

***** Pending *****

COMMITTEE AMENDMENT NO 1 PROPOSED TO

House Bill No. 956

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

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

13 47-5-1001. For purposes of Sections 47-5-1001 through
14 47-5-1015, the following words shall have the meaning ascribed
15 herein unless the context shall otherwise require:

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

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

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

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

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

29 (f) "Operating capacity" means the total number of
30 state offenders which can be safely and reasonably housed in
31 facilities operated by the department and in local or county jails
32 or other facilities authorized to house state offenders as
33 certified by the department, subject to applicable federal and
34 state laws and rules and regulations.

35 (g) "Participant" means an offender placed into an
36 intensive supervision program.

37 **SECTION 2.** Section 47-5-1003, Mississippi Code of 1972, is
38 amended as follows:

39 47-5-1003. (1) An intensive supervision program may be used
40 as an alternative to incarceration for offenders who are low risk
41 and nonviolent as selected by the department or court. Any
42 offender convicted of a sex crime or a felony violation of Section
43 41-29-139(a)(1) shall not be placed in the program. Any offender
44 who at the time of sentencing has ever been convicted of any
45 felony on a previous occasion in any court of the United States or
46 in any state or territory thereof shall not be placed in the
47 program. Any offender who has ever been sentenced as an habitual
48 offender shall not be placed in the program.

49 (2) The court placing an offender in the intensive
50 supervision program may, acting upon the advice and consent of the
51 commissioner and not later than one (1) year after the defendant
52 has been delivered to the custody of the department, suspend the
53 further execution of the sentence and place the defendant on
54 intensive supervision, if the offender meets the requirements of
55 subsection (1).

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

61 complete jurisdiction of the department and subject to removal
62 from the program by the classification hearing officer.

63 (4) When any circuit or county court places an offender in
64 an intensive supervision program, the court shall give notice to
65 the Mississippi Department of Corrections within fifteen (15) days
66 of the court's decision to place the offender in an intensive
67 supervision program. Notice shall be delivered to the central
68 office of the Mississippi Department of Corrections and to the
69 regional office of the department which will be providing
70 supervision to the offender in an intensive supervision program.

71 The courts may not require an offender to complete the
72 intensive supervision program as a condition of probation or
73 post-release supervision.

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

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

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

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

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

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

90 (iii) Undergoing medical, psychiatric, mental
91 health treatment, counseling or other treatment programs approved
92 for the participant by the court or department;

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

95 (v) Participating in community work release or
96 community service program approved for the participant by the
97 court or department; or

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

100 (2) The department shall select and approve all electronic
101 monitoring devices used under Sections 47-5-1001 through
102 47-5-1015.

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

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

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

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

127 (3) The participant shall make the necessary arrangements to
128 allow for correctional officers to visit the participant's place
129 of education or employment at any time, based upon the approval of
130 the educational institution or employer, for the purpose of
131 verifying the participant's compliance with the conditions of his
132 detention.

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

137 (5) The participant shall be responsible for and shall
138 maintain the following:

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

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

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

144 (6) The participant shall obtain approval from the
145 correctional field officer before the participant changes
146 residence.

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

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

152 (9) The participant shall abide by other conditions as set
153 by the department.

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

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

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

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

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

170 (a) Securing the written consent of the participant in
171 the program to comply with the rules and regulations of the
172 program.

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

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

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

186 (3) Any person whose residence is utilized in the program
187 shall agree to keep the home drug and alcohol free and to exclude

188 known felons and criminals in order to provide a noncriminal
189 environment.

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

192 47-5-1013. Participants enrolled in an intensive supervision
193 program shall be required to:

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

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

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

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

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

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

219 (g) Meet any other conditions imposed by the court to
220 meet the needs of the offender and limit the risks to the
221 community.

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

224 47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand
225 repealed after June 30, 2006.

226 **SECTION 9.** This act shall take effect and be in force from
227 and after its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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 47-5-1003,
6 MISSISSIPPI CODE OF 1972, TO REVISE ELIGIBILITY FOR THE HOUSE
7 ARREST PROGRAM; TO AMEND SECTION 47-5-1015, MISSISSIPPI CODE OF
8 1972, TO EXTEND THE REPEALER DATE ON THOSE REENACTED SECTIONS; AND
9 FOR RELATED PURPOSES.