

By: Representative Malone

To: Corrections

HOUSE BILL NO. 654

1 AN ACT TO AUTHORIZE THE COMMISSIONER OF THE MISSISSIPPI
2 DEPARTMENT OF CORRECTIONS TO TRANSFER TERMINALLY ILL OFFENDERS TO
3 THE COMMUNITY CORRECTIONS DIVISION OF THE DEPARTMENT; TO AMEND
4 SECTIONS 47-5-20 AND 47-5-28, MISSISSIPPI CODE OF 1972, IN
5 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** The Commissioner of Corrections is authorized to
8 transfer terminally ill offenders to the Community Corrections
9 Division of the Mississippi Department of Corrections when the
10 medical director for the department has reviewed and investigated
11 cases where offenders have been diagnosed with a serious illness.
12 If the medical director certifies to the Commissioner of
13 Corrections that an offender is suffering from a terminal illness,
14 the Commissioner may release the offender and direct that the
15 Division of Community Corrections shall supervise the offender for
16 the remainder of his or her sentence. The offender shall be under
17 the full and complete jurisdiction of the department and subject
18 to being returned and placed in the actual custody of the
19 department by the classification committee for violating an order
20 or condition of the terminally ill offender's release. For
21 purposes of this section, "terminally ill" means a medical
22 prognosis of limited expected survival, of one (1) year or less
23 of an offender who is experiencing an illness for which
24 therapeutic strategies directed toward cure and control of the
25 disease alone outside the context of symptom control are no longer
26 appropriate.

27 **SECTION 2.** Section 47-5-20, Mississippi Code of 1972, is
28 amended as follows:

29 47-5-20. In addition to the powers and duties enumerated in
30 Section 47-5-28, the commissioner shall have the following powers
31 and duties:

32 (a) To establish the general policy of the department;

33 (b) To approve proposals for the location of new
34 facilities, for major renovation activities, and for the creation
35 of new programs and divisions within the department as well as for
36 the abolition of the same; provided, however, that the
37 commissioner shall approve the location of no new facility unless
38 the board of supervisors of the county or the governing
39 authorities of the municipality in which the new facility is to be
40 located shall have had the opportunity with at least sixty (60)
41 days' prior notice to disapprove the location of the proposed
42 facility. If either the board of supervisors or the governing
43 authorities shall disapprove the facility, it shall not be located
44 in that county or municipality. Said notice shall be made by
45 certified mail, return receipt requested, to the members of the
46 board or governing authorities and to the clerk thereof;

47 (c) Except as otherwise provided or required by law, to
48 open bids and approve the sale of any products or manufactured
49 goods by the department according to applicable provisions of law
50 regarding bidding and sale of state property, and according to
51 rules and regulations established by the State Fiscal Management
52 Board; * * *

53 (d) To adopt administrative rules and regulations
54 including, but not limited to, offender transfer procedures, award
55 of administrative earned time, personnel procedures, employment
56 practices; and

57 (e) To authorize the transfer of terminally ill
58 offenders to the Community Corrections Division of the Mississippi
59 Department of Corrections.

60 **SECTION 3.** Section 47-5-28, Mississippi Code of 1972, is
61 amended as follows:

62 47-5-28. In addition to the powers and duties enumerated in
63 Section 47-5-20, the commissioner shall have the following powers
64 and duties:

65 (a) To implement and administer laws and policy
66 relating to corrections and coordinate the efforts of the
67 department with those of the federal government and other state
68 departments and agencies, county governments, municipal
69 governments, and private agencies concerned with providing
70 offender services;

71 (b) To establish standards, in cooperation with other
72 state agencies having responsibility as provided by law, provide
73 technical assistance, and exercise the requisite supervision as it
74 relates to correctional programs over all state-supported adult
75 correctional facilities and community-based programs;

76 (c) To promulgate and publish such rules, regulations
77 and policies of the department as are needed for the efficient
78 government and maintenance of all facilities and programs in
79 accord insofar as possible with currently accepted standards of
80 adult offender care and treatment;

81 (d) To provide the Parole Board with suitable and
82 sufficient office space and support resources and staff necessary
83 to conducting Parole Board business under the guidance of the
84 Chairman of the Parole Board;

85 (e) To make an annual report to the Governor and the
86 Legislature reflecting the activities of the department and make
87 recommendations for improvement of the services to be performed by
88 the department;

89 (f) To cooperate fully with periodic independent
90 internal investigations of the department and to file the report
91 with the Governor and the Legislature;

92 (g) To perform such other duties necessary to
93 effectively and efficiently carry out the purposes of the
94 department as may be directed by the Governor;

95 (h) To authorize the transfer of terminally ill
96 offenders to the Community Corrections Division of the Mississippi
97 Department of Corrections.

98 **SECTION 4.** The provisions of Section 1 shall be codified in
99 Chapter 5, Title 47, Mississippi Code of 1972.

100 **SECTION 5.** This act shall take effect and be in force from
101 and after July 1, 2004.