

By: Representatives Malone, Baker (74th),
Smith (59th), Moore

To: Corrections

HOUSE BILL NO. 1000

1 AN ACT TO AMEND SECTIONS 47-7-3, 47-7-5, 47-7-33, 47-7-34,
2 47-7-35 AND 47-5-1013, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
3 USE OF ELECTRONIC MONITORING INCLUDING GLOBAL POSITIONING
4 MONITORING FOR PAROLEES AND PROBATIONERS; TO AMEND SECTION
5 47-5-1015, MISSISSIPPI CODE OF 1972, TO REMOVE THE REPEALER ON THE
6 INTENSIVE SUPERVISION PROGRAM; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 47-7-3, Mississippi Code of 1972, is
9 amended as follows:

10 47-7-3. (1) Every prisoner who has been convicted of any
11 offense against the State of Mississippi, and is confined in the
12 execution of a judgment of such conviction in the Mississippi
13 Department of Corrections for a definite term or terms of one (1)
14 year or over, or for the term of his or her natural life, whose
15 record of conduct shows that such prisoner has observed the rules
16 of the department, and who has served not less than one-fourth
17 (1/4) of the total of such term or terms for which such prisoner
18 was sentenced, or, if sentenced to serve a term or terms of thirty
19 (30) years or more, or, if sentenced for the term of the natural
20 life of such prisoner, has served not less than ten (10) years of
21 such life sentence, may be released on parole as hereinafter
22 provided, except that:

23 (a) No prisoner convicted as a confirmed and habitual
24 criminal under the provisions of Sections 99-19-81 through
25 99-19-87 shall be eligible for parole;

26 (b) Any person who shall have been convicted of a sex
27 crime shall not be released on parole except for a person under
28 the age of nineteen (19) who has been convicted under Section
29 97-3-67;

30 (c) No one shall be eligible for parole until he shall
31 have served one (1) year of his sentence, unless such person has
32 accrued any meritorious earned time allowances, in which case he
33 shall be eligible for parole if he has served (i) nine (9) months
34 of his sentence or sentences, when his sentence or sentences is
35 two (2) years or less; (ii) ten (10) months of his sentence or
36 sentences when his sentence or sentences is more than two (2)
37 years but no more than five (5) years; and (iii) one (1) year of
38 his sentence or sentences when his sentence or sentences is more
39 than five (5) years;

40 (d) (i) No person shall be eligible for parole who
41 shall, on or after January 1, 1977, be convicted of robbery or
42 attempted robbery through the display of a firearm until he shall
43 have served ten (10) years if sentenced to a term or terms of more
44 than ten (10) years or if sentenced for the term of the natural
45 life of such person. If such person is sentenced to a term or
46 terms of ten (10) years or less, then such person shall not be
47 eligible for parole. The provisions of this paragraph (d) shall
48 also apply to any person who shall commit robbery or attempted
49 robbery on or after July 1, 1982, through the display of a deadly
50 weapon. This subparagraph (d)(i) shall not apply to persons
51 convicted after September 30, 1994;

52 (ii) No person shall be eligible for parole who
53 shall, on or after October 1, 1994, be convicted of robbery,
54 attempted robbery or carjacking as provided in Section 97-3-115 et
55 seq., through the display of a firearm or drive-by shooting as
56 provided in Section 97-3-109. The provisions of this subparagraph
57 (d)(ii) shall also apply to any person who shall commit robbery,
58 attempted robbery, carjacking or a drive-by shooting on or after
59 October 1, 1994, through the display of a deadly weapon;

60 (e) No person shall be eligible for parole who, on or
61 after July 1, 1994, is charged, tried, convicted and sentenced to

62 life imprisonment without eligibility for parole under the
63 provisions of Section 99-19-101;

64 (f) No person shall be eligible for parole who is
65 charged, tried, convicted and sentenced to life imprisonment under
66 the provisions of Section 99-19-101;

67 (g) No person shall be eligible for parole who is
68 convicted or whose suspended sentence is revoked after June 30,
69 1995, except that a first offender convicted of a nonviolent crime
70 after January 1, 2000, may be eligible for parole if the offender
71 meets the requirements in subsection (1) and this paragraph. In
72 addition to other requirements, if a first offender is convicted
73 of a drug or driving under the influence felony, the offender must
74 complete a drug and alcohol rehabilitation program prior to parole
75 or the offender may be required to complete a post-release drug
76 and alcohol program as a condition of parole. For purposes of
77 this paragraph, "nonviolent crime" means a felony other than
78 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
79 occupied dwelling, aggravated assault, kidnapping, felonious abuse
80 of vulnerable adults, felonies with enhanced penalties, the sale
81 or manufacture of a controlled substance under the Uniform
82 Controlled Substances Law, felony child abuse, or any crime under
83 Section 97-5-33 or Section 97-5-39(2) or a violation of Section
84 63-11-30(5) resulting in death, or serious bodily injury resulting
85 in the loss of a limb or dismemberment, loss of eyesight, a coma,
86 permanent dysfunction of any vital organ, paralysis or resulting
87 in an individual's permanent bedridden state. For purposes of
88 this paragraph, "first offender" means a person who at the time of
89 sentencing has not been convicted of a felony on a previous
90 occasion in any court or courts of the United States or in any
91 state or territory thereof. In addition, a first time offender
92 incarcerated for committing the crime of possession of a
93 controlled substance under the Uniform Controlled Substances Law

94 after July 1, 1995, shall be eligible for parole as provided for
95 such offenders in this paragraph after July 1, 2000.

96 (2) Notwithstanding any other provision of law, an inmate
97 shall not be eligible to receive earned time, good time or any
98 other administrative reduction of time which shall reduce the time
99 necessary to be served for parole eligibility as provided in
100 subsection (1) of this section; however, this subsection shall not
101 apply to the advancement of parole eligibility dates pursuant to
102 the Prison Overcrowding Emergency Powers Act or the use of
103 electronic monitoring which shall include global positioning
104 monitoring. Moreover, meritorious earned time allowances may be
105 used to reduce the time necessary to be served for parole
106 eligibility as provided in paragraph (c) of subsection (1) of this
107 section.

108 (3) (a) The State Parole Board shall by rules and
109 regulations establish a method of determining a tentative parole
110 hearing date for each eligible offender taken into the custody of
111 the Department of Corrections. The tentative parole hearing date
112 shall be determined within ninety (90) days after the department
113 has assumed custody of the offender. Such tentative parole
114 hearing date shall be calculated by a formula taking into account
115 the offender's age upon first commitment, number of prior
116 incarcerations, prior probation or parole failures, the severity
117 and the violence of the offense committed, employment history and
118 other criteria which in the opinion of the board tend to validly
119 and reliably predict the length of incarceration necessary before
120 the offender can be successfully paroled.

121 (b) [Repealed].

122 (4) Any inmate within twenty-four (24) months of his parole
123 eligibility date and who meets the criteria established by the
124 classification board shall receive priority for placement in any
125 educational development and job training programs. Any inmate

126 refusing to participate in an educational development or job
127 training program may be ineligible for parole.

128 **SECTION 2.** Section 47-7-5, Mississippi Code of 1972, is
129 amended as follows:

130 47-7-5. (1) The State Parole Board, created under former
131 Section 47-7-5, is hereby created, continued and reconstituted and
132 shall be composed of five (5) members. The Governor shall appoint
133 the members with the advice and consent of the Senate. All terms
134 shall be at the will and pleasure of the Governor. Any vacancy
135 shall be filled by the Governor, with the advice and consent of
136 the Senate. The Governor shall appoint a chairman of the board.

137 (2) Any person who is appointed to serve on the board shall
138 possess at least a bachelor's degree or a high school diploma and
139 four (4) years' work experience. Each member shall devote his
140 full time to the duties of his office and shall not engage in any
141 other business or profession or hold any other public office. A
142 member shall not receive compensation or per diem in addition to
143 his salary as prohibited under Section 25-3-38. Each member shall
144 keep such hours and workdays as required of full-time state
145 employees under Section 25-1-98. Individuals shall be appointed
146 to serve on the board without reference to their political
147 affiliations. Each board member, including the chairman, may be
148 reimbursed for actual and necessary expenses as authorized by
149 Section 25-3-41; but a member shall not be reimbursed for travel
150 expenses from his residence to the nearest State Penitentiary.

151 (3) The board shall have exclusive responsibility for the
152 granting of parole as provided by Sections 47-7-3 and 47-7-17 and
153 shall have exclusive authority for revocation of the same. The
154 board shall have exclusive responsibility for investigating
155 clemency recommendations upon request of the Governor.

156 (4) The board, its members and staff, shall be immune from
157 civil liability for any official acts taken in good faith and in
158 exercise of the board's legitimate governmental authority.

159 (5) The budget of the board shall be funded through a
160 separate line item within the general appropriation bill for the
161 support and maintenance of the department. Employees of the
162 department which are employed by or assigned to the board shall
163 work under the guidance and supervision of the board. There shall
164 be an executive secretary to the board who shall be responsible
165 for all administrative and general accounting duties related to
166 the board. The executive secretary shall keep and preserve all
167 records and papers pertaining to the board.

168 (6) The board shall have no authority or responsibility for
169 supervision of offenders granted a release for any reason,
170 including, but not limited to, probation, parole or executive
171 clemency or other offenders requiring the same through interstate
172 compact agreements. The supervision shall be provided exclusively
173 by the staff of the Division of Community Corrections of the
174 department.

175 (7) (a) The Parole Board is authorized to select and place
176 offenders in an electronic monitoring program, including the use
177 of global positioning monitoring, under the conditions and
178 criteria imposed by the Parole Board. The conditions,
179 restrictions and requirements of Section 47-7-17 and Sections
180 47-5-1001 through 47-5-1015 shall apply to the Parole Board and
181 any offender placed in an electronic monitoring program by the
182 Parole Board.

183 (b) Any offender placed in an electronic monitoring
184 program under this subsection shall pay the program fee provided
185 in Section 47-5-1013. The program fees shall be deposited in the
186 special fund created in Section 47-5-1007.

187 (c) The department shall have absolute immunity from
188 liability for any injury resulting from a determination by the
189 Parole Board that an offender be placed in an electronic
190 monitoring program.

191 (8) (a) The Parole Board shall maintain a central registry
192 of paroled inmates. The Parole Board shall place the following
193 information on the registry: name, address, photograph, crime for
194 which paroled, the date of the end of parole or flat-time date and
195 other information deemed necessary. The Parole Board shall
196 immediately remove information on a parolee at the end of his
197 parole or flat-time date.

198 (b) When a person is placed on parole, the Parole Board
199 shall inform the parolee of the duty to report to the Parole
200 Officer any change in address ten (10) days before changing
201 address.

202 (c) The Parole Board shall utilize an Internet web site
203 or other electronic means to release or publish the information.

204 (d) Records maintained on the registry shall be open to
205 law enforcement agencies and the public and shall be available no
206 later than July 1, 2003.

207 (9) This section shall stand repealed on July 1, 2006.

208 **SECTION 3.** Section 47-7-33, Mississippi Code of 1972, is
209 amended as follows:

210 47-7-33. (1) When it appears to the satisfaction of any
211 circuit court or county court in the State of Mississippi having
212 original jurisdiction over criminal actions, or to the judge
213 thereof, that the ends of justice and the best interest of the
214 public, as well as the defendant, will be served thereby, such
215 court, in termtime or in vacation, shall have the power, after
216 conviction or a plea of guilty, except in a case where a death
217 sentence or life imprisonment is the maximum penalty which may be
218 imposed or where the defendant has been convicted of a felony on a
219 previous occasion in any court or courts of the United States and
220 of any state or territories thereof, to suspend the imposition or
221 execution of sentence, and place the defendant on probation as
222 herein provided, except that the court shall not suspend the
223 execution of a sentence of imprisonment after the defendant shall

224 have begun to serve such sentence. In placing any defendant on
225 probation, the court, or judge, shall direct that such defendant
226 be under the supervision of the Department of Corrections.

227 (2) When any circuit or county court places an offender on
228 probation, the court shall give notice to the Mississippi
229 Department of Corrections within fifteen (15) days of the court's
230 decision to place the offender on probation. Notice shall be
231 delivered to the central office of the Mississippi Department of
232 Corrections and to the regional office of the department which
233 will be providing supervision to the offender on probation.

234 (3) When any circuit court or county court places a person
235 on probation in accordance with the provisions of this section and
236 that person is ordered to make any payments to his family, if any
237 member of his family whom he is ordered to support is receiving
238 public assistance through the State Department of Public Welfare,
239 the court shall order him to make such payments to the county
240 welfare officer of the county rendering public assistance to his
241 family, for the sole use and benefit of said family.

242 (4) The use of electronic monitoring, including global
243 positioning monitoring, is authorized to carry out the provisions
244 of this section.

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

247 47-7-34. (1) When a court imposes a sentence upon a
248 conviction for any felony committed after June 30, 1995, the
249 court, in addition to any other punishment imposed if the other
250 punishment includes a term of incarceration in a state or local
251 correctional facility, may impose a term of post-release
252 supervision. However, the total number of years of incarceration
253 plus the total number of years of post-release supervision shall
254 not exceed the maximum sentence authorized to be imposed by law
255 for the felony committed. The defendant shall be placed under
256 post-release supervision upon release from the term of

257 incarceration. The period of supervision shall be established by
258 the court.

259 (2) The period of post-release supervision shall be
260 conducted in the same manner as a like period of supervised
261 probation, including a requirement that the defendant shall abide
262 by any terms and conditions as the court may establish. Failure
263 to successfully abide by the terms and conditions shall be grounds
264 to terminate the period of post-release supervision and to
265 recommit the defendant to the correctional facility from which he
266 was previously released. Procedures for termination and
267 recommitment shall be conducted in the same manner as procedures
268 for the revocation of probation and imposition of a suspended
269 sentence.

270 (3) Post-release supervision programs shall be operated
271 through the probation and parole unit of the Division of Community
272 Corrections of the department. The maximum amount of time that
273 the Mississippi Department of Corrections may supervise an
274 offender on the post-release supervision program is five (5)
275 years.

276 (4) The use of electronic monitoring, including global
277 positioning monitoring, is authorized to carry out the provisions
278 of this section.

279 **SECTION 5.** Section 47-7-35, Mississippi Code of 1972, is
280 amended as follows:

281 47-7-35. The courts referred to in Section 47-7-33 or
282 47-7-34 shall determine the terms and conditions of probation or
283 post-release supervision and may alter or modify, at any time
284 during the period of probation or post-release supervision the
285 conditions and may include among them the following or any other:

286 That the, offender shall:

287 (a) Commit no offense against the laws of this or any
288 other state of the United States, or of the United States;

289 (b) Avoid injurious or vicious habits;

- 290 (c) Avoid persons or places of disreputable or harmful
291 character;
- 292 (d) Report to the probation and parole officer as
293 directed;
- 294 (e) Permit the probation and parole officer to visit
295 him at home or elsewhere;
- 296 (f) Work faithfully at suitable employment so far as
297 possible;
- 298 (g) Remain within a specified area;
- 299 (h) Pay his fine in one (1) or several sums;
- 300 (i) Support his dependents;
- 301 (j) Submit, as provided in Section 47-5-601, to any
302 type of breath, saliva or urine chemical analysis test, the
303 purpose of which is to detect the possible presence of alcohol or
304 a substance prohibited or controlled by any law of the State of
305 Mississippi or the United States;
- 306 (k) Submit to electronic or global positioning
307 monitoring.

308 **SECTION 6.** Section 47-5-1013, Mississippi Code of 1972, is
309 amended as follows:

310 47-5-1013. Participants enrolled in an intensive supervision
311 program shall be required to:

312 (a) Maintain employment if physically able, or
313 full-time student status at an approved school or vocational
314 trade, and make progress deemed satisfactory to the correctional
315 field officer, or both, or be involved in supervised job searches.

316 (b) Pay restitution and program fees as directed by the
317 department. Program fees shall not be less than Seventy-five
318 Dollars (\$75.00) per month. The sentencing judge may charge a
319 program fee of less than Seventy-five Dollars (\$75.00) per month
320 in cases of extreme financial hardship, when such judge determines
321 that the offender's participation in the program would provide a

322 benefit to his community. Program fees shall be deposited in the
323 special fund created in Section 47-5-1007.

324 (c) Establish a place of residence at a place approved
325 by the correctional field officer, and not change his residence
326 without the officer's approval. The correctional officer shall be
327 allowed to inspect the place of residence for alcoholic beverages,
328 controlled substances and drug paraphernalia.

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

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

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

337 (g) Meet any other conditions imposed by the court to
338 meet the needs of the offender and limit the risks to the
339 community including the use of electronic or global positioning
340 monitoring.

341 **SECTION 7.** Section 47-5-1015, Mississippi Code of 1972, is
342 amended as follows:

343 47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand
344 repealed after June 30, 2008.

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