

By: Representative Warren

To: Corrections

HOUSE BILL NO. 583

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 AS AN ALTERNATIVE TO  
4 INCARCERATION, ESTABLISHES RULES AND GUIDELINES FOR OPERATION OF  
5 THE PROGRAM AND PROVIDES PAYMENT OF FEES BY PARTICIPANTS FOR SUCH  
6 PROGRAM; TO AMEND SECTION 47-5-1015, MISSISSIPPI CODE OF 1972, TO  
7 EXTEND THE DATE OF REPEAL ON THOSE REENACTED SECTIONS; AND FOR  
8 RELATED PURPOSES.

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

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

12 47-5-1001. For purposes of Sections 47-5-1001 through  
13 47-5-1015, the following words shall have the meaning ascribed  
14 herein unless the context shall otherwise require:

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

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

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

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

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

28 (f) "Operating capacity" means the total number of  
29 state offenders which can be safely and reasonably housed in  
30 facilities operated by the department and in local or county jails

31 or other facilities authorized to house state offenders as  
32 certified by the department, subject to applicable federal and  
33 state laws and rules and regulations.

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

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

38 47-5-1003. (1) An intensive supervision program may be used  
39 as an alternative to incarceration for offenders who are low risk  
40 and nonviolent as selected by the department or court. Any  
41 offender convicted of a sex crime or a felony violation of Section  
42 41-29-139(a)(1) shall not be placed in the program.

43 (2) The court placing an offender in the intensive  
44 supervision program may, acting upon the advice and consent of the  
45 commissioner and not later than one (1) year after the defendant  
46 has been delivered to the custody of the department, suspend the  
47 further execution of the sentence and place the defendant on  
48 intensive supervision, except when a death sentence or life  
49 imprisonment is the maximum penalty which may be imposed or if the  
50 defendant has been confined for the conviction of a felony on a  
51 previous occasion in any court or courts of the United States and  
52 of any state or territories thereof or has been convicted of a  
53 felony involving the use of a deadly weapon.

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

61 (4) When any circuit or county court places an offender in  
62 an intensive supervision program, the court shall give notice to  
63 the Mississippi Department of Corrections within fifteen (15) days

64 of the court's decision to place the offender in an intensive  
65 supervision program. Notice shall be delivered to the central  
66 office of the Mississippi Department of Corrections and to the  
67 regional office of the department which will be providing  
68 supervision to the offender in an intensive supervision program.

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

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

74 47-5-1005. (1) The department shall promulgate rules that  
75 prescribe reasonable guidelines under which an intensive  
76 supervision program shall operate. These rules shall include, but  
77 not be limited to, the following:

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

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

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

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

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

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

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

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

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

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

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

108 47-5-1007. (1) Any participant in the intensive supervision  
109 program who engages in employment shall pay a monthly fee to the  
110 department for each month such person is enrolled in the program.  
111 The department may waive the monthly fee if the offender is a  
112 full-time student or is engaged in vocational training. Money  
113 received by the department from participants in the program shall  
114 be deposited into a special fund which is hereby created in the  
115 State Treasury. It shall be used, upon appropriation by the  
116 Legislature, for the purpose of helping to defray the costs  
117 involved in administering and supervising such program.  
118 Unexpended amounts remaining in such special fund at the end of a  
119 fiscal year shall not lapse into the State General Fund, and any  
120 interest earned on amounts in such special fund shall be deposited  
121 to the credit of the special fund.

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

125 (3) The participant shall make the necessary arrangements to  
126 allow for correctional officers to visit the participant's place  
127 of education or employment at any time, based upon the approval of  
128 the educational institution or employer, for the purpose of

129 verifying the participant's compliance with the conditions of his  
130 detention.

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

135 (5) The participant shall be responsible for and shall  
136 maintain the following:

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

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

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

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

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

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

150 (9) The participant shall abide by other conditions as set  
151 by the department.

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

154 47-5-1009. (1) The department shall have absolute immunity  
155 from liability for any injury resulting from a determination by a  
156 judge or correctional officer that an offender shall be allowed to  
157 participate in the electronic home detention program.

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

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

163           47-5-1011. (1) Before entering an order for commitment for  
164 electronic house arrest, the department shall inform the  
165 participant and other persons residing in the home of the nature  
166 and extent of the approved electronic monitoring devices by doing  
167 the following:

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

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

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

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

184           (3) Any person whose residence is utilized in the program  
185 shall agree to keep the home drug and alcohol free and to exclude  
186 known felons and criminals in order to provide a noncriminal  
187 environment.

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

190           47-5-1013. Participants enrolled in an intensive supervision  
191 program shall be required to:

192                   (a) Maintain employment if physically able, or  
193 full-time student status at an approved school or vocational

194 trade, and make progress deemed satisfactory to the correctional  
195 field officer, or both, or be involved in supervised job searches.

196 (b) Pay restitution and program fees as directed by the  
197 department. Program fees shall not be less than Seventy-five  
198 Dollars (\$75.00) per month. The sentencing judge may charge a  
199 program fee of less than Seventy-five Dollars (\$75.00) per month  
200 in cases of extreme financial hardship, when such judge determines  
201 that the offender's participation in the program would provide a  
202 benefit to his community. Program fees shall be deposited in the  
203 special fund created in Section 47-5-1007.

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

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

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

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

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

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

222 47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand  
223 repealed after June 30, 2008.

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