S. B. No. 2853
(As Passed the Senate)

SENATE BILL NO. 2853

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

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

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

(2) The persons eligible for placement into the Recidivism Reduction Program shall be low-risk nonviolent offenders, ages sixteen (16) or older, who are sentenced to the custody of the Department of Corrections. The Department of Corrections shall select the participants and shall strongly consider a recommendation by the sentencing court in determining eligibility for the program. The sentencing court is authorized to modify the sentence of any defendant that was recommended by the court for the Recidivism Reduction Program but not selected by the department to participate. The department, in its sole discretion, shall ensure that the sentencing courts adhere to the intent of this act and may reject from participation in the program any offender it determines does not meet the intent. Only offenders sentenced on or after July 1, 2002, who have not previously served time in the custody of the Department of Corrections and who are sentenced to a term of incarceration not less than three (3) years shall be eligible for placement in the program. All participants shall retain inmate status throughout all three (3) phases of the Recidivism Reduction Program. The Department of Corrections shall require every participant to sign an agreement before his acceptance and classification into the program wherein the participant explicitly agrees to put forth his best efforts in the program and to any other demands the department deems necessary. If the participant fails to abide by the rules or guidelines of all three phases of the program, he may be removed from the program and required to serve his original sentence imposed by the court.

(3) Phase One of the Recidivism Reduction Program shall be placement in a Regimented Inmate Discipline Program similar to the one operated pursuant to Section 47-7-47, Mississippi Code of 1972.
(4) Subsequent to successful completion of Phase One, the participant may be placed in an adult educational or vocational program operated in conjunction with the Board for Community and Junior Colleges and the Department of Education. Other services which may be offered during Phase Two are classes for drug and/or alcohol rehabilitation, self-discipline, parenting, character development, family responsibilities and values, counseling and life coping skills.

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

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

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

SECTION 2. (1) The Partnership on Prevention and Recidivism Reduction shall develop a comprehensive well-coordinated program designed to prevent Mississippi youth from engaging in behavior that involves illegal activities and lead to incarceration. The Juvenile Crime Prevention Program shall be delivered primarily through the public schools, but may also consider opportunities provided through other community-based organizations. The program shall be administered by the Partnership on Prevention and Recidivism Reduction created in Section 3 of this act. The program shall be operated in whatever school district or districts as the partnership determines to be advisable and most conducive to accomplishing the goals of the program within the parameters established for the program. Existing resources should be used to provide program and services whenever possible. Any state agency involved in the Juvenile Crime Prevention Program shall be designated as the sole source for the purpose of soliciting and use of federal and/or foundation dollars for support of the program's services and activities, and any federal funds received for such purpose shall be exempt from the Department of Finance and Administration's federal clearinghouse review. Each participating agency, within the constraints of its program and
funding regulations, shall support efforts of the program through
the use of existing resources, the reallocation of existing funds
and/or funds appropriated specifically for the purpose of the
program. Intervention shall be accomplished through a variety of
available programs and services at the earliest possible state of
a child's life. A menu of services shall be created with
assignments being made to children based on determined needs.
Such menu of services shall include, but not be limited to:
components related to education (academic and/or
vocational/technical skills training), counseling services, drug
and/or alcohol prevention and rehabilitation, self-discipline
skills, parenting skills (if applicable), character development,
family responsibilities and values, life coping skills, job
placement services and work employability. An aftercare component
for the delinquent child may also be offered as part of the
program.

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

(3) The persons eligible for placement into the Juvenile
Crime Prevention Program shall be any Mississippi child, from
birth to eighteen (18) years of age. Prevention measures may be
provided for children through hospitals and doctors' offices from
birth throughout their lives. A number of services will be
available specifically for children and youth that are considered
to be at high-risk. The term "high-risk" may include, but not be
limited to, the following circumstances: the child is not living
in a two-parent family; the household head is a high school
dropout; the family income is below the poverty level; the child
is living with parents who do not have steady full-time
employment; the family is receiving welfare benefits; the child
does not have health insurance; the child has or is experiencing
drug or alcohol problems, is pregnant or is a parent under the age
of eighteen (18), has come into contact with the juvenile justice
system in the past, is at least one (1) year behind the expected
grade level for his age, has limited-English proficiency, is a
gang member, has dropped out of school in the past and/or has high
absenteeism rate at school.

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

SECTION 3. (1) There is hereby created a Partnership on
Prevention and Recidivism Reduction, hereinafter referred to as
the "partnership," charged with the responsibility of designing a
multi-agency prevention, rehabilitative, educational and
employment program for the purposes of preventing high-risk youth
from becoming inmates, reducing recidivism and equipping offenders
with the necessary skills for successful reintegration into the
community.
(2) The partnership shall be composed of the following members:

(a) The Commissioner of Corrections;
(b) The Executive Director of the State Board of Community and Junior Colleges;
(c) The Executive Director of the Employment Security Commission;
(d) The Executive Director of the Department of Human Services;
(e) The Executive Director of the Department of Mental Health;
(f) The State Superintendent of Education; and
(g) The Attorney General.

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

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

SECTION 4. Section 47-7-47, Mississippi Code of 1972, is amended as follows:
47-7-47. (1) The judge of any circuit court may place an offender on a program of earned probation after a period of confinement as set out herein and the judge may seek the advice of the commissioner and shall direct that the defendant be under the supervision of the department.

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

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

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

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

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

(5) If the court places any person on probation or earned restitution to any victim of his crime or to society through the performance of reasonable work for the benefit of the community.

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

(7) The court in its sentence may recommend placement of the person thereby convicted in the Recidivism Reduction Program created under Section 1 of Senate Bill No. 2853, 2002 Regular Session.

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

25-9-120. (1) Contract personnel, whether classified as contract workers or independent contractors shall not be deemed
state service or nonstate service employees of the State of
Mississippi, and shall not be eligible to participate in the
Public Employees' Retirement System, or the state employee health
plan, nor be allowed credit for personal and sick leave and other
leave benefits as employees of the State of Mississippi,
notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101
through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through
herein. Contract workers, i.e., contract personnel who do not
meet the criteria of independent contractors, shall be subject to
the provisions of Section 25-11-127.

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

(3) The Personal Service Contract Review Board shall have
the following powers and responsibilities:
(a) Promulgate rules and regulations governing the solicitation and selection of contractual services personnel including personal and professional services contracts for any form of consulting, policy analysis, public relations, marketing, public affairs, legislative advocacy services or any other contract that the board deems appropriate for oversight, with the exception of any personal service contracts entered into for computer or information technology-related services governed by the Mississippi Department of Information Technology Services, any personal service contracts entered into by the Mississippi Department of Transportation, any personal service contracts entered into by agencies participating in the Juvenile Crime Prevention Program or the Recidivism Reduction Program created in Sections 1 and 2 of Senate Bill No. 2853, 2002 Regular Session, for the purposes of such programs, and any contract for attorney, accountant, auditor, physician, dentist, architect, engineer, veterinarian and utility rate expert services. Any such rules and regulations shall provide for maintaining continuous internal audit covering the activities of such agency affecting its revenue and expenditures as required under Section 7-7-3(6)(d), Mississippi Code of 1972.

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

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

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

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

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

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

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

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

(4) No member of the Personal Service Contract Review Board
shall use his official authority or influence to coerce, by threat
of discharge from employment, or otherwise, the purchase of
commodities or the contracting for personal or professional services under this section.

SECTION 6. On or before January 1, 2005, the Partnership on Prevention and Recidivism Reduction shall file with the Legislature an accountability/assessment report on the Recidivism Reduction Program and the Juvenile Crime Prevention Program showing the cost savings to the State of Mississippi and the contribution of each agency to the programs.

SECTION 7. This act shall take effect and be in force from and after July 2, 2002.