation in its sentencing order setting forth the cause for
22 deviating from the maximum sentence, and such sentence shall not
23 be * * * suspended nor shall such person be eligible for * * *
24 probation.

25 **SECTION 2.** Section 99-19-83, Mississippi Code of 1972, is
26 amended as follows:

27 99-19-83. Every person convicted in this state of a * * * a
28 crime of violence as defined by Section 97-3-2, who shall have
29 been convicted twice previously of * * * such felony or federal
30 crime upon charges separately brought and arising out of separate
31 incidents at different times and who shall have been sentenced to
32 and served separate terms of one (1) year or more, whether served
33 concurrently or not, in any state and/or federal penal
34 institution, whether in this state or elsewhere, and where * * *
35 such felonies shall have been * * * crimes of violence, as defined
36 by Section 97-3-2, shall be sentenced to life imprisonment, and
37 such sentence shall not be * * * suspended nor shall such person
38 be eligible for * * * probation * * *. Notwithstanding any other
39 provision of law to the contrary, a person's eligibility for
40 parole and any other form of early release from actual physical
41 custody within the Department of Corrections shall be consistent
42 with the eligibility set forth for the offense or offenses for
43 which the person was sentenced pursuant to this statute. For the
44 purposes of early release, life sentences handed down pursuant to
45 this statute shall be calculated at fifty (50) years.



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

48 47-7-3. (1) Every prisoner who has been convicted of any
49 offense against the State of Mississippi, and is confined in the
50 execution of a judgment of such conviction in the Mississippi
51 Department of Corrections for a definite term or terms of one (1)
52 year or over, or for the term of his or her natural life, whose
53 record of conduct shows that such prisoner has observed the rules
54 of the department, and who has served the minimum required time
55 for parole eligibility, may be released on parole as set forth
56 herein:

57 (a) **Habitual offenders.** Except as provided by Sections
58 99-19-81 through 99-19-87, no person sentenced as a confirmed and
59 habitual criminal for a crime of violence as defined by Section
60 97-3-2 shall be eligible for parole;

61 (b) **Sex offenders.** Any person who has been sentenced
62 for a sex offense as defined in Section 45-33-23(h) shall not be
63 released on parole except for a person under the age of nineteen
64 (19) who has been convicted under Section 97-3-67;

65 (c) **Capital offenders.** No person sentenced for the
66 following offenses shall be eligible for parole:

67 (i) Capital murder committed on or after July 1,
68 1994, as defined in Section 97-3-19(2);

69 (ii) Any offense to which an offender is sentenced
70 to life imprisonment under the provisions of Section 99-19-101; or



71 (iii) Any offense to which an offender is
72 sentenced to life imprisonment without eligibility for parole
73 under the provisions of Section 99-19-101, whose crime was
74 committed on or after July 1, 1994;

75 (d) **Murder.** No person sentenced for murder in the
76 first degree, whose crime was committed on or after June 30, 1995,
77 or murder in the second degree, as defined in Section 97-3-19,
78 shall be eligible for parole;

79 (e) **Human trafficking.** No person sentenced for human
80 trafficking, as defined in Section 97-3-54.1, whose crime was
81 committed on or after July 1, 2014, shall be eligible for parole;

82 (f) **Drug trafficking.** No person sentenced for
83 trafficking and aggravated trafficking, as defined in Section
84 41-29-139(f) through (g), shall be eligible for parole;

85 (g) **Offenses specifically prohibiting parole release.**
86 No person shall be eligible for parole who is convicted of any
87 offense that specifically prohibits parole release;

88 (h) (i) **Offenders eligible for parole consideration**
89 **for offenses committed after June 30, 1995.** Except as provided in
90 paragraphs (a) through (g) of this subsection, offenders may be
91 considered eligible for parole release as follows:

92 1. **Nonviolent crimes.** All persons sentenced
93 for a nonviolent offense shall be eligible for parole only after
94 they have served twenty-five percent (25%) or ten (10) years,
95 whichever is less, of the sentence or sentences imposed by the



96 trial court. For purposes of this paragraph, "nonviolent crime"
97 means a felony not designated as a crime of violence in Section
98 97-3-2.

99 2. **Violent crimes.** A person who is sentenced
100 for a violent offense as defined in Section 97-3-2, except robbery
101 with a deadly weapon as defined in Section 97-3-79, drive-by
102 shooting as defined in Section 97-3-109, and carjacking as defined
103 in Section 97-3-117, shall be eligible for parole only after
104 having served fifty percent (50%) or twenty (20) years, whichever
105 is less, of the sentence or sentences imposed by the trial court.
106 Those persons sentenced for robbery with a deadly weapon as
107 defined in Section 97-3-79, drive-by shooting as defined in
108 Section 97-3-109, and carjacking as defined in Section 97-3-117,
109 shall be eligible for parole only after having served sixty
110 percent (60%) or twenty-five (25) years, whichever is less, of the
111 sentence or sentences imposed by the trial court.

112 3. **Nonviolent and nonhabitual drug offenses.**
113 A person who has been sentenced to a drug offense pursuant to
114 Section 41-29-139(a) through (d), whose crime was committed after
115 June 30, 1995, shall be eligible for parole only after he has
116 served twenty-five percent (25%) or ten (10) years, whichever is
117 less, of the sentence or sentences imposed.

118 (ii) **Parole hearing required.** All persons
119 eligible for parole under subparagraph (i) of this paragraph (h)
120 who are serving a sentence or sentences for a crime of violence,



121 as defined in Section 97-3-2, shall be required to have a parole
122 hearing before the Parole Board pursuant to Section 47-7-17, prior
123 to parole release.

124 (iii) **Geriatric parole.** Notwithstanding the
125 provisions in subparagraph (i) of this paragraph (h), a person
126 serving a sentence who has reached the age of sixty (60) or older
127 and who has served no less than ten (10) years of the sentence or
128 sentences imposed by the trial court shall be eligible for parole.
129 Any person eligible for parole under this subparagraph (iii) shall
130 be required to have a parole hearing before the board prior to
131 parole release. No inmate shall be eligible for parole under this
132 subparagraph (iii) of this paragraph (h) if:

133 1. The inmate is sentenced as a habitual
134 offender under Sections 99-19-81 through 99-19-87;

135 2. The inmate is sentenced for a crime of
136 violence under Section 97-3-2;

137 3. The inmate is sentenced for an offense
138 that specifically prohibits parole release;

139 4. The inmate is sentenced for trafficking in
140 controlled substances under Section 41-29-139(f);

141 5. The inmate is sentenced for a sex crime;

142 or

143 6. The inmate has not served one-fourth (1/4)
144 of the sentence imposed by the court.



145 (iv) **Parole consideration as authorized by the**
146 **trial court.** Notwithstanding the provisions of paragraph (a) of
147 this subsection, any offender who has not committed a crime of
148 violence under Section 97-3-2 and has served twenty-five percent
149 (25%) or more of his sentence may be paroled by the State Parole
150 Board if, after the sentencing judge or if the sentencing judge is
151 retired, disabled or incapacitated, the senior circuit judge
152 authorizes the offender to be eligible for parole consideration;
153 or if the senior circuit judge must be recused, another circuit
154 judge of the same district or a senior status judge may hear and
155 decide the matter. A petition for parole eligibility
156 consideration pursuant to this subparagraph (iv) shall be filed in
157 the original criminal cause or causes, and the offender shall
158 serve an executed copy of the petition on the District Attorney.
159 The court may, in its discretion, require the District Attorney to
160 respond to the petition.

161 (2) The State Parole Board shall, by rules and regulations,
162 establish a method of determining a tentative parole hearing date
163 for each eligible offender taken into the custody of the
164 Department of Corrections. The tentative parole hearing date
165 shall be determined within ninety (90) days after the department
166 has assumed custody of the offender. Except as provided in
167 Section 47-7-18, the parole hearing date shall occur when the
168 offender is within thirty (30) days of the month of his parole



169 eligibility date. Any parole eligibility date shall not be
170 earlier than as required in this section.

171 (3) Notwithstanding any other provision of law, an inmate
172 shall not be eligible to receive earned time, good time or any
173 other administrative reduction of time which shall reduce the time
174 necessary to be served for parole eligibility as provided in
175 subsection (1) of this section.

176 (4) Any inmate within forty-eight (48) months of his parole
177 eligibility date and who meets the criteria established by the
178 classification board shall receive priority for placement in any
179 educational development and job-training programs that are part of
180 his or her parole case plan. Any inmate refusing to participate
181 in an educational development or job-training program, including,
182 but not limited to, programs required as part of the case plan,
183 shall be in jeopardy of noncompliance with the case plan and may
184 be denied parole.

185 (5) In addition to other requirements, if an offender is
186 convicted of a drug or driving under the influence felony, the
187 offender must complete a drug and alcohol rehabilitation program
188 prior to parole, or the offender shall be required to complete a
189 postrelease drug and alcohol program as a condition of parole.

190 (6) Except as provided in subsection (1)(a) through (h) of
191 this section, all other persons shall be eligible for parole after
192 serving twenty-five percent (25%) of the sentence or sentences
193 imposed by the trial court, or, if sentenced to thirty (30) years



194 or more, after serving ten (10) years of the sentence or sentences
195 imposed by the trial court.

196 (7) The Corrections and Criminal Justice Oversight Task
197 Force established in Section 47-5-6 shall develop and submit
198 recommendations to the Governor and to the Legislature annually on
199 or before December 1st concerning issues relating to juvenile and
200 habitual offender parole reform and to review and monitor the
201 implementation of Chapter 479, Laws of 2021.

202 (8) The amendments contained in Chapter 479, Laws of 2021,
203 shall apply retroactively from and after July 1, 1995.

204 (9) Notwithstanding provisions to the contrary in this
205 section, a person who was sentenced before July 1, 2021, may be
206 considered for parole if the person's sentence would have been
207 parole eligible before July 1, 2021.

208 (10) This section shall stand repealed on July 1, * * *
209 2027.

210 **SECTION 4.** Section 47-5-139, Mississippi Code of 1972, is
211 amended as follows:

212 47-5-139. (1) An inmate shall not be eligible for the
213 earned time allowance if:

214 (a) The inmate was sentenced to life imprisonment; but
215 an inmate, except an inmate sentenced to life imprisonment for
216 capital murder, who has reached the age of sixty-five (65) or
217 older and who has served at least fifteen (15) years may petition
218 the sentencing court for conditional release;



219 (b) The inmate * * * is serving a sentence for a crime
220 of violence as defined by Section 97-3-2, and was convicted as a
221 habitual offender under Sections 99-19-81 through 99-19-87;

222 (c) The inmate has forfeited his earned time allowance
223 by order of the commissioner;

224 (d) The inmate was convicted of a sex crime; or

225 (e) The inmate has not served the mandatory time
226 required for parole eligibility for a conviction of robbery or
227 attempted robbery with a deadly weapon.

228 (2) An offender under two (2) or more consecutive sentences
229 shall be allowed commutation based upon the total term of the
230 sentences.

231 (3) All earned time shall be forfeited by the inmate in the
232 event of escape and/or aiding and abetting an escape. The
233 commissioner may restore all or part of the earned time if the
234 escapee returns to the institution voluntarily, without expense to
235 the state, and without act of violence while a fugitive from the
236 facility.

237 (4) Any officer or employee who shall willfully violate the
238 provisions of this section and be convicted therefor shall be
239 removed from office or employment.

240 **SECTION 5.** Section 47-5-138.1, Mississippi Code of 1972, is
241 amended as follows:

242 47-5-138.1. (1) In addition to any other administrative
243 reduction of sentence, an offender in trusty status as defined by



244 the classification board of the Department of Corrections may be
245 awarded a trusty-time allowance of thirty (30) days' reduction of
246 sentence for each thirty (30) days of participation during any
247 calendar month in an approved program while in trusty status,
248 including satisfactory participation in education or instructional
249 programs, satisfactory participation in work projects and
250 satisfactory participation in any special incentive program.

251 (2) An offender in trusty status shall not be eligible for a
252 reduction of sentence under this section if:

253 (a) The offender was sentenced to life imprisonment;

254 (b) The offender * * * is serving a sentence for a
255 crime of violence as defined by Section 97-3-2, and was convicted
256 as an habitual offender under Sections 99-19-81 through 99-19-87;

257 (c) The offender was convicted of a sex crime;

258 (d) The offender has not served the mandatory time
259 required for parole eligibility, as prescribed under Section
260 47-7-3, for a conviction of robbery or attempted robbery through
261 the display of a deadly weapon, carjacking through the display of
262 a deadly weapon or a drive-by shooting; or

263 (e) The offender was convicted of trafficking in
264 controlled substances under Section 41-29-139.

265 **SECTION 6.** This act shall take effect and be in force from
266 and after July 1, 2024.

