

By: Representative Snowden

To: Corrections

HOUSE BILL NO. 761

1 AN ACT TO AMEND SECTION 47-5-1003, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE ELIGIBILITY REQUIREMENTS FOR THE INTENSIVE
3 SUPERVISION PROGRAM; TO REMOVE AUTHORITY OF THE DEPARTMENT OF
4 CORRECTIONS TO SELECT OFFENDERS TO BE PLACED IN THE PROGRAM; TO
5 AMEND SECTIONS 47-5-1009 AND 47-5-1011, MISSISSIPPI CODE OF 1972,
6 IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 47-5-1003, Mississippi Code of 1972, is
9 amended as follows:

10 47-5-1003. (1) An intensive supervision program may be used
11 as an alternative to incarceration for offenders who are low risk
12 and nonviolent as sentenced by the * * * court. Any offender
13 convicted of a sex crime or a felony violation of Section
14 41-29-139(a)(1) shall not be placed in the program. Any offender
15 who has ever been convicted before of any felony, regardless of
16 whether the crime for which he might be eligible for placement
17 under this section is a felony, shall not be placed in the
18 program. Any offender who has ever been sentenced as an habitual
19 offender shall not be placed in the program.

20 (2) The court placing an offender in the intensive
21 supervision program may, acting upon the advice and consent of the
22 commissioner and not later than one (1) year after the defendant
23 has been delivered to the custody of the department, suspend the
24 further execution of the sentence and place the defendant on
25 intensive supervision, except when a death sentence or life
26 imprisonment is the maximum penalty which may be imposed or if the
27 defendant has been confined for the conviction of a felony on a
28 previous occasion in any court or courts of the United States and

29 of any state or territories thereof or has been convicted of a
30 felony involving the use of a deadly weapon.

31 (3) To protect and to ensure the safety of the state's
32 citizens, any offender who violates an order or condition of the
33 intensive supervision program shall be arrested by the
34 correctional field officer and placed in the actual custody of the
35 Department of Corrections. Such offender is under the full and
36 complete jurisdiction of the department and subject to removal
37 from the program by the classification hearing officer.

38 (4) When any circuit or county court places an offender in
39 an intensive supervision program, the court shall give notice to
40 the Mississippi Department of Corrections within fifteen (15) days
41 of the court's decision to place the offender in an intensive
42 supervision program. Notice shall be delivered to the central
43 office of the Mississippi Department of Corrections and to the
44 regional office of the department which will be providing
45 supervision to the offender in an intensive supervision program.

46 The courts may not require an offender to complete the
47 intensive supervision program as a condition of probation or
48 post-release supervision.

49 **SECTION 2.** Section 47-5-1009, Mississippi Code of 1972, is
50 amended as follows:

51 47-5-1009. (1) The department shall have absolute immunity
52 from liability for any injury resulting from a determination by a
53 judge * * * that an offender shall be allowed to participate in
54 the electronic home detention program.

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

58 **SECTION 3.** Section 47-5-1011, Mississippi Code of 1972, is
59 amended as follows:

60 47-5-1011. (1) Before entering an order for commitment for
61 electronic house arrest, the sentencing court shall inform the

62 participant and other persons residing in the home of the nature
63 and extent of the approved electronic monitoring devices by doing
64 the following:

65 (a) Securing the written consent of the participant in
66 the program to comply with the rules and regulations of the
67 program.

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

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

76 (2) The participant shall be responsible for the cost of
77 equipment and any damage to such equipment. Any intentional
78 damage, any attempt to defeat monitoring, any committing of a
79 criminal offense or any associating with felons or known
80 criminals, shall constitute a violation of the program.

81 (3) Any person whose residence is utilized in the program
82 shall agree to keep the home drug and alcohol free and to exclude
83 known felons and criminals in order to provide a noncriminal
84 environment.

85 **SECTION 4.** This act shall take effect and be in force from
86 and after July 1, 2004.