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To: Judiciary

SENATE BILL NO. 2410

1 AN ACT TO CREATE THE "JUVENILE CRIME PREVENTION PROGRAM" AND
2 THE "RECIDIVISM REDUCTION PROGRAM" FOR THE PURPOSE OF PREVENTING
3 HIGH-RISK CHILDREN FROM BECOMING INCARCERATED AND REDUCING INMATE
4 POPULATION AND RECIDIVISM; TO PRESCRIBE THE CRITERIA FOR PLACEMENT
5 INTO THE PROGRAMS; TO PROVIDE FOR THE EXPUNCTION OF THE
6 PARTICIPANT'S CRIMINAL RECORD UPON SUCCESSFUL PARTICIPATION IN THE
7 RECIDIVISM REDUCTION PROGRAM; TO CREATE THE PARTNERSHIP ON
8 PREVENTION AND RECIDIVISM REDUCTION AND PROVIDE THAT SUCH PROGRAMS
9 SHALL BE ADMINISTERED BY THE PARTNERSHIP; TO AMEND SECTION
10 47-7-47, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND SECTION
11 25-9-120, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM REVIEW BY THE
12 PERSONAL SERVICE CONTRACT REVIEW BOARD ANY PERSONAL SERVICES
13 CONTRACTS ENTERED INTO BY AGENCIES PARTICIPATING IN THE JUVENILE
14 CRIME PREVENTION PROGRAM OR THE RECIDIVISM REDUCTION PROGRAM FOR
15 THE PURPOSES OF SUCH PROGRAMS; TO REQUIRE THE PARTNERSHIP ON
16 PREVENTION AND RECIDIVISM REDUCTION TO FILE WITH THE LEGISLATURE
17 AN ACCOUNTABILITY/ASSESSMENT REPORT ON THE PROGRAMS; AND FOR
18 RELATED PURPOSES.

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

20 SECTION 1. (1) There is hereby created the "Recidivism
21 Reduction Program" for the purpose of reducing recidivism and
22 equipping inmates with the necessary skills for reintegration into
23 the community. The program shall be administered by the
24 Partnership on Prevention and Recidivism Reduction created in
25 Section 3 of this act. Existing resources should be used to
26 provide program and services whenever possible. Any state agency
27 involved in the Recidivism Reduction Program shall be designated
28 as the sole source for the purpose of soliciting and use of
29 federal and/or foundation dollars for support of the program's
30 services and activities, and any federal funds received for such
31 purpose shall be exempt from the Department of Finance and
32 Administration's federal clearinghouse review. Each participating
33 agency, within the constraints of its program and funding

34 regulations, shall support efforts of the program through the use
35 of existing resources, the reallocation of existing funds and/or
36 funds appropriated specifically for the purpose of the program.

37 (2) The persons eligible for placement into the Recidivism
38 Reduction Program shall be low-risk nonviolent offenders, ages
39 sixteen (16) or older, who are sentenced to the custody of the
40 Department of Corrections. The Department of Corrections shall
41 select the participants and shall strongly consider a
42 recommendation by the sentencing court in determining eligibility
43 for the program. The sentencing court is authorized to modify the
44 sentence of any defendant that was recommended by the court for
45 the Recidivism Reduction Program but not selected by the
46 department to participate. The department, in its sole
47 discretion, shall ensure that the sentencing courts adhere to the
48 intent of this act and may reject from participation in the
49 program any offender it determines does not meet the intent. Only
50 offenders sentenced on or after July 1, 2001, who have not
51 previously served time in the custody of the Department of
52 Corrections and who are sentenced to a term of incarceration not
53 less than three (3) years shall be eligible for placement in the
54 program. All participants shall retain inmate status throughout
55 all three (3) phases of the Recidivism Reduction Program. The
56 Department of Corrections shall require every participant to sign
57 an agreement before his acceptance and classification into the
58 program wherein the participant explicitly agrees to put forth his
59 best efforts in the program and to any other demands the
60 department deems necessary. If the participant fails to abide by
61 the rules or guidelines of all three phases of the program, he may
62 be removed from the program and required to serve his original
63 sentence imposed by the court.

64 (3) Phase One of the Recidivism Reduction Program shall be
65 placement in a Regimented Inmate Discipline Program similar to the

66 one operated pursuant to Section 47-7-47, Mississippi Code of
67 1972.

68 (4) Subsequent to successful completion of Phase One, the
69 participant may be placed in an adult educational or vocational
70 program operated in conjunction with the Board for Community and
71 Junior Colleges and the Department of Education. Other services
72 which may be offered during Phase Two are classes for drug and/or
73 alcohol rehabilitation, self-discipline, parenting, character
74 development, family responsibilities and values, counseling and
75 life coping skills.

76 (5) The participant in Phase Three shall be matched with a
77 private sector or government job prior to conditional discharge;
78 the job shall be one that will enable the participant to earn a
79 living wage. The Department of Human Services shall make
80 available child care and transportation services to participants
81 during this phase, provided any funds are available for such
82 purposes. Consideration should be given to identifying employers
83 who would assume certain responsibilities related to the aftercare
84 process which might include assigning a mentor to the inmate
85 employee. The Partnership on Prevention and Recidivism Reduction
86 shall encourage the use of the Work-force Investment Act and any
87 other financial incentives available on behalf of employers who
88 choose to participate in Phase Three of the program.

89 (6) (a) Upon one (1) year of successful participation in
90 Phase Three of the Recidivism Reduction Program, the field officer
91 assigned to the participant shall petition the committing court
92 for expunction of the participant's criminal record of the crime
93 for which convicted and placed in the program. For purposes of
94 this subsection, the term "field officer" means a person as
95 defined by the Partnership on Prevention and Recidivism Reduction
96 who possesses social work skills and may be familiar with the
97 assigned participant's performance throughout all phases of the
98 program.

99 (b) The court shall enter an order to expunge the
100 conviction from all public records, except that the Department of
101 Corrections shall maintain a nonpublic record solely for the
102 purpose of determining whether such person has previously
103 participated in the program. The effect of the expunction shall
104 be to restore the participant, in the contemplation of the law, to
105 the status he occupied before arrest. No person as to whom an
106 order of expunction has been entered shall be held thereafter
107 under any provision of law to be guilty of perjury or to have
108 otherwise given a false statement by reason of his failure to
109 recite or acknowledge such arrest or conviction in response to any
110 inquiry made of him for any purpose, except for the purpose of
111 determining in any subsequent proceeding the person's status as a
112 first offender.

113 SECTION 2. (1) The Partnership on Prevention and Recidivism
114 Reduction shall develop a comprehensive well-coordinated program
115 designed to prevent Mississippi youth from engaging in behavior
116 that involves illegal activities and lead to incarceration. The
117 Juvenile Crime Prevention Program shall be delivered primarily
118 through the public schools, but may also consider opportunities
119 provided through other community-based organizations. The program
120 shall be administered by the Partnership on Prevention and
121 Recidivism Reduction created in Section 3 of this act. The
122 program shall be operated in whatever school district or districts
123 as the partnership determines to be advisable and most conducive
124 to accomplishing the goals of the program within the parameters
125 established for the program. Existing resources should be used to
126 provide program and services whenever possible. Any state agency
127 involved in the Juvenile Crime Prevention Program shall be
128 designated as the sole source for the purpose of soliciting and
129 use of federal and/or foundation dollars for support of the
130 program's services and activities, and any federal funds received
131 for such purpose shall be exempt from the Department of Finance

132 and Administration's federal clearinghouse review. Each
133 participating agency, within the constraints of its program and
134 funding regulations, shall support efforts of the program through
135 the use of existing resources, the reallocation of existing funds
136 and/or funds appropriated specifically for the purpose of the
137 program. Intervention shall be accomplished through a variety of
138 available programs and services at the earliest possible state of
139 a child's life. A menu of services shall be created with
140 assignments being made to children based on determined needs.
141 Such menu of services shall include, but not be limited to:
142 components related to education (academic and/or
143 vocational/technical skills training), counseling services, drug
144 and/or alcohol prevention and rehabilitation, self-discipline
145 skills, parenting skills (if applicable), character development,
146 family responsibilities and values, life coping skills, job
147 placement services and work employability. An aftercare component
148 for the delinquent child may also be offered as part of the
149 program.

150 (2) In designing the Juvenile Crime Prevention Program, the
151 partnership shall give consideration to the following areas:
152 intervention activities for high-risk children, targeting
153 parenting skills for high-risk children, providing counseling and
154 socialization development for high-risk children/students,
155 crafting programs to build self-esteem, creating specific
156 educational opportunities and options which will increase the
157 likelihood of academic success, development of training programs
158 for educators designed to deal with at-risk students, assurance of
159 meaningful coordination of existing services, and development of
160 community intervention teams consisting of representatives from
161 the Department of Human Services, the Department of Mental Health,
162 local school districts (including attendance officers), the
163 Department of Rehabilitation Services, the Department of Health,
164 the Office of Attorney General and others as needed.

165 (3) The persons eligible for placement into the Juvenile
166 Crime Prevention Program shall be any Mississippi child, from
167 birth to eighteen (18) years of age. Prevention measures may be
168 provided for children through hospitals and doctors' offices from
169 birth throughout their lives. A number of services will be
170 available specifically for children and youth that are considered
171 to be at high risk. The term "high-risk" may include, but not be
172 limited to, the following circumstances: the child is not living
173 in a two-parent family; the household head is a high school
174 dropout; the family income is below the poverty level; the child
175 is living with parents who do not have steady full-time
176 employment; the family is receiving welfare benefits; the child
177 does not have health insurance; the child has or is experiencing
178 drug or alcohol problems, is pregnant or is a parent under the age
179 of eighteen (18), has come into contact with the juvenile justice
180 system in the past, is at least one year behind the expected grade
181 level for his age, has limited-English proficiency, is a gang
182 member, has dropped out of school in the past and/or has high
183 absenteeism rate at school.

184 (4) The agency administering the Juvenile Crime Prevention
185 program at the local level shall have the discretion to seek
186 parent or guardian involvement in the participants' completion of
187 the program. Such agency shall have the option to require parent
188 or guardian participation, and, if the parent or guardian fails to
189 adequately participate, then the agency may seek youth court
190 intervention to require participation.

191 SECTION 3. (1) There is hereby created a Partnership on
192 Prevention and Recidivism Reduction, hereinafter referred to as
193 the "partnership," charged with the responsibility of designing a
194 multi-agency prevention, rehabilitative, educational and
195 employment program for the purposes of preventing high-risk youth
196 from becoming inmates, reducing recidivism and equipping offenders

197 with the necessary skills for successful reintegration into the
198 community.

199 (2) The partnership shall be composed of the following
200 members:

201 (a) The Commissioner of Corrections;

202 (b) The Executive Director of the State Board of
203 Community and Junior Colleges;

204 (c) The Executive Director of the Employment Security
205 Commission;

206 (d) The Executive Director of the Department of Human
207 Services;

208 (e) The Executive Director of the Department of Mental
209 Health;

210 (f) The State Superintendent of Education; and

211 (g) The Attorney General.

212 (3) The Commissioner of Corrections shall serve as chairman
213 of the partnership. Members of the partnership shall not receive
214 any compensation or per diem, but may receive travel reimbursement
215 as provided in Section 25-3-41. The partnership shall elect a
216 vice-chairman by a majority vote of the partnership.

217 (4) The partnership is authorized to adopt policies and
218 by-laws to carry out the purposes of Sections 1 and 2 of this act.
219 The Department of Corrections shall be the fiscal agent and
220 day-to-day management authority for the Recidivism Reduction
221 Program and shall carry out the policies set by the partnership.
222 The Office of the Attorney General shall be the fiscal agent and
223 day-to-day management authority for the Juvenile Crime Prevention
224 Program consistent with the policies set by the partnership.
225 Under no circumstances shall the scope of authority of the
226 partnership exceed the purposes and authority provided herein for
227 the Juvenile Crime Prevention Program and Recidivism Reduction
228 Program.

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

231 47-7-47. (1) The judge of any circuit court may place an
232 offender on a program of earned probation after a period of
233 confinement as set out herein and the judge may seek the advice of
234 the commissioner and shall direct that the defendant be under the
235 supervision of the department.

236 (2) (a) Any circuit court or county court may, upon its own
237 motion, acting upon the advice and consent of the
238 commissioner * * * not earlier than thirty (30) days nor later
239 than one (1) year after the defendant has been delivered to the
240 custody of the department, to which he has been sentenced, suspend
241 the further execution of the sentence and place the defendant on
242 earned probation, except when a death sentence or life
243 imprisonment is the maximum penalty which may be imposed or if the
244 defendant has been confined for the conviction of a felony on a
245 previous occasion in any court or courts of the United States and
246 of any state or territories thereof or has been convicted of a
247 felony involving the use of a deadly weapon. However, for a
248 defendant placed in the Recidivism Reduction Program, the court
249 may retain jurisdiction for a period not to exceed four (4) years
250 after the defendant has been delivered to the custody of the
251 Department of Corrections.

252 (b) The authority granted in this subsection shall be
253 exercised by the judge who imposed sentence on the defendant, or
254 his successor.

255 (c) The time limit imposed by paragraph (a) of this
256 subsection is not applicable to those defendants sentenced to the
257 custody of the department prior to April 14, 1977. Persons who
258 are convicted of crimes that carry mandatory sentences shall not
259 be eligible for earned probation.

260 (3) When any circuit or county court places an offender on
261 earned probation, the court shall give notice to the Mississippi

262 Department of Corrections within fifteen (15) days of the court's
263 decision to place the offender on earned probation. Notice shall
264 be delivered to the central office of the Mississippi Department
265 of Corrections and to the regional office of the department which
266 will be providing supervision to the offender on earned probation.

267 (4) If the court places any person on probation or earned
268 probation, the court may order the person, as a condition of
269 probation, to a period of confinement and treatment at a private
270 or public agency or institution, either within or without the
271 state, which treats emotional, mental or drug-related problems.
272 Any person who, as a condition of probation, is confined for
273 treatment at an out-of-state facility shall be supervised pursuant
274 to Section 47-7-71, and any person confined at a private agency
275 shall not be confined at public expense. Time served in any such
276 agency or institution may be counted as time required to meet the
277 criteria of subsection (2)(a).

278 (5) If the court places any person on probation or earned
279 probation, the court may order the person to make appropriate
280 restitution to any victim of his crime or to society through the
281 performance of reasonable work for the benefit of the community.

282 (6) If the court places any person on probation or earned
283 probation, the court may order the person, as a condition of
284 probation, to submit, as provided in Section 47-5-601, to any type
285 of breath, saliva or urine chemical analysis test, the purpose of
286 which is to detect the possible presence of alcohol or a substance
287 prohibited or controlled by any law of the State of Mississippi or
288 the United States.

289 (7) The court in its sentence may recommend placement of the
290 person thereby convicted in the Recidivism Reduction Program
291 created under Section 1 of Senate Bill No. 2410, 2001 Regular
292 Session.

293 SECTION 5. Section 25-9-120, Mississippi Code of 1972, is
294 amended as follows:

295 25-9-120. (1) Contract personnel, whether classified as
296 contract workers or independent contractors shall not be deemed
297 state service or non-state service employees of the State of
298 Mississippi, and shall not be eligible to participate in the
299 Public Employees' Retirement System, or the state employee health
300 plan, nor be allowed credit for personal and sick leave and other
301 leave benefits as employees of the State of Mississippi,
302 notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101
303 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through
304 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth
305 herein. Contract workers, i.e., contract personnel who do not
306 meet the criteria of independent contractors, shall be subject to
307 the provisions of Section 25-11-127.

308 (2) There is hereby created the Personal Service Contract
309 Review Board, which shall be composed of the State Personnel
310 Director, the Executive Director of the Department of Finance and
311 Administration, or his designee, the Commissioner of Corrections,
312 or his designee, the Executive Director of the Mississippi
313 Department of Wildlife and Fisheries, or his designee, and the
314 Executive Director of the Department of Environmental Quality, or
315 his designee. The State Personnel Director shall be chairman and
316 shall preside over the meetings of the board. The board shall
317 annually elect a vice-chairman, who shall serve in the absence of
318 the chairman. No business shall be transacted, including adoption
319 of rules of procedure, without the presence of a quorum of the
320 board. Three (3) members shall be a quorum. No action shall be
321 valid unless approved by the chairman and two (2) other of those
322 members present and voting, entered upon the minutes of the board
323 and signed by the chairman. Necessary clerical and administrative
324 support for the board shall be provided by the State Personnel
325 Board. Minutes shall be kept of the proceedings of each meeting,
326 copies of which shall be filed on a monthly basis with the
327 Legislative Budget Office.

328 (3) The Personal Service Contract Review Board shall have
329 the following powers and responsibilities:

330 (a) Promulgate rules and regulations governing the
331 solicitation and selection of contractual services personnel
332 including personal and professional services contracts for any
333 form of consulting, policy analysis, public relations, marketing,
334 public affairs, legislative advocacy services or any other
335 contract that the board deems appropriate for oversight, with the
336 exception of any personal service contracts entered into for
337 computer or information technology-related services governed by
338 the Mississippi Department of Information Technology Services, any
339 personal service contracts entered into by the Mississippi
340 Department of Transportation, any personal service contracts
341 entered into by agencies participating in the Juvenile Crime
342 Prevention Program or the Recidivism Reduction Program created in
343 Sections 1 and 2 of Senate Bill No. 2410, 2001 Regular Session,
344 for the purposes of such programs, and any contract for attorney,
345 accountant, auditor, physician, dentist, architect, engineer,
346 veterinarian and utility rate expert services. Any such rules and
347 regulations shall provide for maintaining continuous internal
348 audit covering the activities of such agency affecting its revenue
349 and expenditures as required under Section 7-7-3(6)(d),
350 Mississippi Code of 1972.

351 (b) Approve all personal and professional services
352 contracts involving the expenditures of funds in excess of One
353 Hundred Thousand Dollars (\$100,000.00);

354 (c) Develop standards with respect to contractual
355 services personnel which require invitations for public bid,
356 requests for proposals, record keeping and financial
357 responsibility of contractors. The Personal Service Contract
358 Review Board may, in its discretion, require the agency involved
359 to advertise such contract for public bid, and may reserve the
360 right to reject any or all bids;

361 (d) Prescribe certain circumstances whereby agency
362 heads may enter into contracts for personal and professional
363 services without receiving prior approval from the Personal
364 Service Contract Review Board. The Personal Service Contract
365 Review Board may establish a pre-approved list of providers of
366 various personal and professional services for set prices with
367 which state agencies may contract without bidding or prior
368 approval from the board.

369 (e) To provide standards for the issuance of requests
370 for proposals, the evaluation of proposals received, consideration
371 of costs and quality of services proposed, contract negotiations,
372 the administrative monitoring of contract performance by the
373 agency and successful steps in terminating a contract;

374 (f) To present recommendations for governmental
375 privatization and to evaluate privatization proposals submitted by
376 any state agency;

377 (g) To authorize personal and professional service
378 contracts to be effective for more than one (1) year provided a
379 funding condition is included in any such multiple year contract,
380 except the State Board of Education, which shall have the
381 authority to enter into contractual agreements for student
382 assessment for a period up to ten (10) years. The State Board of
383 Education shall procure these services in accordance with the
384 Personal Service Contract Review Board procurement regulations;

385 (h) To request the State Auditor to conduct a
386 performance audit on any personal or professional service
387 contract;

388 (i) Prepare an annual report to the Legislature
389 concerning the issuance of personal service contracts during the
390 previous year, collecting any necessary information from state
391 agencies in making such report.

392 (4) No member of the Personal Service Contract Review Board
393 shall use his official authority or influence to coerce, by threat

394 of discharge from employment, or otherwise, the purchase of
395 commodities or the contracting for personal or professional
396 services under this section.

397 SECTION 6. On or before January 1, 2004, the Partnership on
398 Prevention and Recidivism Reduction shall file with the
399 Legislature an accountability/assessment report on the Recidivism
400 Reduction Program and the Juvenile Crime Prevention Program
401 showing the cost savings to the State of Mississippi and the
402 contribution of each agency to the programs.

403 SECTION 7. This act shall take effect and be in force from
404 and after its passage.