MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representatives Bell (65th), Hudson To: Corrections

HOUSE BILL NO. 620

AN ACT TO CREATE THE "MISSISSIPPI CORRECTIONAL SAFETY AND REHABILITATION ACT OF 2021"; TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO PRESCRIBE CERTAIN CONDITIONS FOR PAROLE ELIGIBILITY AND TO PROVIDE LIMITATIONS ON INMATE ELIGIBILITY FOR PAROLE WHEN AN INMATE HAS BEEN CONVICTED OF CERTAIN CRIMES; TO PROHIBIT AN INDIVIDUAL WHO IS SERVING A SENTENCE FOR COMMITTING A CRIME OF VIOLENCE FROM PETITIONING THE SENTENCING COURT FOR PAROLE UNLESS A CERTAIN CRIME OF VIOLENCE WAS COMMITTED; TO PROVIDE THAT IF AN INDIVIDUAL COMMITTED A CRIME WHEN HE OR SHE WAS UNDER THE AGE OF 18 AND THE INDIVIDUAL IS OTHERWISE INELIGIBLE FOR PAROLE, AT AN EARLIER DATE, THEN SUCH INDIVIDUAL SHALL BE ELIGIBLE FOR PAROLE UNDER CERTAIN CONDITIONS; TO AMEND SECTION 47-7-3.1, MISSISSIPPI CODE OF 1972, TO REVISE THE TIME FRAME IN WHICH THE DEPARTMENT OF CORRECTIONS MUST PROVIDE CASE PLANS FOR PAROLE-ELIGIBLE INMATES; TO AMEND SECTION 47-7-3.2, MISSISSIPPI CODE OF 1972, TO ADD A CERTAIN EXCEPTION TO THE MINIMUM PERCENTAGE OF TIME THAT AN OFFENDER MUST SERVE BEFORE BECOMING PAROLE ELIGIBLE; TO AMEND SECTION 47-7-17, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE PAROLE BOARD TO ORDER A PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION FOR AN INMATE IF THE BOARD DEEMS SUCH EXAMINATION IS NEEDED TO MAKE A PAROLE DECISION; TO PROVIDE THAT THE VICTIM OR DESIGNATED FAMILY MEMBER SHALL, UPON REQUEST, BE PROVIDED AN OPPORTUNITY TO BE HEARD BY THE PAROLE BOARD BEFORE A PAROLE DECISION IS MADE BY THE BOARD; TO AMEND SECTION 47-7-18, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT A HEARING BE HAD BEFORE THE PAROLE BOARD BEFORE AN OFFENDER CONVICTED OF A CRIME OF VIOLENCE MAY BE CONSIDERED FOR PAROLE; TO AMEND SECTION 97-3-2, MISSISSIPPI CODE OF 1972, TO REMOVE THE REQUIREMENT THAT IF AN INDIVIDUAL IS CONVICTED OF CERTAIN CRIMES OF VIOLENCE, THEN SUCH INDIVIDUAL IS INELIGIBLE FOR PAROLE OR EARLY RELEASE UNTIL A CERTAIN PERCENTAGE OF HIS OR HER SENTENCE IS SERVED; TO AMEND SECTION 47-5-28, MISSISSIPPI CODE OF 1972, TO INCREASE FROM 100 TO 300 THE MINIMUM NUMBER OF TRANSITIONAL REENTRY CENTER BEDS THAT

THE COMMISSIONER OF CORRECTIONS MUST CONTRACT FOR THE DEPARTMENT OF CORRECTIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the "Mississippi Correctional Safety and Rehabilitation Act of 2021."

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

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

(a) **Habitual offenders.** No * * * person sentenced as a * * * habitual * * *offender under the provisions of Sections 99-19-81 through 99-19-87 shall be eligible for parole;

(b) **Sex offenses.** * * * No person * * * serving a sentence for a sex crime, as defined under Section 45-33-23 (h), shall * * * be eligible for parole * * *;

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(*** * ***c) **Capital murder.** No person *** * *** serving a sentence for capital murder committed on or after July 1, 1994, *** * *** shall be eligible for parole;

*** * ***

(d) **Offenses that specifically prohibit parole release.** No person serving a sentence for an offense that specifically prohibits parole release shall be eligible for parole;

*** * ***

(e) **Offenses committed after June 30, 1995.** Except as provided in paragraphs (a) through (d) of this subsection (1):

(i) A person serving a sentence for a crime of violence, as defined under Section 97-3-2, committed after June 30, 1995, shall be eligible for parole after serving fifty percent (50%) or twenty-five (25) years, whichever is less, of the sentence or sentences imposed by the trial court. All persons eligible for parole under this subparagraph (i) of this paragraph (e) shall be required to have a parole hearing before the board, pursuant to Section 47-7-17, prior to release on parole;

(ii) All persons serving a sentence for any other offense, committed after June 30, 1995, shall be eligible for parole after serving twenty-five percent (25%) or ten (10) years, whichever is less, of the sentence or sentences imposed by the trial court;

*** * *** (f) **Geriatric parole.** Notwithstanding *** * *** any other provision of law, a person serving a sentence who has reached the age of sixty (60) or older and who has served no less than ten (10) years of the sentence or sentences imposed by the trial court shall be eligible for parole. Any person eligible for parole under this subsection shall be required to have a parole hearing before the board, pursuant to Section 47-7-17, prior to parole release. No *** * *** person shall be eligible for parole under *** * *** this paragraph (*** * ***f) if:

1. The *** * *** person is sentenced as a habitual offender under Sections 99-19-81 through 99-19-87;

2. The *** * *** person is sentenced for a crime of violence under Section 97-3-2;

3. The *** * *** person is sentenced for an offense that specifically prohibits parole release;

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

5. The *** * *** person is sentenced for a sex crime; or

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

(g) *** * * Parole as authorized by the sentencing court.** Notwithstanding *** * *** any other provision of law, any *** * *** person who *** * *** has served twenty-five percent (25%) or ten (10) years, whichever is less, *** * *** of *** * *** the sentence or sentences

imposed by the trial court, may be paroled by the parole board if * * * the sentencing judge, or if the sentencing judge is retired, disabled or incapacitated, the senior circuit judge authorizes the offender to be eligible for parole consideration; or if that senior circuit judge must be recused, another circuit judge of the same district or a senior status judge may hear and decide the matter * * *. No person serving a sentence for a crime of violence, as defined under Section 97-3-2, except for a person serving a sentence for the crime of burglary of a dwelling, as provided in Section 97-17-23, shall be eligible to petition the sentencing court for parole eligibility under this paragraph (g);

(h) * * * **Juvenile offenders.** Notwithstanding any other provision of law, all persons who were under the age of eighteen (18) at the time of their crimes, and who are not otherwise eligible for parole at an earlier date, shall be eligible for parole after they have served twenty (20) years of the sentence or sentences imposed by the trial court. All persons eligible for parole under this subsection shall be required to have a parole hearing before the board, pursuant to Section 47-7-17, prior to release.

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

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

(4) Any inmate within twenty-four (24) months of his parole eligibility date and who meets the criteria established by the classification board shall receive priority for placement in any educational development and job training programs that are part of his or her parole case plan. Any inmate refusing to participate in an educational development or job training program that is part of the case plan may be in jeopardy of noncompliance with the case plan and may be denied parole.

SECTION 3. Section 47-7-3.1, Mississippi Code of 1972, is amended as follows:

47-7-3.1. (1) In consultation with the Parole Board, the department shall develop a case plan for all parole eligible inmates to guide an inmate's rehabilitation while in the department's custody and to reduce the likelihood of recidivism after release.

(2) * * * The case plan shall include, but not be limited to:

(a) Programming and treatment requirements based on the results of a risk and needs assessment;

(b) Any programming or treatment requirements contained in the sentencing order; and

(c) General behavior requirements in accordance with the rules and policies of the department.

(3) With respect to parole-eligible inmates admitted to the department's custody on or after July 1, 2021, the department shall complete the case plan within ninety (90) days of admission. With respect to parole-eligible inmates admitted to the department's custody prior to July 1, 2021, the department shall complete the case plan by January 1, 2022.

(* * *4) The department shall provide the inmate with a written copy of the case plan and the inmate's caseworker shall explain the conditions set forth in the case plan.

(a) Within ninety (90) days of admission, the caseworker shall notify the inmate of their parole eligibility date as calculated in accordance with Section 47-7-3(3);

(b) At the time a parole-eligible inmate receives the case plan, the department shall send the case plan to the Parole Board for approval.

(* * *5) With respect to parole-eligible inmates admitted to the department's custody after July 1, 2021, the department

shall ensure that the case plan is achievable prior to the inmate's parole eligibility date. With respect to parole-eligible inmates admitted to the department's custody prior to July 1, 2021, the department shall, to the extent possible, ensure that the case plan is achievable prior to the inmate's parole eligibility date or next parole hearing date.

(* * *6) The caseworker shall meet with the inmate every eight (8) weeks from the date the offender received the case plan to review the inmate's case plan progress.

(* * *7) Every four (4) months the department shall electronically submit a progress report on each parole-eligible inmate's case plan to the Parole Board. The board may meet to review an inmate's case plan and may provide written input to the caseworker on the inmate's progress toward completion of the case plan.

(* * *8) The Parole Board shall provide semiannually to the Oversight Task Force the number of parole hearings held, the number of prisoners released to parole without a hearing and the number of parolees released after a hearing.

SECTION 4. Section 47-7-3.2, Mississippi Code of 1972, is amended as follows:

47-7-3.2. * * * Notwithstanding Sections 47-5-138, 47-5-139, 47-5-138.1 or 47-5-142, and except as provided in subparagraphs (e) through (h) of paragraph (1) of Section 47-7-3, no person convicted of a criminal offense on or after July 1, 2014, shall be

released by the department until he or she has served no less than fifty percent (50%) of a sentence for a crime of violence, as defined *** * *** by Section 97-3-2 or twenty-five percent (25%) of any other sentence imposed by the court.

*** * ***

SECTION 5. Section 47-7-17, Mississippi Code of 1972, is amended as follows:

47-7-17. (1) Within one (1) year after his admission and at such intervals thereafter as it may determine, the board shall secure and consider all pertinent information regarding each offender, except any under sentence of death or otherwise ineligible for parole, including the circumstances of his offense, his previous social history, his previous criminal record, including any records of law enforcement agencies or of a youth court regarding that offender's juvenile criminal history, his conduct, employment and attitude while in the custody of the department, the offender's history of payments towards court-ordered fines, fees and restitution, the case plan created to prepare the offender for parole, and the reports of such physical and mental examinations as have been made. The Parole Board may also order a psychiatric or psychological examination when it determines such examination is necessary in making a parole decision. The board shall furnish at least three (3) months' written notice to each such offender of the date on which he is eligible for parole.

(2) * * * Except as provided under Section 47-7-18, the board * * * shall require a parole-eligible offender to have a hearing as required in this chapter before the board and to be interviewed. The hearing shall be held no later than thirty (30) days prior to the month of eligibility. No application for parole of a person convicted of a capital offense shall be considered by the board unless and until notice of the filing of such application shall have been published at least once a week for two (2) weeks in a newspaper published in or having general circulation in the county in which the crime was committed. The board shall, within thirty (30) days prior to the scheduled hearing, also give notice of the filing of the application for parole to the victim of the offense for which the prisoner is incarcerated and being considered for parole or, in case the offense be homicide, a designee of the immediate family of the victim, provided the victim or designated family member has furnished in writing a current address to the board for such purpose. Upon request, the victim or designated family member shall be provided an opportunity to be heard by the board before the board makes a decision regarding release on parole.

(3) Parole release shall, at the hearing, be ordered only for the best interest of society, not as an award of clemency; it shall not be considered to be a reduction of sentence or pardon. An offender shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and

care, and when the board believes that he is able and willing to fulfill the obligations of a law-abiding citizen. When the board determines that the offender will need transitional housing upon release in order to improve the likelihood of * * * the offender becoming a law-abiding citizen, the board may parole the offender with the condition that the inmate spends no more than six (6) months in a transitional reentry center. At least fifteen (15) days prior to the release of an offender on parole, the director of records of the department shall give the written notice which is required pursuant to Section 47-5-177. Every offender while on parole shall remain in the legal custody of the department from which he was released and shall be amenable to the orders of the board. Upon determination by the board that an offender is eligible for release by parole, notice shall also be given within at least fifteen (15) days before release, by the board to the victim of the offense or the victim's family member, as indicated above, regarding the date when the offender's release shall occur, provided a current address of the victim or the victim's family member has been furnished in writing to the board for such purpose.

Failure to provide notice to the victim or the victim's family member of the filing of the application for parole or of any decision made by the board regarding parole shall not

constitute grounds for vacating an otherwise lawful parole determination nor shall it create any right or liability, civilly or criminally, against the board or any member thereof.

A letter of protest against granting an offender parole shall not be treated as the conclusive and only reason for not granting parole.

(4) The board may adopt such other rules not inconsistent with law as it may deem proper or necessary with respect to the eligibility of offenders for parole, the conduct of parole hearings, or conditions to be imposed upon parolees, including a condition that the parolee submit, as provided in Section 47-5-601 to any type of breath, saliva or urine chemical analysis test, the purpose of which is to detect the possible presence of alcohol or a substance prohibited or controlled by any law of the State of Mississippi or the United States. The board shall have the authority to adopt rules related to the placement of certain offenders on unsupervised parole and for the operation of transitional reentry centers. However, in no case shall an offender be placed on unsupervised parole before he has served a minimum of fifty percent (50%) of the period of supervised parole.

SECTION 6. Section 47-7-18, Mississippi Code of 1972, is amended as follows:

47-7-18. (1) No inmate serving a sentence for a crime of violence, as defined under Section 97-3-2, shall be released on parole without a hearing before the parole board, pursuant to

Section 47-7-17. * * * All other inmates eligible for parole pursuant to Section 47-7-3, shall be released from incarceration to parole supervision on the inmate's parole eligibility date, without a hearing before the board, if:

(a) The inmate has met the requirements of the parole case plan established pursuant to Section 47-7-3.1;

(b) A victim of the offense has not requested the board conduct a hearing;

(c) The inmate has not received a serious or major violation report within the past six (6) months;

(d) The inmate has agreed to the conditions of supervision; and

(e) The inmate has a discharge plan approved by the board.

(2) At least thirty (30) days prior to an inmate's parole eligibility date, the department shall notify the board in writing of the inmate's compliance or noncompliance with the case plan. If an inmate fails to meet a requirement of the case plan, prior to the parole eligibility date, he or she shall have a hearing before the board to determine if completion of the case plan can occur while in the community.

(3) Any inmate for whom there is insufficient information for the department to determine compliance with the case plan shall have a hearing with the board.

(4) A hearing shall be held with the board if requested by the victim following notification of the inmate's parole release date pursuant to Section 47-7-17.

(5) A hearing shall be held by the board if a law enforcement official from the community to which the inmate will return contacts the board or the department and requests a hearing to consider information relevant to public safety risks posed by the inmate if paroled at the initial parole eligibility date. The law enforcement official shall submit an explanation documenting these concerns for the board to consider.

(6) If a parole hearing is held, the board may determine the inmate has sufficiently complied with the case plan or that the incomplete case plan is not the fault of the inmate and that granting parole is not incompatible with public safety, the board may then parole the inmate with appropriate conditions. If the board determines that the inmate has sufficiently complied with the case plan but the discharge plan indicates that the inmate does not have appropriate housing immediately upon release, the board may parole the inmate to a transitional reentry center with the condition that the inmate spends no more than six (6) months in the center. If the board determines that the inmate has not substantively complied with the requirement(s) of the case plan it may deny parole. If the board denies parole, the board may schedule a subsequent parole hearing and, if a new date is scheduled, the board shall identify the corrective action the

inmate will need to take in order to be granted parole. Any inmate not released at the time of the inmate's initial parole date shall have a parole hearing at least every year.

SECTION 7. Section 97-3-2, Mississippi Code of 1972, is amended as follows:

97-3-2. (1) The following shall be classified as crimes of violence:

(a) Driving under the influence as provided in Sections 63-11-30(5) and 63-11-30(12)(d);

(b) Murder and attempted murder as provided in Sections 97-1-7(2), 97-3-19, 97-3-23 and 97-3-25;

(c) Aggravated assault as provided in Sections 97-3-7(2)(a) and (b) and 97-3-7(4)(a);

(d) Manslaughter as provided in Sections 97-3-27, 97-3-29, 97-3-31, 97-3-33, 97-3-35, 97-3-39, 97-3-41, 97-3-43, 97-3-45 and 97-3-47;

(e) Killing of an unborn child as provided in Sections 97-3-37(2)(a) and 97-3-37(2)(b);

(f) Kidnapping as provided in Section 97-3-53;

(g) Human trafficking as provided in Section 97-3-54.1;

(h) Poisoning as provided in Section 97-3-61;

(i) Rape as provided in Sections 97-3-65 and 97-3-71;

(j) Robbery as provided in Sections 97-3-73 and 97-3-79;

(k) Sexual battery as provided in Section 97-3-95;

(l) Drive-by shooting or bombing as provided in Section 97-3-109;

(m) Carjacking as provided in Section 97-3-117;

(n) Felonious neglect, abuse or battery of a child as provided in Section 97-5-39;

(o) Burglary of a dwelling as provided in Sections 97-17-23 and 97-17-37;

(p) Use of explosives or weapons of mass destruction as provided in Section 97-37-25;

(q) Statutory rape as provided in Section 97-3-65(1), but this classification is rebuttable on hearing by a judge;

(r) Exploitation of a child as provided in Section 97-5-33;

(s) Gratification of lust as provided in Section 97-5-23; and

(t) Shooting into a dwelling as provided in Section 97-37-29.

(2) In any felony offense with a maximum sentence of no less than five (5) years, upon conviction, the judge may find and place in the sentencing order, on the record in open court, that the offense, while not listed in subsection (1) of this section, shall be classified as a crime of violence if the facts show that the defendant used physical force, or made a credible attempt or threat of physical force against another person as part of the criminal act. *** * ***

SECTION 8. Section 47-5-28, Mississippi Code of 1972, is amended as follows:

47-5-28. The commissioner shall have the following powers and duties:

(a) To implement and administer laws and policy relating to corrections and coordinate the efforts of the department with those of the federal government and other state departments and agencies, county governments, municipal governments, and private agencies concerned with providing offender services;

(b) To establish standards, in cooperation with other state agencies having responsibility as provided by law, provide technical assistance, and exercise the requisite supervision as it relates to correctional programs over all state-supported adult correctional facilities and community-based programs;

(c) To promulgate and publish such rules, regulations and policies of the department as are needed for the efficient government and maintenance of all facilities and programs in accord insofar as possible with currently accepted standards of adult offender care and treatment;

(d) To provide the Parole Board with suitable and sufficient office space and support resources and staff necessary to *** * *** conduct Parole Board business under the guidance of the Chairman of the Parole Board;

(e) To contract for transitional reentry center beds that will be used as noncorrections housing for offenders released from the department on parole, probation or post-release supervision but do not have appropriate housing available upon release. At least * * * three hundred (* * *300) but no more than eight hundred (800) transitional reentry center beds contracted by the department and chosen by the Parole Board shall be available for the Parole Board to place parolees without appropriate housing;

(f) To designate deputy commissioners while performing their officially assigned duties relating to the custody, control, transportation, recapture or arrest of any offender within the jurisdiction of the department or any offender of any jail, penitentiary, public workhouse or overnight lockup of the state or any political subdivision thereof not within the jurisdiction of the department, to the status of peace officers anywhere in the state in any matter relating to the custody, control, transportation or recapture of such offender, and shall have the status of law enforcement officers and peace officers as contemplated by Sections 45-6-3, 97-3-7 and 97-3-19.

For the purpose of administration and enforcement of this chapter, deputy commissioners of the Mississippi Department of Corrections, who are certified by the Mississippi Board on Law Enforcement Officer Standards and Training, have the powers of a law enforcement officer of this state. Such powers shall include

to make arrests and to serve and execute search warrants and other valid legal process anywhere within the State of Mississippi while performing their officially assigned duties relating to the custody, control, transportation, recapture or arrest of any offender within the jurisdiction of the department or any offender of any jail, penitentiary, public workhouse or overnight lockup of the state or any political subdivision thereof not within the jurisdiction of the department in any matter relating to the custody, control, transportation or recapture of such offender *** * ***;

(g) To make an annual report to the Governor and the Legislature reflecting the activities of the department and make recommendations for improvement of the services to be performed by the department;

(h) To cooperate fully with periodic independent internal investigations of the department and to file the report with the Governor and the Legislature;

(i) To make personnel actions for a period of one (1) year beginning July 1, 2016, that are exempt from State Personnel Board rules, regulations and procedures in order to give the commissioner flexibility in making an orderly, effective and timely reorganization and realignment of the department; and

(j) To perform such other duties necessary to effectively and efficiently carry out the purposes of the department as may be directed by the Governor.

SECTION 9. This act shall take effect and be in force from and after July 1, 2021.

ST: "Mississippi Correctional Safety and Rehabilitation Act of 2021"; create.