

By: Representative Malone

To: Penitentiary

HOUSE BILL NO. 1189

1 AN ACT TO AMEND SECTION 99-37-19, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE QUALIFICATIONS THAT OFFENDERS MUST MEET IN ORDER TO BE
3 ELIGIBLE FOR PLACEMENT IN MISSISSIPPI DEPARTMENT OF CORRECTIONS
4 RESTITUTION CENTERS; TO AMEND SECTION 47-5-110, MISSISSIPPI CODE
5 OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 99-37-19, Mississippi Code of 1972, is
8 amended as follows:

9 99-37-19. The boards of supervisors of the several counties
10 and the governing authorities of municipalities are hereby
11 authorized to cooperate with the Department of Corrections in the
12 establishment of restitution centers. Such centers may house both
13 probationers referred by the circuit courts as well as inmates
14 transferred from other facilities of the Department of Corrections
15 as provided in Section 47-5-110. In order to qualify for
16 placement in a restitution center, an offender must: (a) be a
17 first offender, (b) be convicted of a nonviolent offense that
18 constitutes a felony, (c) not be convicted of a sex crime and (d)
19 not have drug, alcohol, emotional or physical problems so serious
20 that the offender appears unlikely to meet obligations of the
21 restitution program. Such centers shall be operated by the
22 Department of Corrections. County or municipal property may be
23 utilized with the approval of the board of supervisors or
24 municipal governing authority for the construction, renovation and
25 maintenance of facilities owned by the state or a local political
26 subdivision. Such facility may be leased to the Department of
27 Corrections for a period of time for use as a restitution center.



28 It is the intent of this section that county and local
29 governments contribute only to the establishment, renovation and
30 maintenance of the physical plant of a restitution center and that
31 the Department of Corrections support the operation of, and have
32 sole jurisdiction over and responsibility for offenders in, such
33 restitution program.

34 **SECTION 2.** Section 47-5-110, Mississippi Code of 1972, is
35 amended as follows:

36 47-5-110. (1) Commitment to any institution or facility
37 within the jurisdiction of the department shall be to the
38 department, not to a particular institution or facility. The
39 commissioner shall assign a newly committed offender to an
40 appropriate facility consistent with public safety; provided,
41 however, that any offender who, in the opinion of the sentencing
42 judge, requires confinement in a maximum security unit shall be
43 assigned, upon initial commitment, to the Parchman facility. The
44 commissioner may extend the place of confinement of eligible
45 offenders as provided under subsection (2) of this section. He
46 may transfer an offender from one institution to another,
47 consistent with the commitment and in accordance with treatment,
48 training and security needs. The commissioner shall have the
49 authority to transfer inmates from the various correctional
50 facilities of the department to restitution centers if such
51 inmates meet the qualifications prescribed in Section 99-37-19.
52 The commissioner shall prepare appropriate standards of
53 eligibility for such transfers of offenders from one institution
54 to another institution and transfers of offenders who meet the
55 qualifications for placement in restitution centers. The
56 commissioner shall have the authority to remove the offenders from
57 restitution centers and to transfer them to other facilities of
58 the department. The commissioner shall obtain the approval of the
59 sentencing court before transferring an offender committed to the
60 department to a restitution center. On the request of the chief



61 executive officer of the affected unit of local government, the
62 commissioner may transfer a person detained in a local facility to
63 a state facility. The commissioner shall determine the cost of
64 care for that person to be borne by the unit of local government.
65 The commissioner may assign to a community work center, any
66 offender who is convicted under the Mississippi Implied Consent
67 Law and who is sentenced to the custody of the Department of
68 Corrections, except that if a death or a serious maiming has
69 occurred during the commission of the violation of the Mississippi
70 Implied Consent Law, then the offender so convicted may not be
71 assigned to a community work center.

72 (2) The department may establish by rule or policy and
73 procedure a community pre-release program which shall be subject
74 to the following requirements:

75 (a) The commissioner may extend the limits of
76 confinement of offenders serving sentences for violent or
77 nonviolent crimes who have six (6) months or less remaining before
78 release on parole, conditional release or discharge to participate
79 in the program. Parole violators may be allowed to participate in
80 the program.

81 (b) Any offender who is referred to the program shall
82 remain an offender of the department and shall be subject to rules
83 and regulations of the department pertaining to offenders of the
84 department until discharged or released on parole or conditional
85 release by the State Parole Board.

86 (c) The department shall require the offender to
87 participate in work or educational or vocational programs and
88 other activities that may be necessary for the supervision and
89 treatment of the offender.

90 (d) An offender assigned to the program shall be
91 authorized to leave a community pre-release center only for the
92 purpose and time necessary to participate in the program and
93 activities authorized in paragraph (c) of this subsection.



94 (3) The commissioner shall have absolute immunity from
95 liability for any injury resulting from a determination by the
96 commissioner that an offender shall be allowed to participate in
97 the community pre-release program.

98 (4) (a) The department may by rule or policy and procedure
99 provide the regimented inmate discipline program and pre-release
100 service for offenders at each of its major correctional
101 facilities: Mississippi State Penitentiary, Central Mississippi
102 Correctional Institution and South Mississippi Correctional
103 Institution.

104 (b) The commissioner may establish regimented inmate
105 discipline and pre-release programs at the South Mississippi
106 Correctional Institution. Offenders assigned to this facility may
107 receive the services provided by the regimented inmate discipline
108 program. The pre-release program may be located on the grounds of
109 this facility or another facility designated by the commissioner.

110 **SECTION 3.** This act shall take effect and be in force from
111 and after July 1, 2003.

