

By: Malone

To: Penitentiary;  
Appropriations

HOUSE BILL NO. 1000  
(As Passed the House)

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

34 or nonpresence in the home.

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

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

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

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

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

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

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

54 47-5-1003. (1) An intensive supervision program may be used  
55 as an alternative to incarceration for offenders who are low risk  
56 and nonviolent as selected by the department or court. Any  
57 offender convicted of a sex crime or a felony for the sale or  
58 manufacture of a controlled substance under the uniform controlled  
59 substances law shall not be placed in the program.

60 (2) The court placing an offender in the intensive  
61 supervision program may, acting upon the advice and consent of the  
62 commissioner at the time of the initial sentencing only, and not  
63 later than one (1) year after the defendant has been delivered to  
64 the custody of the department, suspend the further execution of  
65 the sentence and place the defendant on intensive supervision,  
66 except when a death sentence or life imprisonment is the maximum  
67 penalty which may be imposed or if the defendant has been confined  
68 for the conviction of a felony on a previous occasion in any court  
69 or courts of the United States and of any state or territories  
70 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

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

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

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

114 25-1-87. All motor vehicles owned or leased by the State of  
115 Mississippi or any agency, department or political subdivision  
116 thereof, which shall include counties and municipalities, when  
117 such agency or department or political subdivision, which shall  
118 include counties and municipalities, is supported wholly or in  
119 part by public taxes or by appropriations from public funds, shall  
120 have painted on both sides in letters at least three (3) inches in  
121 height, and on the rear in letters not less than one and one-half  
122 (1-1/2) inches in height, the name of the state agency or  
123 department, or political subdivision, which shall include counties  
124 and municipalities, in a color which is in contrast with the color  
125 of the vehicle; provided, however, that a permanent decal may be  
126 used in lieu of paint, and provided further, that any municipality  
127 may affix a permanent decal or design at least twelve (12) inches  
128 in height and twelve (12) inches in width on both sides of the  
129 vehicle with the name of the municipality within or across the  
130 permanent decal or design, and the permanent design or decal shall  
131 be in a color or colors which are in contrast with the color of  
132 the vehicle. No privilege license tag shall be issued for such  
133 vehicle until the name has been painted thereon or a permanent  
134 design or decal affixed thereto as required by this section. A  
135 permanent decal may be used in lieu of paint. The provisions of  
136 this paragraph shall not apply to vehicles used by the Chief

137 Executive of the State of Mississippi, to vehicles owned or leased  
138 by the Department of Economic Development, to vehicles owned or  
139 leased by the Office of the Attorney General, to vehicles owned or  
140 leased by the Mississippi State Board of Medical Licensure and  
141 used only by the Investigative Division of the board, to one (1)  
142 vehicle owned or leased by the Commissioner of the Mississippi  
143 Department of Corrections, to not more than three (3) vehicles  
144 owned or leased by the Department of Corrections and used only by  
145 Community Services Division officers, to not more than one (1)  
146 vehicle owned or leased by the Mississippi Department of  
147 Transportation and used only by an investigator employed by the  
148 Mississippi Department of Transportation or to not more than one  
149 (1) vehicle owned or leased by the Mississippi State Tax  
150 Commission; and upon receipt of a written request from the State  
151 Adjutant General, the Commissioner of Public Safety, the Director  
152 of the Alcoholic Beverage Control Division of the Mississippi  
153 State Tax Commission, the Commissioner of the Mississippi  
154 Department of Corrections, the Director of the Bureau of Fisheries  
155 and Wildlife of the Department of Wildlife Conservation, the  
156 Director of the Bureau of Narcotics, the Executive Officer of the  
157 Board of Pharmacy, the Executive Director of the Mississippi  
158 Gaming Commission, the State Auditor or a president or chancellor  
159 of a state institution of higher learning, the Governor may  
160 authorize the use of specified unmarked vehicles only in instances  
161 where such identifying marks will hinder official investigations,  
162 and the governing authorities of any municipality may authorize  
163 the use of specified, unmarked police vehicles when identifying  
164 marks would hinder official criminal investigations by the police.  
165 The written request or the order or resolution authorizing such  
166 shall contain the manufacturer's serial number, the state  
167 inventory number, where applicable, and shall set forth why the  
168 vehicle should be exempt from the provisions of this paragraph.  
169 In the event the request is granted, the Governor shall furnish

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

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

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

201       State-owned or leased motor vehicles operated by the  
202 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.