

*****Adopted*****

AMENDMENT No. 1 PROPOSED TO

Senate Bill NO. 2800

By Representative(s) Committee

9 **Amend by striking all after the enacting clause and inserting**
10 **in lieu thereof the following:**

11

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

14 47-5-138. (1) The department may promulgate rules and
15 regulations to carry out an earned time allowance program based on
16 the good conduct and performance of an inmate. An inmate is
17 eligible to receive an earned time allowance of one-half (1/2) of
18 the period of confinement imposed by the court except those
19 inmates excluded by law. When an inmate is committed to the
20 custody of the department, the department shall determine a
21 conditional earned time release date by subtracting the earned
22 time allowance from an inmate's term of sentence. This subsection
23 does not apply to any sentence imposed after June 30, 1995;
24 provided, however, from and after July 1, 2000, this subsection
25 shall apply to sentences for any person classified as a nonviolent
26 offender by the Department of Corrections and who participates in
27 an approved work activity or educational activity without any
28 disciplinary problems. Such nonviolent offender shall be eligible
29 to have one (1) day subtracted from his total sentence for each
30 day he participates in such approved work activity or educational
31 activity without any disciplinary problems. "Nonviolent" shall

32mean a person convicted of a felony other than: sex crimes,
33murder, robbery, manslaughter, burglary of occupied dwelling, drug
34offenses, rape, statutory rape and arson.

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

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

45 (b) On receipt of a final order, the department shall
46 forfeit:

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

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

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

56 (c) The department may not restore earned time
57 forfeited under this subsection.

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

61 (5) For any sentence imposed after June 30, 1995, an inmate
62 may receive an earned time allowance of four and one-half (4-1/2)
63 days for each thirty (30) days served if the department determines
64 that the inmate has complied with the good conduct and performance
65 requirements of the earned time allowance program. The earned
66 time allowance under this subsection shall not exceed fifteen

67percent (15%) of an inmate's term of sentence, unless the inmate
68is classified as a nonviolent offender as provided in subsection
69(1) of this section.

70 (6) Any inmate, who is released before the expiration of his
71term of sentence under this section, shall be placed under
72earned-release supervision until the expiration of the term of
73sentence. The inmate shall retain inmate status and remain under
74the jurisdiction of the department. The period of earned-release
75supervision shall be conducted in the same manner as a period of
76supervised parole. The department shall develop rules, terms and
77conditions for the earned-release supervision program. The
78commissioner shall designate the appropriate classification
79committee or other division within the department to conduct
80revocation hearings for inmates violating the conditions of
81earned-release supervision.

82 (7) If the earned-release supervision is revoked, the inmate
83shall serve the remainder of the sentence and the time the inmate
84was on earned-release supervision, shall not be applied to and
85shall not reduce his sentence.

86 SECTION 2. Section 47-7-3, Mississippi Code of 1972, is
87amended as follows:

88 47-7-3. (1) Every prisoner who has been convicted of any
89offense against the State of Mississippi, and is confined in the
90execution of a judgment of such conviction in the Mississippi
91State Penitentiary for a definite term or terms of one (1) year or
92over, or for the term of his or her natural life, whose record of
93conduct shows that such prisoner has observed the rules of the
94penitentiary, and who has served not less than one-fourth (1/4) of
95the total of such term or terms for which such prisoner was
96sentenced, or, if sentenced to serve a term or terms of thirty
97(30) years or more, or, if sentenced for the term of the natural
98life of such prisoner, has served not less than ten (10) years of
99such life sentence, may be released on parole as hereinafter
100provided, except that:

101 (a) No prisoner convicted as a confirmed and habitual

102criminal under the provisions of Sections 99-19-81 through
10399-19-87 shall be eligible for parole;

104 (b) Any person who shall have been convicted of a sex
105crime shall not be released on parole except for a person under
106the age of nineteen (19) who has been convicted under Section
10797-3-67;

108 (c) No one shall be eligible for parole until he shall
109have served one (1) year of his sentence, unless such person has
110accrued any meritorious earned time allowances, in which case he
111shall be eligible for parole if he has served (i) nine (9) months
112of his sentence or sentences, when his sentence or sentences is
113two (2) years or less; (ii) ten (10) months of his sentence or
114sentences when his sentence or sentences is more than two (2)
115years but no more than five (5) years; and (iii) one (1) year of
116his sentence or sentences when his sentence or sentences is more
117than five (5) years;

118 (d) (i) No person shall be eligible for parole who
119shall, on or after January 1, 1977, be convicted of robbery or
120attempted robbery through the display of a firearm until he shall
121have served ten (10) years if sentenced to a term or terms of more
122than ten (10) years or if sentenced for the term of the natural
123life of such person. If such person is sentenced to a term or
124terms of ten (10) years or less, then such person shall not be
125eligible for parole. The provisions of this paragraph (d) shall
126also apply to any person who shall commit robbery or attempted
127robbery on or after July 1, 1982, through the display of a deadly
128weapon. This subparagraph (d)(i) shall not apply to persons
129convicted after September 30, 1994;

130 (ii) No person shall be eligible for parole who
131shall, on or after October 1, 1994, be convicted of robbery,
132attempted robbery or carjacking as provided in Section 97-3-115 et
133seq., through the display of a firearm or drive-by shooting as
134provided in Section 97-3-109. The provisions of this subparagraph
135(d)(ii) shall also apply to any person who shall commit robbery,
136attempted robbery, carjacking or a drive-by shooting on or after

137 October 1, 1994, through the display of a deadly weapon;

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

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

145 (g) No person shall be eligible for parole who is
146 convicted or whose suspended sentence is revoked after June 30,
147 1995; provided, however, persons convicted of a nonviolent crime
148 as provided in Section 47-5-138 shall be eligible for parole;

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

151 (2) Notwithstanding any other provision of law, an inmate
152 shall not be eligible to receive earned time, good time or any
153 other administrative reduction of time which shall reduce the time
154 necessary to be served for parole eligibility as provided in
155 subsection (1) of this section; however, this subsection shall not
156 apply to the advancement of parole eligibility dates pursuant to
157 the Prison Overcrowding Emergency Powers Act. Moreover,
158 meritorious earned time allowances may be used to reduce the time
159 necessary to be served for parole eligibility as provided in
160 paragraph (c) of subsection (1) of this section.

161 (3) The State Parole Board shall by rules and regulations
162 establish a method of determining a tentative parole hearing date
163 for each eligible offender taken into the custody of the
164 Department of Corrections. The tentative parole hearing date
165 shall be determined within ninety (90) days after the department
166 has assumed custody of the offender. Such tentative parole
167 hearing date shall be calculated by a formula taking into account
168 the offender's age upon first commitment, number of prior
169 incarcerations, prior probation or parole failures, the severity
170 and the violence of the offense committed, employment history and
171 other criteria which in the opinion of the board tend to validly

172and reliably predict the length of incarceration necessary before
173the offender can be successfully paroled.

174 (4) Any inmate within twenty-four (24) months of his parole
175eligibility date and who meets the criteria established by the
176classification committee shall receive priority for placement in
177any educational development and job training programs. Any inmate
178refusing to participate in an educational development or job
179training program may be ineligible for parole.

180 SECTION 3. This act shall take effect and be in force from
181and after July 1, 2000.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTIONS 47-5-138 AND 47-7-3, MISSISSIPPI
2CODE OF 1972, TO PROVIDE THAT PERSONS CONVICTED OF NONVIOLENT
3CRIMES MAY PARTICIPATE IN WORK ACTIVITIES AND EDUCATIONAL
4ACTIVITIES APPROVED BY THE DEPARTMENT OF CORRECTIONS AND UPON
5COMPLETION OF SAME WITHOUT DISCIPLINARY PROBLEMS MAY RECEIVE A
6MODIFICATION OF THE SENTENCE IMPOSED AS APPROVED BY THE DEPARTMENT
7OF CORRECTIONS; AND FOR RELATED PURPOSES.