

By: Representatives Mayo, Compretta, Gunn,
 Martinson, Reynolds, Moore, Formby, Wells-
 Smith

To: Corrections

HOUSE BILL NO. 192
 (As Passed the House)

1 AN ACT TO CREATE NEW SECTION 99-19-84, MISSISSIPPI CODE OF
 2 1972, TO AUTHORIZE ELECTRONIC SUPERVISION FOR CERTAIN SEX
 3 OFFENDERS UPON EXPIRATION OF ANY TERM OF INCARCERATION, AND TO
 4 REQUIRE CERTAIN SEX OFFENDERS TO BE ELECTRONICALLY MONITORED AND
 5 TO BE TESTED FOR SEXUAL ENHANCEMENT DRUGS; TO CREATE NEW SECTION
 6 47-5-1017, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF
 7 CORRECTIONS TO USE A CERTAIN SYSTEM WHEN ELECTRONICALLY MONITORING
 8 CERTAIN OFFENDERS; TO CREATE NEW SECTION 47-5-1019, MISSISSIPPI
 9 CODE OF 1972, TO PROVIDE THE PUNISHMENT FOR TAMPERING WITH AN
 10 ELECTRONIC MONITORING DEVICE; TO CREATE NEW SECTION 47-5-1020,
 11 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN SEX OFFENDERS
 12 SHALL PAY A PROGRAM FEE TO BE ELECTRONICALLY MONITORED; TO AMEND
 13 SECTIONS 47-7-37 AND 47-7-34, MISSISSIPPI CODE OF 1972, IN
 14 CONFORMITY THERETO; TO REQUIRE A FIRST-TIME OFFENDER WHO IS
 15 CONVICTED OF RECEIVING PORNOGRAPHY THROUGH THE INTERNET TO REPORT
 16 AS A SEXUAL OFFENDER FOR A CERTAIN PERIOD OF TIME; TO PROVIDE
 17 CRIMINAL PENALTIES FOR ANY PERSON WHO KNOWINGLY HOUSES A PERSON
 18 CONVICTED OF A SEX CRIME WHERE CHILDREN ARE PRESENT UNDER CERTAIN
 19 CIRCUMSTANCES; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** The following shall be codified as Section
 22 99-19-84, Mississippi Code of 1972:

23 99-19-84. (1) Any person who has, before the passage of
 24 this act, committed a sex offense or attempted sex offense as
 25 defined in Section 45-33-23 and is convicted thereof may be placed
 26 on electronic monitoring upon release from incarceration for the
 27 entire length of his or her parole, probation, post-release
 28 supervision, or other form of supervision by the Department of
 29 Corrections.

30 (2) Any person who commits a sex offense or attempted sex
 31 offense as defined in Section 45-33-23 on or after the effective
 32 date of this act and is convicted thereof may be placed on
 33 electronic monitoring upon release from incarceration for the
 34 entire length of his or her probation, post-release supervision,
 35 or other form of supervision by the Department of Corrections.

36 (3) Any person convicted on or after January 1, 2000, of
37 receiving pornography through the Internet and whose sentence
38 included house arrest followed by probation with no incarceration
39 in a state or federal prison shall be required to report as a
40 sexual offender to the proper authorities for a period not to
41 exceed the terms of such house arrest and probation. This
42 subsection shall apply only to first-time offenders.

43 (4) Any person who commits a sex offense or attempted sex
44 offense as defined in Section 45-33-23 on or after the effective
45 date of this act and is convicted thereof, and the unlawful
46 activity involved a victim who was under sixteen (16) years of age
47 and the offender was eighteen (18) years of age or older shall be
48 placed on electronic monitoring for life after his or her release
49 from incarceration.

50 (5) Any person who is placed on electronic monitoring, as
51 prescribed in this section, must submit to a monthly drug test to
52 detect the presence of sexual enhancement drugs. Such monthly
53 testing shall occur for the entire duration that the offender is
54 on electronic monitoring. The offender shall pay the costs of the
55 testing and such testing shall be administered by the department.

56 (6) Any person convicted of a misdemeanor in another state
57 but does not classify as a reportable sex offense in that state
58 shall not be considered as a sex offender in this state based on
59 the conviction of the foreign state.

60 **SECTION 2.** The following shall be codified as Section
61 47-5-1017, Mississippi Code of 1972:

62 47-5-1017. The department is authorize to electronically
63 monitor an offender sentenced pursuant to Section 99-19-84. The
64 department, when electronically monitoring a sex offender, must
65 use a system that monitors and identifies the offender's location
66 and timely reports or records the offender's presence near or
67 within prohibited areas or the offender's departure from specified
68 geographic limitations. The department shall promulgate rules

69 that prescribe reasonable guidelines under which electronic
70 monitoring shall be carried out pursuant to Section 99-19-84.

71 **SECTION 3.** The following shall be codified as Section
72 47-5-1019, Mississippi Code of 1972:

73 47-5-1019. A person who intentionally alters, tampers with,
74 damages or destroys any electronic monitoring equipment utilized
75 pursuant to Section 99-19-84, unless the person is the owner of
76 the equipment or an agent of the owner performing ordinary
77 maintenance and repairs, commits a felony punishable by
78 imprisonment not to exceed five (5) years in the custody of the
79 Department of Corrections.

80 **SECTION 4.** Section 47-7-34, Mississippi Code of 1972, is
81 amended as follows:

82 47-7-34. (1) When a court imposes a sentence upon a
83 conviction for any felony committed after June 30, 1995, the
84 court, in addition to any other punishment imposed if the other
85 punishment includes a term of incarceration in a state or local
86 correctional facility, may impose a term of post-release
87 supervision. However, the total number of years of incarceration
88 plus the total number of years of post-release supervision shall
89 not exceed the maximum sentence authorized to be imposed by law
90 for the felony committed. The defendant shall be placed under
91 post-release supervision upon release from the term of
92 incarceration. The period of supervision shall be established by
93 the court.

94 (2) The period of post-release supervision shall be
95 conducted in the same manner as a like period of supervised
96 probation, including a requirement that the defendant shall abide
97 by any terms and conditions as the court may establish. Failure
98 to successfully abide by the terms and conditions shall be grounds
99 to terminate the period of post-release supervision and to
100 recommit the defendant to the correctional facility from which he
101 was previously released. Procedures for termination and

102 recommitment shall be conducted in the same manner as procedures
103 for the revocation of probation and imposition of a suspended
104 sentence.

105 (3) Post-release supervision programs shall be operated
106 through the probation and parole unit of the Division of Community
107 Corrections of the department. The maximum amount of time that
108 the Mississippi Department of Corrections may supervise an
109 offender on the post-release supervision program is five (5)
110 years.

111 (4) The provisions of this section shall not affect the
112 electronic monitoring of a sex offender pursuant to Section
113 94-19-84.

114 **SECTION 5.** Section 47-7-37, Mississippi Code of 1972, is
115 amended as follows:

116 47-7-37. The period of probation shall be fixed by the
117 court, and may at any time be extended or terminated by the court,
118 or judge in vacation. Such period with any extension thereof
119 shall not exceed five (5) years, except that in cases of desertion
120 and/or failure to support minor children, the period of probation
121 may be fixed and/or extended by the court for so long as the duty
122 to support such minor children exists.

123 At any time during the period of probation the court, or
124 judge in vacation, may issue a warrant for violating any of the
125 conditions of probation or suspension of sentence and cause the
126 probationer to be arrested. Any probation and parole officer may
127 arrest a probationer without a warrant, or may deputize any other
128 officer with power of arrest to do so by giving him or her a
129 written statement setting forth that the probationer has, in the
130 judgment of the probation and parole officer, violated the
131 conditions of probation. Such written statement delivered with
132 the probationer by the arresting officer to the official in charge
133 of a county jail or other place of detention shall be sufficient
134 warrant for the detention of the probationer.

135 The probation and parole officer after making an arrest shall
136 present to the detaining authorities a similar statement of the
137 circumstances of violation. The probation and parole officer
138 shall at once notify the court of the arrest and detention of the
139 probationer and shall submit a report in writing showing in what
140 manner the probationer has violated the conditions of probation.
141 Thereupon, or upon an arrest by warrant as herein provided, the
142 court, in termtime or vacation, shall cause the probationer to be
143 brought before it and may continue or revoke all or any part of
144 the probation or the suspension of sentence, and may cause the
145 sentence imposed to be executed or may impose any part of the
146 sentence which might have been imposed at the time of conviction.

147 If the probationer is arrested in a circuit court district in
148 the State of Mississippi other than that in which he or she was
149 convicted, the probation and parole officer, upon the written
150 request of the sentencing judge, shall furnish to the circuit
151 court or the county court of the county in which the arrest is
152 made, or to the judge of such court, a report concerning the
153 probationer, and such court or the judge in vacation shall have
154 authority, after a hearing, to continue or revoke all or any part
155 of probation or all or any part of the suspension of sentence, and
156 may in case of revocation proceed to deal with the case as if
157 there had been no probation. In such case, the clerk of the court
158 in which the order of revocation is issued shall forward a
159 transcript of such order to the clerk of the court of original
160 jurisdiction, and the clerk of that court shall proceed as if the
161 order of revocation had been issued by the court of original
162 jurisdiction. Upon the revocation of probation or suspension of
163 sentence of any offender, such offender shall be placed in the
164 legal custody of the State Department of Corrections and shall be
165 subject to the requirements thereof.

166 Any probationer who removes himself or herself from the State
167 of Mississippi without permission of the court placing him on

168 probation, or the court to which jurisdiction has been
169 transferred, shall be deemed and considered a fugitive from
170 justice and shall be subject to extradition as now provided by
171 law. No part of the time that one is on probation shall be
172 considered as any part of the time that he or she shall be
173 sentenced to serve.

174 The arresting officer, except when a probation and parole
175 officer, shall be allowed the same fees as now provided by law for
176 arrest on warrant, and such fees shall be taxed against the
177 probationer and paid as now provided by law.

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

181 The provisions of this section shall not affect electronic
182 monitoring of a sex offender pursuant to Section 99-19-84.

183 **SECTION 6.** The following shall be codified as Section
184 47-5-1020, Mississippi Code of 1972:

185 47-5-1020. Sex offenders who are electronically monitored by
186 the department, pursuant to Section 99-19-84, shall pay fees as
187 directed by the department. Program fees shall not be less than
188 Seventy-five Dollars (\$75.00) per month except in cases of extreme
189 financial hardship as determined by the department.

190 **SECTION 7.** It shall be unlawful to knowingly house a person
191 convicted of a sex crime in any home where children are present
192 and where such arrangement has been approved by the sheriff of the
193 county. Any person who violates the provisions of this act shall
194 be guilty of a misdemeanor and, upon conviction, be fined One
195 Thousand Dollars (\$1,000.00) and shall forfeit any TANF benefits
196 for three (3) months. The Department of Human Services shall
197 determine whether any children affected by violation of this
198 section shall be placed in another home or in foster care.

199 **SECTION 8.** This act shall take effect and be in force from
200 and after July 1, 2007.