

By: Representatives Mayo, Compretta, Gunn,
Martinson

To: Corrections

HOUSE BILL NO. 192

1 AN ACT TO CREATE NEW SECTION 99-19-84, MISSISSIPPI CODE OF
2 1972, TO AUTHORIZE A SPLIT SENTENCE FOR SEX OFFENDERS; TO CREATE
3 NEW SECTION 99-19-205, MISSISSIPPI CODE OF 1972, TO MANDATE
4 ELECTRONIC SUPERVISION FOR CERTAIN SEX OFFENDERS UPON EXPIRATION
5 OF ANY TERM OF INCARCERATION; TO CREATE NEW SECTION 47-5-1017,
6 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR ELECTRONIC MONITORING OF
7 SEX OFFENDERS UPON WHOM A SPLIT SENTENCE IS IMPOSED; TO CREATE NEW
8 SECTION 47-5-1019, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
9 PUNISHMENT FOR TAMPERING WITH AN ELECTRONIC MONITORING DEVICE; TO
10 AMEND SECTION 47-7-33, MISSISSIPPI CODE OF 1972, TO REQUIRE
11 ELECTRONIC MONITORING OF CERTAIN PAROLEES AND PROBATIONERS; TO
12 AMEND SECTION 47-7-34, MISSISSIPPI CODE OF 1972, TO CONFORM TO
13 SPLIT SENTENCING; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** The following shall be codified as Section
16 99-19-84, Mississippi Code of 1972:

17 99-19-84. Whenever punishment by imprisonment for a
18 misdemeanor or a felony, except for a capital felony, is
19 prescribed for an offense for which registration as a sex offender
20 is required under Title 45, Chapter 33, the court, in its
21 discretion at the time of sentencing, may impose a split sentence
22 whereby the defendant is to be placed on electronic monitoring
23 following release from incarceration for any term of years or for
24 life.

25 **SECTION 2.** The following shall be codified as Section
26 99-19-205, Mississippi Code of 1972:

27 99-19-205. Any person who is convicted of a sex offense as
28 defined in Section 45-33-23 on or after the effective date of this
29 act, and who is sentenced to any state or local correctional
30 facility, placed on probation, given a suspended sentence, or
31 other disposition, and the unlawful activity involved a victim who
32 was under sixteen (16) years of age and the offender was

33 twenty-one (21) years of age or older, or the offender is subject
34 to lifetime registration under Section 45-33-47(2), shall be
35 sentenced by the court to mandatory electronic monitoring for life
36 subsequent to the offender's release from incarceration.

37 **SECTION 3.** The following shall be codified as Section
38 47-5-1017, Mississippi Code of 1972:

39 47-5-1017. The department shall electronically monitor an
40 offender upon whom a split sentence is imposed pursuant to Section
41 99-19-84 or 99-19-205. The department, in carrying out a court
42 order to electronically monitor an offender, must use a system
43 that actively monitors and identifies the offender's location and
44 timely reports or records the offender's presence near or within a
45 crime scene or in prohibited areas or the offender's departure
46 from specified geographic limitations.

47 **SECTION 4.** The following shall be codified as Section
48 47-5-1019, Mississippi Code of 1972:

49 47-5-1019. A person who intentionally alters, tampers with,
50 damages or destroys any electronic monitoring equipment, unless
51 the person is the owner of the equipment or an agent of the owner
52 performing ordinary maintenance and repairs, commits a felony
53 punishable by imprisonment not to exceed five (5) years in the
54 custody of the Department of Corrections.

55 **SECTION 5.** Section 47-7-33, Mississippi Code of 1972, is
56 amended as follows:

57 47-7-33. (1) When it appears to the satisfaction of any
58 circuit court or county court in the State of Mississippi having
59 original jurisdiction over criminal actions, or to the judge
60 thereof, that the ends of justice and the best interest of the
61 public, as well as the defendant, will be served thereby, such
62 court, in termtime or in vacation, shall have the power, after
63 conviction or a plea of guilty, except in a case where a death
64 sentence or life imprisonment is the maximum penalty which may be
65 imposed or where the defendant has been convicted of a felony on a

66 previous occasion in any court or courts of the United States and
67 of any state or territories thereof, to suspend the imposition or
68 execution of sentence, and place the defendant on probation as
69 herein provided, except that the court shall not suspend the
70 execution of a sentence of imprisonment after the defendant shall
71 have begun to serve such sentence. In placing any defendant on
72 probation, the court, or judge, shall direct that such defendant
73 be under the supervision of the Department of Corrections.

74 (2) When any circuit or county court places an offender on
75 probation, the court shall give notice to the Mississippi
76 Department of Corrections within fifteen (15) days of the court's
77 decision to place the offender on probation. Notice shall be
78 delivered to the central office of the Mississippi Department of
79 Corrections and to the regional office of the department which
80 will be providing supervision to the offender on probation.

81 (3) When any circuit court or county court places a person
82 on probation in accordance with the provisions of this section and
83 that person is ordered to make any payments to his family, if any
84 member of his family whom he is ordered to support is receiving
85 public assistance through the State Department of Public Welfare,
86 the court shall order him to make such payments to the county
87 welfare officer of the county rendering public assistance to his
88 family, for the sole use and benefit of said family.

89 (4) If probation or parole is revoked by the court and the
90 offender is designated as a sex offender for unlawful sexual
91 activity involving a victim under sixteen (16) years of age and
92 the offender is eighteen (18) years of age or older, and if the
93 court imposes a subsequent term of supervision following the
94 revocation of supervision, the court must order electronic
95 monitoring as a condition of any subsequent term of probation or
96 parole.

97 **SECTION 6.** Section 47-7-34, Mississippi Code of 1972, is
98 amended as follows:

99 47-7-34. (1) When a court imposes a sentence upon a
100 conviction for any felony committed after June 30, 1995, the
101 court, in addition to any other punishment imposed if the other
102 punishment includes a term of incarceration in a state or local
103 correctional facility, may impose a term of post-release
104 supervision. However, the total number of years of incarceration
105 plus the total number of years of post-release supervision shall
106 not exceed the maximum sentence authorized to be imposed by law
107 for the felony committed. The defendant shall be placed under
108 post-release supervision upon release from the term of
109 incarceration. The period of supervision shall be established by
110 the court.

111 (2) The period of post-release supervision shall be
112 conducted in the same manner as a like period of supervised
113 probation, including a requirement that the defendant shall abide
114 by any terms and conditions as the court may establish. Failure
115 to successfully abide by the terms and conditions shall be grounds
116 to terminate the period of post-release supervision and to
117 recommit the defendant to the correctional facility from which he
118 was previously released. Procedures for termination and
119 recommitment shall be conducted in the same manner as procedures
120 for the revocation of probation and imposition of a suspended
121 sentence.

122 (3) Post-release supervision programs shall be operated
123 through the probation and parole unit of the Division of Community
124 Corrections of the department. The maximum amount of time that
125 the Mississippi Department of Corrections may supervise an
126 offender on the post-release supervision program is five (5)
127 years.

128 (4) The provisions of this section shall not affect the
129 ability of a court to impose a split sentence pursuant to Section
130 99-19-84 or 99-19-205.

131 **SECTION 7.** Section 47-7-37, Mississippi Code of 1972, is
132 amended as follows:

133 47-7-37. The period of probation shall be fixed by the
134 court, and may at any time be extended or terminated by the court,
135 or judge in vacation. Such period with any extension thereof
136 shall not exceed five (5) years, except that in cases of desertion
137 and/or failure to support minor children, the period of probation
138 may be fixed and/or extended by the court for so long as the duty
139 to support such minor children exists.

140 At any time during the period of probation the court, or
141 judge in vacation, may issue a warrant for violating any of the
142 conditions of probation or suspension of sentence and cause the
143 probationer to be arrested. Any probation and parole officer may
144 arrest a probationer without a warrant, or may deputize any other
145 officer with power of arrest to do so by giving him a written
146 statement setting forth that the probationer has, in the judgment
147 of the probation and parole officer, violated the conditions of
148 probation. Such written statement delivered with the probationer
149 by the arresting officer to the official in charge of a county
150 jail or other place of detention shall be sufficient warrant for
151 the detention of the probationer.

152 The probation and parole officer after making an arrest shall
153 present to the detaining authorities a similar statement of the
154 circumstances of violation. The probation and parole officer
155 shall at once notify the court of the arrest and detention of the
156 probationer and shall submit a report in writing showing in what
157 manner the probationer has violated the conditions of probation.
158 Thereupon, or upon an arrest by warrant as herein provided, the
159 court, in termtime or vacation, shall cause the probationer to be
160 brought before it and may continue or revoke all or any part of
161 the probation or the suspension of sentence, and may cause the
162 sentence imposed to be executed or may impose any part of the
163 sentence which might have been imposed at the time of conviction.

164 If the probationer is arrested in a circuit court district in
165 the State of Mississippi other than that in which he was
166 convicted, the probation and parole officer, upon the written
167 request of the sentencing judge, shall furnish to the circuit
168 court or the county court of the county in which the arrest is
169 made, or to the judge of such court, a report concerning the
170 probationer, and such court or the judge in vacation shall have
171 authority, after a hearing, to continue or revoke all or any part
172 of probation or all or any part of the suspension of sentence, and
173 may in case of revocation proceed to deal with the case as if
174 there had been no probation. In such case, the clerk of the court
175 in which the order of revocation is issued shall forward a
176 transcript of such order to the clerk of the court of original
177 jurisdiction, and the clerk of that court shall proceed as if the
178 order of revocation had been issued by the court of original
179 jurisdiction. Upon the revocation of probation or suspension of
180 sentence of any offender, such offender shall be placed in the
181 legal custody of the State Department of Corrections and shall be
182 subject to the requirements thereof.

183 Any probationer who removes himself from the State of
184 Mississippi without permission of the court placing him on
185 probation, or the court to which jurisdiction has been
186 transferred, shall be deemed and considered a fugitive from
187 justice and shall be subject to extradition as now provided by
188 law. No part of the time that one is on probation shall be
189 considered as any part of the time that he shall be sentenced to
190 serve.

191 The arresting officer, except when a probation and parole
192 officer, shall be allowed the same fees as now provided by law for
193 arrest on warrant, and such fees shall be taxed against the
194 probationer and paid as now provided by law.

195 The arrest, revocation and recommitment procedures of this
196 section also apply to persons who are serving a period of
197 post-release supervision imposed by the court.

198 The provisions of this section shall not affect the ability
199 of a court to impose a split sentence pursuant to Sections
200 99-19-84 or 99-19-205.

201 **SECTION 8.** This act shall take effect and be in force from
202 and after July 1, 2006.