

By: Representative Moak

To: Penitentiary

HOUSE BILL NO. 1228

1 AN ACT TO AMEND SECTION 47-5-138, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT PERSONS CONVICTED OF ROBBERY, ATTEMPTED ROBBERY,  
 3 CARJACKING, DRIVE-BY SHOOTING OR SEX CRIMES SHALL NOT BE ELIGIBLE  
 4 FOR EARNED-TIME ALLOWANCES; TO PROVIDE THAT PERSONS CONVICTED AS A  
 5 HABITUAL CRIMINAL SHALL NOT BE ELIGIBLE FOR EARNED-TIME  
 6 ALLOWANCES; TO PROVIDE THAT PERSONS SENTENCED TO LIFE IMPRISONMENT  
 7 WITHOUT ELIGIBILITY FOR PAROLE SHALL NOT BE ELIGIBLE FOR  
 8 EARNED-TIME ALLOWANCES; AND FOR RELATED PURPOSES.

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

10 SECTION 1. Section 47-5-138, Mississippi Code of 1972, is  
 11 amended as follows:

12 47-5-138. (1) The department may promulgate rules and  
 13 regulations to carry out an earned time allowance program based on  
 14 the good conduct and performance of an inmate. An inmate is  
 15 eligible to receive an earned-time allowance of one-half (1/2) of  
 16 the period of confinement imposed by the court except those  
 17 inmates excluded by law. When an inmate is committed to the  
 18 custody of the department, the department shall determine a  
 19 conditional earned-time release date by subtracting the  
 20 earned-time allowance from an inmate's term of sentence. This  
 21 subsection does not apply to any sentence imposed after June 30,  
 22 1995.

23 (2) An inmate may forfeit all or part of his earned-time  
 24 allowance for a serious violation of rules. No forfeiture of the  
 25 earned-time allowance shall be effective except upon approval of  
 26 the commissioner or his designee, and forfeited earned-time may  
 27 not be restored.

28 (3) (a) For the purposes of this subsection, "final order"  
 29 means an order of a state or federal court that dismisses a

30 lawsuit brought by an inmate while the inmate was in the custody  
31 of the Department of Corrections as frivolous, malicious or for  
32 failure to state a claim upon which relief could be granted.

33 (b) On receipt of a final order, the department shall  
34 forfeit:

35 (i) Sixty (60) days of an inmate's accrued earned  
36 time if the department has received one (1) final order as defined  
37 herein;

38 (ii) One hundred twenty (120) days of an inmate's  
39 accrued earned time if the department has received two (2) final  
40 orders as defined herein;

41 (iii) One hundred eighty (180) days of an inmate's  
42 accrued earned time if the department has received three (3) or  
43 more final orders as defined herein.

44 (c) The department may not restore earned time  
45 forfeited under this subsection.

46 (4) An inmate who meets the good conduct and performance  
47 requirements of the earned-time allowance program may be released  
48 on his conditional earned-time release date.

49 (5) For any sentence imposed after June 30, 1995, an inmate  
50 may receive an earned-time allowance of four and one-half (4-1/2)  
51 days for each thirty (30) days served if the department determines  
52 that the inmate has complied with the good conduct and performance  
53 requirements of the earned-time allowance program. The  
54 earned-time allowance under this subsection shall not exceed  
55 fifteen percent (15%) of an inmate's term of sentence.

56 (6) Any inmate, who is released before the expiration of his  
57 term of sentence under this section, shall be placed under  
58 earned-release supervision until the expiration of the term of  
59 sentence. The inmate shall retain inmate status and remain under  
60 the jurisdiction of the department. The period of earned-release  
61 supervision shall be conducted in the same manner as a period of  
62 supervised parole. The department shall develop rules, terms and

63 conditions for the earned-release supervision program. The  
64 commissioner shall designate the appropriate classification  
65 committee or other division within the department to conduct  
66 revocation hearings for inmates violating the conditions of  
67 earned-release supervision.

68 (7) If the earned-release supervision is revoked, the inmate  
69 shall serve the remainder of the sentence and the time the inmate  
70 was on earned-release supervision, shall not be applied to and  
71 shall not reduce his sentence.

72 (8) No person who has been convicted of robbery, attempted  
73 robbery or carjacking, as provided in Section 97-3-115, or  
74 drive-by shooting, as provided in Section 97-3-109, shall be  
75 eligible for earned-time allowances.

76 (9) No person who has been convicted of a sex crime shall be  
77 eligible for earned-time allowances.

78 (10) No person convicted as a habitual criminal under the  
79 provisions of Sections 99-19-81 through 99-19-87 shall be eligible  
80 for earned-time allowances.

81 (11) No person who is convicted and sentenced to life  
82 imprisonment without eligibility for parole under the provisions  
83 of Section 99-19-101 shall be eligible for earned-time allowances.

84 SECTION 2. This act shall take effect and be in force from  
85 and after July 1, 2001.