

By: Representative Blackmon

To: Penitentiary

HOUSE BILL NO. 1005

1 AN ACT TO AMEND SECTIONS 47-5-138 AND 47-7-3, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT PERSONS CONVICTED OF A NONVIOLENT
3 CRIME OR DRUG POSSESSION MAY RECEIVE AN EARNED-TIME ALLOWANCE OF
4 ONE DAY EARNED FOR EACH DAY SERVED ASSUMING CURRENT GRANT RATES
5 FOR PAROLE; 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. This
18 subsection does not apply to any sentence imposed after June 30,
19 1995.

20 (2) An inmate may forfeit all or part of his earned-time
21 allowance for a serious violation of rules. No forfeiture of the
22 earned-time allowance shall be effective except upon approval of
23 the commissioner or his designee, and forfeited earned time may
24 not be restored.

25 (3) (a) For the purposes of this subsection, "final order"
26 means an order of a state or federal court that dismisses a
27 lawsuit brought by an inmate while the inmate was in the custody

28 of the Department of Corrections as frivolous, malicious or for
29 failure to state a claim upon which relief could be granted.

30 (b) On receipt of a final order, the department shall
31 forfeit:

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

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

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

41 (c) The department may not restore earned time
42 forfeited under this subsection.

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

46 (5) For any sentence imposed after June 30, 1995, an inmate
47 may receive an earned-time allowance of four and one-half (4-1/2)
48 days for each thirty (30) days served if the department determines
49 that the inmate has complied with the good conduct and performance
50 requirements of the earned-time allowance program. The
51 earned-time allowance under this subsection shall not exceed
52 fifteen percent (15%) of an inmate's term of sentence; however,
53 from and after July 1, 2002, any person convicted of a nonviolent
54 crime or drug possession may receive an earned-time allowance of
55 one (1) day earned for each day served, assuming current grant
56 rates for parole.

57 (6) Any inmate, who is released before the expiration of his
58 term of sentence under this section, shall be placed under
59 earned-release supervision until the expiration of the term of
60 sentence. The inmate shall retain inmate status and remain under

61 the jurisdiction of the department. The period of earned-release
62 supervision shall be conducted in the same manner as a period of
63 supervised parole. The department shall develop rules, terms and
64 conditions for the earned-release supervision program. The
65 commissioner shall designate the appropriate classification
66 committee or other division within the department to conduct
67 revocation hearings for inmates violating the conditions of
68 earned-release supervision.

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

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

75 47-7-3. (1) Every prisoner who has been convicted of any
76 offense against the State of Mississippi, and is confined in the
77 execution of a judgment of such conviction in the Mississippi
78 State Penitentiary for a definite term or terms of one (1) year or
79 over, or for the term of his or her natural life, whose record of
80 conduct shows that such prisoner has observed the rules of the
81 Penitentiary, and who has served not less than one-fourth (1/4) of
82 the total of such term or terms for which such prisoner was
83 sentenced, or, if sentenced to serve a term or terms of thirty
84 (30) years or more, or, if sentenced for the term of the natural
85 life of such prisoner, has served not less than ten (10) years of
86 such life sentence, may be released on parole as hereinafter
87 provided, except that:

88 (a) No prisoner convicted as a confirmed and habitual
89 criminal under the provisions of Sections 99-19-81 through
90 99-19-87 shall be eligible for parole;

91 (b) Any person who shall have been convicted of a sex
92 crime shall not be released on parole * * *;

93 (c) No one shall be eligible for parole until he shall
94 have served one (1) year of his sentence, unless such person has
95 accrued any meritorious earned-time allowances, in which case he
96 shall be eligible for parole if he has served (i) nine (9) months
97 of his sentence or sentences, when his sentence or sentences is
98 two (2) years or less; (ii) ten (10) months of his sentence or
99 sentences when his sentence or sentences is more than two (2)
100 years but no more than five (5) years; and (iii) one (1) year of
101 his sentence or sentences when his sentence or sentences is more
102 than five (5) years;

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

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

123 (e) No person shall be eligible for parole who, on or
124 after July 1, 1994, is charged, tried, convicted and sentenced to

125 life imprisonment without eligibility for parole under the
126 provisions of Section 99-19-101;

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

130 (g) No person shall be eligible for parole who is
131 convicted or whose suspended sentence is revoked after June 30,
132 1995; however, a person convicted of a nonviolent crime or drug
133 possession, as provided in Section 47-5-138, shall be eligible for
134 parole.

135 * * *

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

146 (3) The State Parole Board shall by rules and regulations
147 establish a method of determining a tentative parole hearing date
148 for each eligible offender taken into the custody of the
149 Department of Corrections. The tentative parole hearing date
150 shall be determined within ninety (90) days after the department
151 has assumed custody of the offender. Such tentative parole
152 hearing date shall be calculated by a formula taking into account
153 the offender's age upon first commitment, number of prior
154 incarcerations, prior probation or parole failures, the severity
155 and the violence of the offense committed, employment history and
156 other criteria which in the opinion of the board tend to validly

157 and reliably predict the length of incarceration necessary before
158 the offender can be successfully paroled.

159 (4) Any inmate within twenty-four (24) months of his parole
160 eligibility date and who meets the criteria established by the
161 classification committee shall receive priority for placement in
162 any educational development and job training programs. Any inmate
163 refusing to participate in an educational development or job
164 training program may be ineligible for parole.

165 SECTION 3. This act shall take effect and be in force from
166 and after July 1, 2001.