

By: Representative Ishee

To: Penitentiary

HOUSE BILL NO. 1172

1 AN ACT TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT NONVIOLENT OFFENDERS CONVICTED AFTER JUNE 30, 1995,
3 ARE NOT SUBJECT TO THE MANDATORY EIGHTY-FIVE PERCENT SENTENCING
4 RULE; TO BRING FORWARD SECTION 47-5-138, MISSISSIPPI CODE OF 1972,
5 WHICH AUTHORIZES THE DEPARTMENT OF CORRECTIONS TO GRANT
6 MERITORIOUS EARNED-TIME ALLOWANCES; AND FOR RELATED PURPOSES.

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

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

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

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

26 (b) Any person who shall have been convicted of a sex
27 crime shall not be released on parole except for a person under
28 the age of nineteen (19) who has been convicted under Section
29 97-3-67;



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

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

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

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



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

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

67 (g) No person shall be eligible for parole who is
68 convicted or whose suspended sentence is revoked after June 30,
69 1995, except as provided in paragraph (i);

70 (h) An offender may be eligible for medical release
71 under Section 47-7-4;

72 (i) A first offender convicted of a nonviolent crime
73 after June 30, 1995, may be eligible for parole if the offender
74 meets the requirements in subsection (1) and this paragraph. In
75 addition to other requirements, if a first offender is convicted
76 of a drug or driving under the influence felony, the offender must
77 complete a drug and alcohol rehabilitation program prior to
78 parole, or the offender may be required to complete a post-release
79 drug and alcohol program as a condition of parole. For purposes
80 of this paragraph, "nonviolent crime" means a felony other than
81 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
82 occupied dwelling, aggravated assault, kidnapping, felonious abuse
83 of vulnerable adults, felonies with enhanced penalties, and the
84 sale or manufacture of a controlled substance under the Uniform
85 Controlled Substances Law.

86 (2) Notwithstanding any other provision of law, an inmate
87 shall not be eligible to receive earned time, good time or any
88 other administrative reduction of time which shall reduce the time
89 necessary to be served for parole eligibility as provided in
90 subsection (1) of this section; however, this subsection shall not
91 apply to the advancement of parole eligibility dates pursuant to
92 the Prison Overcrowding Emergency Powers Act. Moreover,
93 meritorious earned-time allowances may be used to reduce the time



94 necessary to be served for parole eligibility as provided in
95 paragraph (c) of subsection (1) of this section.

96 (3) The State Parole Board shall by rules and regulations
97 establish a method of determining a tentative parole hearing date
98 for each eligible offender taken into the custody of the
99 Department of Corrections. The tentative parole hearing date
100 shall be determined within ninety (90) days after the department
101 has assumed custody of the offender. Such tentative parole
102 hearing date shall be calculated by a formula taking into account
103 the offender's age upon first commitment, number of prior
104 incarcerations, prior probation or parole failures, the severity
105 and the violence of the offense committed, employment history and
106 other criteria which in the opinion of the board tend to validly
107 and reliably predict the length of incarceration necessary before
108 the offender can be successfully paroled.

109 (4) Any inmate within twenty-four (24) months of his parole
110 eligibility date and who meets the criteria established by the
111 classification board shall receive priority for placement in any
112 educational development and job training programs. Any inmate
113 refusing to participate in an educational development or job
114 training program may be ineligible for parole.

115 **SECTION 2.** Section 47-5-138, Mississippi Code of 1972, is
116 brought forward as follows:

117 47-5-138. (1) The department may promulgate rules and
118 regulations to carry out an earned-time allowance program based on
119 the good conduct and performance of an inmate. An inmate is
120 eligible to receive an earned-time allowance of one-half (1/2) of
121 the period of confinement imposed by the court except those
122 inmates excluded by law. When an inmate is committed to the
123 custody of the department, the department shall determine a
124 conditional earned-time release date by subtracting the earned
125 time allowance from an inmate's term of sentence. This subsection
126 does not apply to any sentence imposed after June 30, 1995.



127 (2) An inmate may forfeit all or part of his earned-time
128 allowance for a serious violation of rules. No forfeiture of the
129 earned-time allowance shall be effective except upon approval of
130 the commissioner or his designee, and forfeited earned time may
131 not be restored.

132 (3) (a) For the purposes of this subsection, "final order"
133 means an order of a state or federal court that dismisses a
134 lawsuit brought by an inmate while the inmate was in the custody
135 of the Department of Corrections as frivolous, malicious or for
136 failure to state a claim upon which relief could be granted.

137 (b) On receipt of a final order, the department shall
138 forfeit:

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

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

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

148 (c) The department may not restore earned time
149 forfeited under this subsection.

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

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



160 (6) Any inmate, who is released before the expiration of his
161 term of sentence under this section, shall be placed under
162 earned-release supervision until the expiration of the term of
163 sentence. The inmate shall retain inmate status and remain under
164 the jurisdiction of the department. The period of earned-release
165 supervision shall be conducted in the same manner as a period of
166 supervised parole. The department shall develop rules, terms and
167 conditions for the earned-release supervision program. The
168 commissioner shall designate the appropriate hearing officer
169 within the department to conduct revocation hearings for inmates
170 violating the conditions of earned-release supervision.

171 (7) If the earned-release supervision is revoked, the inmate
172 shall serve the remainder of the sentence and the time the inmate
173 was on earned-release supervision, shall not be applied to and
174 shall not reduce his sentence.

175 **SECTION 3.** This act shall take effect and be in force from
176 and after July 1, 2002.

