HOUSE BILL NO. 1191

AN ACT TO AMEND SECTIONS 47-5-110, 47-5-401, 47-5-451 AND 47-5-573, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE MISSISSIPPI DEPARTMENT OF CORRECTIONS SHALL NOT MAKE ASSIGNMENTS TO COMMUNITY WORK CENTERS, PUBLIC SERVICE WORK PROGRAMS OR CORRECTIONAL WORK PROGRAMS BASED SOLELY ON WHETHER AN OFFENDER IS CLASSIFIED AS VIOLENT OR NONVIOLENT OFFENDER; TO PROVIDE THAT THE MISSISSIPPI DEPARTMENT OF CORRECTIONS MAY INCLUDE CLASSIFICATION OF AN OFFENDER AS A VIOLENT OR NONVIOLENT OFFENDER AS ONE OF THE FACTORS TO BE CONSIDERED IN DETERMINING WHETHER TO ASSIGN AN OFFENDER TO A COMMUNITY WORK CENTER, PUBLIC SERVICE WORK PROGRAM OR CORRECTIONAL WORK PROGRAM; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 47-5-110, Mississippi Code of 1972, is amended as follows:

47-5-110. (1) Commitment to any institution or facility within the jurisdiction of the department shall be to the department, not to a particular institution or facility. The commissioner shall assign a newly committed offender to an appropriate facility consistent with public safety; provided, however, that any offender who, in the opinion of the sentencing judge, requires confinement in a maximum security unit shall be assigned, upon initial commitment, to the Parchman facility. The commissioner may extend the place of confinement of eligible offenders as provided under subsection (2) of this section. He may transfer an offender from one institution to another, consistent with the commitment and in accordance with treatment, training and security needs. The commissioner shall have the authority to transfer inmates from the various correctional facilities of the department to restitution centers. The commissioner shall prepare appropriate standards of eligibility for such transfers. The commissioner shall have the authority to
remove the offenders from restitution centers and to transfer them to other facilities of the department. The commissioner shall obtain the approval of the sentencing court before transferring an offender committed to the department to a restitution center. On the request of the chief executive officer of the affected unit of local government, the commissioner may transfer a person detained in a local facility to a state facility. The commissioner shall determine the cost of care for that person to be borne by the unit of local government. The commissioner may assign to a community work center, any offender who is convicted under the Mississippi Implied Consent Law and who is sentenced to the custody of the Department of Corrections, except that if a death or a serious maiming has occurred during the commission of the violation of the Mississippi Implied Consent Law, then the offender so convicted may not be assigned to a community work center. The commissioner shall not make assignments to a community work center based solely on whether an offender is classified as a violent or nonviolent offender; however, the commissioner may include the classification of an offender as a violent or nonviolent offender as one of the factors to be considered in determining whether to assign an offender to a community work center.

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

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

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

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

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

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

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

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

SECTION 2. Section 47-5-401, Mississippi Code of 1972, is amended as follows:

47-5-401. (1) There is hereby authorized, in each county of the state, a public service work program for state inmates in custody of the county. Such a program may be established at the option of the county in accordance with the provisions of Sections 47-5-401 through 47-5-421. The department shall also recommend

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rules and regulations concerning the participation of state inmates in the program.

(2) An inmate shall not be denied participation in a work program established in accordance with the provisions of Sections 47-5-401 through 47-5-421 based solely on whether an inmate is classified as a violent or nonviolent offender; however, the department may include the classification of an inmate as a violent or nonviolent offender as one of the factors to be considered in determining whether to allow an inmate to participate in such a work program.

(3) The inmates participating in the work program established in accordance with the provisions of Sections 47-5-401 through 47-5-421 are restricted to the performance of public service work for counties, municipalities, the state or nonprofit charitable organizations, as defined by Section 501(c)(3) of the Internal Revenue Code of 1986, except that the Department of Corrections must approve all requests by nonprofit charitable organizations to use offenders to perform any public service work. Upon request of the Board of Trustees of State Institutions of Higher Learning, or the board of trustees of a county school district, municipal school district or junior college district, the inmates may be permitted to perform work for such boards.

SECTION 3. Section 47-5-451, Mississippi Code of 1972, is amended as follows:

47-5-451. (1) There is hereby authorized, in each county of the state, a public service work program for state inmates in custody of the county. Such a program may be established at the option of the county in accordance with the provisions of Sections 47-5-401 through 47-5-421. The department shall also recommend rules and regulations concerning the participation of state inmates in the program.

(2) An inmate shall not be denied participation in a work program established in accordance with the provisions of Sections...
47-5-401 through 47-5-421 based solely on whether an inmate is classified as a violent or nonviolent offender; however, the department may include the classification of an inmate as a violent or nonviolent offender as one of the factors to be considered in determining whether to allow an inmate to participate in such a work program.

(3) The inmates participating in the work program established in accordance with the provisions of Sections 47-5-401 through 47-5-421, are restricted to the performance of public service work for counties, municipalities, the state or nonprofit charitable organizations, as defined by Section 501(c)(3) of the Internal Revenue Code of 1986, except that the Department of Corrections must approve all requests by nonprofit charitable organizations to use offenders to perform any public service work. Upon request of the Board of Trustees of State Institutions of Higher Learning, or the board of trustees of a county school district, municipal school district or junior college district, the inmates may be permitted to perform work for such boards.

SECTION 4. Section 47-5-573, Mississippi Code of 1972, is amended as follows:

47-5-573. (1) In adopting or modifying master plans for correctional work programs, and in the administration of the Department of Corrections, it shall be the objective of the department to develop a logical sequence of vocational training, employment by correctional work programs, and post-release job placement for inmates participating in correctional work programs.

(2) The Department of Corrections shall establish guidelines for the development of correctional work programs.

(3) The needs of the corporation shall be considered by the department when assigning and transferring prisoners to correctional institutions. The following criteria shall be used when assigning and transferring inmates:
ST: Corrections; revise criteria for assigning or allowing offenders to participate in Public Service Work Programs.

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(a) Skills of the inmate relevant to the corporation's industries;
(b) Security classification of the inmate relevant to the type of corporation's industry;
(c) Duration of availability of the inmate for employment by the corporation;
(d) Establishment of a concept of potentially rehabilitative inmate;
(e) The department shall not make assignments to a correctional work program based solely on whether an inmate is classified as a violent or nonviolent offender; however, the department may include the classification of an offender as a violent or nonviolent offender as one of the factors to be considered in determining whether to assign an inmate to a correctional work program.

SECTION 5. This act shall take effect and be in force from and after July 1, 2003.