

By: Representative Scott (80th)

To: Juvenile Justice

## HOUSE BILL NO. 185

1 AN ACT TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT JUVENILE OFFENDERS MAY BE SENTENCED TO THE  
3 INTENSIVE SUPERVISION PROGRAM ADMINISTERED BY THE DEPARTMENT OF  
4 CORRECTIONS; TO PROVIDE THAT THE MINIMUM SENTENCE UNDER THIS  
5 PROGRAM SHALL BE SIX MONTHS FOR JUVENILE OFFENDERS; TO REQUIRE  
6 JUVENILE OFFENDERS TO BE TESTED FOR ALCOHOL AND DRUGS; TO REQUIRE  
7 JUVENILE OFFENDERS TO PAY TEN DOLLARS FOR THE TEST; TO PROVIDE  
8 THAT IF A JUVENILE OFFENDER TESTS POSITIVE FOR ALCOHOL OR DRUGS,  
9 HE SHALL BE REQUIRED TO ATTEND AN ALCOHOL AND DRUG REHABILITATION  
10 PROGRAM; TO AMEND SECTION 47-5-1007, MISSISSIPPI CODE OF 1972, TO  
11 PROVIDE THAT JUVENILE OFFENDERS SENTENCED TO THE INTENSIVE  
12 SUPERVISION PROGRAM SHALL PAY A MONTHLY FEE TO OFFSET THE COST OF  
13 THE INTENSIVE SUPERVISION PROGRAM; TO AMEND SECTION 47-5-1013,  
14 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JUVENILE OFFENDERS SHALL  
15 NOT PAY A PROGRAM FEE; TO AMEND SECTION 47-5-1003, MISSISSIPPI  
16 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

18 SECTION 1. Section 43-21-605, Mississippi Code of 1972, is  
19 amended as follows:

20 43-21-605. (1) In delinquency cases, the disposition order  
21 may include any of the following alternatives or combination of  
22 the following alternatives, giving precedence in the following  
23 sequence:

24 (a) Release the child without further action;

25 (b) Place the child in the custody of the parents, a  
26 relative or other persons subject to any conditions and  
27 limitations, including restitution, as the youth court may  
28 prescribe;

29 (c) Place the child on probation subject to any  
30 reasonable and appropriate conditions and limitations, including  
31 restitution, as the youth court may prescribe;

32 (d) Order terms of treatment calculated to assist the  
33 child and the child's parents or guardian which are within the

34 ability of the parent or guardian to perform;

35           (e) Order terms of supervision which may include  
36 participation in a constructive program of service or education or  
37 civil fines not in excess of Five Hundred Dollars (\$500.00), or  
38 restitution not in excess of actual damages caused by the child to  
39 be paid out of his own assets or by performance of services  
40 acceptable to the victims and approved by the youth court and  
41 reasonably capable of performance within one (1) year;

42           (f) Suspend the child's driver's license by taking and  
43 keeping it in custody of the court for not more than one (1) year;

44           (g) Give legal custody of the child to any of the  
45 following:

46                   (i) The Department of Human Services for  
47 appropriate placement; or

48                   (ii) Any public or private organization,  
49 preferably community-based, able to assume the education, care and  
50 maintenance of the child, which has been found suitable by the  
51 court; or

52                   (iii) The Department of Human Services for  
53 placement in a wilderness training program or a state-supported  
54 training school, except that no child under the age of ten (10)  
55 years shall be committed to a state training school. The training  
56 school may retain custody of the child until the child's twentieth  
57 birthday but for no longer. The superintendent of a state  
58 training school may parole a child at any time he may deem it in  
59 the best interest and welfare of such child. Twenty (20) days  
60 before the parole, the training school shall notify the committing  
61 court of the pending release. The youth court may then arrange  
62 subsequent placement after a reconvened disposition hearing except  
63 that the youth court may not recommit the child to the training  
64 school or any other secure facility without an adjudication of a  
65 new offense or probation or parole violation. Before assigning  
66 the custody of any child to any private institution or agency, the

67 youth court through its designee shall first inspect the physical  
68 facilities to determine that they provide a reasonable standard of  
69 health and safety for the child. The youth court shall not place  
70 a child in the custody of a state training school for truancy,  
71 unless the child has been adjudicated to have committed an act of  
72 delinquency in addition to truancy;

73 (h) Recommend to the child and the child's parents or  
74 guardian that the child attend and participate in the Youth  
75 Challenge Program under the Mississippi National Guard, as created  
76 in Section 43-27-203, subject to the selection of the child for  
77 the program by the National Guard; however, the child must  
78 volunteer to participate in the program. The youth court may not  
79 order any child to apply or attend the program;

80 (i) (i) Adjudicate the juvenile to the Statewide  
81 Juvenile Work Program if the program is established in the court's  
82 jurisdiction. The juvenile and his parents or guardians must sign  
83 a waiver of liability in order to participate in the work program.  
84 The judge will coordinate with the youth services counselors as to  
85 placing participants in the work program;

86 (ii) The severity of the crime, whether or not the  
87 juvenile is a repeat offender or is a felony offender will be  
88 taken into consideration by the judge when adjudicating a juvenile  
89 to the work program. The juveniles adjudicated to the work  
90 program will be supervised by police officers or reserve officers.  
91 The term of service will be from twenty-four (24) to one hundred  
92 twenty (120) hours of community service. A juvenile will work the  
93 hours to which he was adjudicated on the weekends during school  
94 and week days during the summer. Parents are responsible for a  
95 juvenile reporting for work. Noncompliance with an order to  
96 perform community service will result in a heavier adjudication.  
97 A juvenile may be adjudicated to the community service program  
98 only two (2) times;

99 (iii) The judge shall assess an additional fine on

100 the juvenile which will be used to pay the costs of implementation  
101 of the program and to pay for supervision by police officers and  
102 reserve officers. The amount of the fine will be based on the  
103 number of hours to which the juvenile has been adjudicated; \* \* \*

104 (j) Order the child to participate in a youth court  
105 work program as provided in Section 1 of this act; or

106 (k) Order terms of house arrest under the intensive  
107 supervision program as created in Sections 47-5-1001 through  
108 47-5-1015. The Department of Corrections shall take bids for the  
109 program provided by this act. The Department of Youth Services  
110 shall promulgate rules regarding the supervision of juveniles  
111 placed in the intensive supervision program. There shall be  
112 fifteen hundred (1,500) slots created in the intensive supervision  
113 program for juveniles. Any juvenile sentenced to house arrest  
114 shall be tested for alcohol and drugs, and if the juvenile tests  
115 positive for alcohol or drugs, the juvenile shall be ordered to  
116 participate in an alcohol and drug rehabilitation program. The  
117 juvenile shall pay Ten Dollars (\$10.00) to offset the cost of  
118 administering the alcohol and drug test. The juveniles must  
119 attend school, alternative school or be in the process of working  
120 towards a general educational development (GED) certificate.

121 (2) In addition to any of the disposition alternatives  
122 authorized under subsection (1) of this section, the disposition  
123 order in any case in which the child is adjudicated delinquent for  
124 an offense under Section 63-11-30 shall include an order denying  
125 the driver's license and driving privileges of the child as  
126 required under subsection (8) of Section 63-11-30.

127 (3) Fines levied under this chapter shall be paid into the  
128 general fund of the county but, in those counties wherein the  
129 youth court is a branch of the municipal government, it shall be  
130 paid into the municipal treasury.

131 (4) Any institution or agency to which a child has been  
132 committed shall give to the youth court any information concerning

133 the child as the youth court may at any time require.

134 (5) The youth court shall not place a child in another  
135 school district who has been expelled from a school district for  
136 the commission of a violent act. For the purpose of this  
137 subsection, "violent act" means any action which results in death  
138 or physical harm to another or an attempt to cause death or  
139 physical harm to another.

140 SECTION 2. Section 47-5-1007, Mississippi Code of 1972, is  
141 amended as follows:

142 47-5-1007. (1) Any participant in the intensive supervision  
143 program who engages in employment shall pay a monthly fee to the  
144 department for each month such person is enrolled in the program.  
145 The department may waive the monthly fee if the offender is a  
146 full-time student or is engaged in vocational training. Juvenile  
147 offenders shall pay a monthly fee of not less than Ten Dollars  
148 (\$10.00) but not more than Fifty Dollars (\$50.00) based on a  
149 sliding scale using the standard of need for each family that is  
150 used to calculate TANF benefits. Money received by the department  
151 from participants in the program shall be deposited into a special  
152 fund which is hereby created in the State Treasury. It shall be  
153 used, upon appropriation by the Legislature, for the purpose of  
154 helping to defray the costs involved in administering and  
155 supervising the program. Unexpended amounts remaining in the  
156 special fund at the end of a fiscal year shall not lapse into the  
157 State General Fund, and any interest earned on amounts in the  
158 special fund shall be deposited to the credit of the special fund.

159 (2) The participant shall admit any correctional officer  
160 into his residence at any time for purposes of verifying the  
161 participant's compliance with the conditions of his detention.

162 (3) The participant shall make the necessary arrangements to  
163 allow for correctional officers to visit the participant's place  
164 of education or employment at any time, based upon the approval of  
165 the educational institution or employer, for the purpose of

166 verifying the participant's compliance with the conditions of his  
167 detention.

168 (4) The participant shall acknowledge and participate with  
169 the approved electronic monitoring device as designated by the  
170 department at any time for the purpose of verifying the  
171 participant's compliance with the conditions of his detention.

172 (5) The participant shall be responsible for and shall  
173 maintain the following:

174 (a) A working telephone line in the participant's home;

175 (b) A monitoring device in the participant's home, or  
176 on the participant's person or both; and

177 (c) A monitoring device in the participant's home and  
178 on the participant's person in the absence of a telephone.

179 (6) The participant shall obtain approval from the  
180 correctional field officer before the participant changes  
181 residence.

182 (7) The participant shall not commit another crime during  
183 the period of home detention ordered by the court or department.

184 (8) Notice shall be given to the participant that violation  
185 of the order of home detention shall subject the participant to  
186 prosecution for the crime of escape as a felony.

187 (9) The participant shall abide by other conditions as set  
188 by the department.

189 SECTION 3. Section 47-5-1013, Mississippi Code of 1972, is  
190 amended as follows:

191 47-5-1013. Participants enrolled in an intensive supervision  
192 program shall be required to:

193 (a) Maintain employment if physically able, or  
194 full-time student status at an approved school or vocational  
195 trade, and make progress deemed satisfactory to the correctional  
196 field officer, or both, or be involved in supervised job searches.

197 (b) Pay restitution and program fees as directed by the  
198 department. Program fees shall not be less than Fifty Dollars

199 (\$50.00) nor more than the actual cost of the program. The  
200 sentencing judge may charge a program fee of less than Fifty  
201 Dollars (\$50.00) in cases of extreme financial hardship, when such  
202 judge determines that the offender's participation in the program  
203 would provide a benefit to his community. Juvenile offenders  
204 shall not pay a program fee, but shall pay a monthly fee as  
205 provided in Section 47-5-1007. Program fees shall be deposited in  
206 the special fund created in Section 47-5-1007.

207 (c) Establish a place of residence at a place approved  
208 by the correctional field officer, and not change his residence  
209 without the officer's approval. The correctional officer shall be  
210 allowed to inspect the place of residence for alcoholic beverages,  
211 controlled substances and drug paraphernalia.

212 (d) Remain at his place of residence at all times  
213 except to go to work, to attend school, to perform community  
214 service and as specifically allowed in each instance by the  
215 correctional field officer.

216 (e) Allow administration of drug and alcohol tests as  
217 requested by the field officer.

218 (f) Perform not less than ten (10) hours of community  
219 service each month.

220 (g) Meet any other conditions imposed by the court to  
221 meet the needs of the offender and limit the risks to the  
222 community.

223 SECTION 4. Section 47-5-1003, Mississippi Code of 1972, is  
224 amended as follows:

225 47-5-1003. (1) An intensive supervision program may be used  
226 as an alternative to incarceration for offenders who are low risk  
227 and nonviolent as selected by the department or court and for  
228 juvenile offenders as provided in Section 43-21-605(k). Any  
229 offender convicted of a sex crime or a felony for the sale or  
230 manufacture of a controlled substance under the uniform controlled  
231 substances law shall not be placed in the program.

232           (2) The court placing an offender in the intensive  
233 supervision program may, acting upon the advice and consent of the  
234 commissioner at the time of the initial sentencing only, and not  
235 later than one (1) year after the defendant has been delivered to  
236 the custody of the department, suspend the further execution of  
237 the sentence and place the defendant on intensive supervision,  
238 except when a death sentence or life imprisonment is the maximum  
239 penalty which may be imposed or if the defendant has been confined  
240 for the conviction of a felony on a previous occasion in any court  
241 or courts of the United States and of any state or territories  
242 thereof or has been convicted of a felony involving the use of a  
243 deadly weapon.

244           (3) To protect and to ensure the safety of the state's  
245 citizens, any offender who violates an order or condition of the  
246 intensive supervision program shall be arrested by the  
247 correctional field officer and placed in the actual custody of the  
248 Department of Corrections. The offender is under the full and  
249 complete jurisdiction of the department and subject to removal  
250 from the program by the classification committee.

251           SECTION 5. This act shall take effect and be in force from  
252 and after July 1, 1999.