

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2750

BY: Committee

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

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 Senate Bill
330 No. 2750, 2005 Regular Session, or whichever occurs first. From
331 and after the passage of Senate Bill No. 2750, 2005 Regular

332 Session, all participants of the intensive supervision program
333 shall pay 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.

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

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.