

**\*\*\*Adopted\*\*\*  
AMENDMENT No. 1 PROPOSED TO**

**House Bill NO. 1481**

**By Senator(s) Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

17 SECTION 1. Section 47-5-1003, Mississippi Code of 1972, is  
18 amended as follows:

19 47-5-1003. (1) An intensive supervision program may be used  
20 as an alternative to incarceration for offenders who are low risk  
21 and nonviolent as selected by the department or court. Any  
22 offender convicted of a sex crime or a felony violation of Section  
23 41-29-139(a)(1) shall not be placed in the program.

24 (2) The court placing an offender in the intensive  
25 supervision program may, acting upon the advice and consent of the  
26 commissioner \* \* \* and not later than one (1) year after the  
27 defendant has been delivered to the custody of the department,  
28 suspend the further execution of the sentence and place the  
29 defendant on intensive supervision, except when a death sentence  
30 or life imprisonment is the maximum penalty which may be imposed  
31 or if the defendant has been confined for the conviction of a  
32 felony on a previous occasion in any court or courts of the United  
33 States and of any state or territories thereof or has been

34 convicted of a felony involving the use of a deadly weapon.

35 (3) To protect and to ensure the safety of the state's  
36 citizens, any offender who violates an order or condition of the  
37 intensive supervision program shall be arrested by the  
38 correctional field officer and placed in the actual custody of the  
39 Department of Corrections. Such offender is under the full and  
40 complete jurisdiction of the department and subject to removal  
41 from the program by the classification committee.

42 (4) When any circuit or county court places an offender in  
43 an intensive supervision program, the court shall give notice to  
44 the Mississippi Department of Corrections within fifteen (15) days  
45 of the court's decision to place the offender in an intensive  
46 supervision program. Notice shall be delivered to the central  
47 office of the Mississippi Department of Corrections and to the  
48 regional office of the department which will be providing  
49 supervision to the offender in an intensive supervision program.

50 The courts may not require an offender to complete the  
51 intensive supervision program as a condition of probation or  
52 post-release supervision.

53 SECTION 2. Section 47-5-1001, Mississippi Code of 1972, is  
54 reenacted as follows:

55 47-5-1001. For purposes of Sections 47-5-1001 through  
56 47-5-1015, the following words shall have the meaning ascribed  
57 herein unless the context shall otherwise require:

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

62 (b) "Correctional field officer" means the supervising  
63 probation and parole officer in charge of supervising the

64 offender.

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

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

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

71 (f) "Operating capacity" means the total number of  
72 state offenders which can be safely and reasonably housed in  
73 facilities operated by the department and in local or county jails  
74 or other facilities authorized to house state offenders as  
75 certified by the department, subject to applicable federal and  
76 state laws and rules and regulations.

77 (g) "Participant" means an offender placed into an  
78 intensive supervision program.

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

81 47-5-1005. (1) The department shall promulgate rules that  
82 prescribe reasonable guidelines under which an intensive  
83 supervision program shall operate. These rules shall include, but  
84 not be limited to, the following:

85 (a) The participant shall remain within the interior  
86 premises or within the property boundaries of his or her residence  
87 at all times during the hours designated by the correctional field  
88 officer.

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

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

93 (ii) Unemployed and seeking employment approved

94 for the participant by the court or department;

95 (iii) Undergoing medical, psychiatric, mental  
96 health treatment, counseling or other treatment programs approved  
97 for the participant by the court or department;

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

100 (v) Participating in community work release or  
101 community service program approved for the participant by the  
102 court or department; or

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

105 (2) The department shall select and approve all electronic  
106 monitoring devices used under Sections 47-5-1001 through  
107 47-5-1015.

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

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

115 47-5-1007. (1) Any participant in the intensive supervision  
116 program who engages in employment shall pay a monthly fee to the  
117 department for each month such person is enrolled in the program.

118 The department may waive the monthly fee if the offender is a  
119 full-time student or is engaged in vocational training. Money  
120 received by the department from participants in the program shall  
121 be deposited into a special fund which is hereby created in the  
122 State Treasury. It shall be used, upon appropriation by the  
123 Legislature, for the purpose of helping to defray the costs

124 involved in administering and supervising such program.  
125 Unexpended amounts remaining in such special fund at the end of a  
126 fiscal year shall not lapse into the State General Fund, and any  
127 interest earned on amounts in such special fund shall be deposited  
128 to the credit of the special fund.

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

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

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

142 (5) The participant shall be responsible for and shall  
143 maintain the following:

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

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

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

149 (6) The participant shall obtain approval from the  
150 correctional field officer before the participant changes  
151 residence.

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

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

157 (9) The participant shall abide by other conditions as set  
158 by the department.

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

161 47-5-1009. (1) The department shall have absolute immunity  
162 from liability for any injury resulting from a determination by a  
163 judge or correctional officer that an offender shall be allowed to  
164 participate in the electronic home detention program.

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

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

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

175 (a) Securing the written consent of the participant in  
176 the program to comply with the rules and regulations of the  
177 program.

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

182 (c) Insuring that the approved electronic devices are  
183 minimally intrusive upon the privacy of other persons residing in

184 the home while remaining in compliance with Sections 47-5-1001  
185 through 47-5-1015.

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

191 (3) Any person whose residence is utilized in the program  
192 shall agree to keep the home drug and alcohol free and to exclude  
193 known felons and criminals in order to provide a noncriminal  
194 environment.

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

197 47-5-1013. Participants enrolled in an intensive supervision  
198 program shall be required to:

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

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

211 (c) Establish a place of residence at a place approved  
212 by the correctional field officer, and not change his residence  
213 without the officer's approval. The correctional officer shall be

214 allowed to inspect the place of residence for alcoholic beverages,  
215 controlled substances and drug paraphernalia.

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

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

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

224 (g) Meet any other conditions imposed by the court to  
225 meet the needs of the offender and limit the risks to the  
226 community.

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

229 47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand  
230 repealed after June 30, 2003.

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

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

238 (2) (a) Any circuit court or county court may, upon its own  
239 motion, acting upon the advice and consent of the  
240 commissioner \* \* \* not earlier than thirty (30) days nor later  
241 than one (1) year after the defendant has been delivered to the  
242 custody of the department, to which he has been sentenced, suspend  
243 the further execution of the sentence and place the defendant on



244 earned probation, except when a death sentence or life  
245 imprisonment is the maximum penalty which may be imposed or if the  
246 defendant has been confined two (2) or more times for the  
247 conviction of a felony on a previous occasion in any court or  
248 courts of the United States and of any state or territories  
249 thereof or has been convicted of a felony involving the use of a  
250 deadly weapon.

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

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

259 (3) When any circuit or county court places an offender on  
260 earned probation, the court shall give notice to the Mississippi  
261 Department of Corrections within fifteen (15) days of the court's  
262 decision to place the offender on earned probation. Notice shall  
263 be delivered to the central office of the Mississippi Department  
264 of Corrections and to the regional office of the department which  
265 will be providing supervision to the offender on earned probation.

266 (4) If the court places any person on probation or earned  
267 probation, the court may order the person, as a condition of  
268 probation, to a period of confinement and treatment at a private  
269 or public agency or institution, either within or without the  
270 state, which treats emotional, mental or drug-related problems.  
271 Any person who, as a condition of probation, is confined for  
272 treatment at an out-of-state facility shall be supervised pursuant  
273 to Section 47-7-71, and any person confined at a private agency

274 shall not be confined at public expense. Time served in any such  
275 agency or institution may be counted as time required to meet the  
276 criteria of subsection (2)(a).

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

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

288 SECTION 10. This act shall take effect and be in force from  
289 and after July 1, 2001.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 47-5-1003, MISSISSIPPI CODE OF 1972,  
2 TO DELETE THE PROVISION WHICH RESTRICTS A COURT TO PLACE AN  
3 OFFENDER IN THE INTENSIVE SUPERVISION PROGRAM AT THE TIME OF THE  
4 INITIAL SENTENCING ONLY; TO REENACT SECTIONS 47-5-1001 AND  
5 47-7-1005 THROUGH 47-5-1013, MISSISSIPPI CODE OF 1972, WHICH  
6 PERMIT A COURT TO PLACE AN OFFENDER IN THE INTENSIVE SUPERVISION  
7 PROGRAM AS AN ALTERNATIVE TO INCARCERATION, ESTABLISH RULES AND  
8 GUIDELINES FOR OPERATION OF THE INTENSIVE SUPERVISION PROGRAM AND  
9 PROVIDE FOR PAYMENT OF FEES BY PARTICIPANTS IN THE INTENSIVE  
10 SUPERVISION PROGRAM; TO REENACT AND AMEND SECTION 47-5-1015,  
11 MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER DATE ON THE  
12 REENACTED CODE SECTIONS FROM JUNE 30, 2001, TO JUNE 30, 2003; TO  
13 AMEND SECTION 47-7-47, MISSISSIPPI CODE OF 1972, TO REVISE THE  
14 RESTRICTIONS FOR PLACEMENT OF INMATES IN THE EARNED PROBATION  
15 PROGRAM; AND FOR RELATED PURPOSES.