

By: Representative Johnson

To: Corrections; Judiciary B

HOUSE BILL NO. 231

1 AN ACT TO AMEND SECTION 47-5-138, MISSISSIPPI CODE OF 1972,
2 TO REPEAL THE PROVISION OF LAW THAT PROHIBITS ANY ELIGIBLE INMATE,
3 WHOSE SENTENCE WAS IMPOSED AFTER JUNE 30, 1995, FROM ACCRUING
4 EARNED-TIME ALLOWANCE THAT EXCEEDS FIFTEEN PERCENT OF HIS OR HER
5 SENTENCE; 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
17 earned-time allowance from an inmate's term of sentence. * * *

18 (2) An inmate may forfeit all or part of his earned-time
19 allowance for a serious violation of rules. No forfeiture of the

20 earned-time allowance shall be effective except upon approval of
21 the commissioner, or his designee, and forfeited earned time may
22 not be restored.

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

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

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

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

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

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

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

44 (5) For any sentence imposed after June 30, 1995, an inmate
45 may receive an earned-time allowance of four and one-half (4-1/2)
46 days for each thirty (30) days served if the department determines
47 that the inmate has complied with the good conduct and performance
48 requirements of the earned-time allowance program. * * *

49 (6) Any inmate, who is released before the expiration of his
50 term of sentence under this section, shall be placed under
51 earned-release supervision until the expiration of the term of
52 sentence. The inmate shall retain inmate status and remain under
53 the jurisdiction of the department. The period of earned-release
54 supervision shall be conducted in the same manner as a period of
55 supervised parole. The department shall develop rules, terms and
56 conditions for the earned-release supervision program. The
57 commissioner shall designate the appropriate hearing officer
58 within the department to conduct revocation hearings for inmates
59 violating the conditions of earned-release supervision.

60 (7) If the earned-release supervision is revoked, the inmate
61 shall serve the remainder of the sentence, but the time the inmate
62 served on earned-release supervision before revocation * * * shall
63 be applied to reduce his sentence.

64 **SECTION 2.** This act shall take effect and be in force from
65 and after its passage.

