

By: Representative Watson

To: Corrections; Judiciary A

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1510

1 AN ACT TO CREATE A COMMUNITY CORRECTIONS PROGRAM FOR THE 12TH  
2 JUDICIAL CIRCUIT COURT DISTRICT, WHICH IS COMPRISED OF FORREST AND  
3 PERRY COUNTIES; TO PROVIDE THAT THE COMMUNITY CORRECTIONS PROGRAM  
4 BE KNOWN AS THE 12TH CIRCUIT COURT COMMUNITY CORRECTIONS; TO  
5 PROVIDE THAT THE NAME OF THE COMMISSION WHICH OPERATES PROGRAMS  
6 AND SUPPORT SERVICES FOR THE 12TH CIRCUIT COURT COMMUNITY  
7 CORRECTIONS SHALL BE THE 12TH CIRCUIT COURT COMMUNITY CORRECTIONS  
8 COMMISSION, WHICH SHALL OVERSEE AND OPERATE ALL PROGRAMS,  
9 SERVICES, AND ADMINISTRATIVE FUNCTIONS OF THE 12TH CIRCUIT COURT  
10 COMMUNITY CORRECTIONS; TO PROVIDE FOR THE COMPOSITION OF THE  
11 COMMISSION; TO ALLOW THE COMMISSION TO APPOINT AN EXECUTIVE  
12 DIRECTOR, WHO SHALL SERVE AT ITS PLEASURE; TO INCORPORATE INTO THE  
13 12TH CIRCUIT COURT COMMUNITY CORRECTIONS, PROGRAMS AND SUPPORT  
14 SERVICES CONCERNING PRETRIAL RELEASE, COMMUNITY SERVICE PROGRAM,  
15 SUPERVISION FOR PARTICIPANTS ENTERING A PLEA OF GUILT PURSUANT,  
16 POST-ADJUDICATION SUPERVISION, A VOCATIONAL/EDUCATIONAL AND  
17 EMPLOYMENT PROGRAM, RESIDENTIAL REHABILITATION AND WORK RELEASE, A  
18 REENTRY RESIDENTIAL AND NONRESIDENTIAL PROGRAM, ADULT AND JUVENILE  
19 DRUG AND DUI COURT PROGRAMS AND SERVICES, INCLUDING, BUT NOT  
20 LIMITED TO, DEFERRED PROSECUTION AND PRETRIAL DIVERSION, AND ANY  
21 OTHER SIMILAR OR RELATED PROGRAM; TO DEFINE PERSONS ELIGIBLE TO  
22 PARTICIPATE IN SUCH PROGRAMS AND SERVICES AND TO ALLOW THE REFUSAL  
23 OF THE PARTICIPATION IN PROGRAMS AND SERVICES OF OTHERWISE  
24 ELIGIBLE PERSONS WHOSE PARTICIPATION WOULD NOT BE IN THE PUBLIC  
25 INTEREST OR WOULD INVALIDATE THE INTENT OF THE PROGRAMS OR  
26 SERVICES OFFERED; TO AUTHORIZE THE COMMISSION TO CONTRACT FOR ITS  
27 PROGRAMS AND SERVICES WITH A NOT-FOR-PROFIT CORPORATION; TO  
28 AUTHORIZE THE 12TH CIRCUIT COURT COMMUNITY CORRECTIONS TO COLLECT  
29 REASONABLE FEES FROM PARTICIPANTS OF ITS PROGRAMS AND SERVICES; TO  
30 PROVIDE FOR AN AUDIT OF THE 12TH CIRCUIT COURT COMMUNITY  
31 CORRECTIONS EVERY THREE YEARS; TO AUTHORIZE THE 12TH CIRCUIT COURT  
32 COMMUNITY CORRECTIONS THE ABILITY TO HIRE LEGAL, ACCOUNTING, AND  
33 OTHER PROFESSIONAL SERVICES; TO AUTHORIZE THE DISCRETION OF THE  
34 EXECUTIVE DIRECTOR TO DEFER OR WAIVE THE PAYMENT OF ANY FEES BASED  
35 UPON THE FINANCIAL HARDSHIP OF A PARTICIPANT OR HIS OR HER  
36 DEPENDENT; TO PROVIDE THAT ANY PARTICIPANT IN A RESIDENTIAL  
37 PROGRAM WHO WILLFULLY FAILS TO REPORT TO SUCH PROGRAM AS ORDERED,  
38 OR WHO WILLFULLY FAILS TO RETURN TO SUCH PROGRAM FROM A JOB OR  
39 TEMPORARY PASS, SHALL BE GUILTY OF ESCAPE; TO PROVIDE THAT THE  
40 PROVISIONS AND ENUMERATED POWERS DESCRIBED SHALL NOT INTERFERE  
41 WITH, OR CHANGE IN ANY MANNER, THE DRUG COURT OR PRETRIAL  
42 DIVERSION PROGRAMS CURRENTLY OPERATING IN THE 12TH JUDICIAL  
43 CIRCUIT COURT DISTRICT AUTHORIZED BY OTHER STATE STATUTES; AND FOR  
44 RELATED PURPOSES.

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

46 **SECTION 1.** This act shall be known as the "12th Circuit  
47 Court Community Corrections Act of 2007."

48           **SECTION 2.** The community corrections program authorized by  
49 this act shall be known as the 12th Circuit Court Community  
50 Corrections.

51           **SECTION 3.** (1) The 12th Circuit Court Community Corrections  
52 Commission shall oversee and operate all programs, services, and  
53 administrative functions of the 12th Circuit Court Community  
54 Corrections. The number of members comprising the commission  
55 shall be seven (7) and shall be comprised of the following  
56 individuals:

57                   (a) The District Attorney of Forrest and Perry  
58 Counties, or his designee;

59                   (b) The Sheriff of Forrest County, or his designee;

60                   (c) The Sheriff of Perry County, or his designee;

61                   (d) The Commissioner of the Mississippi Department of  
62 Corrections, or his designee;

63                   (e) A member of the criminal defense bar practicing in  
64 the district, to be appointed by the circuit judge; and

65                   (f) Two members to be appointed by the circuit judge  
66 from a list of individuals recommended by the district attorney,  
67 the sheriffs, and the commissioner, or their designees.

68           (2) The term of service of the commission shall be  
69 commensurate with the elected terms of the district attorney and  
70 sheriffs and shall expire at the end of their regular terms of  
71 office. A new commission shall be appointed in the manner  
72 directed by this act at the beginning of each new regular term of  
73 office for the district attorney and sheriffs.

74           (3) The commission shall have full authority to implement  
75 this act and superintend all administrative functions, services,  
76 and programs of the 12th Circuit Court Community Corrections. The  
77 commission shall select from its membership a president and other  
78 officers as needed, and may appoint an executive director, who  
79 shall serve at the pleasure of the commission.

80 (4) The commission shall make and publish its own rules for  
81 the conduct of its affairs. Commission meetings shall be held at  
82 least once a quarter, at the call of the president, or upon the  
83 request of any three (3) commission members.

84 **SECTION 4.** The commission shall be vested with all authority  
85 necessary to create or manage, or both, all of the following:

86 (a) A supervised pretrial release program so that no  
87 person be needlessly incarcerated pending adjudication in Forrest  
88 or Perry County due to his or her personal economic circumstances  
89 and inability to post bail, provided that his or her release shall  
90 not be contrary to the public interest or a danger to the public  
91 at large and also shall serve the purpose of assuring the presence  
92 of the defendant at trial.

93 (b) A supervised nonresidential community service  
94 program designed to provide close supervision of the participant's  
95 activities, compliance with conditions of any suspended sentence,  
96 performance of community service work, and payment of restitution  
97 and other court-ordered monies.

98 (c) A supervised post-adjudication rehabilitation  
99 program designed to provide close supervision of the participant's  
100 activities, compliance with conditions of any suspended sentence,  
101 and payment of restitution and other court-ordered monies.

102 (d) A supervised nonresidential program designed to  
103 provide close supervision of the participant's activities,  
104 compliance with conditions of any suspended sentence, performance  
105 of community service work, and payment of restitution and other  
106 court-ordered monies for those participants who have entered a  
107 plea of guilt but had his or her sentence deferred pursuant to  
108 Section 99-15-26.

109 (e) An educational, vocational and job fair program  
110 designed to enable participants to obtain the educational and  
111 vocational skills necessary to find and retain employment and

112 which will provide assistance to participants in exploring  
113 employment opportunities.

114 (f) A residential rehabilitation and work release  
115 program for certain inmates incarcerated in county jails for the  
116 purpose of working at gainful employment, enabling them to pay for  
117 the cost of their crimes, and to provide a means for them to pay  
118 the cost of their supervision from their gross earnings.

119 (g) A reentry residential and nonresidential  
120 rehabilitation and work release program for inmates being released  
121 from the custody of the Mississippi Department of Corrections  
122 which will assist participants in reentry to noncustodial life and  
123 in finding employment opportunities.

124 (h) Support services for Forrest and Perry Counties  
125 juvenile and adult drug courts, deferred prosecution and pretrial  
126 diversion programs.

127 (i) Any other such lawful services or programs which  
128 the commission deems appropriate for the furtherance of this act.

129 **SECTION 5.** The commission shall also be vested with all  
130 authority necessary to implement this act, to include, but not be  
131 limited to, those necessary to do all of the following:

132 (a) To create or remove employment positions, set or  
133 alter pay scales, employ, direct, regulate, supervise, and dismiss  
134 personnel; obtain fidelity bonds for the faithful performance of  
135 the personnel's duties.

136 (b) To buy, sell, lease, or otherwise hold real or  
137 personal property in its own name.

138 (c) To contract with other persons or entities for the  
139 provision of goods and services required by it, on terms and  
140 conditions as may be convenient, as allowed by the laws and  
141 regulations concerning purchases made by public bodies in the  
142 State of Mississippi.

143           (d) To charge reasonable fees to the participants in  
144 any 12th Circuit Court Community Corrections program for any  
145 services they receive.

146           (e) To open and maintain financial accounts.

147           (f) To hire legal, accounting, and other professions to  
148 aid in the furtherance of this act.

149           (g) To contract with the Mississippi Department of  
150 Corrections and any other state agency to receive funding.

151           (h) To promote gainful employment and education for  
152 those participating in any of the 12th Circuit Court Community  
153 Corrections services or programs.

154           (i) To provide transportation, if financially feasible,  
155 for participants to and from any job site within the county, and  
156 in doing so, the commission and its members and the 12th Circuit  
157 Court Community Corrections, its executive director, employees,  
158 and agents, shall be exempt from all civil liability for any act  
159 or omission occurring during any part of such transportation.

160           (j) To apply for, receive, and administer any financial  
161 grants, gifts, or donations of funds from the United States  
162 Government or any federal agency, from the State of Mississippi or  
163 any state agency, from Forrest or Perry County or any county  
164 agency, from any private or quasi-governmental foundation,  
165 corporation, partnership, firm, or agency, and from any individual  
166 or group of individuals.

167           (k) To refuse to have any person participate in any of  
168 the 12th Circuit Court Community Corrections services and programs  
169 when it is contrary to the public interest, is not in the interest  
170 of public safety, is a clear and present danger to either the  
171 public at large or to another participant, is a clear and present  
172 danger to the executive director, employees, and agents of the  
173 12th Circuit Court Community Corrections, when, as a previous  
174 participant, the person undermined, caused disruption to, or  
175 interfered with the intent of this act or any of the 12th Circuit

176 Court Community Corrections services and programs, or where a  
177 former participant has previously failed to abide by the 12th  
178 Circuit Court Community Corrections rules and procedures.

179 (1) To exercise incidental powers and authority to do  
180 any and all things necessary to carry out the intent and purposes  
181 of this act.

182 **SECTION 6.** The commission may contract for its programs and  
183 services with a not-for-profit corporation to help provide for  
184 supervised pretrial release, community service program,  
185 supervision for participants entering a plea of guilty pursuant to  
186 Section 99-15-26, post-adjudication rehabilitation supervision, a  
187 vocational/educational and employment program, residential  
188 rehabilitation, support services for Forrest and Perry Counties  
189 juvenile and adult drug courts, deferred prosecution and pretrial  
190 diversion programs, reentry residential and nonresidential  
191 program, and any other court-related or rehabilitation services or  
192 programs as the commission deems appropriate.

193 **SECTION 7.** As used in this act the following words shall  
194 have the following meanings:

195 (a) "Eligible person" means one who is not currently  
196 charged with, or in the past was not convicted of a crime of  
197 violence, including murder, aggravated assault, rape, sexual  
198 battery, armed robbery, robbery, manslaughter, burglary of a  
199 dwelling, offense pertaining to the sale, barter, or transfer,  
200 manufacture, or distribution of a controlled substance pursuant to  
201 Section 41-29-139(a)(1), except less than one (1) ounce of  
202 marijuana, or have been charged with the possession of one (1)  
203 kilogram or more of marijuana, or who has previously demonstrated  
204 a pattern of violent behavior. In reaching a determination, as to  
205 the latter, the judicial officer with jurisdiction may consider  
206 prior convictions, juvenile or youthful offender adjudications,  
207 other criminal charges, and the behavior of the offender during  
208 incarceration. However, if a person is ineligible based solely

209 upon a previous conviction, that person may be allowed to become a  
210 participant with the approval of the district attorney.

211 Otherwise, an eligible person is as follows:

212 (i) Any person who is incarcerated in the Forrest  
213 County Regional Jail or Perry County Jail awaiting adjudication  
214 and is financially unable to post bail.

215 (ii) Any person whose criminal sentence has been  
216 suspended, in whole or in part, and who is placed under terms of  
217 probation by a Forrest or Perry County judicial officer.

218 (iii) Any person who, having been adjudicated for  
219 a criminal offense, would be sentenced to incarceration in the  
220 Mississippi Department of Corrections, or in the Forrest County  
221 Regional Jail or the Perry County Jail.

222 (iv) Any person who would otherwise be  
223 incarcerated in the Forrest County Regional Jail or the Perry  
224 County Jail for violation of any previous civil or criminal court  
225 order, or for any failure to pay child support, or for civil or  
226 criminal contempt of court, or for any other criminal or civil  
227 offense.

228 (b) "Judicial officer" means any circuit, chancery or  
229 county court judge in Forrest or Perry County, or any duly  
230 appointed referee or special master in Forrest or Perry County, or  
231 any other circuit judge from any other county of this state,  
232 provided, however, that the Executive Director of the 12th Circuit  
233 Court Community Corrections shall approve the participation of all  
234 persons directed to the 12th Circuit Court Community Corrections  
235 from a non-12th Judicial District Court, chancery or county court  
236 judge.

237 (3) "Participant" means a person who is under an order from  
238 a judicial officer to participate in the services and programs  
239 provided by the 12th Circuit Community Corrections.

240 **SECTION 8.** It is the intent of the Legislature that the  
241 provisions of this act pertaining to pretrial release shall be a

242 guide to judicial officers in Forrest and Perry Counties to ensure  
243 that no person be needlessly detained in the county jail, because  
244 of his or her personal economic circumstances or inability to post  
245 bail, provided that his or her release shall not be contrary to  
246 the public interest or a danger to the public at large, and also  
247 shall serve the purpose of assuring the presence of the defendant  
248 at trial. It is not the intent of the Legislature that this act  
249 be so liberally construed as to allow the indiscriminate release  
250 of accused persons. Therefore, any judicial officer may order  
251 that any eligible person incarcerated before trial or adjudication  
252 be released on an unsecured appearance bond supervised by the 12th  
253 Circuit Court Community Corrections, under any conditions ordered  
254 by the judicial officer and in accord with all the 12th Circuit  
255 Court Community Corrections rules and procedures. Such rules and  
256 procedures shall include, but are not limited to, the participant  
257 reporting to the 12th Circuit Court Community Corrections on a  
258 periodic basis pending adjudication, abiding by all of the 12th  
259 Circuit Court Community Corrections rules and procedures,  
260 submitting to, paying for, and passing random drug and alcohol  
261 tests as directed by the 12th Circuit Court Community Corrections;  
262 and to offset the costs of such a program by the participant  
263 periodically paying to the 12th Circuit Court Community  
264 Corrections a reasonable supervision fee set by the commission.  
265 Failure to abide by any conditions may result in the participant's  
266 bail being revoked and the participant being re-incarcerated.

267 **SECTION 9.** Any judicial officer may order that any eligible  
268 person whose criminal sentence has been suspended, in whole or in  
269 part, upon certain conditions and who is placed under terms of  
270 probation, shall have the suspension supervised by the 12th  
271 Circuit Court Community Corrections under any conditions ordered  
272 by the judicial officer, and in accord with all of the 12th  
273 Circuit Court Community Corrections rules and procedures. These  
274 conditions shall include, but are not limited to, the participant,



275 during the term of the suspended sentence, reporting to the 12th  
276 Circuit Court Community Corrections on a periodic basis; abiding  
277 by all of the 12th Circuit Court Community Corrections rules and  
278 procedures; submitting to, paying for, and passing random drug and  
279 alcohol tests as directed by the 12th Circuit Court Community  
280 Corrections; and to offset the costs of such a program by the  
281 participant periodically paying to the 12th Circuit Court  
282 Community Corrections a reasonable supervision fee set by the  
283 commission. Failure to abide by any conditions may result in the  
284 participant's probation being revoked and the sentence of  
285 incarceration being reinstated.

286        SECTION 10. (1) In lieu of incarceration, any judicial  
287 officer may order that any eligible person who, having been  
288 adjudicated for a criminal offense, probation violation, or  
289 violation of a suspended sentence, and who would otherwise be  
290 sentenced to incarceration, or any eligible person who would  
291 otherwise be incarcerated for violation of any previous civil or  
292 criminal court order, or for any failure to pay child support, or  
293 for failure to pay court ordered restitution, or for civil or  
294 criminal contempt of court, or for any other criminal or civil  
295 offense, be placed in the 12th Circuit Court Community Corrections  
296 residential rehabilitation and work release center for the purpose  
297 of obtaining and working at gainful employment to enable the  
298 paying of fines, court costs, child support payments, family  
299 support payments, or any other court-ordered monies, or for any  
300 other purposes the judicial officer may deem conducive to  
301 rehabilitation or otherwise appropriate, for the time or intervals  
302 of time and under the terms and conditions as the judicial officer  
303 may order and in accord with all of the 12th Circuit Court  
304 Community Corrections rules and procedures. The terms and  
305 conditions shall include, but are not limited to, the following:  
306 (a) the participant, during his or her participation in the  
307 residential program, abiding by all of the 12th Circuit Court

308 Community Corrections rules and procedures; (b) the participant  
309 submitting to, paying for, and passing random drug and alcohol  
310 tests as directed by the 12th Circuit Court Community Corrections  
311 and (c) the participant offsetting the costs of such program by  
312 paying a sum equal to forty percent (40%) of his or her gross  
313 earnings earned while participating in the residential program  
314 and, if possible, establishing a payroll deduction for the payment  
315 of any sums due pursuant to this act, or establish that the  
316 employer pay the participant's wages directly to the 12th Circuit  
317 Court Community Corrections from which the sums can be taken  
318 before remitting the remainder to the participant.

319 (2) The judicial officer may also require the participant in  
320 the program to perform community service hours for nonprofit  
321 entities, civic organizations, or governmental agencies as  
322 directed and supervised by the 12th Circuit Court Community  
323 Corrections. Failure to abide by any conditions may result in the  
324 participant's arrest and the remainder of the sentence of  
325 incarceration being served.

326 (3) Any jail credit shall be calculated in the customary  
327 manner and deducted from the time ordered for participation in the  
328 residential program, unless otherwise ordered by the judicial  
329 officer. Any part of a day spent within the residential center  
330 under the order of the judicial officer shall be counted as a full  
331 day toward the serving of the sentence unless otherwise provided  
332 by the judicial officer. However, in no event shall the number of  
333 days in the program exceed the number of days in the original  
334 sentence. If any participant in this residential program  
335 willfully fails to report to the program as ordered, or who  
336 willfully fails to return to the program from a job or a temporary  
337 pass, then such failure and conduct shall be considered the same  
338 as an escape from a work release or restitution center.

339 **SECTION 11.** (1) The commission, if it is financially  
340 feasible, shall provide support services at the request of the

341 judicial officer responsible for administering the juvenile and  
342 adult drug courts of Forrest and Perry Counties, deferred  
343 prosecution and pretrial diversion programs, or any other such  
344 program. The services may include, but are not limited to,  
345 providing drug and alcohol evaluation, assessments, treatment,  
346 case management, personnel, drug and alcohol testing, electronic  
347 monitoring, alcohol monitoring, supervision of those participating  
348 in the program, and any other service or program the judicial  
349 officer may request.

350 (2) The commission may charge those participating in these  
351 support services reasonable fees as established by the commission  
352 and commensurate with the service or program provided.

353 **SECTION 12.** (1) Any and all fees collected from any  
354 participant, whether by payroll deduction or otherwise, shall be  
355 paid over to and collected by the 12th Circuit Court Community  
356 Corrections and deposited into its accounts for the purposes set  
357 out in this act. The sums shall be expended only for  
358 implementation of this act, and shall include, but not be limited  
359 to, paying salaries and other expenses involved in the execution  
360 of this act; supervision of participants; housing and  
361 transportation of participants; matching any federal, state,  
362 foundation, and personal financial grants which may be available  
363 in relation to the purpose of this act, investigation and  
364 screening of participants subject to this act, and any other  
365 purpose reasonably related to carrying out or in furtherance of  
366 the intent of this act.

367 (2) Where it is determined by the executive director that  
368 payment of the fees and sums mandated by operation of this act  
369 imposes a definite and substantial financial hardship on the  
370 participant, or his or her dependents, the collection and payment  
371 of the fees or sums may be deferred or waived in whole or in part.  
372 However, in making that determination, the executive director or  
373 the judicial officer shall consider that the purpose of this act

374 is not only to promote the rehabilitation of offenders, but  
375 insofar as possible, to make the implementation of this act  
376 self-supporting. Nothing in this act shall allow the 12th Circuit  
377 Court Community Corrections or its executive director to waive any  
378 court ordered restitution, recoupment, or court costs.

379 (3) The 12th Circuit Court Community Corrections shall  
380 maintain a complete and accurate record of all sums collected and  
381 expended and there shall be an audit of the same by an appropriate  
382 authority at lease every three (3) years; however, the initial  
383 audit shall occur before July 1, 2009.

384 **SECTION 13.** The commission and its members and the 12th  
385 Circuit Court Community Corrections, its executive director,  
386 employees, and agents, shall be exempt from all civil liability  
387 for any act or omission occurring while acting in an official  
388 capacity on behalf of the 12th Circuit Court Community  
389 Corrections.

390 **SECTION 14.** Upon the voluntary dissolution of the 12th  
391 Circuit Court Community Corrections or upon its termination by law  
392 or rule of a judicial officer, all of its assets, other than those  
393 assets held for the benefit of some other person or entity,  
394 whether real or personal, tangible or intangible, shall become the  
395 property of Forrest and Perry Counties on a pro rata basis.

396 **SECTION 15.** (1) This act shall not interfere with or  
397 prevent the exercise by any judicial officer of Mississippi of its  
398 power to punish for contempt.

399 (2) This act shall not interfere with or change in any  
400 manner the operation of the 12th Circuit Court Adult Drug and DUI  
401 Court, the Forrest County Juvenile Drug Court, or the Pretrial  
402 Diversion Program operated by the district attorney's office.

403 (3) The procedures described in this act shall be  
404 cumulative and in addition to all other bail and release  
405 procedures provided by law.

406           **SECTION 16.** The provisions of this act are severable. If  
407 any part of this act is declared invalid or unconstitutional, that  
408 declaration shall not affect the part which remains.

409           **SECTION 17.** Upon its passage and approval by the Governor,  
410 or upon it otherwise becoming a law, this act shall be retroactive  
411 to the extent allowed by law.

412           **SECTION 18.** This act shall stand repealed from and after  
413 July 1, 2009.

414           **SECTION 19.** This act shall take effect and be in force from  
415 and after July 1, 2007.