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To: Juvenile Justice

## HOUSE BILL NO. 1391

1 AN ACT TO AMEND SECTION 43-21-605 AND 43-21-607, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE THAT JUVENILE OFFENDERS MAY BE SENTENCED  
3 TO THE INTENSIVE SUPERVISION PROGRAM ADMINISTERED BY THE  
4 DEPARTMENT OF CORRECTIONS; TO PROVIDE THAT THE MINIMUM SENTENCE  
5 UNDER THIS PROGRAM SHALL BE SIX MONTHS FOR JUVENILE OFFENDERS; TO  
6 REQUIRE JUVENILE OFFENDERS TO BE TESTED FOR ALCOHOL AND DRUGS; TO  
7 REQUIRE JUVENILE OFFENDERS TO PAY TEN DOLLARS FOR THE TEST; TO  
8 PROVIDE THAT IF A JUVENILE OFFENDER TESTS POSITIVE FOR ALCOHOL OR  
9 DRUGS, HE SHALL BE REQUIRED TO ATTEND AN ALCOHOL AND DRUG  
10 REHABILITATION PROGRAM; TO AMEND SECTION 47-5-1007, MISSISSIPPI  
11 CODE OF 1972, TO PROVIDE THAT JUVENILE OFFENDERS SENTENCED TO THE  
12 INTENSIVE SUPERVISION PROGRAM SHALL PAY A MONTHLY FEE TO OFFSET  
13 THE COST OF THE INTENSIVE SUPERVISION PROGRAM; TO AMEND SECTION  
14 47-5-1013, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JUVENILE  
15 OFFENDERS SHALL NOT PAY A PROGRAM FEE; TO AMEND SECTION 47-5-1003,  
16 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED  
17 PURPOSES.

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

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

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

25 (a) Release the child without further action;

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

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

33 (d) Order terms of treatment calculated to assist the

34 child and the child's parents or guardian which are within the  
35 ability of the parent or guardian to perform;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

132                   (4) Any institution or agency to which a child has been

133 committed shall give to the youth court any information concerning  
134 the child as the youth court may at any time require.

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

141 SECTION 2. Section 43-21-607, Mississippi Code of 1972, is  
142 amended as follows:

143 43-21-607. In children in need of supervision cases, the  
144 disposition order may include any of the following alternatives or  
145 combination of the following alternatives, giving precedence in  
146 the following sequence:

147 (a) Release the child without further action;

148 (b) Place the child in the custody of the parent, a  
149 relative or other person subject to any conditions and limitations  
150 as the youth court may prescribe;

151 (c) Place the child under youth court supervision  
152 subject to any conditions and limitations the youth court may  
153 prescribe;

154 (d) Order terms of treatment calculated to assist the  
155 child and the child's parent, guardian or custodian which are  
156 within the ability of the parent, guardian or custodian to  
157 perform;

158 (e) Order terms of supervision which may include  
159 participation in a constructive program of service or education or  
160 restitution not in excess of actual damages caused by the child to  
161 be paid out of his own assets or by performance of services  
162 acceptable to the parties and reasonably capable of performance  
163 within one (1) year;

164 (f) Give legal custody of the child to any of the  
165 following but in no event to any state training school;

166 (i) The Department of Human Services for  
167 appropriate placement which may include a wilderness training  
168 program; or

169 (ii) Any private or public organization,  
170 preferably community-based, able to assume the education, care and  
171 maintenance of the child, which has been found suitable by the  
172 court. Prior to assigning the custody of any child to any private  
173 institution or agency, the youth court through its designee shall  
174 first inspect the physical facilities to determine that they  
175 provide a reasonable standard of health and safety for the child;

176 \* \* \*

177 (g) Order the child to participate in a youth court  
178 work program as provided in Section 1 of this act; or

179 (h) Order terms of house arrest under the intensive  
180 supervision program as created in Sections 47-5-1001 through  
181 47-5-1015. The Department of Corrections shall take bids for the  
182 program provided by this act. The Department of Youth Services  
183 shall promulgate rules regarding the supervision of juveniles  
184 placed in the intensive supervision program. There shall be  
185 fifteen hundred (1,500) slots created in the intensive supervision  
186 program for juveniles. Any juvenile sentenced to house arrest  
187 shall be tested for alcohol and drugs, and if the juvenile tests  
188 positive for alcohol or drugs, the juvenile shall be ordered to  
189 participate in an alcohol and drug rehabilitation program. The  
190 juvenile shall pay Ten Dollars (\$10.00) to offset the cost of  
191 administering the alcohol and drug test. The juveniles must  
192 attend school, alternative school or be in the process of working  
193 towards a general educational development (GED) certificate.

194 SECTION 3. Section 47-5-1007, Mississippi Code of 1972, is  
195 amended as follows:

196 47-5-1007. (1) Any participant in the intensive supervision  
197 program who engages in employment shall pay a monthly fee to the  
198 department for each month such person is enrolled in the program.

199 The department may waive the monthly fee if the offender is a  
200 full-time student or is engaged in vocational training. Juvenile  
201 offenders shall pay a monthly fee of not less than Ten Dollars  
202 (\$10.00) but not more than Fifty Dollars (\$50.00) based on a  
203 sliding scale using the standard of need for each family that is  
204 used to calculate TANF benefits. Money received by the department  
205 from participants in the program shall be deposited into a special  
206 fund which is hereby created in the State Treasury. It shall be  
207 used, upon appropriation by the Legislature, for the purpose of  
208 helping to defray the costs involved in administering and  
209 supervising the program. Unexpended amounts remaining in the  
210 special fund at the end of a fiscal year shall not lapse into the  
211 State General Fund, and any interest earned on amounts in the  
212 special fund shall be deposited to the credit of the special fund.

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

216 (3) The participant shall make the necessary arrangements to  
217 allow for correctional officers to visit the participant's place  
218 of education or employment at any time, based upon the approval of  
219 the educational institution or employer, for the purpose of  
220 verifying the participant's compliance with the conditions of his  
221 detention.

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

226 (5) The participant shall be responsible for and shall  
227 maintain the following:

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

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

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

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

233 (6) The participant shall obtain approval from the  
234 correctional field officer before the participant changes  
235 residence.

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

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

241 (9) The participant shall abide by other conditions as set  
242 by the department.

243 SECTION 4. Section 47-5-1013, Mississippi Code of 1972, is  
244 amended as follows:

245 47-5-1013. Participants enrolled in an intensive supervision  
246 program shall be required to:

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

251 (b) Pay restitution and program fees as directed by the  
252 department. Program fees shall not be less than Fifty Dollars  
253 (\$50.00) nor more than the actual cost of the program. The  
254 sentencing judge may charge a program fee of less than Fifty  
255 Dollars (\$50.00) in cases of extreme financial hardship, when such  
256 judge determines that the offender's participation in the program  
257 would provide a benefit to his community. Juvenile offenders  
258 shall not pay a program fee, but shall pay a monthly fee as  
259 provided in Section 47-5-1007. Program fees shall be deposited in  
260 the special fund created in Section 47-5-1007.

261 (c) Establish a place of residence at a place approved  
262 by the correctional field officer, and not change his residence  
263 without the officer's approval. The correctional officer shall be  
264 allowed to inspect the place of residence for alcoholic beverages,



265 controlled substances and drug paraphernalia.

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

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

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

274 (g) Meet any other conditions imposed by the court to  
275 meet the needs of the offender and limit the risks to the  
276 community.

277 SECTION 5. Section 47-5-1003, Mississippi Code of 1972, is  
278 amended as follows:

279 47-5-1003. (1) An intensive supervision program may be used  
280 as an alternative to incarceration for offenders who are low risk  
281 and nonviolent as selected by the department or court and for  
282 juvenile offenders as provided in Section 43-21-605(k). Any  
283 offender convicted of a sex crime or a felony for the sale or  
284 manufacture of a controlled substance under the uniform controlled  
285 substances law shall not be placed in the program.

286 (2) The court placing an offender in the intensive  
287 supervision program may, acting upon the advice and consent of the  
288 commissioner at the time of the initial sentencing only, and not  
289 later than one (1) year after the defendant has been delivered to  
290 the custody of the department, suspend the further execution of  
291 the sentence and place the defendant on intensive supervision,  
292 except when a death sentence or life imprisonment is the maximum  
293 penalty which may be imposed or if the defendant has been confined  
294 for the conviction of a felony on a previous occasion in any court  
295 or courts of the United States and of any state or territories  
296 thereof or has been convicted of a felony involving the use of a  
297 deadly weapon.

298           (3) To protect and to ensure the safety of the state's  
299 citizens, any offender who violates an order or condition of the  
300 intensive supervision program shall be arrested by the  
301 correctional field officer and placed in the actual custody of the  
302 Department of Corrections. The offender is under the full and  
303 complete jurisdiction of the department and subject to removal  
304 from the program by the classification committee.

305           SECTION 6. This act shall take effect and be in force from  
306 and after July 1, 1999.