

By: Representative Scott

To: Juvenile Justice; Public Health and Human Services

HOUSE BILL NO. 873

1 AN ACT TO CREATE AN INTENSIVE SUPERVISION PROGRAM TO BE KNOWN
2 AS THE "HOME DETENTION FOR JUVENILES PROGRAM" FOR THE PLACEMENT OF
3 JUVENILES UNDER HOUSE ARREST; TO REQUIRE THE DEPARTMENT OF HUMAN
4 SERVICES TO ESTABLISH THE PROGRAM AS A DISPOSITIONAL ALTERNATIVE
5 IN DELINQUENCY CASES AND TO PROMULGATE RULES FOR PARTICIPATION IN
6 THE PROGRAM; TO REQUIRE PARTICIPANTS TO PAY A MONTHLY FEE TO HELP
7 DEFRAY THE COSTS OF THE PROGRAM; TO AMEND SECTION 43-21-605,
8 MISSISSIPPI CODE OF 1972, TO ESTABLISH PLACEMENT IN THE INTENSIVE
9 SUPERVISION PROGRAM AS A DISPOSITIONAL ALTERNATIVE IN DELINQUENCY
10 CASES; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** (1) For purposes of this section, the following
13 words and phrases shall have the meaning ascribed in this
14 subsection, unless the context requires otherwise:

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 child's presence or
18 nonpresence in the home.

19 (b) "Court" means any court of this state having
20 jurisdiction to place a juvenile offender in the Home Detention
21 for Juveniles Program.

22 (c) "Department" means the Department of Human
23 Services.

24 (d) "Home Detention for Juveniles Program" means the
25 intensive supervision program operated by the department for the
26 placement of certain juveniles under house arrest.

27 (e) "House arrest" means the confinement of a juvenile,
28 as a dispositional alternative in a delinquency case, to his place
29 of residence under the terms and conditions established by the
30 department or court.

31 (f) "Participant" means a juvenile placed into the Home
32 Detention for Juveniles Program.

33 (2) The Department of Human Services, Office of Youth
34 Services, shall establish an intensive supervision program that
35 may be used as a dispositional alternative in delinquency cases
36 for children who are low risk and nonviolent as selected by the
37 department or court. The program shall accommodate no less than
38 one thousand five hundred (1,500) children. Any child convicted
39 of a sex crime may not be placed in the program.

40 (3) The department shall promulgate rules that participants
41 enrolled in the intensive supervision program shall be required to
42 follow. The rules shall include, but not be limited to, the
43 following:

44 (a) Each child referred to the program must take an
45 alcohol and drug test before being placed in the program. The
46 department shall assess the child or the child's legal guardian a
47 fee of Ten Dollars (\$10.00) to apply toward the cost of the test.
48 If the test results are positive, the child must receive alcohol
49 and drug treatment during his participation in the program.

50 (b) A participant must remain within the interior
51 premises or within the property boundaries of his or her residence
52 at all times during the hours designated by the department.

53 (c) Approved absences from the home shall include, but
54 are not limited to:

55 (i) Attendance on a full-time basis at an approved
56 school or in an alternative school program;

57 (ii) Attendance at an inpatient or outpatient
58 treatment facility for alcohol and drug dependence; and

59 (iii) Attendance at an educational facility for
60 the purpose of preparing to take the General Educational
61 Development (GED) test.

62 (d) No child shall be placed in the program for a
63 period of less than six (6) months.

64 (e) A participant must meet any other condition imposed
65 by the court to meet the needs of the participant and to limit the
66 risks to the community.

67 (4) The department shall select and approve all electronic
68 monitoring devices used under this section. The department may
69 lease the equipment necessary to implement the intensive
70 supervision program and may contract for the monitoring of such
71 devices. The department shall select the best source and price in
72 contracting for such services.

73 (5) Each participant in the intensive supervision program
74 shall pay a monthly fee to the department for each month such
75 person is enrolled in the program. The fee shall be no less than
76 Ten Dollars (\$10.00) and not more than Fifty Dollars (\$50.00) per
77 month, as determined by the department on a sliding scale using
78 the standard of need for each family that is used to calculate
79 TANF benefits. The fee shall be in addition to any criminal or
80 civil fines assessed against the offender. Money received by the
81 department from participants shall be used for the purpose of
82 helping to defray the costs involved in administering and
83 supervising the program.

84 (6) If any participant violates the terms or conditions of
85 his or her participation in the intensive supervision program, the
86 court may amend the disposition order to impose any disposition
87 alternative under Section 43-21-605 which the court could have
88 originally ordered.

89 **SECTION 2.** Section 43-21-605, Mississippi Code of 1972, is
90 amended as follows:

91 43-21-605. (1) In delinquency cases, the disposition order
92 may include any of the following alternatives:

93 (a) Release the child without further action;

94 (b) Place the child in the custody of the parents, a
95 relative or other persons subject to any conditions and

96 limitations, including restitution, as the youth court may
97 prescribe;

98 (c) Place the child on probation subject to any
99 reasonable and appropriate conditions and limitations, including
100 restitution, as the youth court may prescribe;

101 (d) Order terms of treatment calculated to assist the
102 child and the child's parents or guardian which are within the
103 ability of the parent or guardian to perform;

104 (e) Order terms of supervision which may include
105 participation in a constructive program of service or education or
106 civil fines not in excess of Five Hundred Dollars (\$500.00), or
107 restitution not in excess of actual damages caused by the child to
108 be paid out of his own assets or by performance of services
109 acceptable to the victims and approved by the youth court and
110 reasonably capable of performance within one (1) year;

111 (f) Suspend the child's driver's license by taking and
112 keeping it in custody of the court for not more than one (1) year;

113 (g) Give legal custody of the child to any of the
114 following:

115 (i) The Department of Human Services for
116 appropriate placement; or

117 (ii) Any public or private organization,
118 preferably community-based, able to assume the education, care and
119 maintenance of the child, which has been found suitable by the
120 court; or

121 (iii) The Department of Human Services for
122 placement in a wilderness training program or the Division of
123 Youth Services for placement in a state-supported training school,
124 except that no child under the age of ten (10) years shall be
125 committed to a state training school, and no first-time nonviolent
126 youth offenders shall be committed to a state training school
127 until all other options provided for in this section have been
128 considered and the court makes a specific finding of fact that

129 commitment is appropriate. The training school may retain custody
130 of the child until the child's twentieth birthday but for no
131 longer. When the child is committed to a training school, the
132 child shall remain in the legal custody of the training school
133 until the child has made sufficient progress in treatment and
134 rehabilitation and it is in the best interest of the child to
135 release the child. However, the superintendent of a state
136 training school, in consultation with the treatment team, may
137 parole a child at any time he may deem it in the best interest and
138 welfare of such child. Twenty (20) days prior to such parole, the
139 training school shall notify the committing court of the pending
140 release. The youth court may then arrange subsequent placement
141 after a reconvened disposition hearing, except that the youth
142 court may not recommit the child to the training school or any
143 other secure facility without an adjudication of a new offense or
144 probation or parole violation. Prior to assigning the custody of
145 any child to any private institution or agency, the youth court
146 through its designee shall first inspect the physical facilities
147 to determine that they provide a reasonable standard of health and
148 safety for the child. No child shall be placed in the custody of
149 a state training school for a status offense or for contempt of or
150 revocation of a status offense adjudication unless the child is
151 contemporaneously adjudicated for having committed an act of
152 delinquency that is not a status offense. A disposition order
153 rendered under this subparagraph shall meet the following
154 requirements:

155 1. The disposition is the least restrictive
156 alternative appropriate to the best interest of the child and the
157 community;

158 2. The disposition allows the child to be in
159 reasonable proximity to the family home community of each child
160 given the dispositional alternatives available and the best
161 interest of the child and the state; and

162 3. The disposition order provides that the
163 court has considered the medical, educational, vocational, social
164 and psychological guidance, training, social education,
165 counseling, substance abuse treatment and other rehabilitative
166 services required by that child as determined by the court;

167 (iv) The Department of Human Services for
168 placement in the Home Detention for Juveniles Program created
169 under Section 1 of this act;

170 (h) Recommend to the child and the child's parents or
171 guardian that the child attend and participate in the Youth
172 Challenge Program under the Mississippi National Guard, as created
173 in Section 43-27-203, subject to the selection of the child for
174 the program by the National Guard; however, the child must
175 volunteer to participate in the program. The youth court shall
176 not order any child to apply or attend the program;

177 (i) (i) Adjudicate the juvenile to the Statewide
178 Juvenile Work Program if the program is established in the court's
179 jurisdiction. The juvenile and his parents or guardians must sign
180 a waiver of liability in order to participate in the work program.
181 The judge will coordinate with the youth services counselors as to
182 placing participants in the work program;

183 (ii) The severity of the crime, whether or not the
184 juvenile is a repeat offender or is a felony offender will be
185 taken into consideration by the judge when adjudicating a juvenile
186 to the work program. The juveniles adjudicated to the work
187 program will be supervised by police officers or reserve officers.
188 The term of service will be from twenty-four (24) to one hundred
189 twenty (120) hours of community service. A juvenile will work the
190 hours to which he was adjudicated on the weekends during school
191 and weekdays during the summer. Parents are responsible for a
192 juvenile reporting for work. Noncompliance with an order to
193 perform community service will result in a heavier adjudication.

194 A juvenile may be adjudicated to the community service program
195 only two (2) times;

196 (iii) The judge shall assess an additional fine on
197 the juvenile which will be used to pay the costs of implementation
198 of the program and to pay for supervision by police officers and
199 reserve officers. The amount of the fine will be based on the
200 number of hours to which the juvenile has been adjudicated;

201 (j) Order the child to participate in a youth court
202 work program as provided in Section 43-21-627; * * *

203 (k) Order the child into a juvenile detention center
204 operated by the county or into a juvenile detention center
205 operated by any county with which the county in which the court is
206 located has entered into a contract for the purpose of housing
207 delinquents. The time period for such detention cannot exceed
208 ninety (90) days, and any detention exceeding forty-five (45) days
209 shall be administratively reviewed by the youth court no later
210 than forty-five (45) days after the entry of the order. The youth
211 court judge may order that the number of days specified in the
212 detention order be served either throughout the week or on
213 weekends only. No first-time nonviolent youth offender shall be
214 committed to a detention center for a period of ninety (90) days
215 until all other options provided for in this section have been
216 considered and the court makes a specific finding of fact that
217 commitment to a detention center is appropriate. However, if a
218 child is committed to a detention center ninety (90) consecutive
219 days, the disposition order shall meet the following requirements:

220 (i) The disposition order is the least restrictive
221 alternative appropriate to the best interest of the child and the
222 community;

223 (ii) The disposition order allows the child to be
224 in reasonable proximity to the family home community of each child
225 given the dispositional alternatives available and the best
226 interest of the child and the state; and

227 (iii) The disposition order provides that the
228 court has considered the medical, educational, vocational, social
229 and psychological guidance, training, social education,
230 counseling, substance abuse treatment and other rehabilitative
231 services required by that child as determined by the court; or

232 (1) Referral to A-team provided system of care
233 services.

234 (2) In addition to any of the disposition alternatives
235 authorized under subsection (1) of this section, the disposition
236 order in any case in which the child is adjudicated delinquent for
237 an offense under Section 63-11-30 shall include an order denying
238 the driver's license and driving privileges of the child as
239 required under Section 63-11-30(9).

240 (3) If the youth court places a child in a state-supported
241 training school, the court may order the parents or guardians of
242 the child and other persons living in the child's household to
243 receive counseling and parenting classes for rehabilitative
244 purposes while the child is in the legal custody of the training
245 school. A youth court entering an order under this subsection (3)
246 shall utilize appropriate services offered either at no cost or
247 for a fee calculated on a sliding scale according to income unless
248 the person ordered to participate elects to receive other
249 counseling and classes acceptable to the court at the person's
250 sole expense.

251 (4) Fines levied under this chapter shall be paid into the
252 general fund of the county but, in those counties wherein the
253 youth court is a branch of the municipal government, it shall be
254 paid into the municipal treasury.

255 (5) Any institution or agency to which a child has been
256 committed shall give to the youth court any information concerning
257 the child as the youth court may at any time require.

258 (6) The youth court shall not place a child in another
259 school district who has been expelled from a school district for

260 the commission of a violent act. For the purpose of this
261 subsection, "violent act" means any action which results in death
262 or physical harm to another or an attempt to cause death or
263 physical harm to another.

264 (7) The youth court may require drug testing as part of a
265 disposition order. If a child tests positive, the court may
266 require treatment, counseling and random testing, as it deems
267 appropriate. The costs of such tests shall be paid by the parent,
268 guardian or custodian of the child unless the court specifically
269 finds that the parent, guardian or custodian is unable to pay.

270 (8) The Mississippi Department of Human Services, Division
271 of Youth Services, shall operate and maintain services for youth
272 adjudicated delinquent at Columbia and Oakley Training Schools.
273 The program shall be designed for children committed to the
274 training schools by the youth courts. The purpose of the program
275 is to promote good citizenship, self-reliance, leadership and
276 respect for constituted authority, teamwork, cognitive abilities
277 and appreciation of our national heritage. The Division of Youth
278 Services shall issue credit towards academic promotions and high
279 school completion. The Division of Youth Services may award
280 credits to each student who meets the requirements for a general
281 education development certification. The Division of Youth
282 Services must also provide to each special education eligible
283 youth the services required by that youth's individualized
284 education plan.

285 **SECTION 3.** This act shall take effect and be in force from
286 and after July 1, 2006.