

By: Representative Hines

To: Juvenile Justice;
Corrections

HOUSE BILL NO. 600

1 AN ACT TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT JUVENILE OFFENDERS MAY BE SENTENCED TO THE
3 INTENSIVE SUPERVISION PROGRAM ADMINISTERED BY THE DEPARTMENT OF
4 CORRECTIONS; TO PROVIDE THAT THE MINIMUM SENTENCE UNDER THIS
5 PROGRAM SHALL BE SIX MONTHS FOR JUVENILE OFFENDERS; TO REQUIRE
6 JUVENILE OFFENDERS TO BE TESTED FOR ALCOHOL AND DRUGS; TO REQUIRE
7 JUVENILE OFFENDERS TO PAY \$10.00 FOR THE TEST; TO PROVIDE THAT IF
8 A JUVENILE OFFENDER TESTS POSITIVE FOR ALCOHOL OR DRUGS HE OR SHE
9 SHALL BE REQUIRED TO ATTEND AN ALCOHOL AND DRUG REHABILITATION
10 PROGRAM; TO AMEND SECTION 47-5-1003, MISSISSIPPI CODE OF 1972, TO
11 ALLOW JUVENILE OFFENDERS TO PARTICIPATE IN THE INTENSIVE
12 SUPERVISION PROGRAM; TO AMEND SECTION 47-5-1007, MISSISSIPPI CODE
13 OF 1972, TO REQUIRE JUVENILE OFFENDERS TO PAY A MONTHLY FEE FOR
14 PARTICIPATION IN SUCH PROGRAM; TO AMEND SECTION 47-5-1013,
15 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
16 PURPOSES.

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

18 **SECTION 1.** Section 43-21-605, Mississippi Code of 1972, is
19 amended as follows:

20 43-21-605. (1) In delinquency cases, the disposition order
21 may include any of the following alternatives:

22 (a) Release the child without further action;

23 (b) Place the child in the custody of the parents, a
24 relative or other persons subject to any conditions and
25 limitations, including restitution, as the youth court may
26 prescribe;

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

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

33 (e) Order terms of supervision which may include
34 participation in a constructive program of service or education or

35 civil fines not in excess of Five Hundred Dollars (\$500.00), or
36 restitution not in excess of actual damages caused by the child to
37 be paid out of his own assets or by performance of services
38 acceptable to the victims and approved by the youth court and
39 reasonably capable of performance within one (1) year;

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

42 (g) Give legal custody of the child to any of the
43 following:

44 (i) The Department of Human Services for
45 appropriate placement; or

46 (ii) Any public or private organization,
47 preferably community-based, able to assume the education, care and
48 maintenance of the child, which has been found suitable by the
49 court; or

50 (iii) The Department of Human Services for
51 placement in a wilderness training program or the Division of
52 Youth Services for placement in a state-supported training school,
53 except that no child under the age of ten (10) years shall be
54 committed to a state training school, and no first-time nonviolent
55 youth offenders shall be committed to a state training school
56 until all other options provided for in this section have been
57 considered and the court makes a specific finding of fact that
58 commitment is appropriate.

59 The training school may retain custody of the child until the
60 child's twentieth birthday but for no longer. When the child is
61 committed to a training school, the child shall remain in the
62 legal custody of the training school until the child has made
63 sufficient progress in treatment and rehabilitation and it is in
64 the best interest of the child to release the child. However, the
65 superintendent of a state training school, in consultation with
66 the treatment team, may parole a child at any time he may deem it
67 in the best interest and welfare of such child. Twenty (20) days

68 prior to such parole, the training school shall notify the
69 committing court of the pending release. The youth court may then
70 arrange subsequent placement after a reconvened disposition
71 hearing, except that the youth court may not recommit the child to
72 the training school or any other secure facility without an
73 adjudication of a new offense or probation or parole violation.
74 The Department of Human Services shall ensure that staffs create
75 transition planning for youth leaving the facilities. Plans shall
76 include providing the youth and his or her parents or guardian
77 with copies of the youth's training school education and health
78 records, information regarding the youth's home community,
79 referrals to mental and counseling services when appropriate, and
80 providing assistance in making initial appointments with community
81 service providers. Prior to assigning the custody of any child to
82 any private institution or agency, the youth court through its
83 designee shall first inspect the physical facilities to determine
84 that they provide a reasonable standard of health and safety for
85 the child. No child shall be placed in the custody of a state
86 training school for a status offense or for contempt of or
87 revocation of a status offense adjudication unless the child is
88 contemporaneously adjudicated for having committed an act of
89 delinquency that is not a status offense. A disposition order
90 rendered under this subparagraph shall meet the following
91 requirements:

92 1. The disposition is the least restrictive
93 alternative appropriate to the best interest of the child and the
94 community;

95 2. The disposition allows the child to be in
96 reasonable proximity to the family home community of each child
97 given the dispositional alternatives available and the best
98 interest of the child and the state; and

99 3. The disposition order provides that the
100 court has considered the medical, educational, vocational, social

101 and psychological guidance, training, social education,
102 counseling, substance abuse treatment and other rehabilitative
103 services required by that child as determined by the court;

104 (h) Recommend to the child and the child's parents or
105 guardian that the child attend and participate in the Youth
106 Challenge Program under the Mississippi National Guard, as created
107 in Section 43-27-203, subject to the selection of the child for
108 the program by the National Guard; however, the child must
109 volunteer to participate in the program. The youth court shall
110 not order any child to apply or attend the program;

111 (i) (i) Adjudicate the juvenile to the Statewide
112 Juvenile Work Program if the program is established in the court's
113 jurisdiction. The juvenile and his parents or guardians must sign
114 a waiver of liability in order to participate in the work program.
115 The judge will coordinate with the youth services counselors as to
116 placing participants in the work program;

117 (ii) The severity of the crime, whether or not the
118 juvenile is a repeat offender or is a felony offender will be
119 taken into consideration by the judge when adjudicating a juvenile
120 to the work program. The juveniles adjudicated to the work
121 program will be supervised by police officers or reserve officers.
122 The term of service will be from twenty-four (24) to one hundred
123 twenty (120) hours of community service. A juvenile will work the
124 hours to which he was adjudicated on the weekends during school
125 and weekdays during the summer. Parents are responsible for a
126 juvenile reporting for work. Noncompliance with an order to
127 perform community service will result in a heavier adjudication.
128 A juvenile may be adjudicated to the community service program
129 only two (2) times;

130 (iii) The judge shall assess an additional fine on
131 the juvenile which will be used to pay the costs of implementation
132 of the program and to pay for supervision by police officers and

133 reserve officers. The amount of the fine will be based on the
134 number of hours to which the juvenile has been adjudicated;

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

137 (k) Order terms of house arrest under the intensive
138 supervision program as created in Sections 47-5-1001 through
139 47-5-1015. The Department of Corrections shall take bids for the
140 program provided by this act. The Department of Human Services
141 shall promulgate rules regarding the supervision of juveniles
142 placed in the intensive supervision program. There shall be one
143 thousand five hundred (1,500) slots created in the intensive
144 supervision program for juveniles. Any juvenile sentenced to
145 house arrest shall be tested for alcohol and drugs, and if the
146 juvenile tests positive for alcohol or drugs, the juvenile shall
147 be ordered to participate in an alcohol and drug rehabilitation
148 program. The juvenile shall pay Ten Dollars (\$10.00) to offset
149 the cost of administering the alcohol and drug test. The juvenile
150 must attend school, alternative school or be in the process of
151 working toward a general educational development (GED)
152 certificate;

153 (l) Order the child into a juvenile detention center
154 operated by the county or into a juvenile detention center
155 operated by any county with which the county in which the court is
156 located has entered into a contract for the purpose of housing
157 delinquents. The time period for detention cannot exceed ninety
158 (90) days, and any detention exceeding forty-five (45) days shall
159 be administratively reviewed by the youth court no later than
160 forty-five (45) days after the entry of the order. The youth
161 court judge may order that the number of days specified in the
162 detention order be served either throughout the week or on
163 weekends only. No first-time nonviolent youth offender shall be
164 committed to a detention center for a period of ninety (90) days
165 until all other options provided for in this section have been

166 considered and the court makes a specific finding of fact that
167 commitment to a detention center is appropriate. However, if a
168 child is committed to a detention center ninety (90) consecutive
169 days, the disposition order shall meet the following requirements:

170 (i) The disposition order is the least restrictive
171 alternative appropriate to the best interest of the child and the
172 community;

173 (ii) The disposition order allows the child to be
174 in reasonable proximity to the family home community of each child
175 given the dispositional alternatives available and the best
176 interest of the child and the state; and

177 (iii) The disposition order provides that the
178 court has considered the medical, educational, vocational, social
179 and psychological guidance, training, social education,
180 counseling, substance abuse treatment and other rehabilitative
181 services required by that child as determined by the court; or

182 (m) Referral to A-team provided system of care
183 services.

184 (2) If a disposition order requires that a child miss school
185 due to other placement, the youth court shall notify a child's
186 school while maintaining the confidentiality of the youth court
187 process.

188 (3) In addition to any of the disposition alternatives
189 authorized under subsection (1) of this section, the disposition
190 order in any case in which the child is adjudicated delinquent for
191 an offense under Section 63-11-30 shall include an order denying
192 the driver's license and driving privileges of the child as
193 required under Section 63-11-30(9).

194 (4) If the youth court places a child in a state-supported
195 training school, the court may order the parents or guardians of
196 the child and other persons living in the child's household to
197 receive counseling and parenting classes for rehabilitative
198 purposes while the child is in the legal custody of the training

199 school. A youth court entering an order under this subsection (4)
200 shall utilize appropriate services offered either at no cost or
201 for a fee calculated on a sliding scale according to income unless
202 the person ordered to participate elects to receive other
203 counseling and classes acceptable to the court at the person's
204 sole expense.

205 (5) Fines levied under this chapter shall be paid into the
206 general fund of the county but, in those counties wherein the
207 youth court is a branch of the municipal government, it shall be
208 paid into the municipal treasury.

209 (6) Any institution or agency to which a child has been
210 committed shall give to the youth court any information concerning
211 the child as the youth court may at any time require.

212 (7) The youth court shall not place a child in another
213 school district who has been expelled from a school district for
214 the commission of a violent act. For the purpose of this
215 subsection, "violent act" means any action which results in death
216 or physical harm to another or an attempt to cause death or
217 physical harm to another.

218 (8) The youth court may require drug testing as part of a
219 disposition order. If a child tests positive, the court may
220 require treatment, counseling and random testing, as it deems
221 appropriate. The costs of such tests shall be paid by the parent,
222 guardian or custodian of the child unless the court specifically
223 finds that the parent, guardian or custodian is unable to pay.

224 (9) The Mississippi Department of Human Services, Division
225 of Youth Services, shall operate and maintain services for youth
226 adjudicated delinquent at Columbia and Oakley Training Schools.
227 The program shall be designed for children committed to the
228 training schools by the youth courts. The purpose of the program
229 is to promote good citizenship, self-reliance, leadership and
230 respect for constituted authority, teamwork, cognitive abilities
231 and appreciation of our national heritage. The Division of Youth

232 Services shall issue credit towards academic promotions and high
233 school completion. The Division of Youth Services may award
234 credits to each student who meets the requirements for a general
235 education development certification. The Division of Youth
236 Services must also provide to each special education eligible
237 youth the services required by that youth's individualized
238 education plan.

239 (10) There is created a study committee to determine what
240 entity should be responsible for providing the educational
241 services within detention centers to ensure that detained youth
242 receive adequate educational services. The study is also to
243 include, but is not limited to, the examination of the costs of
244 providing such educational services. The study committee shall
245 consist of the following ten (10) members:

246 (a) The Chairperson of the House of Representatives of
247 the Juvenile Justice Committee;

248 (b) The Chairperson of the Senate Judiciary B
249 Committee;

250 (c) The Chairperson of the House of Representatives
251 Education Committee or his or her designee;

252 (d) The Chairperson of the Senate Education Committee
253 or his or her designee;

254 (e) Three (3) members from the House of
255 Representatives, appointed by the Chairperson of the Juvenile
256 Justice Committee; and

257 (f) Three (3) members from the Senate, appointed by the
258 Chairperson of the Senate Judiciary B Committee.

259 At its first meeting the study committee shall elect a
260 chairperson and vice chairperson from its membership and shall
261 adopt rules for transacting its business and keeping its records.

262 By October 31, 2006, the study committee shall make a report
263 of its work and recommendations.

264 **SECTION 2.** Section 47-5-1003, Mississippi Code of 1972, is
265 amended as follows:

266 47-5-1003. (1) An intensive supervision program may be used
267 as an alternative to incarceration for offenders who are low risk
268 and nonviolent as selected by the department or court and for
269 juvenile offenders as provided in Section 43-21-605. Any offender
270 convicted of a sex crime or a felony violation of Section
271 41-29-139(a)(1) shall not be placed in the program.

272 (2) The court placing an offender in the intensive
273 supervision program may, acting upon the advice and consent of the
274 commissioner and not later than one (1) year after the defendant
275 has been delivered to the custody of the department, suspend the
276 further execution of the sentence and place the defendant on
277 intensive supervision, except when a death sentence or life
278 imprisonment is the maximum penalty which may be imposed or if the
279 defendant has been confined for the conviction of a felony on a
280 previous occasion in any court or courts of the United States and
281 of any state or territories thereof or has been convicted of a
282 felony involving the use of a deadly weapon.

283 (3) To protect and to ensure the safety of the state's
284 citizens, any offender who violates an order or condition of the
285 intensive supervision program may be arrested by the correctional
286 field officer and placed in the actual custody of the Department
287 of Corrections. Such offender is under the full and complete
288 jurisdiction of the department and subject to removal from the
289 program by the classification hearing officer.

290 (4) When any circuit or county court places an offender in
291 an intensive supervision program, the court shall give notice to
292 the Mississippi Department of Corrections within fifteen (15) days
293 of the court's decision to place the offender in an intensive
294 supervision program. Notice shall be delivered to the central
295 office of the Mississippi Department of Corrections and to the

296 regional office of the department which will be providing
297 supervision to the offender in an intensive supervision program.

298 The courts may not require an offender to complete the
299 intensive supervision program as a condition of probation or
300 post-release supervision.

301 **SECTION 3.** Section 47-5-1007, Mississippi Code of 1972, is
302 amended as follows:

303 47-5-1007. (1) Any participant in the intensive supervision
304 program who engages in employment shall pay a monthly fee to the
305 department for each month such person is enrolled in the program.
306 The department may waive the monthly fee if the offender is a
307 full-time student or is engaged in vocational training. Juvenile
308 offenders shall pay a monthly fee of not less than Ten Dollars
309 (\$10.00) but not more than Fifty Dollars (\$50.00) based on a
310 sliding scale using the standard of need for each family that is
311 used to calculate TANF benefits. Money received by the
312 department from participants in the program shall be deposited
313 into a special fund which is hereby created in the State Treasury.
314 It shall be used, upon appropriation by the Legislature, for the
315 purpose of helping to defray the costs involved in administering
316 and supervising such program. Unexpended amounts remaining in
317 such special fund at the end of a fiscal year shall not lapse into
318 the State General Fund, and any interest earned on amounts in such
319 special fund shall be deposited to the credit of the special fund.

320 (2) The participant shall admit any correctional officer
321 into his residence at any time for purposes of verifying the
322 participant's compliance with the conditions of his detention.

323 (3) The participant shall make the necessary arrangements to
324 allow for correctional officers to visit the participant's place
325 of education or employment at any time, based upon the approval of
326 the educational institution or employer, for the purpose of
327 verifying the participant's compliance with the conditions of his
328 detention.

329 (4) The participant shall acknowledge and participate with
330 the approved electronic monitoring device as designated by the
331 department at any time for the purpose of verifying the
332 participant's compliance with the conditions of his detention.

333 (5) The participant shall be responsible for and shall
334 maintain the following:

335 (a) A working telephone line in the participant's home;

336 (b) A monitoring device in the participant's home, or
337 on the participant's person, or both; and

338 (c) A monitoring device in the participant's home and
339 on the participant's person in the absence of a telephone.

340 (6) The participant shall obtain approval from the
341 correctional field officer before the participant changes
342 residence.

343 (7) The participant shall not commit another crime during
344 the period of home detention ordered by the court or department.

345 (8) Notice shall be given to the participant that violation
346 of the order of home detention shall subject the participant to
347 prosecution for the crime of escape as a felony.

348 (9) The participant shall abide by other conditions as set
349 by the department.

350 **SECTION 4.** Section 47-5-1013, Mississippi Code of 1972, is
351 amended as follows:

352 47-5-1013. Participants enrolled in an intensive supervision
353 program shall be required to:

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

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

362 in cases of extreme financial hardship, when such judge determines
363 that the offender's participation in the program would provide a
364 benefit to his community. Juvenile offenders shall not pay a
365 program fee, but shall pay a monthly fee as provided in Section
366 47-5-1007. Program fees shall be deposited in the special fund
367 created in Section 47-5-1007.

368 (c) Establish a place of residence at a place approved
369 by the correctional field officer, and not change his residence
370 without the officer's approval. The correctional officer shall be
371 allowed to inspect the place of residence for alcoholic beverages,
372 controlled substances and drug paraphernalia.

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

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

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

381 (g) Meet any other conditions imposed by the court to
382 meet the needs of the offender and limit the risks to the
383 community.

384 **SECTION 5.** This act shall take effect and be in force from
385 and after July 1, 2007.