

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.

