

By: Senator(s) Wiggins, Smith, Tindell,  
Watson

To: Judiciary, Division A

SENATE BILL NO. 2140

1 AN ACT TO AMEND SECTION 47-7-3, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT PERSONS CONVICTED OF CERTAIN VIOLENT CRIMES ARE NOT  
3 ELIGIBLE FOR EARNED TIME ALLOWANCE, GOOD TIME, MERITORIOUS EARNED  
4 TIME ALLOWANCE, TRUSTY TIME ALLOWANCE, OR OTHER ADMINISTRATIVE  
5 REDUCTION OF TIME FOR PAROLE ELIGIBILITY OR EARLY RELEASE; TO  
6 AMEND SECTIONS 47-5-138, 47-5-138.1, 47-5-139 AND 47-5-142,  
7 MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 47-7-3, Mississippi Code of 1972, is  
10 amended as follows:

11 47-7-3. (1) Every prisoner who has been convicted of any  
12 offense against the State of Mississippi, and is confined in the  
13 execution of a judgment of such conviction in the Mississippi  
14 Department of Corrections for a definite term or terms of one (1)  
15 year or over, or for the term of his or her natural life, whose  
16 record of conduct shows that such prisoner has observed the rules  
17 of the department, and who has served not less than one-fourth  
18 (1/4) of the total of such term or terms for which such prisoner  
19 was sentenced, or, if sentenced to serve a term or terms of thirty  
20 (30) years or more, or, if sentenced for the term of the natural  
21 life of such prisoner, has served not less than ten (10) years of  
22 such life sentence, may be released on parole as hereinafter  
23 provided, except that:

24 (a) No prisoner convicted as a confirmed and habitual  
25 criminal under the provisions of Sections 99-19-81 through  
26 99-19-87 shall be eligible for parole;

27 (b) Any person who shall have been convicted of a sex  
28 crime shall not be released on parole except for a person under



29 the age of nineteen (19) who has been convicted under Section  
30 97-3-67;

31 (c) No one shall be eligible for parole until he shall  
32 have served one (1) year of his sentence, unless such person has  
33 accrued any meritorious earned time allowances, in which case he  
34 shall be eligible for parole if he has served (i) nine (9) months  
35 of his sentence or sentences, when his sentence or sentences is  
36 two (2) years or less; (ii) ten (10) months of his sentence or  
37 sentences when his sentence or sentences is more than two (2)  
38 years but no more than five (5) years; and (iii) one (1) year of  
39 his sentence or sentences when his sentence or sentences is more  
40 than five (5) years;

41 (d) (i) No person shall be eligible for parole who  
42 shall, on or after January 1, 1977, be convicted of robbery or  
43 attempted robbery through the display of a firearm until he shall  
44 have served ten (10) years if sentenced to a term or terms of more  
45 than ten (10) years or if sentenced for the term of the natural  
46 life of such person. If such person is sentenced to a term or  
47 terms of ten (10) years or less, then such person shall not be  
48 eligible for parole. The provisions of this paragraph (d) (i)  
49 shall also apply to any person who shall commit robbery or  
50 attempted robbery on or after July 1, 1982, through the display of  
51 a deadly weapon. This paragraph (d) (i) shall not apply to persons  
52 convicted after September 30, 1994;

53 (ii) No person shall be eligible for parole who  
54 shall, on or after October 1, 1994, be convicted of robbery,  
55 attempted robbery or carjacking as provided in Section 97-3-115 et  
56 seq., through the display of a firearm or drive-by shooting as  
57 provided in Section 97-3-109. The provisions of this paragraph  
58 (d) (ii) shall also apply to any person who shall commit robbery,  
59 attempted robbery, carjacking or a drive-by shooting on or after  
60 October 1, 1994, through the display of a deadly weapon;



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

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

68 (g) Notwithstanding the provisions of subsection  
69 (1)(c), a person who is convicted of aggravated domestic violence  
70 shall not be eligible for parole until he shall have served one  
71 (1) year of his sentence;

72 (h) No person shall be eligible for parole who is  
73 convicted or whose suspended sentence is revoked after June 30,  
74 1995, except that an offender convicted of only nonviolent crimes  
75 after June 30, 1995, may be eligible for parole if the offender  
76 meets the requirements in subsection (1) and this paragraph. In  
77 addition to other requirements, if an offender is convicted of a  
78 drug or driving under the influence felony, the offender must  
79 complete a drug and alcohol rehabilitation program prior to parole  
80 or the offender may be required to complete a post-release drug  
81 and alcohol program as a condition of parole. For purposes of  
82 this paragraph, "nonviolent crime" means a felony other than  
83 homicide, robbery, manslaughter, sex crimes, arson, burglary of an  
84 occupied dwelling, aggravated assault, kidnapping, felonious abuse  
85 of vulnerable adults, felonies with enhanced penalties, the sale  
86 or manufacture of a controlled substance under the Uniform  
87 Controlled Substances Law, felony child abuse, or exploitation or  
88 any crime under Section 97-5-33 or Section 97-5-39(2) or  
89 97-5-39(1)(b), 97-5-39(1)(c) or a violation of Section  
90 63-11-30(5). An offender convicted of a violation under Section  
91 41-29-139(a), not exceeding the amounts specified under Section  
92 41-29-139(b), may be eligible for parole. In addition, an  
93 offender incarcerated for committing the crime of possession of a



94 controlled substance under the Uniform Controlled Substances Law  
95 after July 1, 1995, shall be eligible for parole.

96 (2) (a) Notwithstanding any other provision of law, an  
97 inmate shall not be eligible to receive earned time, good time or  
98 any other administrative reduction of time which shall reduce the  
99 time necessary to be served for parole eligibility as provided in  
100 subsection (1) of this section; however, this subsection shall not  
101 apply to the advancement of parole eligibility dates pursuant to  
102 the Prison Overcrowding Emergency Powers Act. Moreover,  
103 meritorious earned time allowances may be used to reduce the time  
104 necessary to be served for parole eligibility as provided in  
105 paragraph (c) of subsection (1) of this section.

106 (b) No person convicted of a violent crime, as defined  
107 in this paragraph (b), shall be eligible to receive earned time  
108 allowance, good time, meritorious earned time allowance, trusty  
109 time allowance, or any other administrative reduction of time  
110 which reduces the time necessary to be served for parole  
111 eligibility or early release. This prohibition includes  
112 eligibility dates pursuant to the Prison overcrowding Emergency  
113 Powers Act. For purposes of this paragraph (b), "violent crime"  
114 means homicide, robbery, manslaughter, sex crimes, arson, burglary  
115 of an occupied dwelling, aggravated assault, kidnapping, felonious  
116 abuse of vulnerable adults, felonies with enhanced penalties, the  
117 sale or manufacture of a controlled substance under the Uniform  
118 Controlled Substances Law, felony child abuse, or exploitation or  
119 any crime under Sections 97-5-33, 97-5-39(1)(b), (1)(c) or (2) or  
120 a violation of Section 63-11-30(5).

121 (3) The State Parole Board shall, by rules and regulations,  
122 establish a method of determining a tentative parole hearing date  
123 for each eligible offender taken into the custody of the  
124 Department of Corrections. The tentative parole hearing date  
125 shall be determined within ninety (90) days after the department  
126 has assumed custody of the offender. Such tentative parole



127 hearing date shall be calculated by a formula taking into account  
128 the offender's age upon first commitment, number of prior  
129 incarcerations, prior probation or parole failures, the severity  
130 and the violence of the offense committed, employment history,  
131 whether the offender served in the United States Armed Forces and  
132 has an honorable discharge, and other criteria which in the  
133 opinion of the board tend to validly and reliably predict the  
134 length of incarceration necessary before the offender can be  
135 successfully paroled.

136 (4) Any inmate within twenty-four (24) months of his parole  
137 eligibility date and who meets the criteria established by the  
138 classification board shall receive priority for placement in any  
139 educational development and job training programs. Any inmate  
140 refusing to participate in an educational development or job  
141 training program may be ineligible for parole.

142 **SECTION 2.** Section 47-5-138, Mississippi Code of 1972, is  
143 amended as follows:

144 47-5-138. (1) The department may promulgate rules and  
145 regulations to carry out an earned time allowance program based on  
146 the good conduct and performance of an inmate. An inmate is  
147 eligible to receive an earned time allowance of one-half (1/2) of  
148 the period of confinement imposed by the court except those  
149 inmates excluded by law. When an inmate is committed to the  
150 custody of the department, the department shall determine a  
151 conditional earned time release date by subtracting the earned  
152 time allowance from an inmate's term of sentence. This subsection  
153 does not apply to any sentence imposed after June 30, 1995.

154 (2) An inmate may forfeit all or part of his earned time  
155 allowance for a serious violation of rules. No forfeiture of the  
156 earned time allowance shall be effective except upon approval of  
157 the commissioner or his designee, and forfeited earned time may  
158 not be restored.



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

164           (b) On receipt of a final order, the department shall  
165 forfeit:

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

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

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

175           (c) The department may not restore earned time  
176 forfeited under this subsection.

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

180           (5) For any sentence imposed after June 30, 1995, an inmate  
181 may receive an earned time allowance of four and one-half (4-1/2)  
182 days for each thirty (30) days served if the department determines  
183 that the inmate has complied with the good conduct and performance  
184 requirements of the earned time allowance program. The earned  
185 time allowance under this subsection shall not exceed fifteen  
186 percent (15%) of an inmate's term of sentence; however, beginning  
187 July 1, 2006, no person under the age of twenty-one (21) who has  
188 committed a nonviolent offense, and who is under the jurisdiction  
189 of the Department of Corrections, shall be subject to the fifteen  
190 percent (15%) limitation for earned time allowances as described  
191 in this subsection (5).



192           (6) Any inmate, who is released before the expiration of his  
193 term of sentence under this section, shall be placed under  
194 earned-release supervision until the expiration of the term of  
195 sentence. The inmate shall retain inmate status and remain under  
196 the jurisdiction of the department. The period of earned-release  
197 supervision shall be conducted in the same manner as a period of  
198 supervised parole. The department shall develop rules, terms and  
199 conditions for the earned-release supervision program. The  
200 commissioner shall designate the appropriate hearing officer  
201 within the department to conduct revocation hearings for inmates  
202 violating the conditions of earned-release supervision.

203           (7) An inmate is not eligible for earned time allowance  
204 under this section if he was convicted of a violent crime as  
205 defined in Section 47-7-3(2)(b).

206           (8) If the earned-release supervision is revoked, the inmate  
207 shall serve the remainder of the sentence and the time the inmate  
208 was on earned-release supervision, shall not be applied to and  
209 shall not reduce his sentence.

210           **SECTION 3.** Section 47-5-138.1, Mississippi Code of 1972, is  
211 amended as follows:

212           47-5-138.1. (1) In addition to any other administrative  
213 reduction of sentence, an offender in trusty status as defined by  
214 the classification board of the Department of Corrections may be  
215 awarded a trusty time allowance of thirty (30) days' reduction of  
216 sentence for each thirty (30) days of participation during any  
217 calendar month in an approved program while in trusty status,  
218 including satisfactory participation in education or instructional  
219 programs, satisfactory participation in work projects and  
220 satisfactory participation in any special incentive program.

221           (2) An offender in trusty status shall not be eligible for a  
222 reduction of sentence under this section if:

223           (a) The offender was sentenced to life imprisonment;



224 (b) The offender was convicted as an habitual offender  
225 under Sections 99-19-81 through 99-19-87;

226 (c) The offender was convicted of a sex crime;

227 (d) The offender has not served the mandatory time  
228 required for parole eligibility, as prescribed under Section  
229 47-7-3, for a conviction of robbery or attempted robbery through  
230 the display of a deadly weapon, carjacking through the display of  
231 a deadly weapon or a drive-by shooting;

232 (e) The offender was convicted of possession with the  
233 intent to deliver or sell a controlled substance under Section  
234 41-29-139; \* \* \*

235 (f) The offender was convicted of trafficking in  
236 controlled substances under Section 41-29-139; or

237 (g) The offender was convicted of a violent crime as  
238 defined in Section 47-7-3(2)(b).

239 **SECTION 4.** Section 47-5-139, Mississippi Code of 1972, is  
240 amended as follows:

241 47-5-139. (1) An inmate shall not be eligible for the  
242 earned time allowance if:

243 (a) The inmate was sentenced to life imprisonment; but  
244 an inmate, except an inmate sentenced to life imprisonment for  
245 capital murder, who has reached the age of sixty-five (65) or  
246 older and who has served at least fifteen (15) years may petition  
247 the sentencing court for conditional release;

248 (b) The inmate was convicted as a habitual offender  
249 under Sections 99-19-81 through 99-19-87;

250 (c) The inmate has forfeited his earned time allowance  
251 by order of the commissioner;

252 (d) The inmate was convicted of a sex crime; \* \* \*

253 (e) The inmate has not served the mandatory time  
254 required for parole eligibility for a conviction of robbery or  
255 attempted robbery with a deadly weapon; or



256           (f) The inmate was convicted of a violent crime as  
257 defined in Section 47-7-3(2)(b).

258           (2) An offender under two (2) or more consecutive sentences  
259 shall be allowed commutation based upon the total term of the  
260 sentences.

261           (3) All earned time shall be forfeited by the inmate in the  
262 event of escape and/or aiding and abetting an escape. The  
263 commissioner may restore all or part of the earned time if the  
264 escapee returns to the institution voluntarily, without expense to  
265 the state, and without act of violence while a fugitive from the  
266 facility.

267           (4) Any officer or employee who shall willfully violate the  
268 provisions of this section and be convicted therefor shall be  
269 removed from office or employment.

270           **SECTION 5.** Section 47-5-142, Mississippi Code of 1972, is  
271 amended as follows:

272           47-5-142. (1) In order to provide incentive for offenders  
273 to achieve positive and worthwhile accomplishments for their  
274 personal benefit or the benefit of others, and in addition to any  
275 other administrative reductions of the length of an offender's  
276 sentence, any offender shall be eligible, subject to the  
277 provisions of this section, to receive meritorious earned time as  
278 distinguished from earned time for good conduct and performance.

279           (2) Subject to approval by the commissioner of the terms and  
280 conditions of the program or project, meritorious earned time may  
281 be awarded for the following: (a) successful completion of  
282 educational or instructional programs; (b) satisfactory  
283 participation in work projects; and (c) satisfactory participation  
284 in any special incentive program.

285           (3) The programs and activities through which meritorious  
286 earned time may be received shall be published in writing and  
287 posted in conspicuous places at all facilities of the department



288 and such publication shall be made available to all offenders in  
289 the custody of the department.

290 (4) The commissioner shall make a determination of the  
291 number of days of reduction of sentence which may be awarded an  
292 offender as meritorious earned time for participation in approved  
293 programs or projects; the number of days shall be determined by  
294 the commissioner on the basis of each particular program or  
295 project.

296 (5) No offender shall be awarded any meritorious earned time  
297 while assigned to the maximum security facilities for disciplinary  
298 purposes.

299 (6) An offender is not eligible for meritorious earned time  
300 if he was convicted of a violent crime as defined in Section  
301 47-7-3(2)(b).

302 (7) All meritorious earned time shall be forfeited by the  
303 offender in the event of escape and/or aiding and abetting an  
304 escape.

305 (8) Any officer or employee of the department who shall  
306 willfully violate the provisions of this section and be convicted  
307 therefor shall be removed from office or employment.

308 (9) An offender may forfeit all or any part of his  
309 meritorious earned time allowance for just cause upon the written  
310 order of the commissioner or his designee. Any meritorious earned  
311 time allowance forfeited under this section shall not be restored  
312 nor shall it be re-earned by the offender.

313 **SECTION 6.** This act shall take effect and be in force from  
314 and after its passage.

