

By: Representative Middleton

To: Corrections

## HOUSE BILL NO. 1469

1 AN ACT TO AMEND SECTION 47-5-138, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT ADULTS WHO COMMIT NONVIOLENT OFFENSES FOR THE  
3 FIRST TIME AND ARE UNDER THE CUSTODY OF THE DEPARTMENT OF  
4 CORRECTIONS SHALL NOT BE SUBJECT TO THE FIFTEEN PERCENT LIMITATION  
5 FOR EARNED TIME ALLOWANCES; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 47-5-138, Mississippi Code of 1972, is  
8 amended as follows:

9 47-5-138. (1) The department may promulgate rules and  
10 regulations to carry out an earned time allowance program based on  
11 the good conduct and performance of an inmate. An inmate is  
12 eligible to receive an earned time allowance of one-half (1/2) of  
13 the period of confinement imposed by the court except those  
14 inmates excluded by law. When an inmate is committed to the  
15 custody of the department, the department shall determine a  
16 conditional earned time release date by subtracting the earned  
17 time allowance from an inmate's term of sentence. This subsection  
18 does not apply to any sentence imposed after June 30, 1995.

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

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

29           (b) On receipt of a final order, the department shall  
30 forfeit:

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

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

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

40           (c) The department may not restore earned time  
41 forfeited under this subsection.

42           (4) An inmate who meets the good conduct and performance  
43 requirements of the earned time allowance program may be released  
44 on his conditional earned time release date.

45           (5) For any sentence imposed after June 30, 1995, an inmate  
46 may receive an earned time allowance of four and one-half (4-1/2)  
47 days for each thirty (30) days served if the department determines  
48 that the inmate has complied with the good conduct and performance  
49 requirements of the earned time allowance program. The earned  
50 time allowance under this subsection shall not exceed fifteen  
51 percent (15%) of an inmate's term of sentence; however, beginning  
52 July 1, 2006, no person under the age of twenty-one (21) who has  
53 committed a nonviolent offense, and who is under the jurisdiction  
54 of the Department of Corrections, shall be subject to the fifteen  
55 percent (15%) limitation for earned time allowances as described  
56 in this subsection (5). In addition, beginning July 1, 2007, no  
57 person over the age of twenty-one (21) who is a first-time  
58 nonviolent offender and who is under the jurisdiction of the  
59 Department of Corrections, shall be subject to the fifteen percent  
60 (15%) limitation for earned time allowances as described in this  
61 subsection (5).

62           (6) Any inmate, who is released before the expiration of his  
63 term of sentence under this section, shall be placed under  
64 earned-release supervision until the expiration of the term of  
65 sentence. The inmate shall retain inmate status and remain under  
66 the jurisdiction of the department. The period of earned-release  
67 supervision shall be conducted in the same manner as a period of  
68 supervised parole. The department shall develop rules, terms and  
69 conditions for the earned-release supervision program. The  
70 commissioner shall designate the appropriate hearing officer  
71 within the department to conduct revocation hearings for inmates  
72 violating the conditions of earned-release supervision.

73           (7) If the earned-release supervision is revoked, the inmate  
74 shall serve the remainder of the sentence and the time the inmate  
75 was on earned-release supervision, shall not be applied to and  
76 shall not reduce his sentence.

77           **SECTION 2.** This act shall take effect and be in force from  
78 and after July 1, 2007.