

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

HOUSE BILL NO. 836
(As Sent to Governor)

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; TO AMEND SECTION
7 47-7-34, MISSISSIPPI CODE OF 1972, TO LIMIT THE TIME THAT THE
8 DEPARTMENT OF CORRECTIONS IS REQUIRED TO SUPERVISE AN OFFENDER IN
9 THE POST-RELEASE SUPERVISION PROGRAM; AND FOR RELATED PURPOSES.

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

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

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

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

30 deadly weapon.

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

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

46 The courts may not require an offender to complete the
47 intensive supervision program as a condition of probation or
48 post-release supervision.

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

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

67 be under the supervision of the Department of Corrections.

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

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

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

85 47-7-47. (1) The judge of any circuit court may place an
86 offender on a program of earned probation after a period of
87 confinement as set out herein and the judge may seek the advice of
88 the commissioner and shall direct that the defendant be under the
89 supervision of the department.

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

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

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

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

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

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

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

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

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

139 SECTION 4. Section 47-7-34, Mississippi Code of 1972, is
140 amended as follows:

141 47-7-34. (1) When a court imposes a sentence upon a
142 conviction for any felony committed after June 30, 1995, the
143 court, in addition to any other punishment imposed if the other
144 punishment includes a term of incarceration in a state or local
145 correctional facility, may impose a term of post-release
146 supervision. However, the total number of years of incarceration
147 plus the total number of years of post-release supervision shall
148 not exceed the maximum sentence authorized to be imposed by law
149 for the felony committed. The defendant shall be placed under
150 post-release supervision upon release from the term of
151 incarceration. The period of supervision shall be established by
152 the court.

153 (2) The period of post-release supervision shall be
154 conducted in the same manner as a like period of supervised
155 probation, including a requirement that the defendant shall abide
156 by any terms and conditions as the court may establish. Failure
157 to successfully abide by the terms and conditions shall be grounds
158 to terminate the period of post-release supervision and to
159 recommit the defendant to the correctional facility from which he
160 was previously released. Procedures for termination and
161 recommitment shall be conducted in the same manner as procedures
162 for the revocation of probation and imposition of a suspended
163 sentence.

164 (3) Post-release supervision programs shall be operated
165 through the probation and parole unit of the Division of Community

166 Services of the department. The maximum amount of time that the
167 Mississippi Department of Corrections may supervise an offender on
168 the post-release supervision program is five (5) years.

169 SECTION 5. This act shall take effect and be in force from
170 and after July 1, 2000.