

By: Senator(s) Smith (By Request)

To: Corrections

SENATE BILL NO. 2872

1 AN ACT TO AMEND SECTION 47-7-47, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE RESTRICTIONS FOR PLACEMENT OF INMATES IN THE EARNED  
3 PROBATION PROGRAM; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 47-7-47, Mississippi Code of 1972, is  
6 amended as follows:

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

12 (2) (a) Any circuit court or county court may, upon its own  
13 motion, acting upon the advice and consent of the  
14 commissioner \* \* \* not earlier than thirty (30) days nor later  
15 than one (1) year after the defendant has been delivered to the  
16 custody of the department, to which he has been sentenced, suspend  
17 the further execution of the sentence and place the defendant on  
18 earned probation, except when a death sentence or life  
19 imprisonment is the maximum penalty which may be imposed or if the  
20 defendant has been confined two (2) or more times for the  
21 conviction of a felony on a previous occasion in any court or  
22 courts of the United States and of any state or territories  
23 thereof or has been convicted of a felony involving the use of a  
24 deadly weapon.

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

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

33           (3) When any circuit or county court places an offender on  
34 earned probation, the court shall give notice to the Mississippi  
35 Department of Corrections within fifteen (15) days of the court's  
36 decision to place the offender on earned probation. Notice shall  
37 be delivered to the central office of the Mississippi Department  
38 of Corrections and to the regional office of the department which  
39 will be providing supervision to the offender on earned probation.

40           (4) If the court places any person on probation or earned  
41 probation, the court may order the person, as a condition of  
42 probation, to a period of confinement and treatment at a private  
43 or public agency or institution, either within or without the  
44 state, which treats emotional, mental or drug-related problems.  
45 Any person who, as a condition of probation, is confined for  
46 treatment at an out-of-state facility shall be supervised pursuant  
47 to Section 47-7-71, and any person confined at a private agency  
48 shall not be confined at public expense. Time served in any such  
49 agency or institution may be counted as time required to meet the  
50 criteria of subsection (2)(a).

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

55           (6) If the court places any person on probation or earned  
56 probation, the court may order the person, as a condition of  
57 probation, to submit, as provided in Section 47-5-601, to any type  
58 of breath, saliva or urine chemical analysis test, the purpose of  
59 which is to detect the possible presence of alcohol or a substance

60 prohibited or controlled by any law of the State of Mississippi or  
61 the United States.

62 SECTION 2. This act shall take effect and be in force from  
63 and after July 1, 2001.