

By: Representative Watson

To: Corrections

## HOUSE BILL NO. 956

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, ESTABLISH RULES AND  
4 GUIDELINES FOR OPERATION OF PROGRAM AND PROVIDES FOR PAYMENT OF  
5 FEES BY PARTICIPANTS IN PROGRAM; TO AMEND SECTION 47-5-1015,  
6 MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER DATE ON THOSE  
7 REENACTED SECTIONS; AND FOR RELATED PURPOSES.

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

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

11 47-5-1001. For purposes of Sections 47-5-1001 through  
12 47-5-1015, the following words shall have the meaning ascribed  
13 herein unless the context shall otherwise require:

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

18 (b) "Correctional field officer" means the supervising  
19 probation and parole officer in charge of supervising the  
20 offender.

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

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

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

27 (f) "Operating capacity" means the total number of  
28 state offenders which can be safely and reasonably housed in  
29 facilities operated by the department and in local or county jails

30 or other facilities authorized to house state offenders as  
31 certified by the department, subject to applicable federal and  
32 state laws and rules and regulations.

33 (g) "Participant" means an offender placed into an  
34 intensive supervision program.

35 **SECTION 2.** Section 47-5-1003, Mississippi Code of 1972, is  
36 reenacted as follows:

37 47-5-1003. (1) An intensive supervision program may be used  
38 as an alternative to incarceration for offenders who are low risk  
39 and nonviolent as selected by the department or court. Any  
40 offender convicted of a sex crime or a felony violation of Section  
41 41-29-139(a)(1) shall not be placed in the program.

42 (2) The court placing an offender in the intensive  
43 supervision program may, acting upon the advice and consent of the  
44 commissioner and not later than one (1) year after the defendant  
45 has been delivered to the custody of the department, suspend the  
46 further execution of the sentence and place the defendant on  
47 intensive supervision, except when a death sentence or life  
48 imprisonment is the maximum penalty which may be imposed or if the  
49 defendant has been confined for the conviction of a felony on a  
50 previous occasion in any court or courts of the United States and  
51 of any state or territories thereof or has been convicted of a  
52 felony involving the use of a deadly weapon.

53 (3) To protect and to ensure the safety of the state's  
54 citizens, any offender who violates an order or condition of the  
55 intensive supervision program shall be arrested by the  
56 correctional field officer and placed in the actual custody of the  
57 Department of Corrections. Such offender is under the full and  
58 complete jurisdiction of the department and subject to removal  
59 from the program by the classification hearing officer.

60 (4) When any circuit or county court places an offender in  
61 an intensive supervision program, the court shall give notice to  
62 the Mississippi Department of Corrections within fifteen (15) days

63 of the court's decision to place the offender in an intensive  
64 supervision program. Notice shall be delivered to the central  
65 office of the Mississippi Department of Corrections and to the  
66 regional office of the department which will be providing  
67 supervision to the offender in an intensive supervision program.

68 The courts may not require an offender to complete the  
69 intensive supervision program as a condition of probation or  
70 post-release supervision.

71 **SECTION 3.** Section 47-5-1005, Mississippi Code of 1972, is  
72 reenacted as follows:

73 47-5-1005. (1) The department shall promulgate rules that  
74 prescribe reasonable guidelines under which an intensive  
75 supervision program shall operate. These rules shall include, but  
76 not be limited to, the following:

77 (a) The participant shall remain within the interior  
78 premises or within the property boundaries of his or her residence  
79 at all times during the hours designated by the correctional field  
80 officer.

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

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

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

87 (iii) Undergoing medical, psychiatric, mental  
88 health treatment, counseling or other treatment programs approved  
89 for the participant by the court or department;

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

92 (v) Participating in community work release or  
93 community service program approved for the participant by the  
94 court or department; or

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

97 (2) The department shall select and approve all electronic  
98 monitoring devices used under Sections 47-5-1001 through  
99 47-5-1015.

100 (3) The department may lease the equipment necessary to  
101 implement the intensive supervision program and to contract for  
102 the monitoring of such devices. The department is authorized to  
103 select the lowest price and best source in contracting for these  
104 services.

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

107 47-5-1007. (1) Any participant in the intensive supervision  
108 program who engages in employment shall pay a monthly fee to the  
109 department for each month such person is enrolled in the program.  
110 The department may waive the monthly fee if the offender is a  
111 full-time student or is engaged in vocational training. Money  
112 received by the department from participants in the program shall  
113 be deposited into a special fund which is hereby created in the  
114 State Treasury. It shall be used, upon appropriation by the  
115 Legislature, for the purpose of helping to defray the costs  
116 involved in administering and supervising such program.  
117 Unexpended amounts remaining in such special fund at the end of a  
118 fiscal year shall not lapse into the State General Fund, and any  
119 interest earned on amounts in such special fund shall be deposited  
120 to the credit of the special fund.

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

124 (3) The participant shall make the necessary arrangements to  
125 allow for correctional officers to visit the participant's place  
126 of education or employment at any time, based upon the approval of  
127 the educational institution or employer, for the purpose of

128 verifying the participant's compliance with the conditions of his  
129 detention.

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

134 (5) The participant shall be responsible for and shall  
135 maintain the following:

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

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

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

141 (6) The participant shall obtain approval from the  
142 correctional field officer before the participant changes  
143 residence.

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

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

149 (9) The participant shall abide by other conditions as set  
150 by the department.

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

153 47-5-1009. (1) The department shall have absolute immunity  
154 from liability for any injury resulting from a determination by a  
155 judge or correctional officer that an offender shall be allowed to  
156 participate in the electronic home detention program.

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

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

162           47-5-1011. (1) Before entering an order for commitment for  
163 electronic house arrest, the department shall inform the  
164 participant and other persons residing in the home of the nature  
165 and extent of the approved electronic monitoring devices by doing  
166 the following:

167                   (a) Securing the written consent of the participant in  
168 the program to comply with the rules and regulations of the  
169 program.

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

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

178           (2) The participant shall be responsible for the cost of  
179 equipment and any damage to such equipment. Any intentional  
180 damage, any attempt to defeat monitoring, any committing of a  
181 criminal offense or any associating with felons or known  
182 criminals, shall constitute a violation of the program.

183           (3) Any person whose residence is utilized in the program  
184 shall agree to keep the home drug and alcohol free and to exclude  
185 known felons and criminals in order to provide a noncriminal  
186 environment.

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

189           47-5-1013. Participants enrolled in an intensive supervision  
190 program shall be required to:

191                   (a) Maintain employment if physically able, or  
192 full-time student status at an approved school or vocational

193 trade, and make progress deemed satisfactory to the correctional  
194 field officer, or both, or be involved in supervised job searches.

195 (b) Pay restitution and program fees as directed by the  
196 department. Program fees shall not be less than Fifty Dollars  
197 (\$50.00) nor more than the actual cost of the program. The  
198 sentencing judge may charge a program fee of less than Fifty  
199 Dollars (\$50.00) in cases of extreme financial hardship, when such  
200 judge determines that the offender's participation in the program  
201 would provide a benefit to his community. Program fees shall be  
202 deposited in the special fund created in Section 47-5-1007.

203 (c) Establish a place of residence at a place approved  
204 by the correctional field officer, and not change his residence  
205 without the officer's approval. The correctional officer shall be  
206 allowed to inspect the place of residence for alcoholic beverages,  
207 controlled substances and drug paraphernalia.

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

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

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

216 (g) Meet any other conditions imposed by the court to  
217 meet the needs of the offender and limit the risks to the  
218 community.

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

221 47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand  
222 repealed after June 30, 2006.

223 **SECTION 9.** This act shall take effect and be in force from  
224 and after July 1, 2004.