

By: Jackson, Simmons, Harden, Jordan, Horhn To: Judiciary

## SENATE BILL NO. 2800

1 AN ACT TO AMEND SECTION 47-5-138, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT PERSONS CONVICTED OF NONVIOLENT CRIMES SHALL NOT  
3 BE SUBJECT TO THE MANDATORY EIGHTY-FIVE PERCENT SENTENCING  
4 PROVISIONS; TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO  
5 PROVIDE THAT A PERSON CONVICTED OF A NONVIOLENT CRIME MAY BE  
6 ELIGIBLE FOR PAROLE; AND FOR RELATED PURPOSES.

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

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

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

20 (b) A person sentenced for a nonviolent crime after  
21 June 30, 2000, is eligible to receive the earned time allowance  
22 provided in this subsection. A person is not eligible for the  
23 earned time allowance under this subsection if he has been  
24 convicted of a crime of violence.

25 (2) An inmate may forfeit all or part of his earned time  
26 allowance for a serious violation of rules. No forfeiture of the  
27 earned time allowance shall be effective except upon approval of  
28 the commissioner or his designee, and forfeited earned time may

29 not be restored.

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

35 (b) On receipt of a final order, the department shall  
36 forfeit:

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

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

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

46 (c) The department may not restore earned time  
47 forfeited under this subsection.

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

51 (5) For any sentence imposed after June 30, 1995, an inmate  
52 may receive an earned time allowance of four and one-half (4-1/2)  
53 days for each thirty (30) days served if the department determines  
54 that the inmate has complied with the good conduct and performance  
55 requirements of the earned time allowance program. The earned  
56 time allowance under this subsection shall not exceed fifteen  
57 percent (15%) of an inmate's term of sentence. This subsection  
58 does not apply to any inmate who is eligible for the earned time  
59 allowance in subsection (1).

60 (6) Any inmate, who is released before the expiration of his  
61 term of sentence under this section, shall be placed under  
62 earned-release supervision until the expiration of the term of  
63 sentence. The inmate shall retain inmate status and remain under  
64 the jurisdiction of the department. The period of earned-release  
65 supervision shall be conducted in the same manner as a period of

66 supervised parole. The department shall develop rules, terms and  
67 conditions for the earned-release supervision program. The  
68 commissioner shall designate the appropriate classification  
69 committee or other division within the department to conduct  
70 revocation hearings for inmates violating the conditions of  
71 earned-release supervision.

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

76 SECTION 2. Section 47-7-3, Mississippi Code of 1972, is  
77 amended as follows:

78 47-7-3. (1) Every prisoner who has been convicted of any  
79 offense against the State of Mississippi, and is confined in the  
80 execution of a judgment of such conviction in the Mississippi  
81 State Penitentiary for a definite term or terms of one (1) year or  
82 over, or for the term of his or her natural life, whose record of  
83 conduct shows that such prisoner has observed the rules of the  
84 penitentiary, and who has served not less than one-fourth (1/4) of  
85 the total of such term or terms for which such prisoner was  
86 sentenced, or, if sentenced to serve a term or terms of thirty  
87 (30) years or more, or, if sentenced for the term of the natural  
88 life of such prisoner, has served not less than ten (10) years of  
89 such life sentence, may be released on parole as hereinafter  
90 provided, except that:

91 (a) No prisoner convicted as a confirmed and habitual  
92 criminal under the provisions of Sections 99-19-81 through  
93 99-19-87 shall be eligible for parole;

94 (b) Any person who shall have been convicted of a sex  
95 crime shall not be released on parole except for a person under  
96 the age of nineteen (19) who has been convicted under Section  
97 97-3-67;

98 (c) No one shall be eligible for parole until he shall

99 have served one (1) year of his sentence, unless such person has  
100 accrued any meritorious earned time allowances, in which case he  
101 shall be eligible for parole if he has served (i) nine (9) months  
102 of his sentence or sentences, when his sentence or sentences is  
103 two (2) years or less; (ii) ten (10) months of his sentence or  
104 sentences when his sentence or sentences is more than two (2)  
105 years but no more than five (5) years; and (iii) one (1) year of  
106 his sentence or sentences when his sentence or sentences is more  
107 than five (5) years;

108 (d) (i) No person shall be eligible for parole who  
109 shall, on or after January 1, 1977, be convicted of robbery or  
110 attempted robbery through the display of a firearm until he shall  
111 have served ten (10) years if sentenced to a term or terms of more  
112 than ten (10) years or if sentenced for the term of the natural  
113 life of such person. If such person is sentenced to a term or  
114 terms of ten (10) years or less, then such person shall not be  
115 eligible for parole. The provisions of this paragraph (d) shall  
116 also apply to any person who shall commit robbery or attempted  
117 robbery on or after July 1, 1982, through the display of a deadly  
118 weapon. This subparagraph (d)(i) shall not apply to persons  
119 convicted after September 30, 1994;

120 (ii) No person shall be eligible for parole who  
121 shall, on or after October 1, 1994, be convicted of robbery,  
122 attempted robbery or carjacking as provided in Section 97-3-115 et  
123 seq., through the display of a firearm or drive-by shooting as  
124 provided in Section 97-3-109. The provisions of this subparagraph  
125 (d)(ii) shall also apply to any person who shall commit robbery,  
126 attempted robbery, carjacking or a drive-by shooting on or after  
127 October 1, 1994, through the display of a deadly weapon;

128 (e) No person shall be eligible for parole who, on or  
129 after July 1, 1994, is charged, tried, convicted and sentenced to  
130 life imprisonment without eligibility for parole under the  
131 provisions of Section 99-19-101;

132 (f) No person shall be eligible for parole who is  
133 charged, tried, convicted and sentenced to life imprisonment under  
134 the provisions of Section 99-19-101;

135 (g) No person shall be eligible for parole who is  
136 convicted or whose suspended sentence is revoked after June 30,  
137 1995; except a person who is convicted of a nonviolent crime and  
138 who is eligible for the earned time allowance under Section  
139 47-5-138(1) shall be eligible for parole;

140 (h) An offender may be eligible for medical release  
141 under Section 47-7-4.

142 (2) Notwithstanding any other provision of law, an inmate  
143 shall not be eligible to receive earned time, good time or any  
144 other administrative reduction of time which shall reduce the time  
145 necessary to be served for parole eligibility as provided in  
146 subsection (1) of this section; however, this subsection shall not  
147 apply to the advancement of parole eligibility dates pursuant to  
148 the Prison Overcrowding Emergency Powers Act. Moreover,  
149 meritorious earned time allowances may be used to reduce the time  
150 necessary to be served for parole eligibility as provided in  
151 paragraph (c) of subsection (1) of this section.

152 (3) The State Parole Board shall by rules and regulations  
153 establish a method of determining a tentative parole hearing date  
154 for each eligible offender taken into the custody of the  
155 Department of Corrections. The tentative parole hearing date  
156 shall be determined within ninety (90) days after the department  
157 has assumed custody of the offender. Such tentative parole  
158 hearing date shall be calculated by a formula taking into account  
159 the offender's age upon first commitment, number of prior  
160 incarcerations, prior probation or parole failures, the severity  
161 and the violence of the offense committed, employment history and  
162 other criteria which in the opinion of the board tend to validly  
163 and reliably predict the length of incarceration necessary before  
164 the offender can be successfully paroled.

165           (4) Any inmate within twenty-four (24) months of his parole  
166 eligibility date and who meets the criteria established by the  
167 classification committee shall receive priority for placement in  
168 any educational development and job training programs. Any inmate  
169 refusing to participate in an educational development or job  
170 training program may be ineligible for parole.

171           SECTION 3. This act shall take effect and be in force from  
172 and after July 1, 2000.