

By: Malone

To: Penitentiary;  
Appropriations

## HOUSE BILL NO. 1000

1 AN ACT TO AUTHORIZE THE DEPARTMENT OF CORRECTIONS TO CONTRACT  
2 WITH THE MARSHALL COUNTY INDUSTRIAL OR ECONOMIC DEVELOPMENT  
3 AUTHORITY FOR THE PRIVATE INCARCERATION OF STATE INMATES; TO AMEND  
4 SECTION 47-4-1, MISSISSIPPI CODE OF 1972, TO INCREASE THE NUMBER  
5 OF INMATES THAT MAY BE INCARCERATED AT THE DELTA CORRECTIONAL  
6 FACILITY IN LEFLORE COUNTY; TO AMEND SECTION 47-5-193, MISSISSIPPI  
7 CODE OF 1972, TO DELETE CERTAIN LANGUAGE; TO AMEND SECTION  
8 47-5-941, MISSISSIPPI CODE OF 1972, TO INCREASE THE NUMBER OF  
9 INMATES THAT MAY BE INCARCERATED AT THE WILKINSON COUNTY FACILITY;  
10 TO AMEND SECTION 47-5-943, MISSISSIPPI CODE OF 1972, TO INCREASE  
11 THE NUMBER OF JUVENILE OFFENDERS THAT MAY BE HOUSED BY THE WALNUT  
12 GROVE CORRECTIONAL AUTHORITY; TO AMEND SECTION 47-5-1001,  
13 MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF HOUSE  
14 ARREST; TO AMEND SECTION 47-5-1003, MISSISSIPPI CODE OF 1972, TO  
15 PROHIBIT A COURT FROM REQUIRING AN OFFENDER TO COMPLETE THE  
16 INTENSIVE SUPERVISION PROGRAM AS A CONDITION OF PROBATION OR  
17 POST-RELEASE SUPERVISION; TO AMEND SECTION 47-7-34, MISSISSIPPI  
18 CODE OF 1972, TO ESTABLISH LIMITS ON THE AMOUNT OF TIME THAT THE  
19 MISSISSIPPI DEPARTMENT OF CORRECTIONS MAY SUPERVISE AN OFFENDER IN  
20 THE POST-RELEASE SUPERVISION PROGRAM; TO AMEND SECTION 25-1-87,  
21 MISSISSIPPI CODE OF 1972, TO EXEMPT THE COMMISSIONER OF THE  
22 MISSISSIPPI DEPARTMENT OF CORRECTIONS FROM THE PROVISION WHICH  
23 REQUIRES ALL STATE OWNED OR LEASED VEHICLES TO EXHIBIT A STATE  
24 DECAL; TO AMEND SECTION 69-11-5, MISSISSIPPI CODE OF 1972, TO  
25 PERMIT THE MISSISSIPPI DEPARTMENT OF CORRECTIONS TO FEED GARBAGE  
26 TO SWINE; AND FOR RELATED PURPOSES.

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

28 SECTION 1. In addition to any other authority granted by  
29 law, the Department of Corrections may contract with the Marshall  
30 County industrial development or economic development authority  
31 for the private incarceration of not more than one thousand five  
32 hundred (1,500) state inmates at a facility in Marshall County.  
33 Any such contract must comply with Sections 47-5-1211 through  
34 47-5-1227.

35 SECTION 2. Section 47-4-1, Mississippi Code of 1972, is  
36 amended as follows:

37 47-4-1. (1) It is lawful for there to be located within  
38 Wilkinson County and Leflore County a correctional facility

39 operated entirely by a private entity pursuant to a contractual  
40 agreement between such private entity and the federal government,  
41 any state, or a political subdivision of any state to provide  
42 correctional services to any such public entity for the  
43 confinement of inmates subject to the jurisdiction of such public  
44 entity. Any person confined in such a facility pursuant to the  
45 laws of the jurisdiction from which he is sent shall be considered  
46 lawfully confined within this state. The private entity shall  
47 assume complete responsibility for the inmates and shall be liable  
48 to the State of Mississippi for any illegal or tortious actions of  
49 such inmates.

50 (2) The Department of Corrections shall contract with the  
51 "Delta Correctional Facility Authority," a public body authorized  
52 in Chapter 852, Local and Private Laws of 1992, for the private  
53 incarceration of not more than one thousand five hundred (1,500)  
54 state inmates at a facility in Leflore County. Any contract must  
55 comply with the requirements of Section 47-5-1211 through Section  
56 47-5-1227.

57 (3) It is lawful for any county to contract with a private  
58 entity for the purpose of providing correctional services for the  
59 confinement of federal inmates subject to the jurisdiction of the  
60 United States. Any person confined in such a facility pursuant to  
61 the laws of the United States shall be considered lawfully  
62 confined within this state. The private entity shall assume  
63 complete responsibility for the inmates and shall be liable to the  
64 county or the State of Mississippi, as the case may be, for any  
65 illegal or tortious actions of the inmates.

66 (4) It is lawful for there to be located within any county a  
67 correctional facility operated entirely by a private entity and  
68 the federal government to provide correctional services to the  
69 United States for the confinement of federal inmates subject to  
70 the jurisdiction of the United States. Any person confined in a  
71 facility pursuant to the laws of the United States shall be  
72 considered lawfully confined within this state. The private  
73 entity shall assume complete responsibility for the inmates and  
74 shall be liable to the State of Mississippi for any illegal or  
75 tortious actions of the inmates.

76 A person convicted of simple assault on an employee of a  
77 private correctional facility while such employee is acting within  
78 the scope of his or her duty or employment shall be punished by a  
79 fine of not more than One Thousand Dollars (\$1,000.00) or by  
80 imprisonment for not more than five (5) years, or both.

81 A person convicted of aggravated assault on an employee of a  
82 private correctional facility while such employee is acting within  
83 the scope of his or her duty or employment shall be punished by a  
84 fine of not more than Five Thousand Dollars (\$5,000.00) or by  
85 imprisonment for not more than thirty (30) years, or both.

86 (5) If a private entity houses state inmates, the private  
87 entity shall not displace state inmate beds with federal inmate  
88 beds unless the private entity has obtained prior written approval  
89 from the Commissioner of Corrections.

90 SECTION 3. Section 47-5-193, Mississippi Code of 1972, is  
91 amended as follows:

92 47-5-193. It is unlawful for any officer or employee of the  
93 department, of any county sheriff's department, of any private  
94 correctional facility in this state in which offenders are  
95 confined or for any other person to furnish, attempt to furnish,  
96 or assist in furnishing to any offender confined in this state any  
97 weapon, deadly weapon or contraband item. \* \* \*

98 SECTION 4. Section 47-5-941, Mississippi Code of 1972, is  
99 amended as follows:

100 47-5-941. In addition to any other authority granted by law,  
101 the Department of Corrections may contract with the Wilkinson  
102 County industrial development or economic development authority  
103 for the private incarceration of not more than one thousand five  
104 hundred (1,500) state inmates at a facility in Wilkinson County.  
105 Any such contract must comply with Sections 47-5-1211 through  
106 47-5-1227.

107 SECTION 5. Section 47-5-943, Mississippi Code of 1972, is  
108 amended as follows:

109           47-5-943. The Mississippi Department of Corrections shall  
110 contract with the Walnut Grove Correctional Authority or the  
111 governing authorities of the Municipality of Walnut Grove, Leake  
112 County, Mississippi, to provide for the private housing, care and  
113 control up to one thousand (1,000) juvenile offenders who are in  
114 the custody of the Department of Corrections at a maximum security  
115 facility in Walnut Grove. The maximum age of any offender housed  
116 in this facility shall be nineteen (19) years. A county or  
117 circuit judge shall not order any juvenile to be housed in the  
118 correctional facility authorized in this act. Commitment of  
119 juvenile offenders shall not be to this facility, but shall be to  
120 the jurisdiction of the department. The commissioner shall assign  
121 newly sentenced offenders to an appropriate facility consistent  
122 with public safety. Any facility owned or leased by the Walnut  
123 Grove Correctional Authority or the Municipality of Walnut Grove  
124 for this purpose shall be designed, constructed, operated and  
125 maintained in accordance with American Correctional Association  
126 standards, and shall comply with all constitutional standards of  
127 the United States and the State of Mississippi and with all court  
128 orders that may now or hereinafter be applicable to the facility.  
129 The contract must comply with Sections 47-5-1211 through  
130 47-5-1227.

131           SECTION 6. Section 47-5-1001, Mississippi Code of 1972, is  
132 amended as follows:

133           47-5-1001. For purposes of Sections 47-5-1001 through  
134 47-5-1015, the following words shall have the meaning ascribed  
135 herein unless the context shall otherwise require:

136           (a) "Approved electronic monitoring device" means a  
137 device approved by the department which is primarily intended to  
138 record and transmit information regarding the offender's presence  
139 or nonpresence in the home.

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

142 offender.

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

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

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

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

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

157 SECTION 7. Section 47-5-1003, Mississippi Code of 1972, is  
158 amended as follows:

159 47-5-1003. (1) An intensive supervision program may be used  
160 as an alternative to incarceration for offenders who are low risk  
161 and nonviolent as selected by the department or court. Any  
162 offender convicted of a sex crime or a felony for the sale or  
163 manufacture of a controlled substance under the uniform controlled  
164 substances law shall not be placed in the program.

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

175 thereof or has been convicted of a felony involving the use of a  
176 deadly weapon.

177 (3) To protect and to ensure the safety of the state's  
178 citizens, any offender who violates an order or condition of the  
179 intensive supervision program shall be arrested by the  
180 correctional field officer and placed in the actual custody of the  
181 Department of Corrections. Such offender is under the full and  
182 complete jurisdiction of the department and subject to removal  
183 from the program by the classification committee.

184 The courts may not require an offender to complete the  
185 intensive supervision program as a condition of probation or  
186 post-release supervision.

187 SECTION 8. Section 47-7-34, Mississippi Code of 1972, is  
188 amended as follows:

189 47-7-34. (1) When a court imposes a sentence upon a  
190 conviction for any felony committed after June 30, 1995, the  
191 court, in addition to any other punishment imposed if the other  
192 punishment includes a term of incarceration in a state or local  
193 correctional facility, may impose a term of post-release  
194 supervision. However, the total number of years of incarceration  
195 plus the total number of years of post-release supervision shall  
196 not exceed the maximum sentence authorized to be imposed by law  
197 for the felony committed. The defendant shall be placed under  
198 post-release supervision upon release from the term of  
199 incarceration. The period of supervision shall be established by  
200 the court.

201 (2) The period of post-release supervision shall be  
202 conducted in the same manner as a like period of supervised  
203 probation, including a requirement that the defendant shall abide  
204 by any terms and conditions as the court may establish. Failure  
205 to successfully abide by the terms and conditions shall be grounds  
206 to terminate the period of post-release supervision and to  
207 recommit the defendant to the correctional facility from which he

208 was previously released. Procedures for termination and  
209 recommitment shall be conducted in the same manner as procedures  
210 for the revocation of probation and imposition of a suspended  
211 sentence.

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

217 SECTION 9. Section 25-1-87, Mississippi Code of 1972, is  
218 amended as follows:

219 25-1-87. All motor vehicles owned or leased by the State of  
220 Mississippi or any agency, department or political subdivision  
221 thereof, which shall include counties and municipalities, when  
222 such agency or department or political subdivision, which shall  
223 include counties and municipalities, is supported wholly or in  
224 part by public taxes or by appropriations from public funds, shall  
225 have painted on both sides in letters at least three (3) inches in  
226 height, and on the rear in letters not less than one and one-half  
227 (1-1/2) inches in height, the name of the state agency or  
228 department, or political subdivision, which shall include counties  
229 and municipalities, in a color which is in contrast with the color  
230 of the vehicle; provided, however, that a permanent decal may be  
231 used in lieu of paint, and provided further, that any municipality  
232 may affix a permanent decal or design at least twelve (12) inches  
233 in height and twelve (12) inches in width on both sides of the  
234 vehicle with the name of the municipality within or across the  
235 permanent decal or design, and the permanent design or decal shall  
236 be in a color or colors which are in contrast with the color of  
237 the vehicle. No privilege license tag shall be issued for such  
238 vehicle until the name has been painted thereon or a permanent  
239 design or decal affixed thereto as required by this section. A  
240 permanent decal may be used in lieu of paint. The provisions of

241 this paragraph shall not apply to vehicles used by the Chief  
242 Executive of the State of Mississippi, to vehicles owned or leased  
243 by the Department of Economic Development, to vehicles owned or  
244 leased by the Office of the Attorney General, to vehicles owned or  
245 leased by the Mississippi State Board of Medical Licensure and  
246 used only by the Investigative Division of the board, to one (1)  
247 vehicle owned or leased by the Commissioner of the Mississippi  
248 Department of Corrections, to not more than three (3) vehicles  
249 owned or leased by the Department of Corrections and used only by  
250 Community Services Division officers, to not more than one (1)  
251 vehicle owned or leased by the Mississippi Department of  
252 Transportation and used only by an investigator employed by the  
253 Mississippi Department of Transportation or to not more than one  
254 (1) vehicle owned or leased by the Mississippi State Tax  
255 Commission; and upon receipt of a written request from the State  
256 Adjutant General, the Commissioner of Public Safety, the Director  
257 of the Alcoholic Beverage Control Division of the Mississippi  
258 State Tax Commission, the Commissioner of the Mississippi  
259 Department of Corrections, the Director of the Bureau of Fisheries  
260 and Wildlife of the Department of Wildlife Conservation, the  
261 Director of the Bureau of Narcotics, the Executive Officer of the  
262 Board of Pharmacy, the Executive Director of the Mississippi  
263 Gaming Commission, the State Auditor or a president or chancellor  
264 of a state institution of higher learning, the Governor may  
265 authorize the use of specified unmarked vehicles only in instances  
266 where such identifying marks will hinder official investigations,  
267 and the governing authorities of any municipality may authorize  
268 the use of specified, unmarked police vehicles when identifying  
269 marks would hinder official criminal investigations by the police.  
270 The written request or the order or resolution authorizing such  
271 shall contain the manufacturer's serial number, the state  
272 inventory number, where applicable, and shall set forth why the  
273 vehicle should be exempt from the provisions of this paragraph.



274 In the event the request is granted, the Governor shall furnish  
275 the State Department of Audit with a copy of his written authority  
276 for the use of the unmarked vehicles, or the governing authority,  
277 as the case may be, shall enter its order or resolution on the  
278 minutes and shall furnish the State Department of Audit with a  
279 certified copy of its order or resolution for the use of the  
280 unmarked police vehicle. The state property auditors of the State  
281 Department of Audit shall personally examine vehicles owned or  
282 leased by the State of Mississippi or any agency, department or  
283 commission thereof and report violations of the provisions of this  
284 paragraph to the State Auditor and the Chairman of the Joint  
285 Legislative Committee on Performance Evaluation and Expenditure  
286 Review. Any vehicle found to be in violation of this paragraph  
287 shall be reported immediately to the department head charged with  
288 such vehicle, and five (5) days shall be given for compliance; and  
289 if not complied with, such vehicles shall be impounded by the  
290 State Auditor until properly marked or exempted.

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

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

306 State-owned or leased motor vehicles operated by the

307 Department of Mental Health or by facilities operated by the  
308 Department of Mental Health and used for transporting patients  
309 living in group homes or alternative living arrangements shall not  
310 be subject to the provisions of this section.

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

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

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

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

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

329 SECTION 10. Section 69-11-5, Mississippi Code of 1972, is  
330 amended as follows:[HS1]

331 69-11-5. (1) It shall be unlawful for any person,  
332 municipality, county, political subdivision, governmental agency  
333 or department, institution, individual, partnership, corporation,  
334 association, other entity or organization to feed garbage to  
335 swine, except as permitted under subsection (2) of this section.

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

338 (3) This chapter shall not apply to the Mississippi  
339 Department of corrections who is authorized to feed to swine

340 cooked garbage and vegetable refuse. The Mississippi Department  
341 of corrections shall follow applicable state rules, regulations  
342 and guidelines that are equal to or exceed federal rules and  
343 regulations for cooking and feeding cooked garbage to swine. The  
344 Mississippi Department of Corrections may market and/or use for  
345 consumption swine that has been fed garbage.

346 SECTION 11. This act shall take effect and be in force from  
347 and after July 1, 2000.