

By: Senator(s) Wilemon

To: Judiciary, Division B;
Appropriations

SENATE BILL NO. 2036

1 AN ACT TO CREATE NEW SECTION 99-19-84, MISSISSIPPI CODE OF
2 1972, TO AUTHORIZE A SPLIT SENTENCE FOR SEX OFFENDERS; TO CREATE
3 NEW SECTION 99-19-205, MISSISSIPPI CODE OF 1972, TO MANDATE
4 ELECTRONIC SUPERVISION FOR CERTAIN SEX OFFENDERS UPON EXPIRATION
5 OF ANY TERM OF INCARCERATION; TO CREATE NEW SECTION 47-5-1017,
6 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR ELECTRONIC MONITORING OF
7 SEX OFFENDERS UPON WHOM A SPLIT SENTENCE IS IMPOSED; TO CREATE NEW
8 SECTION 47-5-1019, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
9 PUNISHMENT FOR TAMPERING WITH AN ELECTRONIC MONITORING DEVICE; TO
10 AMEND SECTION 47-7-33, MISSISSIPPI CODE OF 1972, TO REQUIRE
11 ELECTRONIC MONITORING OF CERTAIN PAROLEES AND PROBATIONERS; TO
12 AMEND SECTION 47-7-34, MISSISSIPPI CODE OF 1972, TO CONFORM TO
13 SPLIT SENTENCING; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** The following shall be codified as Section
16 99-19-84, Mississippi Code of 1972:

17 99-19-84. Whenever punishment by imprisonment for a
18 misdemeanor or a felony, except for a capital felony, is
19 prescribed for an offense for which registration as a sex offender
20 is required under Title 45, Chapter 33, the court, in its
21 discretion at the time of sentencing, may impose a split sentence
22 whereby the defendant is to be placed on electronic monitoring
23 following release from incarceration for any term of years or for
24 life.

25 **SECTION 2.** The following shall be codified as Section
26 99-19-205, Mississippi Code of 1972:

27 99-19-205. Any person who is convicted of a sex offense as
28 defined in Section 45-33-23 on or after the effective date of this
29 act, and who is sentenced to any state or local correctional
30 facility, placed on probation, given a suspended sentence, or
31 other disposition, and the unlawful activity involved a victim who
32 was under sixteen (16) years of age and the offender was

33 twenty-one (21) years of age or older, or the offender is subject
34 to lifetime registration under Section 45-33-47(2), shall be
35 sentenced by the court to mandatory electronic monitoring for life
36 subsequent to the offender's release from incarceration.

37 **SECTION 3.** The following shall be codified as Section
38 47-5-1017, Mississippi Code of 1972:

39 47-5-1017. The department shall electronically monitor an
40 offender upon whom a split sentence is imposed pursuant to Section
41 99-19-84 or 99-19-205. The department, in carrying out a court
42 order to electronically monitor an offender, must use a system
43 that actively monitors and identifies the offender's location and
44 timely reports or records the offender's presence near or within a
45 crime scene or in prohibited areas or the offender's departure
46 from specified geographic limitations.

47 **SECTION 4.** The following shall be codified as Section
48 47-5-1019, Mississippi Code of 1972:

49 47-5-1019. A person who intentionally alters, tampers with,
50 damages or destroys any electronic monitoring equipment, unless
51 the person is the owner of the equipment or an agent of the owner
52 performing ordinary maintenance and repairs, commits a felony
53 punishable by imprisonment not to exceed five (5) years in the
54 custody of the Department of Corrections.

55 **SECTION 5.** Section 47-7-33, Mississippi Code of 1972, is
56 amended as follows:

57 47-7-33. (1) When it appears to the satisfaction of any
58 circuit court or county court in the State of Mississippi having
59 original jurisdiction over criminal actions, or to the judge
60 thereof, that the ends of justice and the best interest of the
61 public, as well as the defendant, will be served thereby, such
62 court, in termtime or in vacation, shall have the power, after
63 conviction or a plea of guilty, except in a case where a death
64 sentence or life imprisonment is the maximum penalty which may be
65 imposed or where the defendant has been convicted of a felony on a

66 previous occasion in any court or courts of the United States and
67 of any state or territories thereof, to suspend the imposition or
68 execution of sentence, and place the defendant on probation as
69 herein provided, except that the court shall not suspend the
70 execution of a sentence of imprisonment after the defendant shall
71 have begun to serve such sentence. In placing any defendant on
72 probation, the court, or judge, shall direct that such defendant
73 be under the supervision of the Department of Corrections.

74 (2) When any circuit or county court places an offender on
75 probation, the court shall give notice to the Mississippi
76 Department of Corrections within fifteen (15) days of the court's
77 decision to place the offender on probation. Notice shall be
78 delivered to the central office of the Mississippi Department of
79 Corrections and to the regional office of the department which
80 will be providing supervision to the offender on probation.

81 (3) When any circuit court or county court places a person
82 on probation in accordance with the provisions of this section and
83 that person is ordered to make any payments to his family, if any
84 member of his family whom he is ordered to support is receiving
85 public assistance through the State Department of Public Welfare,
86 the court shall order him to make such payments to the county
87 welfare officer of the county rendering public assistance to his
88 family, for the sole use and benefit of said family.

89 (4) If probation or parole is revoked by the court and the
90 offender is designated as a sex offender for unlawful sexual
91 activity involving a victim under sixteen (16) years of age and
92 the offender is eighteen (18) years of age or older, and if the
93 court imposes a subsequent term of supervision following the
94 revocation of supervision, the court must order electronic
95 monitoring as a condition of any subsequent term of probation or
96 parole.

97 **SECTION 6.** Section 47-7-34, Mississippi Code of 1972, is
98 amended as follows:

99 47-7-34. (1) When a court imposes a sentence upon a
100 conviction for any felony committed after June 30, 1995, the
101 court, in addition to any other punishment imposed if the other
102 punishment includes a term of incarceration in a state or local
103 correctional facility, may impose a term of post-release
104 supervision. However, the total number of years of incarceration
105 plus the total number of years of post-release supervision shall
106 not exceed the maximum sentence authorized to be imposed by law
107 for the felony committed. The defendant shall be placed under
108 post-release supervision upon release from the term of
109 incarceration. The period of supervision shall be established by
110 the court.

111 (2) The period of post-release supervision shall be
112 conducted in the same manner as a like period of supervised
113 probation, including a requirement that the defendant shall abide
114 by any terms and conditions as the court may establish. Failure
115 to successfully abide by the terms and conditions shall be grounds
116 to terminate the period of post-release supervision and to
117 recommit the defendant to the correctional facility from which he
118 was previously released. Procedures for termination and
119 recommitment shall be conducted in the same manner as procedures
120 for the revocation of probation and imposition of a suspended
121 sentence.

122 (3) Post-release supervision programs shall be operated
123 through the probation and parole unit of the Division of Community
124 Corrections of the department. The maximum amount of time that
125 the Mississippi Department of Corrections may supervise an
126 offender on the post-release supervision program is five (5)
127 years.

128 (4) The provisions of this section shall not affect the
129 ability of a court to impose a split sentence pursuant to Section
130 99-19-84 or 99-19-205.

131 **SECTION 7.** This act shall take effect and be in force from
132 and after July 1, 2006.