

By: Representative Malone

To: Corrections

HOUSE BILL NO. 1345  
(As Passed the House)

1 AN ACT TO AMEND SECTION 47-7-5, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE STATE PAROLE BOARD TO PLACE OFFENDERS IN THE  
3 INTENSIVE SUPERVISION PROGRAM, TO EXTEND THE REPEAL DATE ON THIS  
4 SECTION; TO REENACT SECTIONS 47-5-1001, 47-5-1003, 47-5-1005,  
5 47-5-1007, 47-5-1009, 47-5-1011, 47-5-1013 AND 47-5-1015,  
6 MISSISSIPPI CODE OF 1972, WHICH ESTABLISH THE INTENSIVE  
7 SUPERVISION PROGRAM AND PERMIT A COURT TO PLACE AN OFFENDER IN THE  
8 PROGRAM AS AN ALTERNATIVE TO INCARCERATION, PROVIDE RULES AND  
9 GUIDELINES FOR OPERATION OF THE PROGRAM, PROVIDE PAYMENT OF FEES  
10 BY PARTICIPANTS OF THE PROGRAM AND WHICH WERE REPEALED BY  
11 OPERATION OF LAW ON JULY 1, 2004; TO AMEND REENACTED SECTIONS  
12 47-5-1003 AND 47-5-1009, MISSISSIPPI CODE OF 1972, TO ALLOW THE  
13 STATE PAROLE BOARD TO PLACE OFFENDERS IN THE INTENSIVE SUPERVISION  
14 PROGRAM; TO AMEND REENACTED SECTION 47-5-1013, MISSISSIPPI CODE OF  
15 1972, TO INCREASE THE MONTHLY FEE THAT IS PAID BY PARTICIPANTS OF  
16 THE INTENSIVE SUPERVISION PROGRAM TO THE DEPARTMENT OF  
17 CORRECTIONS; TO AMEND REENACTED SECTION 47-5-1015, MISSISSIPPI  
18 CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE REENACTED  
19 SECTIONS FROM JUNE 30, 2004, TO JUNE 30, 2006; TO REQUIRE THAT  
20 PARTICIPANTS WHO HAVE BEEN IN THE INTENSIVE SUPERVISION PROGRAM  
21 SINCE JULY 1, 2004, WHETHER PLACED INTO THE PROGRAM BEFORE OR  
22 AFTER JULY 1, 2004, PAY A \$50.00 MONTHLY SUPERVISION FEE TO THE  
23 DEPARTMENT OF CORRECTIONS FOR THEIR SUPERVISION FROM JULY 1, 2004,  
24 OR FROM THE DATE THE PARTICIPANT WAS PLACED IN THE PROGRAM AFTER  
25 JULY 1, 2004, UNTIL THE COMPLETION OF THE PROGRAM, OR THE  
26 EFFECTIVE DATE OF THIS ACT, WHICHEVER OCCURS FIRST; AND FOR  
27 RELATED PURPOSES.

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

29 **SECTION 1.** Section 47-7-5, Mississippi Code of 1972, is  
30 amended as follows:

31 47-7-5. (1) The State Parole Board, created under former  
32 Section 47-7-5, is hereby created, continued and reconstituted and  
33 shall be composed of five (5) members. The Governor shall appoint  
34 the members with the advice and consent of the Senate. All terms  
35 shall be at the will and pleasure of the Governor. Any vacancy  
36 shall be filled by the Governor, with the advice and consent of  
37 the Senate. The Governor shall appoint a chairman of the board.

38 (2) Any person who is appointed to serve on the board shall  
39 possess at least a bachelor's degree or a high school diploma and

40 four (4) years' work experience. Each member shall devote his  
41 full time to the duties of his office and shall not engage in any  
42 other business or profession or hold any other public office. A  
43 member shall not receive compensation or per diem in addition to  
44 his salary as prohibited under Section 25-3-38. Each member shall  
45 keep such hours and workdays as required of full-time state  
46 employees under Section 25-1-98. Individuals shall be appointed  
47 to serve on the board without reference to their political  
48 affiliations. Each board member, including the chairman, may be  
49 reimbursed for actual and necessary expenses as authorized by  
50 Section 25-3-41; but a member shall not be reimbursed for travel  
51 expenses from his residence to the nearest State Penitentiary.

52 (3) The board shall have exclusive responsibility for the  
53 granting of parole as provided by Sections 47-7-3 and 47-7-17 and  
54 shall have exclusive authority for revocation of the same. The  
55 board shall have exclusive responsibility for investigating  
56 clemency recommendations upon request of the Governor.

57 (4) The board, its members and staff, shall be immune from  
58 civil liability for any official acts taken in good faith and in  
59 exercise of the board's legitimate governmental authority.

60 (5) The budget of the board shall be funded through a  
61 separate line item within the general appropriation bill for the  
62 support and maintenance of the department. Employees of the  
63 department which are employed by or assigned to the board shall  
64 work under the guidance and supervision of the board. There shall  
65 be an executive secretary to the board who shall be responsible  
66 for all administrative and general accounting duties related to  
67 the board. The executive secretary shall keep and preserve all  
68 records and papers pertaining to the board.

69 (6) The board shall have no authority or responsibility for  
70 supervision of offenders granted a release for any reason,  
71 including, but not limited to, probation, parole or executive  
72 clemency or other offenders requiring the same through interstate

73 compact agreements. The supervision shall be provided exclusively  
74 by the staff of the Division of Community Corrections of the  
75 department.

76 (7) The Parole Board is authorized to select and place  
77 offenders in the intensive supervision program as provided in  
78 Section 47-5-1001 et seq.; however, all conditions and criteria  
79 for placing offenders in the intensive supervision program, and  
80 the amount of time such offenders may remain in the program, shall  
81 be determined solely by the Parole Board.

82 (8) (a) The Parole Board shall maintain a central registry  
83 of paroled inmates. The Parole Board shall place the following  
84 information on the registry: name, address, photograph, crime for  
85 which paroled, the date of the end of parole or flat-time date and  
86 other information deemed necessary. The Parole Board shall  
87 immediately remove information on a parolee at the end of his  
88 parole or flat-time date.

89 (b) When a person is placed on parole, the Parole Board  
90 shall inform the parolee of the duty to report to the Parole  
91 Officer any change in address ten (10) days before changing  
92 address.

93 (c) The Parole Board shall utilize an Internet website  
94 or other electronic means to release or publish the information.

95 (d) Records maintained on the registry shall be open to  
96 law enforcement agencies and the public and shall be available no  
97 later than July 1, 2003.

98 (9) This section shall stand repealed on July 1, 2006.

99 **SECTION 2.** Section 47-5-1001, Mississippi Code of 1972, is  
100 reenacted as follows:

101 47-5-1001. For purposes of Sections 47-5-1001 through  
102 47-5-1015, the following words shall have the meaning ascribed  
103 herein unless the context shall otherwise require:

104 (a) "Approved electronic monitoring device" means a  
105 device approved by the department which is primarily intended to

106 record and transmit information regarding the offender's presence  
107 or nonpresence in the home.

108 (b) "Correctional field officer" means the supervising  
109 probation and parole officer in charge of supervising the  
110 offender.

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

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

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

117 (f) "Operating capacity" means the total number of  
118 state offenders which can be safely and reasonably housed in  
119 facilities operated by the department and in local or county jails  
120 or other facilities authorized to house state offenders as  
121 certified by the department, subject to applicable federal and  
122 state laws and rules and regulations.

123 (g) "Participant" means an offender placed into an  
124 intensive supervision program.

125 **SECTION 3.** Section 47-5-1003, Mississippi Code of 1972, is  
126 reenacted and amended as follows:

127 47-5-1003. (1) An intensive supervision program may be used  
128 as an alternative to incarceration for offenders who are low risk  
129 and nonviolent as selected by the department or court. Any  
130 offender convicted of a sex crime or a felony violation of Section  
131 41-29-139(a)(1) shall not be placed in the program. The  
132 restrictions in this subsection (1), regarding eligibility of  
133 offenders for placement in the intensive supervision program,  
134 shall not apply for eligibility determinations that are made by  
135 the Parole Board.

136 (2) The court placing an offender in the intensive  
137 supervision program may, acting upon the advice and consent of the  
138 commissioner and not later than one (1) year after the defendant

139 has been delivered to the custody of the department, suspend the  
140 further execution of the sentence and place the defendant on  
141 intensive supervision, except when a death sentence or life  
142 imprisonment is the maximum penalty which may be imposed or if the  
143 defendant has been confined for the conviction of a felony on a  
144 previous occasion in any court or courts of the United States and  
145 of any state or territories thereof or has been convicted of a  
146 felony involving the use of a deadly weapon.

147 (3) To protect and to ensure the safety of the state's  
148 citizens, any offender who violates an order or condition of the  
149 intensive supervision program may be arrested by the correctional  
150 field officer and placed in the actual custody of the Department  
151 of Corrections. Such offender is under the full and complete  
152 jurisdiction of the department and subject to removal from the  
153 program by the classification hearing officer.

154 (4) When any circuit or county court places an offender in  
155 an intensive supervision program, the court shall give notice to  
156 the Mississippi Department of Corrections within fifteen (15) days  
157 of the court's decision to place the offender in an intensive  
158 supervision program. Notice shall be delivered to the central  
159 office of the Mississippi Department of Corrections and to the  
160 regional office of the department which will be providing  
161 supervision to the offender in an intensive supervision program.

162 The courts may not require an offender to complete the  
163 intensive supervision program as a condition of probation or  
164 post-release supervision.

165 (5) When the Parole Board places an offender in the  
166 intensive supervision program, as authorized in Section 47-7-5,  
167 all conditions and criteria for placing offenders in the program,  
168 and the amount of time such offenders may remain in the program,  
169 shall be determined solely by the Parole Board.

170 **SECTION 4.** Section 47-5-1005, Mississippi Code of 1972, is  
171 reenacted as follows:

172           47-5-1005. (1) The department shall promulgate rules that  
173 prescribe reasonable guidelines under which an intensive  
174 supervision program shall operate. These rules shall include, but  
175 not be limited to, the following:

176           (a) The participant shall remain within the interior  
177 premises or within the property boundaries of his or her residence  
178 at all times during the hours designated by the correctional field  
179 officer.

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

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

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

186           (iii) Undergoing medical, psychiatric, mental  
187 health treatment, counseling or other treatment programs approved  
188 for the participant by the court or department;

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

191           (v) Participating in community work release or  
192 community service program approved for the participant by the  
193 court or department; or

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

196           (2) The department shall select and approve all electronic  
197 monitoring devices used under Sections 47-5-1001 through  
198 47-5-1015.

199           (3) The department may lease the equipment necessary to  
200 implement the intensive supervision program and to contract for  
201 the monitoring of such devices. The department is authorized to  
202 select the lowest price and best source in contracting for these  
203 services.

204           **SECTION 5.** Section 47-5-1007, Mississippi Code of 1972, is  
205 reenacted as follows:

206           47-5-1007. (1) Any participant in the intensive supervision  
207 program who engages in employment shall pay a monthly fee to the  
208 department for each month such person is enrolled in the program.  
209 The department may waive the monthly fee if the offender is a  
210 full-time student or is engaged in vocational training. Money  
211 received by the department from participants in the program shall  
212 be deposited into a special fund which is hereby created in the  
213 State Treasury. It shall be used, upon appropriation by the  
214 Legislature, for the purpose of helping to defray the costs  
215 involved in administering and supervising such program.  
216 Unexpended amounts remaining in such special fund at the end of a  
217 fiscal year shall not lapse into the State General Fund, and any  
218 interest earned on amounts in such special fund shall be deposited  
219 to the credit of the special fund.

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

223           (3) The participant shall make the necessary arrangements to  
224 allow for correctional officers to visit the participant's place  
225 of education or employment at any time, based upon the approval of  
226 the educational institution or employer, for the purpose of  
227 verifying the participant's compliance with the conditions of his  
228 detention.

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

233           (5) The participant shall be responsible for and shall  
234 maintain the following:

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

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

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

240 (6) The participant shall obtain approval from the  
241 correctional field officer before the participant changes  
242 residence.

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

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

248 (9) The participant shall abide by other conditions as set  
249 by the department.

250 **SECTION 6.** Section 47-5-1009, Mississippi Code of 1972, is  
251 reenacted and amended as follows:

252 47-5-1009. (1) The department shall have absolute immunity  
253 from liability for any injury resulting from a determination by a  
254 judge \* \* \* correctional officer or the Parole Board that an  
255 offender shall be allowed to participate in the electronic home  
256 detention program.

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

260 **SECTION 7.** Section 47-5-1011, Mississippi Code of 1972, is  
261 reenacted as follows:

262 47-5-1011. (1) Before entering an order for commitment for  
263 electronic house arrest, the department shall inform the  
264 participant and other persons residing in the home of the nature  
265 and extent of the approved electronic monitoring devices by doing  
266 the following:



267 (a) Securing the written consent of the participant in  
268 the program to comply with the rules and regulations of the  
269 program.

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

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

278 (2) The participant shall be responsible for the cost of  
279 equipment and any damage to such equipment. Any intentional  
280 damage, any attempt to defeat monitoring, any committing of a  
281 criminal offense or any associating with felons or known  
282 criminals, shall constitute a violation of the program.

283 (3) Any person whose residence is utilized in the program  
284 shall agree to keep the home drug and alcohol free and to exclude  
285 known felons and criminals in order to provide a noncriminal  
286 environment.

287 **SECTION 8.** Section 47-5-1013, Mississippi Code of 1972, is  
288 reenacted and amended as follows:

289 47-5-1013. Participants enrolled in an intensive supervision  
290 program shall be required to:

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

295 (b) Pay restitution and program fees as directed by the  
296 department. Program fees shall not be less than Seventy-five  
297 Dollars (\$75.00) per month. The sentencing judge may charge a  
298 program fee of less than Seventy-five Dollars (\$75.00) per month  
299 in cases of extreme financial hardship, when such judge determines

300 that the offender's participation in the program would provide a  
301 benefit to his community. Program fees shall be deposited in the  
302 special fund created in Section 47-5-1007.

303 (c) Establish a place of residence at a place approved  
304 by the correctional field officer, and not change his residence  
305 without the officer's approval. The correctional officer shall be  
306 allowed to inspect the place of residence for alcoholic beverages,  
307 controlled substances and drug paraphernalia.

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

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

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

316 (g) Meet any other conditions imposed by the court to  
317 meet the needs of the offender and limit the risks to the  
318 community.

319 **SECTION 9.** Section 47-5-1015, Mississippi Code of 1972, is  
320 reenacted and amended as follows:

321 47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand  
322 repealed after June 30, 2006.

323 **SECTION 10.** Participants who have been in the intensive  
324 supervision program since July 1, 2004, whether placed into the  
325 program before or after July 1, 2004, shall pay a Fifty Dollars  
326 (\$50.00) monthly supervision fee to the Mississippi Department of  
327 Corrections for their supervision from July 1, 2004, or from the  
328 date the participant entered the program after July 1, 2004, until  
329 completion of the program, or the effective date of House Bill No.  
330 1345, 2005 Regular Session, or whichever occurs first. From and  
331 after the passage of House Bill No. 1345, 2005 Regular Session,

332 all participants of the intensive supervision program shall pay  
333 the fee as established in Section 47-5-1013.

334       **SECTION 11.** Except for the increase in the monthly fee that  
335 is to be paid by participants of the intensive supervision  
336 program, under Section 47-5-1013, after the effective date of this  
337 act, the intensive supervision program, which is established in  
338 Sections 2 through 9 of this act, is a continuation of the  
339 intensive supervision program that existed on June 30, 2004.

340       **SECTION 12.** This act shall take effect and be in force from  
341 and after its passage.