

By: Representative Scott

To: Judiciary B; Corrections

HOUSE BILL NO. 515

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 THE PERSON PASSES  
 4 SUBJECTS OF THE MISSISSIPPI END-OF-COURSE SUBJECT AREA TESTING  
 5 PROGRAM; TO AMEND SECTIONS 47-5-138, 47-5-142 AND 47-7-3.2,  
 6 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PRECEDING SECTION;  
 7 AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** From and after July 1, 2018, any nonviolent  
 10 offender, while incarcerated by the Department of Corrections and  
 11 eligible for meritorious earned time, shall have his or her  
 12 sentence reduced by ten percent (10%) for each subject area that  
 13 the offender passes on the twelfth grade level of the Mississippi  
 14 end-of-course subject area testing program. As used in the  
 15 section, "nonviolent offender" means any individual who has  
 16 committed a felony other than a crime of violence as defined under  
 17 Section 97-3-2.

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



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

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

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

41 (b) On receipt of a final order, the department shall  
42 forfeit:



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

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

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

52 (c) The department may not restore earned time  
53 forfeited under this subsection.

54 (4) An inmate who meets the good conduct and performance  
55 requirements of the earned\_time allowance program may be released  
56 on his conditional earned\_time release date.

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



68 described in this subsection (5). Also, from and after July 1,  
69 2018, no person who is a nonviolent offender and who has passed a  
70 subject on the twelfth grade level of the Mississippi  
71 end-of-course subject area testing program, as provided under  
72 Section 1 of this act and who is incarcerated by the Department of  
73 Corrections, shall be subject to the fifteen percent (15%)  
74 limitation for earned-time allowances as described in this  
75 subsection (5).

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

87 (7) If the earned-release supervision is revoked, the inmate  
88 shall serve the remainder of the sentence, but the time the inmate  
89 served on earned-release supervision before revocation \* \* \* shall  
90 be applied to reduce his sentence.

91 **SECTION 3.** Section 47-5-142, Mississippi Code of 1972, is  
92 amended as follows:



93 47-5-142. (1) In order to provide incentive for offenders  
94 to achieve positive and worthwhile accomplishments for their  
95 personal benefit or the benefit of others, and in addition to any  
96 other administrative reductions of the length of an offender's  
97 sentence, any offender shall be eligible, subject to the  
98 provisions of this section, to receive meritorious earned time as  
99 distinguished from earned time for good conduct and performance.

100 (2) Subject to approval by the commissioner of the terms and  
101 conditions of the program or project, meritorious earned time may  
102 be awarded for the following: (a) successful completion of  
103 educational or instructional programs; (b) satisfactory  
104 participation in work projects; and (c) satisfactory participation  
105 in any special incentive program.

106 (3) The programs and activities through which meritorious  
107 earned time may be received shall be published in writing and  
108 posted in conspicuous places at all facilities of the department  
109 and such publication shall be made available to all offenders in  
110 the custody of the department.

111 (4) Except as otherwise provided under Section 1 of this  
112 act, the commissioner shall make a determination of the number of  
113 days of reduction of sentence which may be awarded an offender as  
114 meritorious earned time for participation in approved programs or  
115 projects; the number of days shall be determined by the  
116 commissioner on the basis of each particular program or project.



117 (5) No offender shall be awarded any meritorious earned time  
118 while assigned to the maximum security facilities for disciplinary  
119 purposes.

120 (6) All meritorious earned time shall be forfeited by the  
121 offender in the event of escape and/or aiding and abetting an  
122 escape.

123 (7) Any officer or employee of the department who shall  
124 willfully violate the provisions of this section and be convicted  
125 therefor shall be removed from office or employment.

126 (8) An offender may forfeit all or any part of his  
127 meritorious earned time allowance for just cause upon the written  
128 order of the commissioner, or his designee. Any meritorious  
129 earned time allowance forfeited under this section shall not be  
130 restored nor shall it be re-earned by the offender.

131 **SECTION 4.** Section 47-7-3.2, Mississippi Code of 1972, is  
132 amended as follows:

133 47-7-3.2. (1) Notwithstanding Sections 47-5-138, 47-5-139,  
134 47-5-138.1 \* \* \*, 47-5-142 or Section 1 of this act, no person  
135 convicted of a criminal offense on or after July 1, 2014, shall be  
136 released by the department until he or she has served no less than  
137 fifty percent (50%) of a sentence for a crime of violence pursuant  
138 to Section 97-3-2 or twenty-five percent (25%) of any other  
139 sentence imposed by the court.

140 (2) This section shall not apply to:

141 (a) Offenders sentenced to life imprisonment;



142 (b) Offenders convicted as habitual offenders pursuant  
143 to Sections 99-19-81 through 99-19-87;

144 (c) Offenders serving a sentence for a sex offense; or

145 (d) Offenders serving a sentence for trafficking  
146 pursuant to Section 41-29-139(f).

147 **SECTION 5.** This act shall take effect and be in force from  
148 and after July 1, 2018.

