

By: Malone

To: Penitentiary;  
AppropriationsCOMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1000

1 AN ACT TO AMEND SECTION 47-5-193, MISSISSIPPI CODE OF 1972,  
2 TO DELETE CERTAIN LANGUAGE; TO AMEND SECTION 47-5-1001,  
3 MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF HOUSE  
4 ARREST; TO AMEND SECTION 47-5-1003, MISSISSIPPI CODE OF 1972, TO  
5 PROHIBIT A COURT FROM REQUIRING AN OFFENDER TO COMPLETE THE  
6 INTENSIVE SUPERVISION PROGRAM AS A CONDITION OF PROBATION OR  
7 POST-RELEASE SUPERVISION; TO AMEND SECTION 47-7-34, MISSISSIPPI  
8 CODE OF 1972, TO ESTABLISH LIMITS ON THE AMOUNT OF TIME THAT THE  
9 MISSISSIPPI DEPARTMENT OF CORRECTIONS MAY SUPERVISE AN OFFENDER IN  
10 THE POST-RELEASE SUPERVISION PROGRAM; TO AMEND SECTION 25-1-87,  
11 MISSISSIPPI CODE OF 1972, TO EXEMPT THE COMMISSIONER OF THE  
12 MISSISSIPPI DEPARTMENT OF CORRECTIONS FROM THE PROVISION WHICH  
13 REQUIRES ALL STATE OWNED OR LEASED VEHICLES TO EXHIBIT A STATE  
14 DECAL; TO AMEND SECTION 69-11-5, MISSISSIPPI CODE OF 1972, TO  
15 PERMIT THE MISSISSIPPI DEPARTMENT OF CORRECTIONS TO FEED GARBAGE  
16 TO SWINE; AND FOR RELATED PURPOSES.

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

18 SECTION 1. Section 47-5-193, Mississippi Code of 1972, is  
19 amended as follows:

20 47-5-193. It is unlawful for any officer or employee of the  
21 department, of any county sheriff's department, of any private  
22 correctional facility in this state in which offenders are  
23 confined or for any other person to furnish, attempt to furnish,  
24 or assist in furnishing to any offender confined in this state any  
25 weapon, deadly weapon or contraband item. \* \* \*

26 SECTION 2. Section 47-5-1001, Mississippi Code of 1972, is  
27 amended as follows:

28 47-5-1001. For purposes of Sections 47-5-1001 through  
29 47-5-1015, the following words shall have the meaning ascribed  
30 herein unless the context shall otherwise require:

31 (a) "Approved electronic monitoring device" means a  
32 device approved by the department which is primarily intended to  
33 record and transmit information regarding the offender's presence

or nonpresence in the home.

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

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

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

(e) "House arrest" means the confinement of a person convicted of a felony to his place of residence under the terms and conditions established by the department or court.

(f) "Operating capacity" means the total number of state offenders which can be safely and reasonably housed in facilities operated by the department and in local or county jails or other facilities authorized to house state offenders as certified by the department, subject to applicable federal and state laws and rules and regulations.

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

SECTION 3. Section 47-5-1003, Mississippi Code of 1972, is amended as follows:

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

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

71 deadly weapon.

72 (3) To protect and to ensure the safety of the state's  
73 citizens, any offender who violates an order or condition of the  
74 intensive supervision program shall be arrested by the  
75 correctional field officer and placed in the actual custody of the  
76 Department of Corrections. Such offender is under the full and  
77 complete jurisdiction of the department and subject to removal  
78 from the program by the classification committee.

79 The courts may not require an offender to complete the  
80 intensive supervision program as a condition of probation or  
81 post-release supervision.

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

84 47-7-34. (1) When a court imposes a sentence upon a  
85 conviction for any felony committed after June 30, 1995, the  
86 court, in addition to any other punishment imposed if the other  
87 punishment includes a term of incarceration in a state or local  
88 correctional facility, may impose a term of post-release  
89 supervision. However, the total number of years of incarceration  
90 plus the total number of years of post-release supervision shall  
91 not exceed the maximum sentence authorized to be imposed by law  
92 for the felony committed. The defendant shall be placed under  
93 post-release supervision upon release from the term of  
94 incarceration. The period of supervision shall be established by  
95 the court.

96 (2) The period of post-release supervision shall be  
97 conducted in the same manner as a like period of supervised  
98 probation, including a requirement that the defendant shall abide  
99 by any terms and conditions as the court may establish. Failure  
100 to successfully abide by the terms and conditions shall be grounds  
101 to terminate the period of post-release supervision and to  
102 recommit the defendant to the correctional facility from which he  
103 was previously released. Procedures for termination and

recommitment shall be conducted in the same manner as procedures for the revocation of probation and imposition of a suspended sentence.

(3) Post-release supervision programs shall be operated through the probation and parole unit of the Division of Community Services of the department. The maximum amount of time that the Mississippi Department of Corrections may supervise an offender on the post-release supervision program is five (5) years.

SECTION 5. Section 25-1-87, Mississippi Code of 1972, is amended as follows:

25-1-87. All motor vehicles owned or leased by the State of Mississippi or any agency, department or political subdivision thereof, which shall include counties and municipalities, when such agency or department or political subdivision, which shall include counties and municipalities, is supported wholly or in part by public taxes or by appropriations from public funds, shall have painted on both sides in letters at least three (3) inches in height, and on the rear in letters not less than one and one-half (1-1/2) inches in height, the name of the state agency or department, or political subdivision, which shall include counties and municipalities, in a color which is in contrast with the color of the vehicle; provided, however, that a permanent decal may be used in lieu of paint, and provided further, that any municipality may affix a permanent decal or design at least twelve (12) inches in height and twelve (12) inches in width on both sides of the vehicle with the name of the municipality within or across the permanent decal or design, and the permanent design or decal shall be in a color or colors which are in contrast with the color of the vehicle. No privilege license tag shall be issued for such vehicle until the name has been painted thereon or a permanent design or decal affixed thereto as required by this section. A permanent decal may be used in lieu of paint. The provisions of this paragraph shall not apply to vehicles used by the Chief

Executive of the State of Mississippi, to vehicles owned or leased by the Department of Economic Development, to vehicles owned or leased by the Office of the Attorney General, to vehicles owned or leased by the Mississippi State Board of Medical Licensure and used only by the Investigative Division of the board, to one (1) vehicle owned or leased by the Commissioner of the Mississippi Department of Corrections, to not more than three (3) vehicles owned or leased by the Department of Corrections and used only by Community Services Division officers, to not more than one (1) vehicle owned or leased by the Mississippi Department of Transportation and used only by an investigator employed by the Mississippi Department of Transportation or to not more than one (1) vehicle owned or leased by the Mississippi State Tax Commission; and upon receipt of a written request from the State Adjutant General, the Commissioner of Public Safety, the Director of the Alcoholic Beverage Control Division of the Mississippi State Tax Commission, the Commissioner of the Mississippi Department of Corrections, the Director of the Bureau of Fisheries and Wildlife of the Department of Wildlife Conservation, the Director of the Bureau of Narcotics, the Executive Officer of the Board of Pharmacy, the Executive Director of the Mississippi Gaming Commission, the State Auditor or a president or chancellor of a state institution of higher learning, the Governor may authorize the use of specified unmarked vehicles only in instances where such identifying marks will hinder official investigations, and the governing authorities of any municipality may authorize the use of specified, unmarked police vehicles when identifying marks would hinder official criminal investigations by the police.

The written request or the order or resolution authorizing such shall contain the manufacturer's serial number, the state inventory number, where applicable, and shall set forth why the vehicle should be exempt from the provisions of this paragraph.

In the event the request is granted, the Governor shall furnish

the State Department of Audit with a copy of his written authority for the use of the unmarked vehicles, or the governing authority, as the case may be, shall enter its order or resolution on the minutes and shall furnish the State Department of Audit with a certified copy of its order or resolution for the use of the unmarked police vehicle. The state property auditors of the State Department of Audit shall personally examine vehicles owned or leased by the State of Mississippi or any agency, department or commission thereof and report violations of the provisions of this paragraph to the State Auditor and the Chairman of the Joint Legislative Committee on Performance Evaluation and Expenditure Review. Any vehicle found to be in violation of this paragraph shall be reported immediately to the department head charged with such vehicle, and five (5) days shall be given for compliance; and if not complied with, such vehicles shall be impounded by the State Auditor until properly marked or exempted.

Upon notification to the State Tax Commission by the State Auditor that any municipality or political subdivision is not in compliance with this section, the State Tax Commission shall withhold any sales tax due for distribution to any such municipality and any excise tax on gasoline, diesel fuel, kerosene and oil due any such county and for any months thereafter, and shall continue to withhold such funds until compliance with this section is certified to the State Tax Commission by the State Department of Audit.

County-owned motor vehicles operated by the sheriff's department shall not be subject to the provisions of this section, but shall be subject to the provisions of Section 19-25-15. County-owned motor vehicles operated by a family court established pursuant to Section 43-23-1 et seq., shall not be subject to the provisions of this section.

State-owned or leased motor vehicles operated by the Department of Mental Health or by facilities operated by the

203 Department of Mental Health and used for transporting patients  
204 living in group homes or alternative living arrangements shall not  
205 be subject to the provisions of this section.

206 Up to four (4) passenger automobiles owned or leased by  
207 economic development districts or economic development authorities  
208 shall not be subject to the provisions of this section.

209 State-owned or leased motor vehicles operated by the  
210 Agricultural and Livestock Theft Bureau of the Department of  
211 Agriculture and Commerce and used to investigate livestock theft  
212 shall not be subject to the provisions of this section.

213 Up to three (3) motor vehicles owned or leased by the  
214 Pascagoula Municipal Separate School District for use by district  
215 security officers shall not be subject to the provisions of this  
216 section.

217 Up to two (2) motor vehicles owned or leased by the  
218 Department of Human Services for use only by the Program Integrity  
219 Division shall not be subject to the provisions of this section.

220 The motor vehicles of a public airport shall not be subject  
221 to the provisions of this section upon a finding by the governing  
222 authority of such airport that marking a motor vehicle as required  
223 in this section will compromise security at such airport.

224 SECTION 6. Section 69-11-5, Mississippi Code of 1972, is  
225 amended as follows:[HS1]

226 69-11-5. (1) It shall be unlawful for any person,  
227 municipality, county, political subdivision, governmental agency  
228 or department, institution, individual, partnership, corporation,  
229 association, other entity or organization to feed garbage to  
230 swine, except as permitted under subsection (2) of this section.

231 (2) This chapter shall not apply to any person who feeds  
232 only household garbage to swine for household consumption only.

233 (3) This chapter shall not apply to the Mississippi  
234 Department of Corrections who is authorized to feed to swine  
235 cooked garbage and vegetable refuse. The Mississippi Department

236 of Corrections shall follow applicable state rules, regulations  
237 and guidelines that are equal to or exceed federal rules and  
238 regulations for cooking and feeding cooked garbage to swine. The  
239 Mississippi Department of Corrections may market and/or use for  
240 consumption swine that has been fed garbage.

241         SECTION 7. This act shall take effect and be in force from  
242 and after July 1, 2000.