

By: Representative Scott (80th)

To: Juvenile Justice

HOUSE BILL NO. 1463

1 AN ACT TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972,  
 2 TO PROVIDE THAT JUVENILE OFFENDERS MAY BE SENTENCED TO THE  
 3 INTENSIVE SUPERVISION PROGRAM ADMINISTERED BY THE DEPARTMENT OF  
 4 CORRECTIONS; TO PROVIDE THAT THE MINIMUM SENTENCE UNDER THIS  
 5 PROGRAM SHALL BE SIX MONTHS FOR JUVENILE OFFENDERS; TO REQUIRE  
 6 JUVENILE OFFENDERS TO BE TESTED FOR ALCOHOL AND DRUGS; TO REQUIRE  
 7 JUVENILE OFFENDERS TO PAY TEN DOLLARS FOR THE TEST; TO PROVIDE  
 8 THAT IF A JUVENILE OFFENDER TESTS POSITIVE FOR ALCOHOL OR DRUGS,  
 9 HE SHALL BE REQUIRED TO ATTEND AN ALCOHOL AND DRUG REHABILITATION  
 10 PROGRAM; TO AMEND SECTION 47-5-1007, MISSISSIPPI CODE OF 1972, TO  
 11 PROVIDE THAT JUVENILE OFFENDERS SENTENCED TO THE INTENSIVE  
 12 SUPERVISION PROGRAM SHALL PAY A MONTHLY FEE TO OFFSET THE COST OF  
 13 THE INTENSIVE SUPERVISION PROGRAM; TO AMEND SECTION 47-5-1013,  
 14 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JUVENILE OFFENDERS SHALL  
 15 NOT PAY A PROGRAM FEE; TO AMEND SECTION 47-5-1003, MISSISSIPPI  
 16 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 43-21-605, Mississippi Code of 1972, is  
 19 amended as follows:

20 43-21-605. (1) In delinquency cases, the disposition order  
 21 may include any of the following alternatives:

- 22 (a) Release the child without further action;
- 23 (b) Place the child in the custody of the parents, a  
 24 relative or other persons subject to any conditions and  
 25 limitations, including restitution, as the youth court may  
 26 prescribe;
- 27 (c) Place the child on probation subject to any  
 28 reasonable and appropriate conditions and limitations, including  
 29 restitution, as the youth court may prescribe;
- 30 (d) Order terms of treatment calculated to assist the  
 31 child and the child's parents or guardian which are within the  
 32 ability of the parent or guardian to perform;
- 33 (e) Order terms of supervision which may include  
 34 participation in a constructive program of service or education or



35 civil fines not in excess of Five Hundred Dollars (\$500.00), or  
36 restitution not in excess of actual damages caused by the child to  
37 be paid out of his own assets or by performance of services  
38 acceptable to the victims and approved by the youth court and  
39 reasonably capable of performance within one (1) year;

40 (f) Suspend the child's driver's license by taking and  
41 keeping it in custody of the court for not more than one (1) year;

42 (g) Give legal custody of the child to any of the  
43 following:

44 (i) The Department of Human Services for  
45 appropriate placement; or

46 (ii) Any public or private organization,  
47 preferably community-based, able to assume the education, care and  
48 maintenance of the child, which has been found suitable by the  
49 court; or

50 (iii) The Department of Human Services for  
51 placement in a wilderness training program or a state-supported  
52 training school, except that no child under the age of ten (10)  
53 years shall be committed to a state training school. The training  
54 school may retain custody of the child until the child's twentieth  
55 birthday but for no longer. The superintendent of a state  
56 training school may parole a child at any time he may deem it in  
57 the best interest and welfare of such child. Twenty (20) days  
58 prior to such parole, the training school shall notify the  
59 committing court of the pending release. The youth court may then  
60 arrange subsequent placement after a reconvened disposition  
61 hearing except that the youth court may not recommit the child to  
62 the training school or any other secure facility without an  
63 adjudication of a new offense or probation or parole violation.  
64 Prior to assigning the custody of any child to any private  
65 institution or agency, the youth court through its designee shall  
66 first inspect the physical facilities to determine that they  
67 provide a reasonable standard of health and safety for the child.



68 The youth court shall not place a child in the custody of a state  
69 training school for truancy, unless such child has been  
70 adjudicated to have committed an act of delinquency in addition to  
71 truancy;

72 (h) Recommend to the child and the child's parents or  
73 guardian that the child attend and participate in the Youth  
74 Challenge Program under the Mississippi National Guard, as created  
75 in Section 43-27-203, subject to the selection of the child for  
76 the program by the National Guard; however, the child must  
77 volunteer to participate in the program. The youth court may not  
78 order any child to apply or attend the program;

79 (i) (i) Adjudicate the juvenile to the Statewide  
80 Juvenile Work Program if the program is established in the court's  
81 jurisdiction. The juvenile and his parents or guardians must sign  
82 a waiver of liability in order to participate in the work program.  
83 The judge will coordinate with the youth services counselors as to  
84 placing participants in the work program;

85 (ii) The severity of the crime, whether or not the  
86 juvenile is a repeat offender or is a felony offender will be  
87 taken into consideration by the judge when adjudicating a juvenile  
88 to the work program. The juveniles adjudicated to the work  
89 program will be supervised by police officers or reserve officers.  
90 The term of service will be from twenty-four (24) to one hundred  
91 twenty (120) hours of community service. A juvenile will work the  
92 hours to which he was adjudicated on the weekends during school  
93 and week days during the summer. Parents are responsible for a  
94 juvenile reporting for work. Noncompliance with an order to  
95 perform community service will result in a heavier adjudication.  
96 A juvenile may be adjudicated to the community service program  
97 only two (2) times;

98 (iii) The judge shall assess an additional fine on  
99 the juvenile which will be used to pay the costs of implementation  
100 of the program and to pay for supervision by police officers and



101 reserve officers. The amount of the fine will be based on the  
102 number of hours to which the juvenile has been adjudicated;

103 (j) Order the child to participate in a youth court  
104 work program as provided in Section 43-21-627; \* \* \*

105 (k) Order terms of house arrest under the intensive  
106 supervision program as created in Sections 47-5-1001 through  
107 47-5-1015. The Department of Corrections shall take bids for the  
108 program provided by this act. The Department of Youth Services  
109 shall promulgate rules regarding the supervision of juveniles  
110 placed in the intensive supervision program. There shall be  
111 fifteen hundred (1,500) slots created in the intensive supervision  
112 program for juveniles. Any juvenile sentenced to house arrest  
113 shall be tested for alcohol and drugs, and if the juvenile tests  
114 positive for alcohol or drugs, the juvenile shall be ordered to  
115 participate in an alcohol and drug rehabilitation program. The  
116 juvenile shall pay Ten Dollars (\$10.00) to offset the cost of  
117 administering the alcohol and drug test. The juveniles must  
118 attend school, alternative school or be in the process of working  
119 towards a general educational development (GED) certificate; or

120 (l) Order the child into a juvenile detention center  
121 operated by the county or into a juvenile detention center  
122 operated by any county with which the county in which the court is  
123 located has entered into a contract for the purpose of housing  
124 delinquents. The time period for such detention cannot exceed  
125 ninety (90) days. The youth court judge may order that the number  
126 of days specified in the detention order be served either  
127 throughout the week or on weekends only.

128 (2) In addition to any of the disposition alternatives  
129 authorized under subsection (1) of this section, the disposition  
130 order in any case in which the child is adjudicated delinquent for  
131 an offense under Section 63-11-30 shall include an order denying  
132 the driver's license and driving privileges of the child as  
133 required under subsection (8) of Section 63-11-30.



134 (3) Fines levied under this chapter shall be paid into the  
135 general fund of the county but, in those counties wherein the  
136 youth court is a branch of the municipal government, it shall be  
137 paid into the municipal treasury.

138 (4) Any institution or agency to which a child has been  
139 committed shall give to the youth court any information concerning  
140 the child as the youth court may at any time require.

141 (5) The youth court shall not place a child in another  
142 school district who has been expelled from a school district for  
143 the commission of a violent act. For the purpose of this  
144 subsection, "violent act" means any action which results in death  
145 or physical harm to another or an attempt to cause death or  
146 physical harm to another.

147 (6) The youth court may require drug testing as part of a  
148 disposition order. If a child tests positive, the court may  
149 require treatment, counseling and random testing, as it deems  
150 appropriate. The costs of such tests shall be paid by the parent,  
151 guardian or custodian of the child unless the court specifically  
152 finds that the parent, guardian or custodian is unable to pay.

153 **SECTION 2.** Section 47-5-1007, Mississippi Code of 1972, is  
154 amended as follows:

155 47-5-1007. (1) Any participant in the intensive supervision  
156 program who engages in employment shall pay a monthly fee to the  
157 department for each month such person is enrolled in the program.  
158 The department may waive the monthly fee if the offender is a  
159 full-time student or is engaged in vocational training. Juvenile  
160 offenders shall pay a monthly fee of not less than Ten Dollars  
161 (\$10.00) but not more than Fifty Dollars (\$50.00) based on a  
162 sliding scale using the standard of need for each family that is  
163 used to calculate TANF benefits. Money received by the department  
164 from participants in the program shall be deposited into a special  
165 fund which is hereby created in the State Treasury. It shall be  
166 used, upon appropriation by the Legislature, for the purpose of



167 helping to defray the costs involved in administering and  
168 supervising such program. Unexpended amounts remaining in such  
169 special fund at the end of a fiscal year shall not lapse into the  
170 State General Fund, and any interest earned on amounts in such  
171 special fund shall be deposited to the credit of the special fund.

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

175 (3) The participant shall make the necessary arrangements to  
176 allow for correctional officers to visit the participant's place  
177 of education or employment at any time, based upon the approval of  
178 the educational institution or employer, for the purpose of  
179 verifying the participant's compliance with the conditions of his  
180 detention.

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

185 (5) The participant shall be responsible for and shall  
186 maintain the following:

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

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

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

192 (6) The participant shall obtain approval from the  
193 correctional field officer before the participant changes  
194 residence.

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

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



200 (9) The participant shall abide by other conditions as set  
201 by the department.

202 **SECTION 3.** Section 47-5-1013, Mississippi Code of 1972, is  
203 amended as follows:

204 47-5-1013. Participants enrolled in an intensive supervision  
205 program shall be required to:

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

210 (b) Pay restitution and program fees as directed by the  
211 department. Program fees shall not be less than Fifty Dollars  
212 (\$50.00) nor more than the actual cost of the program. The  
213 sentencing judge may charge a program fee of less than Fifty  
214 Dollars (\$50.00) in cases of extreme financial hardship, when such  
215 judge determines that the offender's participation in the program  
216 would provide a benefit to his community. Juvenile offenders  
217 shall not pay a program fee, but shall pay a monthly fee as  
218 provided in Section 47-5-1007. Program fees shall be deposited in  
219 the special fund created in Section 47-5-1007.

220 (c) Establish a place of residence at a place approved  
221 by the correctional field officer, and not change his residence  
222 without the officer's approval. The correctional officer shall be  
223 allowed to inspect the place of residence for alcoholic beverages,  
224 controlled substances and drug paraphernalia.

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

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

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



233 (g) Meet any other conditions imposed by the court to  
234 meet the needs of the offender and limit the risks to the  
235 community.

236 **SECTION 4.** Section 47-5-1003, Mississippi Code of 1972, is  
237 amended as follows:

238 47-5-1003. (1) An intensive supervision program may be used  
239 as an alternative to incarceration for offenders who are low risk  
240 and nonviolent as selected by the department or court and for  
241 juvenile offenders as provided in Section 43-21-605(k). Any  
242 offender convicted of a sex crime or a felony violation of Section  
243 41-29-139(a)(1) shall not be placed in the program.

244 (2) The court placing an offender in the intensive  
245 supervision program may, acting upon the advice and consent of the  
246 commissioner and not later than one (1) year after the defendant  
247 has been delivered to the custody of the department, suspend the  
248 further execution of the sentence and place the defendant on  
249 intensive supervision, except when a death sentence or life  
250 imprisonment is the maximum penalty which may be imposed or if the  
251 defendant has been confined for the conviction of a felony on a  
252 previous occasion in any court or courts of the United States and  
253 of any state or territories thereof or has been convicted of a  
254 felony involving the use of a deadly weapon.

255 (3) To protect and to ensure the safety of the state's  
256 citizens, any offender who violates an order or condition of the  
257 intensive supervision program shall be arrested by the  
258 correctional field officer and placed in the actual custody of the  
259 Department of Corrections. Such offender is under the full and  
260 complete jurisdiction of the department and subject to removal  
261 from the program by the classification hearing officer.

262 (4) When any circuit or county court places an offender in  
263 an intensive supervision program, the court shall give notice to  
264 the Mississippi Department of Corrections within fifteen (15) days  
265 of the court's decision to place the offender in an intensive





266 supervision program. Notice shall be delivered to the central  
267 office of the Mississippi Department of Corrections and to the  
268 regional office of the department which will be providing  
269 supervision to the offender in an intensive supervision program.

270 The courts may not require an offender to complete the  
271 intensive supervision program as a condition of probation or  
272 post-release supervision.

273 **SECTION 5.** This act shall take effect and be in force from  
274 and after July 1, 2002.

