

By: Representatives Scott, Bailey, Banks,
Blackmon, Broomfield, Clark, Clarke, Coleman
(65th), Flaggs, Fleming, Harrison, Hines,
Myers, Straughter, West, Young

To: Juvenile Justice;
Appropriations

HOUSE BILL NO. 1548

1 AN ACT TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT JUVENILE OFFENDERS MAY BE SENTENCED TO THE
3 INTENSIVE SUPERVISION PROGRAM ADMINISTERED BY THE DEPARTMENT OF
4 CORRECTIONS; TO PROVIDE THAT THE MINIMUM SENTENCE UNDER THIS
5 PROGRAM SHALL BE SIX MONTHS FOR JUVENILE OFFENDERS; TO REQUIRE
6 JUVENILE OFFENDERS TO BE TESTED FOR ALCOHOL AND DRUGS; TO REQUIRE
7 JUVENILE OFFENDERS TO PAY TEN DOLLARS FOR THE TEST; TO PROVIDE
8 THAT IF A JUVENILE OFFENDER TESTS POSITIVE FOR ALCOHOL OR DRUGS,
9 HE SHALL BE REQUIRED TO ATTEND AN ALCOHOL AND DRUG REHABILITATION
10 PROGRAM; TO AMEND SECTION 47-5-1007, MISSISSIPPI CODE OF 1972, TO
11 PROVIDE THAT JUVENILE OFFENDERS SENTENCED TO THE INTENSIVE
12 SUPERVISION PROGRAM SHALL PAY A MONTHLY FEE TO OFFSET THE COST OF
13 THE INTENSIVE SUPERVISION PROGRAM; TO AMEND SECTION 47-5-1013,
14 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JUVENILE OFFENDERS SHALL
15 NOT PAY A PROGRAM FEE; TO AMEND SECTION 47-5-1003, MISSISSIPPI
16 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 43-21-605, Mississippi Code of 1972, is
19 amended as follows:

20 43-21-605. (1) In delinquency cases, the disposition order
21 may include any of the following alternatives:

22 (a) Release the child without further action;

23 (b) Place the child in the custody of the parents, a
24 relative or other persons subject to any conditions and
25 limitations, including restitution, as the youth court may
26 prescribe;

27 (c) Place the child on probation subject to any
28 reasonable and appropriate conditions and limitations, including
29 restitution, as the youth court may prescribe;

30 (d) Order terms of treatment calculated to assist the
31 child and the child's parents or guardian which are within the
32 ability of the parent or guardian to perform;

33 (e) Order terms of supervision which may include
34 participation in a constructive program of service or education or

35 civil fines not in excess of Five Hundred Dollars (\$500.00), or
36 restitution not in excess of actual damages caused by the child to
37 be paid out of his own assets or by performance of services
38 acceptable to the victims and approved by the youth court and
39 reasonably capable of performance within one (1) year;

40 (f) Suspend the child's driver's license by taking and
41 keeping it in custody of the court for not more than one (1) year;

42 (g) Give legal custody of the child to any of the
43 following:

44 (i) The Department of Human Services for
45 appropriate placement; or

46 (ii) Any public or private organization,
47 preferably community-based, able to assume the education, care and
48 maintenance of the child, which has been found suitable by the
49 court; or

50 (iii) The Department of Human Services for
51 placement in a wilderness training program or a state-supported
52 training school, except that no child under the age of ten (10)
53 years shall be committed to a state training school. The training
54 school may retain custody of the child until the child's twentieth
55 birthday but for no longer. The superintendent of a state
56 training school may parole a child at any time he may deem it in
57 the best interest and welfare of such child. Twenty (20) days
58 prior to such parole, the training school shall notify the
59 committing court of the pending release. The youth court may then
60 arrange subsequent placement after a reconvened disposition
61 hearing except that the youth court may not recommit the child to
62 the training school or any other secure facility without an
63 adjudication of a new offense or probation or parole violation.
64 Prior to assigning the custody of any child to any private
65 institution or agency, the youth court through its designee shall
66 first inspect the physical facilities to determine that they
67 provide a reasonable standard of health and safety for the child.

68 The youth court shall not place a child in the custody of a state
69 training school for truancy, unless such child has been
70 adjudicated to have committed an act of delinquency in addition to
71 truancy;

72 (h) Recommend to the child and the child's parents or
73 guardian that the child attend and participate in the Youth
74 Challenge Program under the Mississippi National Guard, as created
75 in Section 43-27-203, subject to the selection of the child for
76 the program by the National Guard; however, the child must
77 volunteer to participate in the program. The youth court may not
78 order any child to apply or attend the program;

79 (i) (i) Adjudicate the juvenile to the Statewide
80 Juvenile Work Program if the program is established in the court's
81 jurisdiction. The juvenile and his parents or guardians must sign
82 a waiver of liability in order to participate in the work program.
83 The judge will coordinate with the youth services counselors as to
84 placing participants in the work program;

85 (ii) The severity of the crime, whether or not the
86 juvenile is a repeat offender or is a felony offender will be
87 taken into consideration by the judge when adjudicating a juvenile
88 to the work program. The juveniles adjudicated to the work
89 program will be supervised by police officers or reserve officers.
90 The term of service will be from twenty-four (24) to one hundred
91 twenty (120) hours of community service. A juvenile will work the
92 hours to which he was adjudicated on the weekends during school
93 and week days during the summer. Parents are responsible for a
94 juvenile reporting for work. Noncompliance with an order to
95 perform community service will result in a heavier adjudication.
96 A juvenile may be adjudicated to the community service program
97 only two (2) times;

98 (iii) The judge shall assess an additional fine on
99 the juvenile which will be used to pay the costs of implementation
100 of the program and to pay for supervision by police officers and

101 reserve officers. The amount of the fine will be based on the
102 number of hours to which the juvenile has been adjudicated;

103 (j) Order the child to participate in a youth court
104 work program as provided in Section 43-21-627; * * *

105 (k) Order terms of house arrest under the intensive
106 supervision program as created in Sections 47-5-1001 through
107 47-5-1015. The Department of Corrections shall take bids for the
108 program provided by this act. The Department of Human Services
109 shall promulgate rules regarding the supervision of juveniles
110 placed in the intensive supervision program. There shall be
111 fifteen hundred (1,500) slots created in the intensive supervision
112 program for juveniles. Any juvenile sentenced to house arrest
113 shall be tested for alcohol and drugs, and if the juvenile tests
114 positive for alcohol or drugs, the juvenile shall be ordered to
115 participate in an alcohol and drug rehabilitation program. The
116 juvenile shall pay Ten Dollars (\$10.00) to offset the cost of
117 administering the alcohol and drug test. The juveniles must
118 attend school, alternative school or be in the process of working
119 towards a general educational development (GED) certificate; or

120 (l) Order the child into a juvenile detention center
121 operated by the county or into a juvenile detention center
122 operated by any county with which the county in which the court is
123 located has entered into a contract for the purpose of housing
124 delinquents. The time period for such detention cannot exceed
125 ninety (90) days. The youth court judge may order that the number
126 of days specified in the detention order be served either
127 throughout the week or on weekends only.

128 (2) In addition to any of the disposition alternatives
129 authorized under subsection (1) of this section, the disposition
130 order in any case in which the child is adjudicated delinquent for
131 an offense under Section 63-11-30 shall include an order denying
132 the driver's license and driving privileges of the child as
133 required under subsection (8) of Section 63-11-30.

134 (3) Fines levied under this chapter shall be paid into the
135 general fund of the county but, in those counties wherein the
136 youth court is a branch of the municipal government, it shall be
137 paid into the municipal treasury.

138 (4) Any institution or agency to which a child has been
139 committed shall give to the youth court any information concerning
140 the child as the youth court may at any time require.

141 (5) The youth court shall not place a child in another
142 school district who has been expelled from a school district for
143 the commission of a violent act. For the purpose of this
144 subsection, "violent act" means any action which results in death
145 or physical harm to another or an attempt to cause death or
146 physical harm to another.

147 (6) The youth court may require drug testing as part of a
148 disposition order. If a child tests positive, the court may
149 require treatment, counseling and random testing, as it deems
150 appropriate. The costs of such tests shall be paid by the parent,
151 guardian or custodian of the child unless the court specifically
152 finds that the parent, guardian or custodian is unable to pay.

153 **SECTION 2.** Section 47-5-1007, Mississippi Code of 1972, is
154 amended as follows:

155 47-5-1007. (1) Any participant in the intensive supervision
156 program who engages in employment shall pay a monthly fee to the
157 department for each month such person is enrolled in the program.
158 The department may waive the monthly fee if the offender is a
159 full-time student or is engaged in vocational training. Juvenile
160 offenders shall pay a monthly fee of not less than Ten Dollars
161 (\$10.00) but not more than Fifty Dollars (\$50.00) based on a
162 sliding scale using the standard of need for each family that is
163 used to calculate TANF benefits. Money received by the department
164 from participants in the program shall be deposited into a special
165 fund which is hereby created in the State Treasury. It shall be
166 used, upon appropriation by the Legislature, for the purpose of

167 helping to defray the costs involved in administering and
168 supervising such program. Unexpended amounts remaining in such
169 special fund at the end of a fiscal year shall not lapse into the
170 State General Fund, and any interest earned on amounts in such
171 special fund shall be deposited to the credit of the special fund.

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

175 (3) The participant shall make the necessary arrangements to
176 allow for correctional officers to visit the participant's place
177 of education or employment at any time, based upon the approval of
178 the educational institution or employer, for the purpose of
179 verifying the participant's compliance with the conditions of his
180 detention.

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

185 (5) The participant shall be responsible for and shall
186 maintain the following:

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

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

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

192 (6) The participant shall obtain approval from the
193 correctional field officer before the participant changes
194 residence.

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

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

200 (9) The participant shall abide by other conditions as set
201 by the department.

202 **SECTION 3.** Section 47-5-1013, Mississippi Code of 1972, is
203 amended as follows:

204 47-5-1013. Participants enrolled in an intensive supervision
205 program shall be required to:

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

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

220 (c) Establish a place of residence at a place approved
221 by the correctional field officer, and not change his residence
222 without the officer's approval. The correctional officer shall be
223 allowed to inspect the place of residence for alcoholic beverages,
224 controlled substances and drug paraphernalia.

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

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

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

233 (g) Meet any other conditions imposed by the court to
234 meet the needs of the offender and limit the risks to the
235 community.

236 **SECTION 4.** Section 47-5-1003, Mississippi Code of 1972, is
237 amended as follows:

238 47-5-1003. (1) An intensive supervision program may be used
239 as an alternative to incarceration for offenders who are low risk
240 and nonviolent as selected by the department or court and for
241 juvenile offenders as provided in Section 43-21-605(k). Any
242 offender convicted of a sex crime or a felony violation of Section
243 41-29-139(a)(1) shall not be placed in the program.

244 (2) The court placing an offender in the intensive
245 supervision program may, acting upon the advice and consent of the
246 commissioner and not later than one (1) year after the defendant
247 has been delivered to the custody of the department, suspend the
248 further execution of the sentence and place the defendant on
249 intensive supervision, except when a death sentence or life
250 imprisonment is the maximum penalty which may be imposed or if the
251 defendant has been confined for the conviction of a felony on a
252 previous occasion in any court or courts of the United States and
253 of any state or territories thereof or has been convicted of a
254 felony involving the use of a deadly weapon.

255 (3) To protect and to ensure the safety of the state's
256 citizens, any offender who violates an order or condition of the
257 intensive supervision program shall be arrested by the
258 correctional field officer and placed in the actual custody of the
259 Department of Corrections. Such offender is under the full and
260 complete jurisdiction of the department and subject to removal
261 from the program by the classification hearing officer.

262 (4) When any circuit or county court places an offender in
263 an intensive supervision program, the court shall give notice to
264 the Mississippi Department of Corrections within fifteen (15) days
265 of the court's decision to place the offender in an intensive

266 supervision program. Notice shall be delivered to the central
267 office of the Mississippi Department of Corrections and to the
268 regional office of the department which will be providing
269 supervision to the offender in an intensive supervision program.

270 The courts may not require an offender to complete the
271 intensive supervision program as a condition of probation or
272 post-release supervision.

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