

By: Representative Moore (60th)

To: Penitentiary

HOUSE BILL NO. 1420

1 AN ACT TO REENACT SECTIONS 47-5-1001 THROUGH 47-5-1013,
 2 MISSISSIPPI CODE OF 1972, WHICH PERMIT 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 AMEND
 7 REENACTED SECTIONS 47-5-1003 AND 47-5-1005, MISSISSIPPI CODE OF
 8 1972, TO REQUIRE OFFENDERS TO BE WITHIN THREE MONTHS OF THEIR
 9 PAROLE DATE IN ORDER TO BE ELIGIBLE FOR HOUSE ARREST IN THE
 10 INTENSIVE SUPERVISION PROGRAM OF THE MISSISSIPPI DEPARTMENT OF
 11 CORRECTIONS; TO AMEND SECTION 47-5-1015, MISSISSIPPI CODE OF 1972,
 12 TO EXTEND THE REPEALER DATE ON THE REENACTED CODE SECTIONS FROM
 13 JUNE 30, 2001, TO JUNE 30, 2002; AND FOR RELATED PURPOSES.

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

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

17 47-5-1001. For purposes of Sections 47-5-1001 through
 18 47-5-1015, the following words shall have the meaning ascribed
 19 herein unless the context shall otherwise require:

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

24 (b) "Correctional field officer" means the supervising
 25 probation and parole officer in charge of supervising the
 26 offender.

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

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

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



33 (f) "Operating capacity" means the total number of
34 state offenders which can be safely and reasonably housed in
35 facilities operated by the department and in local or county jails
36 or other facilities authorized to house state offenders as
37 certified by the department, subject to applicable federal and
38 state laws and rules and regulations.

39 (g) "Participant" means an offender placed into an
40 intensive supervision program.

41 **SECTION 2.** Section 47-5-1003, Mississippi Code of 1972, is
42 reenacted and amended as follows:

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

48 (2) The court placing an offender in the intensive
49 supervision program may, acting upon the advice and consent of the
50 commissioner and not later than one (1) year after the defendant
51 has been delivered to the custody of the department, suspend the
52 further execution of the sentence and place the defendant on
53 intensive supervision, except when a death sentence or life
54 imprisonment is the maximum penalty which may be imposed or if the
55 defendant has been confined for the conviction of a felony on a
56 previous occasion in any court or courts of the United States and
57 of any state or territories thereof or has been convicted of a
58 felony involving the use of a deadly weapon. However, no offender
59 shall be eligible to participate in the intensive supervision
60 program under house arrest, as defined in Section 47-5-1001, until
61 the offender is within three (3) months of his parole date.

62 (3) To protect and to ensure the safety of the state's
63 citizens, any offender who violates an order or condition of the
64 intensive supervision program shall be arrested by the
65 correctional field officer and placed in the actual custody of the



66 Department of Corrections. Such offender is under the full and
67 complete jurisdiction of the department and subject to removal
68 from the program by the classification hearing officer.

69 (4) When any circuit or county court places an offender in
70 an intensive supervision program, the court shall give notice to
71 the Mississippi Department of Corrections within fifteen (15) days
72 of the court's decision to place the offender in an intensive
73 supervision program. Notice shall be delivered to the central
74 office of the Mississippi Department of Corrections and to the
75 regional office of the department which will be providing
76 supervision to the offender in an intensive supervision program.

77 The courts may not require an offender to complete the
78 intensive supervision program as a condition of probation or
79 post-release supervision.

80 **SECTION 3.** Section 47-5-1005, Mississippi Code of 1972, is
81 reenacted and amended as follows:

82 47-5-1005. (1) The department shall promulgate rules that
83 prescribe reasonable guidelines under which an intensive
84 supervision program shall operate. These rules shall include, but
85 not be limited to, the following:

86 (a) The participant shall remain within the interior
87 premises or within the property boundaries of his or her residence
88 at all times during the hours designated by the correctional field
89 officer.

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

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

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

96 (iii) Undergoing medical, psychiatric, mental
97 health treatment, counseling or other treatment programs approved
98 for the participant by the court or department;



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

101 (v) Participating in community work release or
102 community service program approved for the participant by the
103 court or department; or

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

106 (2) The department shall select and approve all electronic
107 monitoring devices used under Sections 47-5-1001 through
108 47-5-1015.

109 (3) The department may lease the equipment necessary to
110 implement the intensive supervision program and to contract for
111 the monitoring of such devices. The department is authorized to
112 select the lowest price and best source in contracting for these
113 services.

114 (4) No offender shall be eligible to participate in the
115 intensive supervision program under electronic monitoring until
116 the offender is within three (3) months of his parole date.

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

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



131 interest earned on amounts in such special fund shall be deposited
132 to the credit of the special fund.

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

136 (3) The participant shall make the necessary arrangements to
137 allow for correctional officers to visit the participant's place
138 of education or employment at any time, based upon the approval of
139 the educational institution or employer, for the purpose of
140 verifying the participant's compliance with the conditions of his
141 detention.

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

146 (5) The participant shall be responsible for and shall
147 maintain the following:

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

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

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

153 (6) The participant shall obtain approval from the
154 correctional field officer before the participant changes
155 residence.

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

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

161 (9) The participant shall abide by other conditions as set
162 by the department.



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

165 47-5-1009. (1) The department shall have absolute immunity
166 from liability for any injury resulting from a determination by a
167 judge or correctional officer that an offender shall be allowed to
168 participate in the electronic home detention program.

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

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

174 47-5-1011. (1) Before entering an order for commitment for
175 electronic house arrest, the department shall inform the
176 participant and other persons residing in the home of the nature
177 and extent of the approved electronic monitoring devices by doing
178 the following:

179 (a) Securing the written consent of the participant in
180 the program to comply with the rules and regulations of the
181 program.

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

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

190 (2) The participant shall be responsible for the cost of
191 equipment and any damage to such equipment. Any intentional
192 damage, any attempt to defeat monitoring, any committing of a
193 criminal offense or any associating with felons or known
194 criminals, shall constitute a violation of the program.



195 (3) Any person whose residence is utilized in the program
196 shall agree to keep the home drug and alcohol free and to exclude
197 known felons and criminals in order to provide a noncriminal
198 environment.

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

201 47-5-1013. Participants enrolled in an intensive supervision
202 program shall be required to:

203 (a) Maintain employment if physically able, or
204 full-time student status at an approved school or vocational
205 trade, and make progress deemed satisfactory to the correctional
206 field officer, or both, or be involved in supervised job searches.

207 (b) Pay restitution and program fees as directed by the
208 department. Program fees shall not be less than Fifty Dollars
209 (\$50.00) nor more than the actual cost of the program. The
210 sentencing judge may charge a program fee of less than Fifty
211 Dollars (\$50.00) in cases of extreme financial hardship, when such
212 judge determines that the offender's participation in the program
213 would provide a benefit to his community. Program fees shall be
214 deposited in the special fund created in Section 47-5-1007.

215 (c) Establish a place of residence at a place approved
216 by the correctional field officer, and not change his residence
217 without the officer's approval. The correctional officer shall be
218 allowed to inspect the place of residence for alcoholic beverages,
219 controlled substances and drug paraphernalia.

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

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

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



228 (g) Meet any other conditions imposed by the court to
229 meet the needs of the offender and limit the risks to the
230 community.

231 **SECTION 8.** Section 47-5-1015, Mississippi Code of 1972, is
232 amended as follows:

233 47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand
234 repealed after June 30, 2004.

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

