

By: Representative Ford

To: Penitentiary

HOUSE BILL NO. 556
(As Sent to Governor)

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, 2001, 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7 WILL BE REPEALED; AND FOR RELATED PURPOSES.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.

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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.
109 Unexpended amounts remaining in such special fund at the end of a
110 fiscal year shall not lapse into the State General Fund, and any
111 interest earned on amounts in such special fund shall be deposited
112 to the 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, 2001.

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