

By: Representative Blackmon

To: Penitentiary

HOUSE BILL NO. 1056

1 AN ACT TO AMEND SECTIONS 47-5-138 AND 47-7-3, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT PERSONS CONVICTED OF NONVIOLENT
3 CRIMES OR DRUG POSSESSION MAY RECEIVE AN EARNED-TIME ALLOWANCE OF
4 ONE DAY EARNED FOR EACH DAY SERVED; AND FOR RELATED PURPOSES.

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

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

8 47-5-138. (1) The department may promulgate rules and
9 regulations to carry out an earned-time allowance program based on
10 the good conduct and performance of an inmate. An inmate is
11 eligible to receive an earned-time allowance of one-half (1/2) of
12 the period of confinement imposed by the court except those
13 inmates excluded by law. When an inmate is committed to the
14 custody of the department, the department shall determine a
15 conditional earned-time release date by subtracting the
16 earned-time allowance from an inmate's term of sentence. This
17 subsection does not apply to any sentence imposed after June 30,
18 1995.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

73 47-7-3. (1) Every prisoner who has been convicted of any
74 offense against the State of Mississippi, and is confined in the
75 execution of a judgment of such conviction in the Mississippi
76 State Penitentiary for a definite term or terms of one (1) year or
77 over, or for the term of his or her natural life, whose record of
78 conduct shows that such prisoner has observed the rules of the
79 penitentiary, and who has served not less than one-fourth (1/4) of
80 the total of such term or terms for which such prisoner was
81 sentenced, or, if sentenced to serve a term or terms of thirty
82 (30) years or more, or, if sentenced for the term of the natural
83 life of such prisoner, has served not less than ten (10) years of
84 such life sentence, may be released on parole as hereinafter
85 provided, except that:

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

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

91 (c) No one shall be eligible for parole until he shall
92 have served one (1) year of his sentence, unless such person has

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

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

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

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

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

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

133 * * *

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

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

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

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