

By: Representative Scott

To: Judiciary B; Corrections

HOUSE BILL NO. 287

1 AN ACT TO PROVIDE THAT A NONVIOLENT OFFENDER WHO IS
2 INCARCERATED BY THE DEPARTMENT OF CORRECTIONS SHALL HAVE HIS OR
3 HER SENTENCE REDUCED BY A CERTAIN PERCENTAGE IF SUCH PERSON PASSES
4 SUBJECTS OF THE MISSISSIPPI END-OF-COURSE SUBJECT AREA TESTING
5 PROGRAM; TO AMEND SECTION 47-5-138, MISSISSIPPI CODE OF 1972, IN
6 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** From and after July 1, 2015, any nonviolent
9 offender, while incarcerated by the Department of Corrections and
10 eligible for meritorious earned time, shall have his or her
11 sentenced reduced by ten percent (10%) for each subject area that
12 the offender passes on the twelfth grade level of the Mississippi
13 end-of-course subject area testing program. As used in the
14 section, "nonviolent offender" means any individual who has
15 committed a felony other than a crime of violence as defined under
16 Section 97-3-2.

17 **SECTION 2.** Section 47-5-138, Mississippi Code of 1972, is
18 amended as follows:

19 47-5-138. (1) The department may promulgate rules and
20 regulations to carry out an earned time allowance program based on



21 the good conduct and performance of an inmate. An inmate is
22 eligible to receive an earned time allowance of one-half (1/2) of
23 the period of confinement imposed by the court except those
24 inmates excluded by law. When an inmate is committed to the
25 custody of the department, the department shall determine a
26 conditional earned time release date by subtracting the earned
27 time allowance from an inmate's term of sentence. This subsection
28 does not apply to any sentence imposed after June 30, 1995.

29 (2) An inmate may forfeit all or part of his earned time
30 allowance for a serious violation of rules. No forfeiture of the
31 earned time allowance shall be effective except upon approval of
32 the commissioner, or his designee, and forfeited earned time may
33 not be restored.

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

39 (b) On receipt of a final order, the department shall
40 forfeit:

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



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

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

50 (c) The department may not restore earned time
51 forfeited under this subsection.

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

55 (5) For any sentence imposed after June 30, 1995, an inmate
56 may receive an earned time allowance of four and one-half (4-1/2)
57 days for each thirty (30) days served if the department determines
58 that the inmate has complied with the good conduct and performance
59 requirements of the earned time allowance program. The earned
60 time allowance under this subsection shall not exceed fifteen
61 percent (15%) of an inmate's term of sentence; however, beginning
62 July 1, 2006, no person under the age of twenty-one (21) who has
63 committed a nonviolent offense, and who is under the jurisdiction
64 of the Department of Corrections, shall be subject to the fifteen
65 percent (15%) limitation for earned time allowances as described
66 in this subsection (5). Also, from and after July 1, 2015, no
67 person who is a nonviolent offender and who has passed a subject
68 on the twelfth grade level of the Mississippi end-of-course



69 subject area testing program, as prescribed under Section 1 of
70 this act and who is incarcerated by the Department of Corrections,
71 shall be subject to the fifteen percent (15%) limitation for
72 earned time allowances as described in this subsection (5).

73 (6) Any inmate, who is released before the expiration of his
74 term of sentence under this section, shall be placed under
75 earned-release supervision until the expiration of the term of
76 sentence. The inmate shall retain inmate status and remain under
77 the jurisdiction of the department. The period of earned-release
78 supervision shall be conducted in the same manner as a period of
79 supervised parole. The department shall develop rules, terms and
80 conditions for the earned-release supervision program. The
81 commissioner shall designate the appropriate hearing officer
82 within the department to conduct revocation hearings for inmates
83 violating the conditions of earned-release supervision.

84 (7) If the earned-release supervision is revoked, the inmate
85 shall serve the remainder of the sentence, but the time the inmate
86 served on earned-release supervision before revocation, shall be
87 applied to reduce his sentence.

88 **SECTION 3.** This act shall take effect and be in force from
89 and after July 1, 2015.

