

By: Representative Fleming

To: Corrections

HOUSE BILL NO. 270

1 AN ACT TO AMEND SECTION 47-7-37, MISSISSIPPI CODE OF 1972, TO
2 DECREASE FROM FIVE TO THREE YEARS THE MAXIMUM DURATION OF A PERIOD
3 OF PROBATION; TO AMEND SECTION 47-7-34, MISSISSIPPI CODE OF 1972,
4 IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 47-7-37, Mississippi Code of 1972, is
7 amended as follows:

8 47-7-37. The period of probation shall be fixed by the
9 court, and may at any time be extended or terminated by the court,
10 or judge in vacation. Such period with any extension thereof
11 shall not exceed three (3) years, except that in cases of
12 desertion and/or failure to support minor children, the period of
13 probation may be fixed and/or extended by the court for so long as
14 the duty to support such minor children exists.

15 At any time during the period of probation, the court, or
16 judge in vacation, may issue a warrant for violating any of the
17 conditions of probation or suspension of sentence and cause the
18 probationer to be arrested. Any probation and parole officer may
19 arrest a probationer without a warrant, or may deputize any other
20 officer with power of arrest to do so by giving him a written
21 statement setting forth that the probationer has, in the judgment
22 of the probation and parole officer, violated the conditions of
23 probation. Such written statement delivered with the probationer
24 by the arresting officer to the official in charge of a county
25 jail or other place of detention shall be sufficient warrant for
26 the detention of the probationer.

27 If a probationer or offender is subject to registration as a
28 sex offender, the court must make a finding that the probationer

29 or offender is not a danger to the public prior to release with or
30 without bail. In determining the danger posed by the release of
31 the offender or probationer, the court may consider the nature and
32 circumstances of the violation and any new offenses charged; the
33 offender or probationer's past and present conduct, including
34 convictions of crimes and any record of arrests without conviction
35 for crimes involving violence or sex crimes; any other evidence of
36 allegations of unlawful sexual conduct or the use of violence by
37 the offender or probationer; the offender or probationer's family
38 ties, length of residence in the community, employment history and
39 mental condition; the offender or probationer's history and
40 conduct during the probation or other supervised release and any
41 other previous supervisions, including disciplinary records of
42 previous incarcerations; the likelihood that the offender or
43 probationer will engage again in a criminal course of conduct; the
44 weight of the evidence against the offender or probationer; and
45 any other facts the court considers relevant.

46 The probation and parole officer after making an arrest shall
47 present to the detaining authorities a similar statement of the
48 circumstances of violation. The probation and parole officer
49 shall at once notify the court of the arrest and detention of the
50 probationer and shall submit a report in writing showing in what
51 manner the probationer has violated the conditions of probation.
52 Thereupon, or upon an arrest by warrant as herein provided, the
53 court, in termtime or vacation, shall cause the probationer to be
54 brought before it and may continue or revoke all or any part of
55 the probation or the suspension of sentence, and may cause the
56 sentence imposed to be executed or may impose any part of the
57 sentence which might have been imposed at the time of conviction.

58 If the probationer is arrested in a circuit court district in
59 the State of Mississippi other than that in which he was
60 convicted, the probation and parole officer, upon the written
61 request of the sentencing judge, shall furnish to the circuit

62 court or the county court of the county in which the arrest is
63 made, or to the judge of such court, a report concerning the
64 probationer, and such court or the judge in vacation shall have
65 authority, after a hearing, to continue or revoke all or any part
66 of probation or all or any part of the suspension of sentence, and
67 may in case of revocation proceed to deal with the case as if
68 there had been no probation. In such case, the clerk of the court
69 in which the order of revocation is issued shall forward a
70 transcript of such order to the clerk of the court of original
71 jurisdiction, and the clerk of that court shall proceed as if the
72 order of revocation had been issued by the court of original
73 jurisdiction. Upon the revocation of probation or suspension of
74 sentence of any offender, such offender shall be placed in the
75 legal custody of the State Department of Corrections and shall be
76 subject to the requirements thereof

77 Any probationer who removes himself from the State of
78 Mississippi without permission of the court placing him on
79 probation, or the court to which jurisdiction has been
80 transferred, shall be deemed and considered a fugitive from
81 justice and shall be subject to extradition as now provided by
82 law. No part of the time that one is on probation shall be
83 considered as any part of the time that he shall be sentenced to
84 serve.

85 The arresting officer, except when a probation and parole
86 officer, shall be allowed the same fees as now provided by law for
87 arrest on warrant, and such fees shall be taxed against the
88 probationer and paid as now provided by law.

89 The arrest, revocation and recommitment procedures of this
90 section also apply to persons who are serving a period of
91 post-release supervision imposed by the court.

92 **SECTION 2.** Section 47-7-34, Mississippi Code of 1972, is
93 amended as follows:

94 47-7-34. (1) When a court imposes a sentence upon a
95 conviction for any felony committed after June 30, 1995, the
96 court, in addition to any other punishment imposed if the other
97 punishment includes a term of incarceration in a state or local
98 correctional facility, may impose a term of post-release
99 supervision. However, the total number of years of incarceration
100 plus the total number of years of post-release supervision shall
101 not exceed the maximum sentence authorized to be imposed by law
102 for the felony committed. The defendant shall be placed under
103 post-release supervision upon release from the term of
104 incarceration. The period of supervision shall be established by
105 the court.

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

117 (3) Post-release supervision programs shall be operated
118 through the probation and parole unit of the Division of Community
119 Corrections of the department. Except for probation, as provided
120 in Section 47-4-37, the maximum amount of time that the
121 Mississippi Department of Corrections may supervise an offender on
122 the post-release supervision program is five (5) years.

123 **SECTION 3.** This act shall take effect and be in force from
124 and after July 1, 2007.