MISSISSIPPI LEGISLATURE REGULAR SESSION 2004

By: Representative Malone

To: Corrections

HOUSE BILL NO. 654

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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