

By: Representative Ford

To: Penitentiary

HOUSE BILL NO. 556  
(As Passed the House)

1 AN ACT TO REENACT SECTIONS 47-5-1001, 47-5-1003, 47-5-1005,  
2 47-5-1007, 47-5-1009, 47-5-1011 AND 47-5-1013, MISSISSIPPI CODE OF  
3 1972, WHICH ARE THE LAWS THAT REGULATE THE INTENSIVE SUPERVISION  
4 PROGRAM; TO REENACT AND AMEND SECTION 47-5-1015, MISSISSIPPI CODE  
5 OF 1972, TO EXTEND FROM JUNE 30, 1999, TO JUNE 30, 2000, THE DATE  
6 ON WHICH THE LAWS THAT REGULATE THE INTENSIVE SUPERVISION PROGRAM  
7 WILL BE REPEALED; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 47-5-1001, Mississippi Code of 1972, is  
10 reenacted as follows:

11 47-5-1001. For purposes of Sections 47-5-1001 through  
12 47-5-1015, the following words shall have the meaning ascribed  
13 herein unless the context shall otherwise require:

14 (a) "Approved electronic monitoring device" means a  
15 device approved by the department which is primarily intended to  
16 record and transmit information regarding the offender's presence  
17 or nonpresence in the home.

18 (b) "Correctional field officer" means the supervising  
19 probation and parole officer in charge of supervising the  
20 offender.

21 (c) "Court" means a circuit court having jurisdiction  
22 to place an offender to the intensive supervision program.

23 (d) "Department" means the Department of Corrections.

24 (e) "House arrest" means the confinement of a person  
25 convicted or charged with a crime to his place of residence under  
26 the terms and conditions established by the department or court.

27 (f) "Operating capacity" means the total number of  
28 state offenders which can be safely and reasonably housed in

29 facilities operated by the department and in local or county jails  
30 or other facilities authorized to house state offenders as  
31 certified by the department, subject to applicable federal and  
32 state laws and rules and regulations.

33 (g) "Participant" means an offender placed into an  
34 intensive supervision program.

35 SECTION 2. Section 47-5-1003, Mississippi Code of 1972, is  
36 reenacted as follows:

37 47-5-1003. (1) An intensive supervision program may be used  
38 as an alternative to incarceration for offenders who are low risk  
39 and nonviolent as selected by the department or court. Any  
40 offender convicted of a sex crime or a felony for the sale or  
41 manufacture of a controlled substance under the uniform controlled  
42 substances law shall not be placed in the program.

43 (2) The court placing an offender in the intensive  
44 supervision program may, acting upon the advice and consent of the  
45 commissioner at the time of the initial sentencing only, and not  
46 later than one (1) year after the defendant has been delivered to  
47 the custody of the department, suspend the further execution of  
48 the sentence and place the defendant on intensive supervision,  
49 except when a death sentence or life imprisonment is the maximum  
50 penalty which may be imposed or if the defendant has been confined  
51 for the conviction of a felony on a previous occasion in any court  
52 or courts of the United States and of any state or territories  
53 thereof or has been convicted of a felony involving the use of a  
54 deadly weapon.

55 (3) To protect and to ensure the safety of the state's  
56 citizens, any offender who violates an order or condition of the  
57 intensive supervision program shall be arrested by the  
58 correctional field officer and placed in the actual custody of the  
59 Department of Corrections. Such offender is under the full and  
60 complete jurisdiction of the department and subject to removal  
61 from the program by the classification committee.

62  
63 SECTION 3. Section 47-5-1005, Mississippi Code of 1972, is  
64 reenacted as follows:

65 47-5-1005. (1) The department shall promulgate rules that

66 prescribe reasonable guidelines under which an intensive  
67 supervision program shall operate. These rules shall include, but  
68 not be limited to, the following:

69 (a) The participant shall remain within the interior  
70 premises or within the property boundaries of his or her residence  
71 at all times during the hours designated by the correctional field  
72 officer.

73 (b) Approved absences from the home may include, but  
74 are not limited to, the following:

75 (i) Working or employment approved by the court or  
76 department and traveling to or from approved employment;

77 (ii) Unemployed and seeking employment approved  
78 for the participant by the court or department;

79 (iii) Undergoing medical, psychiatric, mental  
80 health treatment, counseling or other treatment programs approved  
81 for the participant by the court or department;

82 (iv) Attending an educational institution or a  
83 program approved for the participant by the court or department;

84 (v) Participating in community work release or  
85 community service program approved for the participant by the  
86 court or department; or

87 (vi) For another compelling reason consistent with  
88 the public interest, as approved by the court or department.

89 (2) The department shall select and approve all electronic  
90 monitoring devices used under Sections 47-5-1001 through  
91 47-5-1015.

92 (3) The department may lease the equipment necessary to  
93 implement the intensive supervision program and to contract for  
94 the monitoring of such devices. The department is authorized to  
95 select the lowest price and best source in contracting for these  
96 services.

97 SECTION 4. Section 47-5-1007, Mississippi Code of 1972, is  
98 reenacted as follows:

99           47-5-1007. (1) Any participant in the intensive supervision  
100 program who engages in employment shall pay a monthly fee to the  
101 department for each month such person is enrolled in the program.  
102 The department may waive the monthly fee if the offender is a  
103 full-time student or is engaged in vocational training. Money  
104 received by the department from participants in the program shall  
105 be deposited into a special fund which is hereby created in the  
106 State Treasury. It shall be used, upon appropriation by the  
107 Legislature, for the purpose of helping to defray the costs  
108 involved in administering and supervising such program. Unexpended  
109 amounts remaining in such special fund at the end of a fiscal year  
110 shall not lapse into the State General Fund, and any interest  
111 earned on amounts in such special fund shall be deposited to the  
112 credit of the special fund.

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

116           (3) The participant shall make the necessary arrangements to  
117 allow for correctional officers to visit the participant's place  
118 of education or employment at any time, based upon the approval of  
119 the educational institution or employer, for the purpose of  
120 verifying the participant's compliance with the conditions of his  
121 detention.

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

126           (5) The participant shall be responsible for and shall  
127 maintain the following:

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

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

131                 (c) A monitoring device in the participant's home and

132 on the participant's person in the absence of a telephone.

133 (6) The participant shall obtain approval from the  
134 correctional field officer before the participant changes  
135 residence.

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

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

141 (9) The participant shall abide by other conditions as set  
142 by the department.

143 SECTION 5. Section 47-5-1009, Mississippi Code of 1972, is  
144 reenacted as follows:

145 47-5-1009. (1) The department shall have absolute immunity  
146 from liability for any injury resulting from a determination by a  
147 judge or correctional officer that an offender shall be allowed to  
148 participate in the electronic home detention program.

149 (2) The Department of Audit shall annually audit the records  
150 of the department to ensure compliance with Sections 47-5-1001  
151 through 47-5-1015.

152 SECTION 6. Section 47-5-1011, Mississippi Code of 1972, is  
153 reenacted as follows:

154 47-5-1011. (1) Before entering an order for commitment for  
155 electronic house arrest, the department shall inform the  
156 participant and other persons residing in the home of the nature  
157 and extent of the approved electronic monitoring devices by doing  
158 the following:

159 (a) Securing the written consent of the participant in  
160 the program to comply with the rules and regulations of the  
161 program.

162 (b) Advising adult persons residing in the home of the  
163 participant at the time an order or commitment for electronic  
164 house arrest is entered and asking such persons to acknowledge the

165 nature and extent of approved electronic monitoring devices.

166 (c) Insuring that the approved electronic devices are  
167 minimally intrusive upon the privacy of other persons residing in  
168 the home while remaining in compliance with Sections 47-5-1001  
169 through 47-5-1015.

170 (2) The participant shall be responsible for the cost of  
171 equipment and any damage to such equipment. Any intentional  
172 damage, any attempt to defeat monitoring, any committing of a  
173 criminal offense or any associating with felons or known  
174 criminals, shall constitute a violation of the program.

175 (3) Any person whose residence is utilized in the program  
176 shall agree to keep the home drug and alcohol free and to exclude  
177 known felons and criminals in order to provide a noncriminal  
178 environment.

179 SECTION 7. Section 47-5-1013, Mississippi Code of 1972, is  
180 reenacted as follows:

181 47-5-1013. Participants enrolled in an intensive supervision  
182 program shall be required to:

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

187 (b) Pay restitution and program fees as directed by the  
188 department. Program fees shall not be less than Fifty Dollars  
189 (\$50.00) nor more than the actual cost of the program. The  
190 sentencing judge may charge a program fee of less than Fifty  
191 Dollars (\$50.00) in cases of extreme financial hardship, when such  
192 judge determines that the offender's participation in the program  
193 would provide a benefit to his community. Program fees shall be  
194 deposited in the special fund created in Section 47-5-1007.

195 (c) Establish a place of residence at a place approved  
196 by the correctional field officer, and not change his residence  
197 without the officer's approval. The correctional officer shall be

198 allowed to inspect the place of residence for alcoholic beverages,  
199 controlled substances and drug paraphernalia.

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

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

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

208 (g) Meet any other conditions imposed by the court to  
209 meet the needs of the offender and limit the risks to the  
210 community.

211 SECTION 8. Section 47-5-1015, Mississippi Code of 1972, is  
212 reenacted and amended as follows:

213 47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand  
214 repealed after June 30, 2000.

215 SECTION 9. This act shall take effect and be in force from  
216 and after July 1, 1999.