

By: Stevens, Chism, Clarke, Frierson, Horne, To: Penitentiary
Masterson, Montgomery (74th)

HOUSE BILL NO. 836
(As Passed the House)

1 AN ACT TO AMEND SECTIONS 47-5-1003, 47-7-33 AND 47-7-47,
2 MISSISSIPPI CODE OF 1972, TO REQUIRE ANY CIRCUIT OR COUNTY COURT
3 PLACING AN OFFENDER IN AN INTENSIVE SUPERVISION PROGRAM, ON
4 PROBATION OR ON EARNED PROBATION, TO NOTIFY THE CENTRAL OFFICE OF
5 THE MISSISSIPPI DEPARTMENT OF CORRECTIONS AND THE REGIONAL OFFICE
6 RESPONSIBLE FOR SUPERVISING THE OFFENDER; AND FOR RELATED
7 PURPOSES.

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

9 SECTION 1. Section 47-5-1003, Mississippi Code of 1972, is
10 amended as follows:

11 47-5-1003. (1) An intensive supervision program may be used
12 as an alternative to incarceration for offenders who are low risk
13 and nonviolent as selected by the department or court. Any
14 offender convicted of a sex crime or a felony for the sale or
15 manufacture of a controlled substance under the uniform controlled
16 substances law shall not be placed in the program.

17 (2) The court placing an offender in the intensive
18 supervision program may, acting upon the advice and consent of the
19 commissioner at the time of the initial sentencing only, and not
20 later than one (1) year after the defendant has been delivered to
21 the custody of the department, suspend the further execution of
22 the sentence and place the defendant on intensive supervision,
23 except when a death sentence or life imprisonment is the maximum
24 penalty which may be imposed or if the defendant has been confined
25 for the conviction of a felony on a previous occasion in any court
26 or courts of the United States and of any state or territories
27 thereof or has been convicted of a felony involving the use of a
28 deadly weapon.

29 (3) To protect and to ensure the safety of the state's
30 citizens, any offender who violates an order or condition of the
31 intensive supervision program shall be arrested by the
32 correctional field officer and placed in the actual custody of the
33 Department of Corrections. Such offender is under the full and
34 complete jurisdiction of the department and subject to removal
35 from the program by the classification committee.

36 (4) When any circuit or county court places an offender in an
37 intensive supervision program, the court shall give notice to the
38 Mississippi Department of Corrections within fifteen (15) days of
39 the court's decision to place the offender in an intensive
40 supervision program. Notice shall be delivered to the central
41 office of the Mississippi Department of Corrections and to the
42 regional office of the department which will be providing
43 supervision to the offender in an intensive supervision program.

44 SECTION 2. Section 47-7-33, Mississippi Code of 1972, is
45 amended as follows:

46 47-7-33. (1) When it appears to the satisfaction of any
47 circuit court or county court in the State of Mississippi, having
48 original jurisdiction over criminal actions, or to the judge
49 thereof, that the ends of justice and the best interest of the
50 public, as well as the defendant, will be served thereby, such
51 court, in termtime or in vacation, shall have the power, after
52 conviction or a plea of guilty, except in a case where a death
53 sentence or life imprisonment is the maximum penalty which may be
54 imposed or where the defendant has been convicted of a felony on a
55 previous occasion in any court or courts of the United States and
56 of any state or territories thereof, to suspend the imposition or
57 execution of sentence, and place the defendant on probation as
58 herein provided, except that the court shall not suspend the
59 execution of a sentence of imprisonment after the defendant shall
60 have begun to serve such sentence. In placing any defendant on
61 probation, the court, or judge, shall direct that such defendant

62 be under the supervision of the Department of Corrections.

63 (2) When any circuit or county court places an offender on
64 probation, the court shall give notice to the Mississippi
65 Department of Corrections within fifteen (15) days of the court's
66 decision to place the offender on probation. Notice shall be
67 delivered to the central office of the Mississippi Department of
68 Corrections and to the regional office of the department which
69 will be providing supervision to the offender on probation.

70 (3) When any circuit court or county court places a person
71 on probation in accordance with the provisions of this section and
72 that person is ordered to make any payments to his family, if any
73 member of his family whom he is ordered to support is receiving
74 public assistance through the State Department of Public Welfare,
75 the court shall order him to make such payments to the county
76 welfare officer of the county rendering public assistance to his
77 family, for the sole use and benefit of said family.

78 SECTION 3. Section 47-7-47, Mississippi Code of 1972, is
79 amended as follows:

80 47-7-47. (1) The judge of any circuit court may place an
81 offender on a program of earned probation after a period of
82 confinement as set out herein and the judge may seek the advice of
83 the commissioner and shall direct that the defendant be under the
84 supervision of the department.

85 (2) (a) Any circuit court or county court may, upon its own
86 motion, acting upon the advice and consent of the commissioner at
87 the time of the initial sentencing only, not earlier than thirty
88 (30) days nor later than one (1) year after the defendant has been
89 delivered to the custody of the department, to which he has been
90 sentenced, suspend the further execution of the sentence and place
91 the defendant on earned probation, except when a death sentence or
92 life imprisonment is the maximum penalty which may be imposed or
93 if the defendant has been confined for the conviction of a felony
94 on a previous occasion in any court or courts of the United States

95 and of any state or territories thereof or has been convicted of a
96 felony involving the use of a deadly weapon.

97 (b) The authority granted in this subsection shall be
98 exercised by the judge who imposed sentence on the defendant, or
99 his successor.

100 (c) The time limit imposed by paragraph (a) of this
101 subsection is not applicable to those defendants sentenced to the
102 custody of the department prior to April 14, 1977. Persons who are
103 convicted of crimes that carry mandatory sentences shall not be
104 eligible for earned probation.

105 (3) When any circuit or county court places an offender on
106 earned probation, the court shall give notice to the Mississippi
107 Department of Corrections within fifteen (15) days of the court's
108 decision to place the offender on earned probation. Notice shall
109 be delivered to the central office of the Mississippi Department
110 of Corrections and to the regional office of the department which
111 will be providing supervision to the offender on earned probation.

112 (4) If the court places any person on probation or earned
113 probation, the court may order the person, as a condition of
114 probation, to a period of confinement and treatment at a private
115 or public agency or institution, either within or without the
116 state, which treats emotional, mental or drug-related problems.
117 Any person who, as a condition of probation, is confined for
118 treatment at an out-of-state facility shall be supervised pursuant
119 to Section 47-7-71, and any person confined at a private agency
120 shall not be confined at public expense. Time served in any such
121 agency or institution may be counted as time required to meet the
122 criteria of subsection (2)(a).

123 (5) If the court places any person on probation or earned
124 probation, the court may order the person to make appropriate
125 restitution to any victim of his crime or to society through the
126 performance of reasonable work for the benefit of the community.

127 (6) If the court places any person on probation or earned

128 probation, the court may order the person, as a condition of
129 probation, to submit, as provided in Section 47-5-601, to any type
130 of breath, saliva or urine chemical analysis test, the purpose of
131 which is to detect the possible presence of alcohol or a substance
132 prohibited or controlled by any law of the State of Mississippi or
133 the United States.

134 SECTION 4. This act shall take effect and be in force from
135 and after July 1, 2000.