

By: Representative Watson

To: Corrections; Judiciary A

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.

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

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

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

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

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

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

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

411 SECTION 18. This act shall take effect and be in force from
412 and after July 1, 2007.