

By: Representative Ford

To: Penitentiary

HOUSE BILL NO. 480
(As Sent to Governor)

1 AN ACT TO REENACT SECTIONS 47-5-1001 THROUGH 47-5-1013,
2 MISSISSIPPI CODE OF 1972, WHICH PERMIT A COURT TO PLACE AN
3 OFFENDER IN THE INTENSIVE SUPERVISION PROGRAM AS AN ALTERNATIVE TO
4 INCARCERATION, ESTABLISHES RULES AND GUIDELINES FOR OPERATION OF
5 THE INTENSIVE SUPERVISION PROGRAM AND PROVIDE FOR PAYMENT OF FEES
6 BY PARTICIPANTS IN THE INTENSIVE SUPERVISION PROGRAM; TO REENACT
7 AND AMEND SECTION 47-5-1015, MISSISSIPPI CODE OF 1972, TO EXTEND
8 THE REPEALER DATE ON THE REENACTED CODE SECTIONS FROM JUNE 30,
9 2001, TO JUNE 30, 2002; AND FOR RELATED PURPOSES.

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

11 SECTION 1. Section 47-5-1001, Mississippi Code of 1972, is
12 reenacted as follows:

13 47-5-1001. For purposes of Sections 47-5-1001 through
14 47-5-1015, the following words shall have the meaning ascribed
15 herein unless the context shall otherwise require:

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

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

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

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

26 (e) "House arrest" means the confinement of a person
27 convicted or charged with a crime to his place of residence under
28 the terms and conditions established by the department or court.

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

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

37 SECTION 2. Section 47-5-1003, Mississippi Code of 1972, is
38 reenacted as follows:

39 47-5-1003. (1) An intensive supervision program may be used
40 as an alternative to incarceration for offenders who are low risk
41 and nonviolent as selected by the department or court. Any
42 offender convicted of a sex crime or a felony for the sale or
43 manufacture of a controlled substance under the uniform controlled
44 substances law shall not be placed in the program.

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

57 (3) To protect and to ensure the safety of the state's
58 citizens, any offender who violates an order or condition of the
59 intensive supervision program shall be arrested by the
60 correctional field officer and placed in the actual custody of the
61 Department of Corrections. Such offender is under the full and

62 complete jurisdiction of the department and subject to removal
63 from the program by the classification committee.

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

72 The courts may not require an offender to complete the
73 intensive supervision program as a condition of probation or
74 post-release supervision.

75 SECTION 3. Section 47-5-1005, Mississippi Code of 1972, is
76 reenacted as follows:

77 47-5-1005. (1) The department shall promulgate rules that
78 prescribe reasonable guidelines under which an intensive
79 supervision program shall operate. These rules shall include, but
80 not be limited to, the following:

81 (a) The participant shall remain within the interior
82 premises or within the property boundaries of his or her residence
83 at all times during the hours designated by the correctional field
84 officer.

85 (b) Approved absences from the home may include, but
86 are not limited to, the following:

87 (i) Working or employment approved by the court or
88 department and traveling to or from approved employment;

89 (ii) Unemployed and seeking employment approved
90 for the participant by the court or department;

91 (iii) Undergoing medical, psychiatric, mental
92 health treatment, counseling or other treatment programs approved
93 for the participant by the court or department;

94 (iv) Attending an educational institution or a
95 program approved for the participant by the court or department;

96 (v) Participating in community work release or
97 community service program approved for the participant by the
98 court or department; or

99 (vi) For another compelling reason consistent with
100 the public interest, as approved by the court or department.

101 (2) The department shall select and approve all electronic
102 monitoring devices used under Sections 47-5-1001 through
103 47-5-1015.

104 (3) The department may lease the equipment necessary to
105 implement the intensive supervision program and to contract for
106 the monitoring of such devices. The department is authorized to
107 select the lowest price and best source in contracting for these
108 services.

109 SECTION 4. Section 47-5-1007, Mississippi Code of 1972, is
110 reenacted as follows:

111 47-5-1007. (1) Any participant in the intensive supervision
112 program who engages in employment shall pay a monthly fee to the
113 department for each month such person is enrolled in the program.
114 The department may waive the monthly fee if the offender is a
115 full-time student or is engaged in vocational training. Money
116 received by the department from participants in the program shall
117 be deposited into a special fund which is hereby created in the
118 State Treasury. It shall be used, upon appropriation by the
119 Legislature, for the purpose of helping to defray the costs
120 involved in administering and supervising such program.
121 Unexpended amounts remaining in such special fund at the end of a
122 fiscal year shall not lapse into the State General Fund, and any
123 interest earned on amounts in such special fund shall be deposited
124 to the credit of the special fund.

125 (2) The participant shall admit any correctional officer
126 into his residence at any time for purposes of verifying the
127 participant's compliance with the conditions of his detention.

128 (3) The participant shall make the necessary arrangements to
129 allow for correctional officers to visit the participant's place
130 of education or employment at any time, based upon the approval of
131 the educational institution or employer, for the purpose of
132 verifying the participant's compliance with the conditions of his
133 detention.

134 (4) The participant shall acknowledge and participate with
135 the approved electronic monitoring device as designated by the
136 department at any time for the purpose of verifying the
137 participant's compliance with the conditions of his detention.

138 (5) The participant shall be responsible for and shall
139 maintain the following:

140 (a) A working telephone line in the participant's home;

141 (b) A monitoring device in the participant's home, or
142 on the participant's person or both; and

143 (c) A monitoring device in the participant's home and
144 on the participant's person in the absence of a telephone.

145 (6) The participant shall obtain approval from the
146 correctional field officer before the participant changes
147 residence.

148 (7) The participant shall not commit another crime during
149 the period of home detention ordered by the court or department.

150 (8) Notice shall be given to the participant that violation
151 of the order of home detention shall subject the participant to
152 prosecution for the crime of escape as a felony.

153 (9) The participant shall abide by other conditions as set
154 by the department.

155 SECTION 5. Section 47-5-1009, Mississippi Code of 1972, is
156 reenacted as follows:

157 47-5-1009. (1) The department shall have absolute immunity
158 from liability for any injury resulting from a determination by a
159 judge or correctional officer that an offender shall be allowed to
160 participate in the electronic home detention program.

161 (2) The Department of Audit shall annually audit the records
162 of the department to ensure compliance with Sections 47-5-1001
163 through 47-5-1015.

164 SECTION 6. Section 47-5-1011, Mississippi Code of 1972, is
165 reenacted as follows:

166 47-5-1011. (1) Before entering an order for commitment for
167 electronic house arrest, the department shall inform the
168 participant and other persons residing in the home of the nature
169 and extent of the approved electronic monitoring devices by doing
170 the following:

171 (a) Securing the written consent of the participant in
172 the program to comply with the rules and regulations of the
173 program.

174 (b) Advising adult persons residing in the home of the
175 participant at the time an order or commitment for electronic
176 house arrest is entered and asking such persons to acknowledge the
177 nature and extent of approved electronic monitoring devices.

178 (c) Insuring that the approved electronic devices are
179 minimally intrusive upon the privacy of other persons residing in
180 the home while remaining in compliance with Sections 47-5-1001
181 through 47-5-1015.

182 (2) The participant shall be responsible for the cost of
183 equipment and any damage to such equipment. Any intentional
184 damage, any attempt to defeat monitoring, any committing of a
185 criminal offense or any associating with felons or known
186 criminals, shall constitute a violation of the program.

187 (3) Any person whose residence is utilized in the program
188 shall agree to keep the home drug and alcohol free and to exclude

189 known felons and criminals in order to provide a noncriminal
190 environment.

191 SECTION 7. Section 47-5-1013, Mississippi Code of 1972, is
192 reenacted as follows:

193 47-5-1013. Participants enrolled in an intensive supervision
194 program shall be required to:

195 (a) Maintain employment if physically able, or
196 full-time student status at an approved school or vocational
197 trade, and make progress deemed satisfactory to the correctional
198 field officer, or both, or be involved in supervised job searches.

199 (b) Pay restitution and program fees as directed by the
200 department. Program fees shall not be less than Fifty Dollars
201 (\$50.00) nor more than the actual cost of the program. The
202 sentencing judge may charge a program fee of less than Fifty
203 Dollars (\$50.00) in cases of extreme financial hardship, when such
204 judge determines that the offender's participation in the program
205 would provide a benefit to his community. Program fees shall be
206 deposited in the special fund created in Section 47-5-1007.

207 (c) Establish a place of residence at a place approved
208 by the correctional field officer, and not change his residence
209 without the officer's approval. The correctional officer shall be
210 allowed to inspect the place of residence for alcoholic beverages,
211 controlled substances and drug paraphernalia.

212 (d) Remain at his place of residence at all times
213 except to go to work, to attend school, to perform community
214 service and as specifically allowed in each instance by the
215 correctional field officer.

216 (e) Allow administration of drug and alcohol tests as
217 requested by the field officer.

218 (f) Perform not less than ten (10) hours of community
219 service each month.

220 (g) Meet any other conditions imposed by the court to
221 meet the needs of the offender and limit the risks to the
222 community.

223 SECTION 8. Section 47-5-1015, Mississippi Code of 1972, is
224 reenacted and amended as follows:

225 47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand
226 repealed after June 30, 2002.

227 SECTION 9. This act shall take effect and be in force from
228 and after its passage.