

By: Representatives Malone, Coleman (29th)

To: Penitentiary

HOUSE BILL NO. 1465

1 AN ACT TO AMEND SECTION 47-5-26, MISSISSIPPI CODE OF 1972, TO
2 RENAME THE DIVISION OF COMMUNITY SERVICES AND THE POSITION OF THE
3 DEPUTY COMMISSIONER OF COMMUNITY SERVICES OF THE DEPARTMENT OF
4 CORRECTIONS; TO AMEND SECTIONS 47-5-8, 47-5-158, 47-7-5, 47-7-9,
5 47-7-34, 47-7-41, 47-7-49, 99-15-127, 99-19-45 AND 99-19-48,
6 MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 47-5-26, Mississippi Code of 1972, is
9 amended as follows:

10 47-5-26. (1) The commissioner shall employ the following
11 personnel:

12 (a) A Deputy Commissioner for Administration and
13 Finance who shall supervise and implement all fiscal policies and
14 programs within the department, supervise and implement all hiring
15 and personnel matters within the department, supervise the
16 department's personnel director, supervise and implement all
17 purchasing within the department and supervise and implement all
18 data processing activities within the department, and shall serve
19 as the Chief Executive Officer of the Division of Administration
20 and Finance. He shall possess either:

21 (i) A master's degree from an accredited four-year
22 college or university in public or business administration,
23 accounting, economics or a directly related field, and four (4)
24 years of experience in work related to the above-described duties,
25 one (1) year of which must have included line or functional
26 supervision; or

27 (ii) A bachelor's degree from an accredited
28 four-year college or university in public or business

29 administration, accounting, economics or a directly related field,
30 and six (6) years of experience in work related to the
31 above-described duties, one (1) year of which must have included
32 line or functional supervision. Certification by the State of
33 Mississippi as a certified public accountant may be substituted
34 for one (1) year of the required experience.

35 (b) A Deputy Commissioner for Community Corrections who
36 shall initiate and administer programs including but not limited
37 to supervision of probationers, parolees and suspensioners,
38 counseling, community-based treatment, interstate compact
39 administration and enforcement, prevention programs, halfway
40 houses and group homes, restitution centers, presentence
41 investigations, and work and educational releases, and to serve as
42 the Chief Executive Officer of the Division of Community
43 Corrections. The Deputy Commissioner for Community Corrections is
44 charged with full and complete cooperation with the State Parole
45 Board and shall make monthly reports to the Chairman of the Parole
46 Board in the form and type required by the chairman, in his
47 discretion, for the proper performance of the probation and parole
48 functions. After a plea or verdict of guilty to a felony is
49 entered against a person and before he is sentenced, the Deputy
50 Commissioner for Community Corrections shall procure from any
51 available source and shall file in the presentence records any
52 information regarding any criminal history of the person such as
53 fingerprints, dates of arrests, complaints, civil and criminal
54 charges, investigative reports of arresting and prosecuting
55 agencies, reports of the National Crime Information Center, the
56 nature and character of each offense, noting all particular
57 circumstances thereof and any similar data about the person. The
58 Deputy Commissioner for Community Corrections shall keep an
59 accurate and complete duplicate record of this file and shall
60 furnish the duplicate to the department. This file shall be
61 placed in and shall constitute a part of the inmate's master file.

62 The Deputy Commissioner for Community Corrections shall furnish
63 this file to the State Parole Board when the file is needed in the
64 course of its official duties. He shall possess either (i) a
65 master's degree in counseling, corrections psychology, guidance,
66 social work, criminal justice or some related field and at least
67 four (4) years' full-time experience in such field, including at
68 least one (1) year of supervisory experience; or (ii) a bachelor's
69 degree in a field described in subparagraph (i) of this paragraph
70 and at least six (6) years' full-time work in corrections, one (1)
71 year of which shall have been at the supervisory level.

72 (c) A Deputy Commissioner for Institutions who shall
73 administer institutions, reception and diagnostic centers,
74 prerelease centers and other facilities and programs provided
75 therein, and to serve as the chief executive officer of the
76 division of institutions. He shall possess either (i) a master's
77 degree in counseling, criminal justice, psychology, guidance,
78 social work, business or some related field, and at least four (4)
79 years' full-time experience in corrections, including at least one
80 (1) year of correctional management experience; or (ii) a
81 bachelor's degree in a field described in subparagraph (i) of this
82 paragraph and at least six (6) years' full-time work in
83 corrections, four (4) years of which shall have been at the
84 correctional management level.

85 (2) The commissioner shall employ an administrative
86 assistant for parole matters who shall be an employee of the
87 department assigned to the State Parole Board and who shall work
88 under the guidance and supervision of the board.

89 (3) The administrative assistant for parole matters shall
90 receive an annual salary to be established by the Legislature.
91 The salaries of department employees not established by the
92 Legislature shall receive an annual salary established by the
93 State Personnel Board.

(4) The commissioner shall employ a superintendent for the Parchman facility, Central Mississippi Correctional Facility and South Mississippi Correctional Institution of the Department of Corrections. The superintendent of the Mississippi State Penitentiary shall reside on the grounds of the Parchman facility. Each superintendent shall appoint an officer in charge when he is absent.

Each superintendent shall develop and implement a plan for the prevention and control of an inmate riot and shall file a report with the Chairman of the Senate Corrections Committee and the Chairman of the House Penitentiary Committee on the first day of each regular session of the Legislature regarding the status of the plan.

In order that the grievances and complaints of inmates, employees and visitors at each facility may be heard in a timely and orderly manner, each superintendent shall appoint or designate an employee at the facility to hear grievances and complaints and to report grievances and complaints to the superintendent. Each superintendent shall institute procedures as are necessary to provide confidentiality to those who file grievances and complaints.

SECTION 2. Section 47-5-158, Mississippi Code of 1972, is amended as follows:

47-5-158. (1) The department is authorized to maintain a bank account which shall be designated as the Inmate Welfare Fund. All monies now held in a similar fund for the benefit and welfare of inmates shall be deposited into the Inmate Welfare Fund. This fund shall be used for the benefit and welfare of inmates in the custody of the department.

(2) There shall be deposited into the Inmate Welfare Fund interest previously earned on inmate deposits, all net profits from the operation of inmate canteens, the annual prison rodeo, performances of the Penitentiary band, interest earned on the

127 Inmate Welfare Fund and other revenues designated by the
128 commissioner. All money shall be deposited into the Inmate
129 Welfare Fund as provided in Section 7-9-21, Mississippi Code of
130 1972.

131 (3) All inmate telephone call commissions shall be paid to
132 the department. Monies in the fund may be expended by the
133 Department of Corrections, upon requisition by the commissioner or
134 his designee, only for the purposes established in this
135 subsection.

136 (a) Beginning July 1, 1995, twenty-five percent (25%)
137 of the inmate telephone call commissions shall be used to purchase
138 and maintain telecommunication equipment to be used by the
139 department.

140 (b) Before June 30, 1996, the commissioner shall
141 transfer to the State Department of Education a percentage of the
142 funds generated by the inmate telephone call commissions in an
143 amount as specified in this paragraph. The amount of the transfer
144 shall be a sum sufficient to comply with the provisions of Section
145 11, Chapter 143, Laws of 1995, which set forth the performance
146 target for the Writing to Read Lab Matching Grant Program in the
147 placement of lab sites and the number of students served.

148 (c) Before June 30, 1996, the Department of Corrections
149 may expend not more than Fifty Thousand Dollars (\$50,000.00) from
150 the Inmate Welfare Fund for each prerelease center established by
151 the department; however, the maximum amount expended by the
152 department for all prerelease centers shall not exceed Two Hundred
153 Thousand Dollars (\$200,000.00).

154 (d) Beginning July 1, 1996, fifty percent (50%) of the
155 inmate telephone call commissions shall be deposited into the
156 Prison Agriculture Enterprise Fund. The Mississippi Department of
157 Corrections may use these funds to supplement the Prison
158 Agricultural Enterprise Fund created in Section 47-5-66. The

remaining twenty-five percent (25%) of the inmate telephone call commissions shall be deposited into the Inmate Welfare Fund.

(4) The commissioner may invest in the manner authorized by law any money in the Inmate Welfare Fund that is not necessary for immediate use, and the interest earned shall be deposited in the Inmate Welfare Fund.

(5) The Deputy Commissioner for Administration and Finance shall be the custodian of the Inmate Welfare Fund. He shall establish and implement internal accounting controls that comply with generally accepted accounting principles. The Deputy Commissioner for Administration and Finance shall prepare and issue quarterly consolidated and individual facility financial statements to the prison auditor of the Joint Legislative Committee on Performance Evaluation and Expenditure Review. The Deputy Commissioner shall prepare an annual report which shall include a summary of expenditures from the fund by major categories and by individual facility. This annual report shall be sent to the prison auditor, the Legislative Budget Office, the Chairman of the Corrections Committee of the Senate, and the Chairman of the Penitentiary Committee of the House of Representatives.

(6) A portion of the Inmate Welfare Fund shall be deposited in the Discharged Offenders Revolving Fund, as created under Section 47-5-155, in amounts necessary to provide a balance not to exceed One Hundred Thousand Dollars (\$100,000.00) in the Discharged Offenders Revolving Fund, and shall be used to supplement those amounts paid to discharged, paroled or pardoned offenders from the department. The superintendent of the Parchman facility shall establish equitable criteria for the making of supplemental payments which shall not exceed Two Hundred Dollars (\$200.00) for any offender. The supplemental payments shall be subject to the approval of the commissioner. The State Treasurer shall not be required to replenish the Discharged Offenders

Revolving Fund for the supplemental payments made to discharged,
paroled or pardoned offenders.

(7) The Inmate Welfare Fund Committee is hereby created and shall be composed of five (5) members: the Deputy Commissioner for Community Corrections, the Superintendent of the Parchman facility, the Superintendent of the Rankin County facility, the Superintendent of the Greene County facility, and one (1) member to be appointed by the Commissioner of Corrections. The member appointed by the commissioner shall be the chairman of the committee. The committee shall administer and supervise the operations and expenditures from the Inmate Welfare Fund and shall maintain an official minute book upon which shall be spread its authorization and approval for all such expenditures. The committee may promulgate regulations governing the use and expenditures of the fund.

(8) The Department of Audit shall conduct an annual comprehensive audit of the Inmate Welfare Fund.

SECTION 3. Section 47-7-5, Mississippi Code of 1972, is amended as follows:

47-7-5. (1) The State Parole Board, created under former Section 47-7-5, is hereby created, continued and reconstituted and shall be composed of five (5) members. The Governor shall appoint the members with the advice and consent of the Senate. All terms shall be at the will and pleasure of the Governor. Any vacancy shall be filled by the Governor, with the advice and consent of the Senate. The Governor shall appoint a chairman of the board.

(2) Any person who is appointed to serve on the board shall possess at least a bachelor's degree or a high school diploma and four (4) years' work experience. Each member shall devote his full time to the duties of his office and shall not engage in any other business or profession or hold any other public office. A member shall not receive compensation or per diem in addition to his salary as prohibited under Section 25-3-38. Each member shall

keep such hours and workdays as required of full-time state employees under Section 25-1-98. Individuals shall be appointed to serve on the board without reference to their political affiliations. Each board member, including the chairman, may be reimbursed for actual and necessary expenses as authorized by Section 25-3-41; but a member shall not be reimbursed for travel expenses from his residence to the nearest State Penitentiary.

(3) The board shall have exclusive responsibility for the granting of parole as provided by Sections 47-7-3 and 47-7-17 and shall have exclusive authority for revocation of the same. The board shall have exclusive responsibility for investigating clemency recommendations upon request of the Governor.

(4) The board, its members and staff shall be immune from civil liability for any official acts taken in good faith and in exercise of the board's legitimate governmental authority.

(5) The budget of the board shall be funded through a separate line item within the general appropriation bill for the support and maintenance of the department. Employees of the department which are employed by or assigned to the board shall work under the guidance and supervision of the board. There shall be an executive secretary to the board who shall be responsible for all administrative and general accounting duties related to the board. The executive secretary shall keep and preserve all records and papers pertaining to the board.

(6) The board shall have no authority or responsibility for supervision of offenders granted a release for any reason, including, but not limited to, probation, parole or executive clemency or other offenders requiring the same through interstate compact agreements. The supervision shall be provided exclusively by the staff of the Division of Community Corrections of the department.

(7) The State Parole Board, immediately after the effective date of this act, shall review all cases where an offender was

denied parole and any eligibility for reconsideration for parole for at least one (1) year after denial.

(8) The State Parole Board shall review and investigate all cases where offenders have been diagnosed with a serious illness. If the Medical Director of the Department of Corrections certifies to the State Parole Board that an offender is suffering from a terminal illness, the State Parole Board shall parole the offender with the approval and consent of the Commissioner of the Department of Corrections and the medical director.

(9) This section shall stand repealed on July 1, 2002.

SECTION 4. Section 47-7-9, Mississippi Code of 1972, is amended as follows:

47-7-9. (1) The circuit judges and county judges in the districts to which Division of Community Corrections personnel have been assigned shall have the power to request of the department transfer or removal of the division personnel from their court.

(2) (a) Division personnel shall investigate all cases referred to them for investigation by the board, the division or by any court in which they are authorized to serve. They shall furnish to each person released under their supervision a written statement of the conditions of probation, parole, earned-release supervision, post-release supervision or suspension and shall instruct him regarding the same. They shall keep informed concerning the conduct and conditions of persons under their supervision and use all suitable methods to aid and encourage them and to bring about improvements in their conduct and condition. They shall keep detailed records of their work and shall make such reports in writing as the court or the board may require.

(b) The division personnel duly assigned to court districts are hereby vested with all the powers of police officers or sheriffs to make arrests or perform any other duties required of policemen or sheriffs which may be incident to the division

291 personnel responsibilities. All probation and parole officers
292 hired on or after July 1, 1994, will be placed in the Law
293 Enforcement Officers' Training Program and will be required to
294 meet the standards outlined by that program.

295 (c) It is the intention of the Legislature that insofar
296 as practicable the case load of each division personnel
297 supervising offenders in the community (hereinafter field
298 supervisor) shall not exceed the number of cases that may be
299 adequately handled.

300 (3) (a) Division personnel shall be provided to perform
301 investigation for the court as provided in this subsection.
302 Division personnel shall conduct presentence investigations on all
303 persons convicted of a felony in any circuit court of the state,
304 prior to sentencing and at the request of the circuit court judge
305 of the court of conviction. The presentence evaluation report
306 shall consist of a complete record of the offender's criminal
307 history, educational level, employment history, psychological
308 condition and such other information as the department or judge
309 may deem necessary. Division personnel shall also prepare written
310 victim impact statements at the request of the sentencing judge as
311 provided in Section 99-19-157.

312 (b) In order that offenders in the custody of the
313 department on July 1, 1976, may benefit from the kind of
314 evaluations authorized in this section, an evaluation report to
315 consist of the information required hereinabove, supplemented by
316 an examination of an offender's record while in custody, shall be
317 compiled by the division upon all offenders in the custody of the
318 department on July 1, 1976. After a study of such reports by the
319 State Parole Board those cases which the board believes would
320 merit some type of executive clemency shall be submitted by the
321 board to the Governor with its recommendation for the appropriate
322 executive action.

323 (c) The department is authorized to accept gifts,
324 grants and subsidies to conduct this activity.

325 SECTION 5. Section 47-7-34, Mississippi Code of 1972, is
326 amended as follows:

327 47-7-34. (1) When a court imposes a sentence upon a
328 conviction for any felony committed after June 30, 1995, the
329 court, in addition to any other punishment imposed if the other
330 punishment includes a term of incarceration in a state or local
331 correctional facility, may impose a term of post-release
332 supervision. However, the total number of years of incarceration
333 plus the total number of years of post-release supervision shall
334 not exceed the maximum sentence authorized to be imposed by law
335 for the felony committed. The defendant shall be placed under
336 post-release supervision upon release from the term of
337 incarceration. The period of supervision shall be established by
338 the court.

339 (2) The period of post-release supervision shall be
340 conducted in the same manner as a like period of supervised
341 probation, including a requirement that the defendant shall abide
342 by any terms and conditions as the court may establish. Failure
343 to successfully abide by the terms and conditions shall be grounds
344 to terminate the period of post-release supervision and to
345 recommit the defendant to the correctional facility from which he
346 was previously released. Procedures for termination and
347 recommitment shall be conducted in the same manner as procedures
348 for the revocation of probation and imposition of a suspended
349 sentence.

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

SECTION 6. Section 47-7-41, Mississippi Code of 1972, is amended as follows:

47-7-41. When a probationer shall be discharged from probation by the court of original jurisdiction, the field supervisor, upon receiving a written request from the probationer, shall forward a written report of the record of the probationer to the Division of Community Corrections of the department, which shall present a copy of this report to the Governor. The Governor may, in his discretion, at any time thereafter by appropriate executive order restore any civil rights lost by the probationer by virtue of his conviction or plea of guilty in the court of original jurisdiction.

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

47-7-49. (1) Any offender on probation, parole, earned-release supervision, post-release supervision, earned probation or any other offender under the field supervision of the Community Corrections Division of the department shall pay to the department the sum of Twenty-five Dollars (\$25.00) per month by certified check or money order unless a hardship waiver is granted by the sentencing court. The commissioner or his designee shall deposit Twenty Dollars (\$20.00) of the payments received into a special fund in the State Treasury, which is hereby created, to be known as the Community Service Revolving Fund. Expenditures from this fund shall be made for: (a) the establishment of restitution and satellite centers; and (b) the establishment, administration and operation of the department's Drug Identification Program and the intensive supervision program. Ten Dollars (\$10.00) of the Twenty Dollars (\$20.00) may be used for salaries and to purchase equipment, supplies and vehicles to be used by the Community Corrections Division in the performance of its duties. Expenditures for the purposes established in this section may be

388 made from the fund upon requisition by the commissioner or his
389 designee.

390 Of the remaining amount, Three Dollars (\$3.00) of the
391 payments shall be deposited in the Crime Victims' Compensation
392 Fund created in Section 99-41-29, Two Dollars (\$2.00) shall be
393 deposited into the Training Revolving Fund created pursuant to
394 Section 47-7-51. When a person is convicted of a felony in this
395 state, in addition to any other sentence it may impose, the court
396 may, in its discretion, order the offender to pay a state
397 assessment not to exceed the greater of One Thousand Dollars
398 (\$1,000.00) or the maximum fine that may be imposed for the
399 offense, into the Crime Victims' Compensation Fund created
400 pursuant to Section 99-41-29.

401 Any federal funds made available to the department for
402 training or for training facilities, equipment or services shall
403 be deposited in the Correctional Training Revolving Fund created
404 in Section 47-7-51. The funds deposited in this account shall be
405 used to support an expansion of the department's training program
406 to include the renovation of facilities for training purposes,
407 purchase of equipment and contracting of training services with
408 community colleges in the state.

409 No offender shall be required to make this payment for a
410 period of time longer than ten (10) years.

411 (2) The offender may be imprisoned until the payments are
412 made if the offender is financially able to make the payments and
413 the court in the county where the offender resides so finds,
414 subject to the limitations hereinafter set out. The offender
415 shall not be imprisoned if the offender is financially unable to
416 make the payments and so states to the court in writing, under
417 oath, and the court so finds.

418 (3) This section shall stand repealed from and after June
419 30, 2001.

420 SECTION 8. Section 99-15-127, Mississippi Code of 1972, is
421 amended as follows:

422 99-15-127. The Department of Corrections, Division of
423 Community Corrections, is hereby directed to support Sections
424 99-15-101 through 99-15-127 to the extent that field support
425 personnel are available in circuit court districts, and the
426 Commissioner of Corrections shall certify to the court that the
427 Division of Community Corrections has sufficient field parole
428 officers to supervise and oversee those individuals who may be
429 placed in this program by the court.

430 SECTION 9. Section 99-19-45, Mississippi Code of 1972, is
431 amended as follows:

432 99-19-45. The clerks of the circuit court of the counties in
433 the State of Mississippi shall furnish the Mississippi Department
434 of Corrections, within five (5) days after adjournment of court, a
435 commitment paper showing the name of the person convicted, the
436 crime, term of sentence, date of sentence, sex, race, and a brief
437 history of the crime committed.

438 The clerks shall also furnish the Department of Corrections,
439 within five (5) days after adjournment of such court, a certified
440 copy of the probation order of an individual who is placed on
441 probation under the supervision of the Division of Community
442 Corrections of the department. Such order shall provide the name
443 of the person placed on probation, the crime, term of sentence,
444 date of sentence, period of probation, sex, race, and a brief
445 history of the crime committed.

446 As compensation for such services they shall receive the sum
447 of Fifty Cents (50¢) for each transcript, and the sum shall be
448 paid out of the treasury of the county, with the approval of the
449 board of supervisors, on the filing of a bill for such service.

450 SECTION 10. Section 99-19-48, Mississippi Code of 1972, is
451 amended as follows:

452 99-19-48. The following form, to be furnished by the county,
453 shall be used in transmitting the required data for any individual
454 placed on probation under the supervision of the Division of
455 Community Corrections of the Department of Corrections:

456 "Circuit Court, County of _____.

457 To the Mississippi Department of Corrections:

458 You are hereby notified that at the _____ term,
459 20_____, of the circuit court, Judge _____

460 presiding, the following named person was tried, convicted and
461 sentenced to a term in the State Penitentiary. The sentence was
462 suspended and the person was placed on probation:

463 Name _____ Alias _____

464 Date of sentence _____ Crime _____

465 Term of sentence _____ Sex _____

466 Race _____ Appealed _____

467 Remarks: Give brief summary of crime committed. _____

468 _____

469 _____

470 Dated _____, 20_____ Clerk."

471 SECTION 11. Section 47-5-8, Mississippi Code of 1972, is
472 amended as follows:

473 47-5-8. (1) There is hereby created the Mississippi
474 Department of Corrections which shall be under the policy
475 direction of the Governor. The chief administrative officer of
476 the department shall be the Commissioner of Corrections.

477 (2) (a) There shall be a Division of Administration and
478 Finance within the department which shall have as its chief
479 administrative officer a Deputy Commissioner for Administration
480 and Finance who shall be appointed by the commissioner, and shall
481 be directly responsible to the commissioner.

482 (b) There shall be a Division of Community Corrections
483 within the department which shall have as its chief administrative
484 officer a Deputy Commissioner for Community Corrections who shall

485 be appointed by the commissioner, and shall be directly
486 responsible to the commissioner. The Probation and Parole Board
487 shall continue to exercise the authority as provided by law, but
488 after July 1, 1976, the Division of Community Corrections shall
489 serve as the administrative agency for the Probation and Parole
490 Board.

491 (3) The department shall succeed to the exclusive control of
492 all records, books, papers, equipment and supplies, and all lands,
493 buildings and other real and personal property now or hereafter
494 belonging to or assigned to the use and benefit or under the
495 control of the Mississippi State Penitentiary and the Mississippi
496 Probation and Parole Board, except the records of parole process
497 and revocation and legal matters related thereto, and shall have
498 the exercise and control of the use, distribution and disbursement
499 of all funds, appropriations and taxes now or hereafter in
500 possession, levied, collected or received or appropriated for the
501 use, benefit, support and maintenance of these two (2) agencies
502 except as otherwise provided by law, and the department shall have
503 general supervision of all the affairs of the two (2) agencies
504 herein named except as otherwise provided by law, and the care and
505 conduct of all buildings and grounds, business methods and
506 arrangements of accounts and records, the organization of the
507 administrative plans of each institution, and all other matters
508 incident to the proper functioning of the two (2) agencies.

509 (4) The commissioner may lease the lands for oil, gas,
510 mineral exploration and other purposes, and contract with other
511 state agencies for the proper management of lands under such
512 leases or for the provision of other services, and the proceeds
513 thereof shall be paid into the General Fund of the state.

514 SECTION 12. This act shall take effect and be in force from
515 and after July 1, 2001.