

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

To: Corrections

HOUSE BILL NO. 1000
(As Passed the House)

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,
118 whether the offender served in the United States Armed Forces and
119 has an honorable discharge and other criteria which in the opinion
120 of the board tend to validly and reliably predict the length of
121 incarceration necessary before the offender can be successfully
122 paroled.

123 (b) [Repealed].

124 (4) Any inmate within twenty-four (24) months of his parole
125 eligibility date and who meets the criteria established by the
126 classification board shall receive priority for placement in any

127 educational development and job training programs. Any inmate
128 refusing to participate in an educational development or job
129 training program may be ineligible for parole.

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

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

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

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

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

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

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

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

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

189 (c) The department shall have absolute immunity from
190 liability for any injury resulting from a determination by the

191 Parole Board that an offender be placed in an electronic
192 monitoring program.

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

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

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

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

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

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

212 47-7-33. (1) When it appears to the satisfaction of any
213 circuit court or county court in the State of Mississippi having
214 original jurisdiction over criminal actions, or to the judge
215 thereof, that the ends of justice and the best interest of the
216 public, as well as the defendant, will be served thereby, such
217 court, in termtime or in vacation, shall have the power, after
218 conviction or a plea of guilty, except in a case where a death
219 sentence or life imprisonment is the maximum penalty which may be
220 imposed or where the defendant has been convicted of a felony on a
221 previous occasion in any court or courts of the United States and
222 of any state or territories thereof, to suspend the imposition or
223 execution of sentence, and place the defendant on probation as

224 herein provided, except that the court shall not suspend the
225 execution of a sentence of imprisonment after the defendant shall
226 have begun to serve such sentence. In placing any defendant on
227 probation, the court, or judge, shall direct that such defendant
228 be under the supervision of the Department of Corrections.

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

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

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

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

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

257 for the felony committed. The defendant shall be placed under
258 post-release supervision upon release from the term of
259 incarceration. The period of supervision shall be established by
260 the court.

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

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

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

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

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

288 That the, offender shall:

- 289 (a) Commit no offense against the laws of this or any
290 other state of the United States, or of the United States;
291 (b) Avoid injurious or vicious habits;
292 (c) Avoid persons or places of disreputable or harmful
293 character;
294 (d) Report to the probation and parole officer as
295 directed;
296 (e) Permit the probation and parole officer to visit
297 him at home or elsewhere;
298 (f) Work faithfully at suitable employment so far as
299 possible;
300 (g) Remain within a specified area;
301 (h) Pay his fine in one (1) or several sums;
302 (i) Support his dependents;
303 (j) Submit, as provided in Section 47-5-601, to any
304 type of breath, saliva or urine chemical analysis test, the
305 purpose of which is to detect the possible presence of alcohol or
306 a substance prohibited or controlled by any law of the State of
307 Mississippi or the United States;
308 (k) Submit to electronic or global positioning
309 monitoring.

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

312 47-5-1013. Participants enrolled in an intensive supervision
313 program shall be required to:

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

318 (b) Pay restitution and program fees as directed by the
319 department. Program fees shall not be less than Seventy-five
320 Dollars (\$75.00) per month. The sentencing judge may charge a
321 program fee of less than Seventy-five Dollars (\$75.00) per month

322 in cases of extreme financial hardship, when such judge determines
323 that the offender's participation in the program would provide a
324 benefit to his community. Program fees shall be deposited in the
325 special fund created in Section 47-5-1007.

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

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

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

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

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

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

345 47-5-1015. Sections 47-5-1001 through 47-5-1015 shall stand
346 repealed after June 30, 2008.

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