

By: Representative Malone

To: Penitentiary

HOUSE BILL NO. 1191

1 AN ACT TO AMEND SECTIONS 47-5-110, 47-5-401, 47-5-451 AND
 2 47-5-573, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
 3 MISSISSIPPI DEPARTMENT OF CORRECTIONS SHALL NOT MAKE ASSIGNMENTS
 4 TO COMMUNITY WORK CENTERS, PUBLIC SERVICE WORK PROGRAMS OR
 5 CORRECTIONAL WORK PROGRAMS BASED SOLELY ON WHETHER AN OFFENDER IS
 6 CLASSIFIED AS VIOLENT OR NONVIOLENT OFFENDER; TO PROVIDE THAT THE
 7 MISSISSIPPI DEPARTMENT OF CORRECTIONS MAY INCLUDE CLASSIFICATION
 8 OF AN OFFENDER AS A VIOLENT OR NONVIOLENT OFFENDER AS ONE OF THE
 9 FACTORS TO BE CONSIDERED IN DETERMINING WHETHER TO ASSIGN AN
 10 OFFENDER TO A COMMUNITY WORK CENTER, PUBLIC SERVICE WORK PROGRAM
 11 OR CORRECTIONAL WORK PROGRAM; AND FOR RELATED PURPOSES.

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

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

15 47-5-110. (1) Commitment to any institution or facility
 16 within the jurisdiction of the department shall be to the
 17 department, not to a particular institution or facility. The
 18 commissioner shall assign a newly committed offender to an
 19 appropriate facility consistent with public safety; provided,
 20 however, that any offender who, in the opinion of the sentencing
 21 judge, requires confinement in a maximum security unit shall be
 22 assigned, upon initial commitment, to the Parchman facility. The
 23 commissioner may extend the place of confinement of eligible
 24 offenders as provided under subsection (2) of this section. He
 25 may transfer an offender from one institution to another,
 26 consistent with the commitment and in accordance with treatment,
 27 training and security needs. The commissioner shall have the
 28 authority to transfer inmates from the various correctional
 29 facilities of the department to restitution centers. The
 30 commissioner shall prepare appropriate standards of eligibility
 31 for such transfers. The commissioner shall have the authority to



32 remove the offenders from restitution centers and to transfer them
33 to other facilities of the department. The commissioner shall
34 obtain the approval of the sentencing court before transferring an
35 offender committed to the department to a restitution center. On
36 the request of the chief executive officer of the affected unit of
37 local government, the commissioner may transfer a person detained
38 in a local facility to a state facility. The commissioner shall
39 determine the cost of care for that person to be borne by the unit
40 of local government. The commissioner may assign to a community
41 work center, any offender who is convicted under the Mississippi
42 Implied Consent Law and who is sentenced to the custody of the
43 Department of Corrections, except that if a death or a serious
44 maiming has occurred during the commission of the violation of the
45 Mississippi Implied Consent Law, then the offender so convicted
46 may not be assigned to a community work center. The commissioner
47 shall not make assignments to a community work center based solely
48 on whether an offender is classified as a violent or nonviolent
49 offender; however, the commissioner may include the classification
50 of an offender as a violent or nonviolent offender as one of the
51 factors to be considered in determining whether to assign an
52 offender to a community work center.

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

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

62 (b) Any offender who is referred to the program shall
63 remain an offender of the department and shall be subject to rules
64 and regulations of the department pertaining to offenders of the



65 department until discharged or released on parole or conditional
66 release by the State Parole Board.

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

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

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

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

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

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

93 47-5-401. (1) There is hereby authorized, in each county of
94 the state, a public service work program for state inmates in
95 custody of the county. Such a program may be established at the
96 option of the county in accordance with the provisions of Sections
97 47-5-401 through 47-5-421. The department shall also recommend



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

100 (2) An inmate shall not be denied participation in a work
101 program established in accordance with the provisions of Sections
102 47-5-401 through 47-5-421 based solely on whether an inmate is
103 classified as a violent or nonviolent offender; however, the
104 department may include the classification of an inmate as a
105 violent or nonviolent offender as one of the factors to be
106 considered in determining whether to allow an inmate to
107 participate in such a work program.

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

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

122 47-5-451. (1) There is hereby authorized, in each county of
123 the state, a public service work program for state inmates in
124 custody of the county. Such a program may be established at the
125 option of the county in accordance with the provisions of Sections
126 47-5-401 through 47-5-421. The department shall also recommend
127 rules and regulations concerning the participation of state
128 inmates in the program.

129 (2) An inmate shall not be denied participation in a work
130 program established in accordance with the provisions of Sections



131 47-5-401 through 47-5-421 based solely on whether an inmate is
132 classified as a violent or nonviolent offender; however, the
133 department may include the classification of an inmate as a
134 violent or nonviolent offender as one of the factors to be
135 considered in determining whether to allow an inmate to
136 participate in such a work program.

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

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

151 47-5-573. (1) In adopting or modifying master plans for
152 correctional work programs, and in the administration of the
153 Department of Corrections, it shall be the objective of the
154 department to develop a logical sequence of vocational training,
155 employment by correctional work programs, and post-release job
156 placement for inmates participating in correctional work programs.

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

159 (3) The needs of the corporation shall be considered by the
160 department when assigning and transferring prisoners to
161 correctional institutions. The following criteria shall be used
162 when assigning and transferring inmates:



163 (a) Skills of the inmate relevant to the corporation's
164 industries;

165 (b) Security classification of the inmate relevant to
166 the type of corporation's industry;

167 (c) Duration of availability of the inmate for
168 employment by the corporation;

169 (d) Establishment of a concept of potentially
170 rehabilitative inmate;

171 (e) The department shall not make assignments to a
172 correctional work program based solely on whether an inmate is
173 classified as a violent or nonviolent offender; however, the
174 department may include the classification of an offender as a
175 violent or nonviolent offender as one of the factors to be
176 considered in determining whether to assign an inmate to a
177 correctional work program.

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

