

By: Representatives Gipson, Bomgar, Karriem, To: Judiciary B
Sykes, Kinkade, Clark

HOUSE BILL NO. 1033
(As Sent to Governor)

1 AN ACT TO PROVIDE THAT INCARCERATION SHALL NOT AUTOMATICALLY
2 FOLLOW THE NONPAYMENT OF A FINE, RESTITUTION, OR COURT COSTS; TO
3 PROVIDE THAT THE AGGREGATE TOTAL OF THE PERIOD OF INCARCERATION
4 IMPOSED PURSUANT TO THIS SECTION AND THE TERM OF THE SENTENCE
5 ORIGINALLY IMPOSED MAY NOT EXCEED THE MAXIMUM TERM OF IMPRISONMENT
6 AUTHORIZED FOR THE OFFENSE; TO AMEND SECTIONS 99-19-20, 99-37-7
7 AND 47-1-1, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
8 PRECEDING SECTIONS; TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF
9 1972, TO PROVIDE THAT AN OTHERWISE INELIGIBLE INMATE FOR PAROLE
10 SHALL BE ELIGIBLE FOR PAROLE IF AN INMATE HAS NOT BEEN CONVICTED
11 OF COMMITTING A CRIME OF VIOLENCE, DRUG TRAFFICKING OR AS A
12 HABITUAL OFFENDER AND HE OR SHE HAS SERVED AT LEAST 25% OF HIS OR
13 HER SENTENCE; TO REQUIRE THE JOINT LEGISLATIVE COMMITTEE ON
14 PERFORMANCE EVALUATION AND EXPENDITURE REVIEW TO CONDUCT A ONE
15 TIME CENSUS OF JAIL POPULATIONS THROUGHOUT THE STATE; TO CREATE
16 THE MISSISSIPPI SENTENCING DISPARITY TASK FORCE; TO APPOINT THE
17 MEMBERS TO THE TASK FORCE; TO AMEND SECTIONS 47-7-27 and 47-7-37,
18 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE NUMBER OF PRIOR
19 REVOCATIONS RATHER THAN THE NUMBER OF ALLEGED TECHNICAL VIOLATIONS
20 SHALL BE CONSIDERED FOR PURPOSES OF REVOCATION SENTENCING; TO
21 AMEND SECTION 99-19-81, MISSISSIPPI CODE OF 1972, TO REVISE
22 SENTENCING OF CERTAIN OFFENDERS AS HABITUAL OFFENDERS; AND FOR
23 RELATED PURPOSES.

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

25 **SECTION 1.** (1) Incarceration shall not automatically follow
26 the nonpayment of a fine, restitution, court order or court costs.
27 Incarceration may be employed only after the court has conducted a
28 hearing and examined the reasons for nonpayment and finds, on the



29 record, that the defendant was not indigent or could have made
30 payment but refused to do so. When determining whether a person
31 is indigent, the court shall use the current Federal Poverty
32 Guidelines and there shall be a presumption of indigence when a
33 defendant's income is at or below one hundred twenty-five percent
34 (125%) of the Federal Poverty Guidelines, subject to a review of
35 his or her assets. A defendant at or below one hundred
36 twenty-five percent (125%) of the Federal Poverty Guidelines
37 without substantial liquid assets available to pay fines, fees,
38 and costs shall be deemed indigent. In determining whether a
39 defendant has substantial liquid assets, the judge shall not
40 consider up to Ten Thousand Dollars (\$10,000.00) in tangible
41 personal property, including motor vehicles, household goods, or
42 any other assets exempted from seizure under execution or
43 attachment as provided under Section 85-3-1. If the defendant is
44 above one hundred twenty-five percent (125%) of the Federal
45 Poverty Guidelines, the judge shall make an individualized
46 assessment of his or her ability to pay based on the totality of
47 the circumstances including, but not limited to, the defendant's
48 disposable income, financial obligations and liquid assets. If
49 the judge determines that a defendant who claims indigence is not
50 indigent and the defendant could have made payment but refused to
51 do so, the case file shall include a written explanation of the
52 basis for the determination of the judge. In justice and



53 municipal court, such finding shall be included in the court's
54 order.

55 (2) If it appears to the satisfaction of the court that
56 nonpayment is not willful, the court shall enter an order that
57 allows the defendant additional time for payment, reduces the
58 amount of each installment, revokes the fine, in whole or in part,
59 or allows the defendant to perform community service at the state
60 minimum wage per hour rate. If the court finds nonpayment is
61 willful after consideration of the defendant's situation, means,
62 and conduct with regard to the nonpayment, the court shall
63 determine the period of incarceration, if any, subject to the
64 limitations set by law and subsection (3) of this section.

65 (3) If, at the time the fine, restitution or court cost is
66 ordered, a sentence of incarceration is also imposed, the
67 aggregate total of the period of incarceration imposed pursuant to
68 this section and the term of the sentence originally imposed
69 may not exceed the maximum term of imprisonment authorized for the
70 offense.

71 (4) A person who is to serve as a confidential informant
72 must be notified that the person has the right to contact an
73 attorney and, if a minor, the right to contact one or both
74 parents.

75 **SECTION 2.** Section 99-19-20, Mississippi Code of 1972, is
76 amended as follows:



77 99-19-20. (1) Except as otherwise provided under Section 1
78 of this act, when any court sentences a defendant to pay a fine,
79 the court may order (a) that the fine be paid immediately, or (b)
80 that the fine be paid in installments to the clerk of * * * the
81 court or to the judge, if there be no clerk, or (c) that payment
82 of the fine be a condition of probation, or (d) that the defendant
83 be required to work on public property for public benefit under
84 the direction of the sheriff for a specific number of hours, or
85 (e) any combination of the above.

86 (2) Except as otherwise provided under Section 1 of this
87 act, the defendant may be imprisoned until the fine is paid if the
88 defendant is financially able to pay a fine and the court so
89 finds, subject to the limitations * * * provided under this
90 section. The defendant shall not be imprisoned if the defendant
91 is financially unable to pay a fine and so states to the court in
92 writing, under oath, after sentence is pronounced, and the court
93 so finds, except if the defendant is financially unable to pay a
94 fine and such defendant failed or refused to comply with a prior
95 sentence as specified in subsection (1) of this section, the
96 defendant may be imprisoned.

97 This subsection shall be limited as follows:

98 (a) In no event shall such period of imprisonment
99 exceed one (1) day for each * * * One Hundred Dollars (\$100.00) of
100 the fine. * * *



101 (b) If a sentence of imprisonment, as well as a fine,
102 were imposed, the aggregate of such term for nonpayment of a fine
103 and the original sentence of imprisonment shall not exceed the
104 maximum authorized term of imprisonment.

105 (c) It shall be in the discretion of the judge to
106 determine the rate of the credit to be earned for work performed
107 under subsection (1)(d), but the rate shall be no lower than the
108 rate of the highest current federal minimum wage.

109 (3) Periods of confinement imposed for nonpayment of two (2)
110 or more fines shall run consecutively unless specified by the
111 court to run concurrently.

112 **SECTION 3.** Section 99-37-7, Mississippi Code of 1972, is
113 amended as follows:

114 99-37-7. (1) Subject to the provisions of Section 1 of this
115 act, when a defendant sentenced to pay a fine or to make
116 restitution defaults in the payment thereof or of any installment,
117 the court, on motion of the district attorney, or upon its own
118 motion, may require him to show cause why his default should not
119 be treated as contempt of court, and may issue a show cause
120 citation or a warrant of arrest for his appearance.

121 (2) Subject to the provisions of Section 1 of this act,
122 unless the defendant shows that his default was not attributable
123 to an intentional refusal to obey the order of the court or to a
124 failure on his part to make a good faith effort to make the
125 payment, the court may find that his default constitutes contempt



126 and may order him committed until the fine or the restitution, or
127 a specified part thereof, is paid.

128 (3) A judicial officer shall not be held criminally or
129 civilly liable for failure of any defendant to pay any fine or to
130 make restitution if the officer exercises his judicial authority
131 in accordance with subsections (1) and (2) of this section to
132 require the payment of such fine or restitution.

133 (4) When a fine or an order of restitution is imposed on a
134 corporation or unincorporated association, it is the duty of the
135 person authorized to make disbursement from the assets of the
136 corporation or association to pay the fine or make the restitution
137 from those assets, and his failure to do so may be held to be
138 contempt unless he makes the showing required in subsection (2) of
139 this section.

140 **SECTION 4.** Section 47-1-1, Mississippi Code of 1972, is
141 amended as follows:

142 47-1-1. Every convict sentenced to imprisonment in the
143 county jail, or to such imprisonment and the payment of a fine, or
144 the payment of a fine, shall be committed to jail, and shall
145 remain in close confinement for the full time specified for
146 imprisonment in the sentence of the court, and in like
147 confinement, subject to the provisions of Section 1 of this act,
148 until the fine, costs and jail fees be fully paid, unless
149 discharged in due course of law, or as hereinafter provided. * * *
150 Subject to the provisions of Section 1 of this act, no convict



151 shall be held in continuous confinement under a conviction for any
152 one (1) offense for failure to pay fine and costs in such case for
153 a period of more than * * * one (1) year.

154 **SECTION 5.** Section 47-7-3, Mississippi Code of 1972, is
155 amended as follows:

156 47-7-3. (1) Every prisoner who has been convicted of any
157 offense against the State of Mississippi, and is confined in the
158 execution of a judgment of such conviction in the Mississippi
159 Department of Corrections for a definite term or terms of one (1)
160 year or over, or for the term of his or her natural life, whose
161 record of conduct shows that such prisoner has observed the rules
162 of the department, and who has served not less than one-fourth
163 (1/4) of the total of such term or terms for which such prisoner
164 was sentenced, or, if sentenced to serve a term or terms of thirty
165 (30) years or more, or, if sentenced for the term of the natural
166 life of such prisoner, has served not less than ten (10) years of
167 such life sentence, may be released on parole as hereinafter
168 provided, except that:

169 (a) No prisoner convicted as a confirmed and habitual
170 criminal under the provisions of Sections 99-19-81 through
171 99-19-87 shall be eligible for parole;

172 (b) Any person who shall have been convicted of a sex
173 crime shall not be released on parole except for a person under
174 the age of nineteen (19) who has been convicted under Section
175 97-3-67;



176 (c) (i) No person shall be eligible for parole who
177 shall, on or after January 1, 1977, be convicted of robbery or
178 attempted robbery through the display of a firearm until he shall
179 have served ten (10) years if sentenced to a term or terms of more
180 than ten (10) years or if sentenced for the term of the natural
181 life of such person. If such person is sentenced to a term or
182 terms of ten (10) years or less, then such person shall not be
183 eligible for parole. The provisions of this paragraph (c)(i)
184 shall also apply to any person who shall commit robbery or
185 attempted robbery on or after July 1, 1982, through the display of
186 a deadly weapon. This paragraph (c)(i) shall not apply to persons
187 convicted after September 30, 1994;

188 (ii) No person shall be eligible for parole who
189 shall, on or after October 1, 1994, be convicted of robbery,
190 attempted robbery or carjacking as provided in Section 97-3-115 et
191 seq., through the display of a firearm or drive-by shooting as
192 provided in Section 97-3-109. The provisions of this paragraph
193 (c)(ii) shall also apply to any person who shall commit robbery,
194 attempted robbery, carjacking or a drive-by shooting on or after
195 October 1, 1994, through the display of a deadly weapon. This
196 paragraph (c)(ii) shall not apply to persons convicted after July
197 1, 2014;

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



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

202 (e) No person shall be eligible for parole who is
203 charged, tried, convicted and sentenced to life imprisonment under
204 the provisions of Section 99-19-101;

205 (f) No person shall be eligible for parole who is
206 convicted or whose suspended sentence is revoked after June 30,
207 1995, except that an offender convicted of only nonviolent crimes
208 after June 30, 1995, may be eligible for parole if the offender
209 meets the requirements in subsection (1) and this paragraph. In
210 addition to other requirements, if an offender is convicted of a
211 drug or driving under the influence felony, the offender must
212 complete a drug and alcohol rehabilitation program prior to parole
213 or the offender may be required to complete a post-release drug
214 and alcohol program as a condition of parole. For purposes of
215 this paragraph, "nonviolent crime" means a felony other than
216 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
217 occupied dwelling, aggravated assault, kidnapping, felonious abuse
218 of vulnerable adults, felonies with enhanced penalties, except
219 enhanced penalties for the crime of possession of a controlled
220 substance under Section 41-29-147, the sale or manufacture of a
221 controlled substance under the Uniform Controlled Substances Law,
222 felony child abuse, or exploitation or any crime under Section
223 97-5-33 or Section 97-5-39(2) or 97-5-39(1)(b), 97-5-39(1)(c) or a
224 violation of Section 63-11-30(5). In addition, an offender



225 incarcerated for committing the crime of possession of a
226 controlled substance under the Uniform Controlled Substances Law
227 after July 1, 1995, including an offender who receives an enhanced
228 penalty under the provisions of Section 41-29-147 for such
229 possession, shall be eligible for parole. An offender
230 incarcerated for committing the crime of sale or manufacture of a
231 controlled substance shall be eligible for parole after serving
232 one-fourth (1/4) of the sentence imposed by the trial court. This
233 paragraph (f) shall not apply to persons convicted on or after
234 July 1, 2014;

235 (g) (i) No person who, on or after July 1, 2014, is
236 convicted of a crime of violence pursuant to Section 97-3-2, a sex
237 crime or an offense that specifically prohibits parole release,
238 shall be eligible for parole. All persons convicted of any other
239 offense on or after July 1, 2014, are eligible for parole after
240 they have served one-fourth (1/4) of the sentence or sentences
241 imposed by the trial court.

242 (ii) Notwithstanding the provisions in paragraph
243 (i) of this subsection, a person serving a sentence who has
244 reached the age of sixty (60) or older and who has served no less
245 than ten (10) years of the sentence or sentences imposed by the
246 trial court shall be eligible for parole. Any person eligible for
247 parole under this subsection shall be required to have a parole
248 hearing before the board prior to parole release. No inmate shall
249 be eligible for parole under this paragraph of this subsection if:



- 250 1. The inmate is sentenced as a habitual
251 offender under Sections 99-19- * * *83 through 99-19-87;
- 252 2. The inmate is sentenced for a crime of
253 violence under Section 97-3-2;
- 254 3. The inmate is sentenced for an offense
255 that specifically prohibits parole release;
- 256 4. The inmate is sentenced for trafficking in
257 controlled substances under Section 41-29-139(f);
- 258 5. The inmate is sentenced for a sex crime;
- 259 or
- 260 6. The inmate has not served one-fourth (1/4)
261 of the sentence imposed by the court.

262 (iii) Notwithstanding the provisions of
263 paragraph * * * (a) of this subsection, any offender who has not
264 committed a crime of violence under Section 97-3-2 and has served
265 twenty-five percent (25%) or more of his sentence may be paroled
266 by the parole board if, after the sentencing judge or if the
267 sentencing judge is retired, disabled or incapacitated, the senior
268 circuit judge authorizes the offender to be eligible for parole
269 consideration.

270 (h) Notwithstanding any other provision of law, an
271 inmate who has not been convicted as a habitual offender under
272 Sections 99-19-83 through 99-19-87, has not been convicted of
273 committing a crime of violence, as defined under Section 97-3-2,
274 has not been convicted of a sex crime or any other crime that



275 specifically prohibits parole release, and has not been convicted
276 of drug trafficking under Section 41-29-139 is eligible for parole
277 if the inmate has served twenty-five percent (25%) or more of his
278 or her sentence, but is otherwise ineligible for parole.

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

284 (3) The State Parole Board shall, by rules and regulations,
285 establish a method of determining a tentative parole hearing date
286 for each eligible offender taken into the custody of the
287 Department of Corrections. The tentative parole hearing date
288 shall be determined within ninety (90) days after the department
289 has assumed custody of the offender. The parole hearing date
290 shall occur when the offender is within thirty (30) days of the
291 month of his parole eligibility date. The parole eligibility date
292 shall not be earlier than one-fourth (1/4) of the prison sentence
293 or sentences imposed by the court.

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



300 of the case plan may be in jeopardy of noncompliance with the case
301 plan and may be denied parole.

302 **SECTION 6.** Any person who supervises an individual placed on
303 parole by the Parole Board or placed on probation by the court
304 shall set the times and locations for meetings that are required
305 for parole or probation at such times and locations that are
306 reasonably designed to accommodate the work schedule of an
307 individual on parole or probation who is employed by another
308 person or entity. To effectuate the provisions of this section,
309 the parole officer or probation officer may utilize technology
310 portals such as Skype, FaceTime or Google video chat, or any other
311 technology portal that allows communication between the individual
312 on parole or probation and the parole or probation officer, as
313 applicable, to occur simultaneously in real time by voice and
314 video in lieu of requiring a face-to-face in person meeting of
315 such individual and the parole or probation officer, as
316 applicable. For individuals who are self-employed, the provisions
317 of this section shall only apply with the agreement of their
318 supervising parole or probation officer.

319 **SECTION 7.** (1) The Joint Legislative Committee on
320 Performance Evaluation and Expenditure Review (PEER) shall conduct
321 a one-time census of populations in juvenile detention centers and
322 in county and municipal jails in the State of Mississippi. The
323 data collected shall reflect the populations at a given date or
324 date range, as determined by PEER. The following data shall be



325 collected and aggregated by individual facility, as well as by
326 inmate or detainee characteristics, including race, gender, and
327 adult or juvenile status:

328 (a) The number of individuals detained for a new
329 offense or delinquent act.

330 (b) The number of individuals detained for pretrial.

331 (c) The number of offenders detained for a revocation
332 of supervision.

333 (d) The average sentence length for new jail sentences
334 by offense type.

335 (e) The average sentence length for offenders in jail
336 for a probation revocation.

337 (f) The average sentence length for offenders in jail
338 for a parole revocation.

339 (g) The percentage of sentences in each category
340 offense type, including whether the offense was violent, property,
341 drug, or public order. All drug offenses shall include the type
342 of drug implicated in the offense, as well as type of offense,
343 such as possession, sale or manufacture.

344 (h) The average length of stay by offense type.

345 (i) For individuals awaiting trial, the average length
346 of stay from the time of their arrest to the time of indictment,
347 and from the time of indictment to trial.

348 (2) PEER shall also make recommendations to the Legislature
349 for a reporting mechanism that would facilitate the regular



350 reporting of this information to the Legislature to guide
351 policymaking decisions.

352 (3) This report shall be provided to the Legislature by no
353 later than November 30, 2017.

354 **SECTION 8.** (1) There is created the Mississippi Sentencing
355 Disparity Task Force. The purpose of the task force is to study
356 and report the existence of possible disparity in sentencing for
357 crimes as documented by the Mississippi Department of Corrections
358 in order to promote the interest of uniform justice throughout the
359 State of Mississippi.

360 (2) The Mississippi Sentencing Disparity Task Force shall be
361 composed of the following twelve (12) members, who shall serve for
362 two-year terms:

363 (a) Two (2) members of the Mississippi House of
364 Representatives, appointed by the Speaker of the House;

365 (b) Two (2) members of the Mississippi State Senate,
366 appointed by the Lieutenant Governor;

367 (c) Two (2) members appointed by the Governor;

368 (d) The Commissioner of the Mississippi Department of
369 Corrections, or a designee;

370 (e) The Attorney General of the State of Mississippi,
371 or his or her designee;

372 (f) The director of a faith-based organization involved
373 in re-entry programs, or a designee appointed by the Lieutenant
374 Governor;



375 (g) The Chief Justice of the Mississippi Supreme Court,
376 or a designee;

377 (h) The Chairman of the Parole Board, or a designee;
378 and

379 (i) A person who is a former offender appointed by the
380 Chairman of the Parole Board.

381 (3) The Chief Justice of the Mississippi Supreme Court shall
382 call the first meeting of the task force. The task force shall
383 hold its first meeting no later than thirty (30) days after the
384 effective date of this act. At its first meeting, the task force
385 shall elect a chairman and vice chairman from its membership and
386 adopt rules for transacting its business and keeping records. The
387 chairman and vice chairman shall serve one-year terms or until
388 such time as a successor is elected.

389 **SECTION 9.** Upon the request of any county for eligible
390 inmates, the Department of Corrections shall make available for
391 participation in the state-county work program in the requesting
392 county any eligible inmates. Upon request and approval of such
393 request by the Department of Corrections, the requesting county
394 shall arrange for transportation of such inmates from the
395 Department of Corrections to such county. Upon receiving any
396 inmates, the county shall be responsible for all expenses related
397 to housing and caring for such inmates. The Department of
398 Corrections shall not be obligated to pay the county for any costs
399 associated with housing or caring for such inmates, while the



400 inmates are in the custody of the county for the purposes of the
401 state-county work program. Regardless of any eligibility criteria
402 established by the Department of Corrections, no inmate convicted
403 of a sex crime, a crime of violence as defined by Section 97-3-2,
404 or any other crime which specifically prohibits parole shall be
405 eligible for participation in the program. The requesting county
406 may, in its sole discretion, refuse any inmate deemed to present
407 an undue risk to such county.

408 **SECTION 10.** Section 47-7-27, Mississippi Code of 1972, is
409 amended as follows:

410 47-7-27. (1) The board may, at any time and upon a showing
411 of probable violation of parole, issue a warrant for the return of
412 any paroled offender to the custody of the department. The
413 warrant shall authorize all persons named therein to return the
414 paroled offender to actual custody of the department from which he
415 was paroled.

416 (2) Any field supervisor may arrest an offender without a
417 warrant or may deputize any other person with power of arrest by
418 giving him a written statement setting forth that the offender
419 has, in the judgment of that field supervisor, violated the
420 conditions of his parole or earned-release supervision. The
421 written statement delivered with the offender by the arresting
422 officer to the official in charge of the department facility from
423 which the offender was released or other place of detention



424 designated by the department shall be sufficient warrant for the
425 detention of the offender.

426 (3) The field supervisor, after making an arrest, shall
427 present to the detaining authorities a similar statement of the
428 circumstances of violation. The field supervisor shall at once
429 notify the board or department of the arrest and detention of the
430 offender and shall submit a written report showing in what manner
431 the offender has violated the conditions of parole or
432 earned-release supervision. An offender for whose return a
433 warrant has been issued by the board shall, after the issuance of
434 the warrant, be deemed a fugitive from justice.

435 (4) Whenever an offender is arrested on a warrant for an
436 alleged violation of parole as herein provided, the board shall
437 hold an informal preliminary hearing within seventy-two (72) hours
438 to determine whether there is reasonable cause to believe the
439 person has violated a condition of parole. A preliminary hearing
440 shall not be required when the offender is not under arrest on a
441 warrant or the offender signed a waiver of a preliminary hearing.
442 The preliminary hearing may be conducted electronically.

443 (5) The right of the State of Mississippi to extradite
444 persons and return fugitives from justice, from other states to
445 this state, shall not be impaired by this chapter and shall remain
446 in full force and effect. An offender convicted of a felony
447 committed while on parole, whether in the State of Mississippi or
448 another state, shall immediately have his parole revoked upon



449 presentment of a certified copy of the commitment order to the
450 board. If an offender is on parole and the offender is convicted
451 of a felony for a crime committed prior to the offender being
452 placed on parole, whether in the State of Mississippi or another
453 state, the offender may have his parole revoked upon presentment
454 of a certified copy of the commitment order to the board.

455 (6) (a) The board shall hold a hearing for any parolee who
456 is detained as a result of a warrant or a violation report within
457 twenty-one (21) days of the parolee's admission to detention. The
458 board may, in its discretion, terminate the parole or modify the
459 terms and conditions thereof. If the board revokes parole
460 for * * * one or more technical violations the board shall impose
461 a period of imprisonment to be served in a technical violation
462 center operated by the department not to exceed ninety (90) days
463 for the first * * * revocation and not to exceed one hundred
464 twenty (120) days for the second * * * revocation. For the
465 third * * * revocation, the board may impose a period of
466 imprisonment to be served in a technical violation center for up
467 to one hundred and eighty (180) days or the board may impose the
468 remainder of the suspended portion of the sentence. For the
469 fourth and any subsequent * * * revocation, the board may impose
470 up to the remainder of the suspended portion of the sentence. The
471 period of imprisonment in a technical violation center imposed
472 under this section shall not be reduced in any manner.



473 (b) If the board does not hold a hearing or does not
474 take action on the violation within the twenty-one-day time frame
475 in paragraph (a) of this subsection, the parolee shall be released
476 from detention and shall return to parole status. The board may
477 subsequently hold a hearing and may revoke parole or may continue
478 parole and modify the terms and conditions of parole. If the
479 board revokes parole for * * * one or more technical violations
480 the board shall impose a period of imprisonment to be served in a
481 technical violation center operated by the department not to
482 exceed ninety (90) days for the first * * * revocation and not to
483 exceed one hundred twenty (120) days for the second * * *
484 revocation. For the third * * * revocation, the board may impose
485 a period of imprisonment to be served in a technical violation
486 center for up to one hundred eighty (180) days or the board may
487 impose the remainder of the suspended portion of the sentence.
488 For the fourth and any subsequent * * * revocation, the board may
489 impose up to the remainder of the suspended portion of the
490 sentence. The period of imprisonment in a technical violation
491 center imposed under this section shall not be reduced in any
492 manner.

493 (c) For a parolee charged with * * * one or more
494 technical violations who has not been detained awaiting the
495 revocation hearing, the board may hold a hearing within a
496 reasonable time. The board may revoke parole or may continue
497 parole and modify the terms and conditions of parole. If the



498 board revokes parole for * * * one or more technical violations
499 the board shall impose a period of imprisonment to be served in a
500 technical violation center operated by the department not to
501 exceed ninety (90) days for the first * * * revocation and not to
502 exceed one hundred twenty (120) days for the second * * *
503 revocation. For the third * * * revocation, the board may impose
504 a period of imprisonment to be served in a technical violation
505 center for up to one hundred eighty (180) days or the board may
506 impose the remainder of the suspended portion of the sentence.
507 For the fourth and any subsequent * * * revocation, the board may
508 impose up to the remainder of the suspended portion of the
509 sentence. The period of imprisonment in a technical violation
510 center imposed under this section shall not be reduced in any
511 manner.

512 (7) Unless good cause for the delay is established in the
513 record of the proceeding, the parole revocation charge shall be
514 dismissed if the revocation hearing is not held within the thirty
515 (30) days of the issuance of the warrant.

516 (8) The chairman and each member of the board and the
517 designated parole revocation hearing officer may, in the discharge
518 of their duties, administer oaths, summon and examine witnesses,
519 and take other steps as may be necessary to ascertain the truth of
520 any matter about which they have the right to inquire.

521 (9) The board shall provide semiannually to the Oversight
522 Task Force the number of warrants issued for an alleged violation



523 of parole, the average time between detention on a warrant and
524 preliminary hearing, the average time between detention on a
525 warrant and revocation hearing, the number of ninety-day sentences
526 in a technical violation center issued by the board, the number of
527 one-hundred-twenty-day sentences in a technical violation center
528 issued by the board, the number of one-hundred-eighty-day
529 sentences issued by the board, and the number and average length
530 of the suspended sentences imposed by the board in response to a
531 violation.

532 **SECTION 11.** Section 47-7-37, Mississippi Code of 1972, is
533 amended as follows:

534 47-7-37. (1) The period of probation shall be fixed by the
535 court, and may at any time be extended or terminated by the court,
536 or judge in vacation. Such period with any extension thereof
537 shall not exceed five (5) years, except that in cases of desertion
538 and/or failure to support minor children, the period of probation
539 may be fixed and/or extended by the court for so long as the duty
540 to support such minor children exists. The time served on
541 probation or post-release supervision may be reduced pursuant to
542 Section 47-7-40.

543 (2) At any time during the period of probation, the court,
544 or judge in vacation, may issue a warrant for violating any of the
545 conditions of probation or suspension of sentence and cause the
546 probationer to be arrested. Any probation and parole officer may
547 arrest a probationer without a warrant, or may deputize any other



548 officer with power of arrest to do so by giving him a written
549 statement setting forth that the probationer has, in the judgment
550 of the probation and parole officer, violated the conditions of
551 probation. Such written statement delivered with the probationer
552 by the arresting officer to the official in charge of a county
553 jail or other place of detention shall be sufficient warrant for
554 the detention of the probationer.

555 (3) Whenever an offender is arrested on a warrant for an
556 alleged violation of probation as herein provided, the department
557 shall hold an informal preliminary hearing within seventy-two (72)
558 hours of the arrest to determine whether there is reasonable cause
559 to believe the person has violated a condition of probation. A
560 preliminary hearing shall not be required when the offender is not
561 under arrest on a warrant or the offender signed a waiver of a
562 preliminary hearing. The preliminary hearing may be conducted
563 electronically. If reasonable cause is found, the offender may be
564 confined no more than twenty-one (21) days from the admission to
565 detention until a revocation hearing is held. If the revocation
566 hearing is not held within twenty-one (21) days, the probationer
567 shall be released from custody and returned to probation status.

568 (4) If a probationer or offender is subject to registration
569 as a sex offender, the court must make a finding that the
570 probationer or offender is not a danger to the public prior to
571 release with or without bail. In determining the danger posed by
572 the release of the offender or probationer, the court may consider



573 the nature and circumstances of the violation and any new offenses
574 charged; the offender or probationer's past and present conduct,
575 including convictions of crimes and any record of arrests without
576 conviction for crimes involving violence or sex crimes; any other
577 evidence of allegations of unlawful sexual conduct or the use of
578 violence by the offender or probationer; the offender or
579 probationer's family ties, length of residence in the community,
580 employment history and mental condition; the offender or
581 probationer's history and conduct during the probation or other
582 supervised release and any other previous supervisions, including
583 disciplinary records of previous incarcerations; the likelihood
584 that the offender or probationer will engage again in a criminal
585 course of conduct; the weight of the evidence against the offender
586 or probationer; and any other facts the court considers relevant.

587 (5) (a) The probation and parole officer after making an
588 arrest shall present to the detaining authorities a similar
589 statement of the circumstances of violation. The probation and
590 parole officer shall at once notify the court of the arrest and
591 detention of the probationer and shall submit a report in writing
592 showing in what manner the probationer has violated the conditions
593 of probation. Within twenty-one (21) days of arrest and detention
594 by warrant as herein provided, the court shall cause the
595 probationer to be brought before it and may continue or revoke all
596 or any part of the probation or the suspension of sentence. If
597 the court revokes probation for * * * one or more technical



598 violations, the court shall impose a period of imprisonment to be
599 served in either a technical violation center or a restitution
600 center not to exceed ninety (90) days for the first * * *
601 revocation and not to exceed one hundred twenty (120) days for the
602 second * * * revocation. For the third * * * revocation, the
603 court may impose a period of imprisonment to be served in either a
604 technical violation center or a restitution center for up to one
605 hundred eighty (180) days or the court may impose the remainder of
606 the suspended portion of the sentence. For the fourth and any
607 subsequent * * * revocation, the court may impose up to the
608 remainder of the suspended portion of the sentence. The period of
609 imprisonment in a technical violation center imposed under this
610 section shall not be reduced in any manner.

611 (b) If the offender is not detained as a result of the
612 warrant, the court shall cause the probationer to be brought
613 before it within a reasonable time and may continue or revoke all
614 or any part of the probation or the suspension of sentence, and
615 may cause the sentence imposed to be executed or may impose any
616 part of the sentence which might have been imposed at the time of
617 conviction. If the court revokes probation for * * * one or more
618 technical violations, the court shall impose a period of
619 imprisonment to be served in either a technical violation center
620 or a restitution center not to exceed ninety (90) days for the
621 first * * * revocation and not to exceed one hundred twenty (120)
622 days for the second * * * revocation. For the third * * *



623 revocation, the court may impose a period of imprisonment to be
624 served in either a technical violation center or a restitution
625 center for up to one hundred eighty (180) days or the court may
626 impose the remainder of the suspended portion of the sentence.
627 For the fourth and any subsequent * * * revocation, the court may
628 impose up to the remainder of the suspended portion of the
629 sentence. The period of imprisonment in a technical violation
630 center imposed under this section shall not be reduced in any
631 manner.

632 (c) If the court does not hold a hearing or does not
633 take action on the violation within the twenty-one-day period, the
634 offender shall be released from detention and shall return to
635 probation status. The court may subsequently hold a hearing and
636 may revoke probation or may continue probation and modify the
637 terms and conditions of probation. If the court revokes probation
638 for * * * one or more technical violations, the court shall impose
639 a period of imprisonment to be served in either a technical
640 violation center operated by the department or a restitution
641 center not to exceed ninety (90) days for the first * * *
642 revocation and not to exceed one hundred twenty (120) days for the
643 second * * * revocation. For the third * * * revocation, the
644 court may impose a period of imprisonment to be served in either a
645 technical violation center or a restitution center for up to one
646 hundred * * * eighty (180) days or the court may impose the
647 remainder of the suspended portion of the sentence. For the



648 fourth and any subsequent * * * revocation, the court may impose
649 up to the remainder of the suspended portion of the sentence. The
650 period of imprisonment in a technical violation center imposed
651 under this section shall not be reduced in any manner.

652 (d) For an offender charged with a technical violation
653 who has not been detained awaiting the revocation hearing, the
654 court may hold a hearing within a reasonable time. The court may
655 revoke probation or may continue probation and modify the terms
656 and conditions of probation. If the court revokes probation
657 for * * * one or more technical violations the court shall impose
658 a period of imprisonment to be served in either a technical
659 violation center operated by the department or a restitution
660 center not to exceed ninety (90) days for the first * * *
661 revocation and not to exceed one hundred twenty (120) days for the
662 second * * * revocation. For the third * * * revocation, the
663 court may impose a period of imprisonment to be served in either a
664 technical violation center or a restitution center for up to one
665 hundred eighty (180) days or the court may impose the remainder of
666 the suspended portion of the sentence. For the fourth and any
667 subsequent * * * revocation, the court may impose up to the
668 remainder of the suspended portion of the sentence. The period of
669 imprisonment in a technical violation center imposed under this
670 section shall not be reduced in any manner.

671 (6) If the probationer is arrested in a circuit court
672 district in the State of Mississippi other than that in which he



673 was convicted, the probation and parole officer, upon the written
674 request of the sentencing judge, shall furnish to the circuit
675 court or the county court of the county in which the arrest is
676 made, or to the judge of such court, a report concerning the
677 probationer, and such court or the judge in vacation shall have
678 authority, after a hearing, to continue or revoke all or any part
679 of probation or all or any part of the suspension of sentence, and
680 may in case of revocation proceed to deal with the case as if
681 there had been no probation. In such case, the clerk of the court
682 in which the order of revocation is issued shall forward a
683 transcript of such order to the clerk of the court of original
684 jurisdiction, and the clerk of that court shall proceed as if the
685 order of revocation had been issued by the court of original
686 jurisdiction. Upon the revocation of probation or suspension of
687 sentence of any offender, such offender shall be placed in the
688 legal custody of the State Department of Corrections and shall be
689 subject to the requirements thereof.

690 (7) Any probationer who removes himself from the State of
691 Mississippi without permission of the court placing him on
692 probation, or the court to which jurisdiction has been
693 transferred, shall be deemed and considered a fugitive from
694 justice and shall be subject to extradition as now provided by
695 law. No part of the time that one is on probation shall be
696 considered as any part of the time that he shall be sentenced to
697 serve.



698 (8) The arresting officer, except when a probation and
699 parole officer, shall be allowed the same fees as now provided by
700 law for arrest on warrant, and such fees shall be taxed against
701 the probationer and paid as now provided by law.

702 (9) The arrest, revocation and recommitment procedures of
703 this section also apply to persons who are serving a period of
704 post-release supervision imposed by the court.

705 (10) Unless good cause for the delay is established in the
706 record of the proceeding, the probation revocation charge shall be
707 dismissed if the revocation hearing is not held within thirty (30)
708 days of the warrant being issued.

709 (11) The Department of Corrections shall provide
710 semiannually to the Oversight Task Force the number of warrants
711 issued for an alleged violation of probation or post-release
712 supervision, the average time between detention on a warrant and
713 preliminary hearing, the average time between detention on a
714 warrant and revocation hearing, the number of ninety-day sentences
715 in a technical violation center issued by the court, the number of
716 one-hundred-twenty-day sentences in a technical violation center
717 issued by the court, the number of one-hundred-eighty-day
718 sentences issued by the court, and the number and average length
719 of the suspended sentences imposed by the court in response to a
720 violation.

721 **SECTION 12.** Section 99-19-81, Mississippi Code of 1972, is
722 amended as follows:



723 99-19-81. Every person convicted in this state of a felony
724 who shall have been convicted twice previously of any felony or
725 federal crime upon charges separately brought and arising out of
726 separate incidents at different times and who shall have been
727 sentenced to separate terms of one (1) year or more in any state
728 and/or federal penal institution, whether in this state or
729 elsewhere, shall be sentenced to the maximum term of imprisonment
730 prescribed for such felony unless the court provides an
731 explanation in its sentencing order setting forth the cause for
732 deviating from the maximum sentence, and such sentence shall not
733 be reduced or suspended nor shall such person be eligible for
734 parole or probation.

735 **SECTION 13.** This act shall take effect and be in force from
736 and after July 1, 2017.

