

By: Representative Ford

To: Penitentiary

HOUSE BILL NO. 780
(As Passed the House)

1 AN ACT TO REENACT SECTIONS 47-5-1001 THROUGH 47-5-1013,
2 MISSISSIPPI CODE OF 1972, WHICH PERMITS A COURT TO PLACE AN
3 OFFENDER IN THE INTENSIVE SUPERVISION PROGRAM AS AN ALTERNATIVE TO
4 INCARCERATION, ESTABLISHES RULES AND GUIDELINES FOR OPERATION OF
5 THE INTENSIVE SUPERVISION PROGRAM AND PROVIDES FOR PAYMENT OF FEES
6 BY PARTICIPANTS IN THE INTENSIVE SUPERVISION PROGRAM; TO REENACT
7 AND AMEND SECTION 47-5-1015, MISSISSIPPI CODE OF 1972, TO EXTEND
8 THE REPEALER DATE ON THE REENACTED CODE SECTIONS FROM JUNE 30,
9 2003, TO JUNE 30, 2004; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 47-5-1001, Mississippi Code of 1972, is
12 reenacted as follows:

13 47-5-1001. For purposes of Sections 47-5-1001 through
14 47-5-1015, the following words shall have the meaning ascribed
15 herein unless the context shall otherwise require:

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

20 (b) "Correctional field officer" means the supervising
21 probation and parole officer in charge of supervising the
22 offender.

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

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

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

29 (f) "Operating capacity" means the total number of
30 state offenders which can be safely and reasonably housed in



31 facilities operated by the department and in local or county jails
32 or other facilities authorized to house state offenders as
33 certified by the department, subject to applicable federal and
34 state laws and rules and regulations.

35 (g) "Participant" means an offender placed into an
36 intensive supervision program.

37 **SECTION 2.** Section 47-5-1003, Mississippi Code of 1972, is
38 reenacted as follows:

39 47-5-1003. (1) An intensive supervision program may be used
40 as an alternative to incarceration for offenders who are low risk
41 and nonviolent as selected by the department or court. Any
42 offender convicted of a sex crime or a felony violation of Section
43 41-29-139(a)(1) shall not be placed in the program.

44 (2) The court placing an offender in the intensive
45 supervision program may, acting upon the advice and consent of the
46 commissioner and not later than one (1) year after the defendant
47 has been delivered to the custody of the department, suspend the
48 further execution of the sentence and place the defendant on
49 intensive supervision, except when a death sentence or life
50 imprisonment is the maximum penalty which may be imposed or if the
51 defendant has been confined for the conviction of a felony on a
52 previous occasion in any court or courts of the United States and
53 of any state or territories thereof or has been convicted of a
54 felony involving the use of a deadly weapon.

55 (3) To protect and to ensure the safety of the state's
56 citizens, any offender who violates an order or condition of the
57 intensive supervision program shall be arrested by the
58 correctional field officer and placed in the actual custody of the
59 Department of Corrections. Such offender is under the full and
60 complete jurisdiction of the department and subject to removal
61 from the program by the classification hearing officer.

62 (4) When any circuit or county court places an offender in
63 an intensive supervision program, the court shall give notice to



64 the Mississippi Department of Corrections within fifteen (15) days
65 of the court's decision to place the offender in an intensive
66 supervision program. Notice shall be delivered to the central
67 office of the Mississippi Department of Corrections and to the
68 regional office of the department which will be providing
69 supervision to the offender in an intensive supervision program.

70 The courts may not require an offender to complete the
71 intensive supervision program as a condition of probation or
72 post-release supervision.

73 **SECTION 3.** Section 47-5-1005, Mississippi Code of 1972, is
74 reenacted as follows:

75 47-5-1005. (1) The department shall promulgate rules that
76 prescribe reasonable guidelines under which an intensive
77 supervision program shall operate. These rules shall include, but
78 not be limited to, the following:

79 (a) The participant shall remain within the interior
80 premises or within the property boundaries of his or her residence
81 at all times during the hours designated by the correctional field
82 officer.

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

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

87 (ii) Unemployed and seeking employment approved
88 for the participant by the court or department;

89 (iii) Undergoing medical, psychiatric, mental
90 health treatment, counseling or other treatment programs approved
91 for the participant by the court or department;

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

94 (v) Participating in community work release or
95 community service program approved for the participant by the
96 court or department; or



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

99 (2) The department shall select and approve all electronic
100 monitoring devices used under Sections 47-5-1001 through
101 47-5-1015.

102 (3) The department may lease the equipment necessary to
103 implement the intensive supervision program and to contract for
104 the monitoring of such devices. The department is authorized to
105 select the lowest price and best source in contracting for these
106 services.

107 **SECTION 4.** Section 47-5-1007, Mississippi Code of 1972, is
108 reenacted as follows:

109 47-5-1007. (1) Any participant in the intensive supervision
110 program who engages in employment shall pay a monthly fee to the
111 department for each month such person is enrolled in the program.
112 The department may waive the monthly fee if the offender is a
113 full-time student or is engaged in vocational training. Money
114 received by the department from participants in the program shall
115 be deposited into a special fund which is hereby created in the
116 State Treasury. It shall be used, upon appropriation by the
117 Legislature, for the purpose of helping to defray the costs
118 involved in administering and supervising such program.
119 Unexpended amounts remaining in such special fund at the end of a
120 fiscal year shall not lapse into the State General Fund, and any
121 interest earned on amounts in such special fund shall be deposited
122 to the credit of the special fund.

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

126 (3) The participant shall make the necessary arrangements to
127 allow for correctional officers to visit the participant's place
128 of education or employment at any time, based upon the approval of
129 the educational institution or employer, for the purpose of



130 verifying the participant's compliance with the conditions of his
131 detention.

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

136 (5) The participant shall be responsible for and shall
137 maintain the following:

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

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

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

143 (6) The participant shall obtain approval from the
144 correctional field officer before the participant changes
145 residence.

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

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

151 (9) The participant shall abide by other conditions as set
152 by the department.

153 **SECTION 5.** Section 47-5-1009, Mississippi Code of 1972, is
154 reenacted as follows:

155 47-5-1009. (1) The department shall have absolute immunity
156 from liability for any injury resulting from a determination by a
157 judge or correctional officer that an offender shall be allowed to
158 participate in the electronic home detention program.

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



162 **SECTION 6.** Section 47-5-1011, Mississippi Code of 1972, is
163 reenacted as follows:

164 47-5-1011. (1) Before entering an order for commitment for
165 electronic house arrest, the department shall inform the
166 participant and other persons residing in the home of the nature
167 and extent of the approved electronic monitoring devices by doing
168 the following:

169 (a) Securing the written consent of the participant in
170 the program to comply with the rules and regulations of the
171 program.

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

176 (c) Insuring that the approved electronic devices are
177 minimally intrusive upon the privacy of other persons residing in
178 the home while remaining in compliance with Sections 47-5-1001
179 through 47-5-1015.

180 (2) The participant shall be responsible for the cost of
181 equipment and any damage to such equipment. Any intentional
182 damage, any attempt to defeat monitoring, any committing of a
183 criminal offense or any associating with felons or known
184 criminals, shall constitute a violation of the program.

185 (3) Any person whose residence is utilized in the program
186 shall agree to keep the home drug and alcohol free and to exclude
187 known felons and criminals in order to provide a noncriminal
188 environment.

189 **SECTION 7.** Section 47-5-1013, Mississippi Code of 1972, is
190 reenacted as follows:

191 47-5-1013. Participants enrolled in an intensive supervision
192 program shall be required to:

193 (a) Maintain employment if physically able, or
194 full-time student status at an approved school or vocational



195 trade, and make progress deemed satisfactory to the correctional
196 field officer, or both, or be involved in supervised job searches.

197 (b) Pay restitution and program fees as directed by the
198 department. Program fees shall not be less than Fifty Dollars
199 (\$50.00) nor more than the actual cost of the program. The
200 sentencing judge may charge a program fee of less than Fifty
201 Dollars (\$50.00) in cases of extreme financial hardship, when such
202 judge determines that the offender's participation in the program
203 would provide a benefit to his community. Program fees shall be
204 deposited in the special fund created in Section 47-5-1007.

205 (c) Establish a place of residence at a place approved
206 by the correctional field officer, and not change his residence
207 without the officer's approval. The correctional officer shall be
208 allowed to inspect the place of residence for alcoholic beverages,
209 controlled substances and drug paraphernalia.

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

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

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

218 (g) Meet any other conditions imposed by the court to
219 meet the needs of the offender and limit the risks to the
220 community.

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

223 47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand
224 repealed after June 30, 2004.

225 **SECTION 9.** This act shall take effect and be in force from
226 and after its passage.

