

By: Representatives Gipson, Dixon, Snowden,
Taylor

To: Judiciary B; Corrections

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 585

1 AN ACT TO AMEND SECTIONS 9-23-3, 9-23-5, 9-23-9, 9-23-11,
2 9-23-13, 9-23-15, 9-23-17 AND 9-23-19, MISSISSIPPI CODE OF 1972,
3 TO REVISE DRUG COURT PROVISIONS REGARDING LEGISLATIVE INTENT,
4 DEFINITIONS, THE ADVISORY COMMITTEE, INTERVENTION COMPONENTS AND
5 SERVICES, PARTICIPATION, AUTHORITY AND FUNDING; TO AMEND SECTION
6 99-15-26, MISSISSIPPI CODE OF 1972, TO REVISE NONADJUDICATED
7 PROBATION; TO AMEND SECTION 47-7-33, MISSISSIPPI CODE OF 1972, TO
8 REVISE PROBATION; TO AMEND SECTIONS 47-5-1003, 47-5-1007 AND
9 99-15-107, MISSISSIPPI CODE OF 1972, TO REVISE INTENSIVE
10 SUPERVISION PROBATIONS; TO AMEND SECTIONS 97-17-39, 97-17-41,
11 97-17-42, 97-17-43, 97-17-47, 97-17-60, 97-17-62, 97-17-64,
12 97-17-67, 97-17-70, 97-17-71, 97-21-29, 97-21-33, 97-21-37,
13 97-21-59, 97-23-19, 97-23-93, 97-23-94, 97-45-3, 97-45-5, 97-45-7,
14 97-45-9 AND 97-45-19, MISSISSIPPI CODE OF 1972, TO REVISE THE
15 THRESHOLD MONETARY AMOUNT REGARDING PROPERTY AND CERTAIN OTHER
16 CRIMES THAT DESIGNATES SUCH CRIMES AS MISDEMEANORS AND FELONIES
17 AND TO REVISE CERTAIN PENALTIES; TO BRING FORWARD SECTION 97-43-5,
18 MISSISSIPPI CODE OF 1972, PROVISIONS REGARDING CRIMINAL
19 ENTERPRISES; TO AMEND SECTIONS 41-29-139 AND 41-29-313,
20 MISSISSIPPI CODE OF 1972, TO REVISE PENALTIES RELATED TO CERTAIN
21 CONTROLLED SUBSTANCES; TO CREATE SECTION 97-3-2, MISSISSIPPI CODE
22 OF 1972, TO DEFINE CRIMES OF VIOLENCE; TO AMEND SECTION 47-7-3,
23 MISSISSIPPI CODE OF 1972, TO REVISE PAROLE ELIGIBILITY; TO AMEND
24 SECTION 47-5-138.1, MISSISSIPPI CODE OF 1972, TO REVISE EXCEPTIONS
25 FOR ELIGIBILITY FOR TRUSTY TIME; TO PROVIDE FOR INMATE CASE
26 PLANNING; TO PROVIDE PAROLE RELEASE PROCEDURES; TO AMEND SECTIONS
27 47-7-17 AND 47-5-157, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO
28 AMEND SECTION 47-5-139, MISSISSIPPI CODE OF 1972, TO REVISE
29 ELIGIBILITY FOR EARNED-TIME ALLOWANCE; TO AMEND SECTION 47-7-2,
30 MISSISSIPPI CODE OF 1972, TO DEFINE CERTAIN TERMS; TO PROVIDE FOR
31 REENTRY PLANNING FOR INMATES; TO AMEND SECTIONS 47-5-173 AND
32 47-5-177, MISSISSIPPI CODE OF 1972, TO REVISE VICTIM NOTIFICATION
33 PROVISIONS; TO AMEND SECTIONS 47-7-5 AND 47-7-9, MISSISSIPPI CODE
34 OF 1972, TO REVISE TRAINING REQUIREMENTS; TO PROVIDE FOR GRADUATED



35 SANCTIONS AND INCENTIVES; TO PROVIDE FOR EARNED DISCHARGE; TO
36 AMEND SECTIONS 47-7-27, 47-7-34, 47-7-37, 47-5-901 AND 47-5-911,
37 MISSISSIPPI CODE OF 1972, TO REVISE PAROLE VIOLATION HEARINGS
38 PROVISIONS; TO ESTABLISH TECHNICAL VIOLATION CENTERS IN THE
39 DEPARTMENT OF CORRECTIONS; TO CREATE A NEW SECTION THAT REQUIRES
40 THE DEPARTMENT OF CORRECTIONS TO ESTABLISH TECHNICAL VIOLATION
41 CENTERS; TO AMEND SECTIONS 47-5-10, 47-5-26, 9-7-122, 9-11-27 AND
42 21-23-12, MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND
43 SECTION 47-5-28, MISSISSIPPI CODE OF 1972, TO REVISE THE DUTIES
44 AND RESPONSIBILITIES OF THE COMMISSIONER OF THE DEPARTMENT OF
45 CORRECTIONS; TO REQUIRE COUNTY CLERKS, MUNICIPAL CLERKS AND
46 JUSTICE COURT CLERKS TO FILE CERTAIN INFORMATION WITH THE
47 MISSISSIPPI JUDICIAL COLLEGE; TO PROVIDE FOR FISCAL IMPACT
48 STATEMENTS; TO BRING FORWARD SECTIONS 47-5-138, 47-5-142, 97-9-79,
49 97-19-83 AND 97-19-85, FOR PURPOSES OF AMENDMENT; TO BRING FORWARD
50 SECTIONS 99-19-81, 99-19-84 AND 99-19-87, MISSISSIPPI CODE OF
51 1972, WHICH PROVIDE SENTENCING FOR HABITUAL CRIMINALS, FOR PURPOSE
52 OF AMENDMENT; TO CREATE THE SENTENCING AND CRIMINAL JUSTICE
53 OVERSIGHT TASK FORCE; TO PROVIDE FOR THE MEMBERSHIP, DUTIES AND
54 POWERS; TO CREATE NEW SECTION 97-43-3.1, MISSISSIPPI CODE OF 1972,
55 WHICH RELATES TO FRAUD; AND FOR RELATED PURPOSES.

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

57 **SECTION 1.** Section 9-23-3, Mississippi Code of 1972, is
58 amended as follows:

59 9-23-3. (1) The Legislature of Mississippi recognizes the
60 critical need for judicial intervention to reduce the incidence of
61 alcohol and drug use, alcohol and drug addiction, and crimes
62 committed as a result of alcohol and drug use and alcohol and drug
63 addiction. It is the intent of the Legislature to facilitate
64 local drug court alternative orders adaptable to chancery,
65 circuit, county, youth, municipal and justice courts.

66 (2) The goals of the drug courts under this chapter include
67 the following:

68 (a) To reduce alcoholism and other drug dependencies
69 among adult and juvenile offenders and defendants and among
70 respondents in juvenile petitions for abuse, neglect or both;



71 (b) To reduce criminal and delinquent recidivism and
72 the incidence of child abuse and neglect;

73 (c) To reduce the alcohol-related and other
74 drug-related court workload;

75 (d) To increase personal, familial and societal
76 accountability of adult and juvenile offenders and defendants and
77 respondents in juvenile petitions for abuse, neglect or both; and

78 (e) To promote effective interaction and use of
79 resources among criminal and juvenile justice personnel, child
80 protective services personnel and community agencies * * *;

81 (f) To use corrections resources more effectively by
82 redirecting prison-bound offenders whose criminal conduct is
83 driven in part by drug and alcohol dependence to intensive
84 supervision and clinical treatment available in the drug court.

85 **SECTION 2.** Section 9-23-5, Mississippi Code of 1972, is
86 amended as follows:

87 9-23-5. For the purposes of this chapter, the following
88 words and phrases shall have the meanings ascribed unless the
89 context clearly requires otherwise:

90 (a) "Chemical tests" means the analysis of an
91 individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v)
92 saliva, (vi) urine, or (vii) other bodily substance to determine
93 the presence of alcohol or a controlled substance.

94 (b) * * * "Crime of violence" means an offense listed
95 in Section 97-3-2.



96 (* * *c) "Drug court" means an immediate and highly
97 structured intervention process for substance abuse treatment of
98 eligible defendants or juveniles that:

99 (i) Brings together substance abuse professionals,
100 local social programs and intensive judicial monitoring; and

101 (ii) Follows the key components of drug courts
102 published by the Drug Court Program Office of the United States
103 Department of Justice.

104 (d) "Evidence-based practices" means supervision
105 policies, procedures, and practices that scientific research
106 demonstrates reduce recidivism.

107 (e) "Risk and needs assessment" means the determination
108 of a person's risk to re-offend and the characteristics that, if
109 addressed, reduce the risk to re-offend through the use of an
110 actuarial assessment tool validated on a Mississippi corrections
111 population.

112 **SECTION 3.** Section 9-23-9, Mississippi Code of 1972, is
113 amended as follows:

114 9-23-9. (1) The State Drug Courts Advisory Committee is
115 established to develop and periodically update proposed statewide
116 evaluation plans and models for monitoring all critical aspects of
117 drug courts. The committee must provide the proposed evaluation
118 plans to the Chief Justice and the Administrative Office of
119 Courts. The committee shall be chaired by the Director of the
120 Administrative Office of Courts and shall consist of not less than



121 seven (7) members nor more than eleven (11) members appointed by
122 the Supreme Court and broadly representative of the courts, law
123 enforcement, corrections, juvenile justice, child protective
124 services and substance abuse treatment communities.

125 (2) The State Drug Courts Advisory Committee may also make
126 recommendations to the Chief Justice, the Director of the
127 Administrative Office of Courts and state officials concerning
128 improvements to drug court policies and procedures including the
129 drug court certification process. The committee may make
130 suggestions as to the criteria for eligibility, and other
131 procedural and substantive guidelines for drug court operation.

132 (3) The State Drug Courts Advisory Committee shall act as
133 arbiter of disputes arising out of the operation of drug courts
134 established under this chapter and make recommendations to improve
135 the drug courts; it shall also make recommendations to the Supreme
136 Court necessary and incident to compliance with established rules.

137 (4) The State Drug Court Advisory Committee shall establish
138 through rules and regulations a viable and fiscally responsible
139 plan to expand the number of adult and juvenile drug court
140 programs operating in Mississippi. These rules and regulations
141 shall include plans to increase participation in existing and
142 future programs while maintaining their voluntary nature.

143 (5) The State Drug Courts Advisory Committee shall receive
144 and review the monthly reports submitted to the Administrative
145 Office of Courts by each certified drug court and provide comments



146 and make recommendations, as necessary, to the Chief Justice and
147 the Director of the Administrative Office of Courts.

148 **SECTION 4.** Section 9-23-11, Mississippi Code of 1972, is
149 amended as follows:

150 9-23-11. (1) * * * The Administrative Office of Courts
151 shall establish, implement and operate a uniform certification
152 process for all drug courts and other problem-solving courts
153 including juvenile courts, veterans courts or any other court
154 designed to adjudicate criminal actions involving an identified
155 classification of criminal defendant to ensure funding for drug
156 courts supports effective and proven practices that reduce
157 recidivism and substance dependency among their participants.

158 * * *

159 (2) * * * The Administrative Office of Courts shall
160 establish a certification process that ensures any new or existing
161 drug court meets minimum standards for drug court operation.

162 (a) These standards shall include, but are not limited
163 to:

164 (i) The use of evidence-based practices including,
165 but not limited to, the use of a valid and reliable risk and needs
166 assessment tool to identify participants and deliver appropriate
167 interventions;

168 (ii) Targeting medium to high risk offenders for
169 participation;



170 (iii) The use of current, evidence-based
171 interventions proven to reduce dependency on drugs or alcohol, or
172 both;

173 (iv) Frequent testing for alcohol or drugs;

174 (v) Coordinated strategy between all drug court
175 program personnel involving the use of graduated clinical
176 interventions;

177 (vi) Ongoing judicial interaction with each
178 participant; and

179 (vii) Monitoring and evaluation of drug court
180 program implementation and outcomes through data collection and
181 reporting.

182 (b) Drug court certification applications shall
183 include:

184 (i) A description of the need for the drug court;

185 (ii) The targeted population for the drug court;

186 (iii) The eligibility criteria for drug court
187 participants;

188 (iv) A description of the process for identifying
189 appropriate participants including the use of a risk and needs
190 assessment and a clinical assessment;

191 (v) A description of the drug court intervention
192 components including anticipated budget and implementation plan;

193 (vi) The data collection plan which shall include
194 collecting the following data:



- 195 1. Total number of participants;
- 196 2. Total number of successful participants;
- 197 3. Total number of unsuccessful participants
198 and the reason why each participant did not complete the program;
- 199 4. Total number of participants who were
200 arrested for a new criminal offense while in the drug court
201 program;
- 202 5. Total number of participants who were
203 convicted of a new felony or misdemeanor offense while in the drug
204 court program;
- 205 6. Total number of participants who committed
206 at least one (1) violation while in the drug court program and the
207 resulting sanction(s);
- 208 7. Results of the initial risk and needs
209 assessment or other clinical assessment conducted on each
210 participant; and
- 211 8. Any other data or information as required
212 by the Administrative Office of Courts.
- 213 (c) Every drug court shall be certified under the
214 following schedule:
- 215 (i) A drug court application submitted after the
216 effective date of this act shall require certification of the drug
217 court based on the proposed drug court plan;



218 (ii) A drug court established after the effective
219 date of this act shall be recertified after its second year of
220 funded operation;

221 (iii) A drug court in existence on the effective
222 date of this act must submit a certification petition within one
223 (1) year of the effective date of this act and be certified
224 pursuant to the requirements of this section prior to expending
225 drug court resources budgeted for fiscal year 2016; and

226 (iv) All drug courts shall submit a
227 recertification petition every two (2) years to the Administrative
228 Office of Courts after the initial certification.

229 (3) * * * All certified drug courts shall measure
230 successful completion of the drug court based on those
231 participants who complete the program without a new criminal
232 conviction.

233 (4) * * * (a) All certified drug courts must collect and
234 submit to the Administrative Office of Courts each month the
235 following data:

236 (i) Total number of participants at the beginning
237 of the month;

238 (ii) Total number of participants at the end of
239 the month;

240 (iii) The total number of participants beginning
241 the program in the month;



242 (iv) The total number of participants that
243 successfully completed the drug court that month;

244 (v) Total number of participants who left the
245 program in the month;

246 (vi) The total number of participants who were
247 arrested for a new criminal offense while in the drug court
248 program in the month;

249 (vii) The total number of participants who were
250 convicted for a new criminal arrest while in the drug court
251 program in the month; and

252 (viii) The total number of participants who
253 committed at least one (1) violation while in the drug court
254 program and any resulting sanction(s).

255 (b) By August 1, 2015, and each year thereafter, the
256 Administrative Office of Courts shall report to the PEER Committee
257 the information in subsection (4)(a) of this section in a
258 sortable, electronic format.

259 (5) * * * All certified drug courts may individually
260 establish rules and may make special orders and rules as necessary
261 that do not conflict with the rules promulgated by the Supreme
262 Court or the Administrative Office of Courts.

263 (6) * * * A certified drug court may appoint the full- or
264 part-time employees it deems necessary for the work of the drug
265 court and shall fix the compensation of those employees. Such



266 employees shall serve at the will and pleasure of the judge or the
267 judge's designee.

268 (7) * * * The Administrative Office of Courts shall
269 promulgate rules and regulations to carry out the certification
270 and recertification process and make any other policies not
271 inconsistent with this section to carry out this process.

272 * * *

273 (8) A certified drug court established under this chapter is
274 subject to the regulatory powers of the Administrative Office of
275 Courts as set forth in Section 9-23-17.

276 **SECTION 5.** Section 9-23-13, Mississippi Code of 1972, is
277 amended as follows:

278 9-23-13. (1) A drug court's alcohol and drug intervention
279 component * * * shall provide for eligible individuals, either
280 directly or through referrals, a range of necessary court
281 intervention services, including, but not limited to, the
282 following:

283 (a) Screening using a valid and reliable assessment
284 tool effective for identifying alcohol and drug dependent persons
285 for eligibility and * * * appropriate services;

286 (b) Clinical assessment;

287 (c) Education;

288 (d) Referral;

289 (e) Service coordination and case management; and

290 (f) Counseling and rehabilitative care.



291 (2) Any inpatient treatment or inpatient detoxification
292 program ordered by the court shall be certified by the Department
293 of Mental Health, other appropriate state agency or the equivalent
294 agency of another state.

295 **SECTION 6.** Section 9-23-15, Mississippi Code of 1972, is
296 amended as follows:

297 9-23-15. (1) In order to be eligible for alternative
298 sentencing through a local drug court, the participant must
299 satisfy each of the following criteria:

300 (a) The participant cannot have had any felony
301 convictions adjudicated by a judge within the previous ten (10)
302 years for any offenses that are crimes of violence as defined in
303 Section 97-3-2 and cannot have had any other intervening
304 convictions adjudicated by a judge within the previous ten (10)
305 years.

306 (b) The crime before the court cannot be a crime of
307 violence as defined in Section 97-3-2.

308 (c) Other criminal proceedings alleging commission of a
309 crime of violence cannot be pending against the participant.

310 (d) The participant cannot * * * be currently charged
311 with burglary of * * * a dwelling under Section 97-17-23(2) or
312 97-17-37.

313 (e) The crime before the court cannot be a charge of
314 driving under the influence of alcohol or any other drug or drugs
315 that resulted in the death of a person.



316 * * *

317 (2) Participation in the services of an alcohol and drug
318 intervention component shall be open only to the individuals over
319 whom the court has jurisdiction, except that the court may agree
320 to provide the services for individuals referred from another drug
321 court. In cases transferred from another jurisdiction, the
322 receiving judge shall act as a special master and make
323 recommendations to the sentencing judge.

324 (3) (a) As a condition of participation in a drug court, a
325 participant may be required to undergo a chemical test or a series
326 of chemical tests as specified by the drug court. A participant
327 is liable for the costs of all chemical tests required under this
328 section, regardless of whether the costs are paid to the drug
329 court or the laboratory; however, if testing is available from
330 other sources or the program itself, the judge may waive any fees
331 for testing.

332 (b) A laboratory that performs a chemical test under
333 this section shall report the results of the test to the drug
334 court.

335 (4) A person does not have a right to participate in drug
336 court under this chapter. The court having jurisdiction over a
337 person for a matter before the court shall have the final
338 determination about whether the person may participate in drug
339 court under this chapter.



340 **SECTION 7.** Section 9-23-17, Mississippi Code of 1972, is
341 amended as follows:

342 9-23-17. With regard to any drug court established under
343 this chapter, the Administrative Office of Courts * * * shall do
344 the following:

345 (a) Certify and recertify drug court applications that
346 meet standards established by Administrative Office of Courts in
347 accordance with this chapter.

348 (* * * b) Ensure that the structure of the intervention
349 component complies with rules adopted under this section and
350 applicable federal regulations.

351 (* * * c) Revoke the authorization of a program upon a
352 determination that the program does not comply with rules adopted
353 under this section and applicable federal regulations.

354 (* * * d) Make agreements and contracts to effectuate
355 the purposes of this chapter with:

356 (i) Another department, authority or agency of the
357 state;

358 (ii) Another state;

359 (iii) The federal government;

360 (iv) A state-supported or private university; or

361 (v) A public or private agency, foundation,
362 corporation or individual.

363 (* * * e) Directly, or by contract, approve and certify
364 any intervention component established under this chapter.



365 (* * *f) Require, as a condition of operation, that
366 each drug court created or funded under this chapter be certified
367 by the Administrative Office of Courts.

368 (g) Collect monthly data reports submitted by all
369 certified drug courts and compile an annual report summarizing the
370 data collected and the outcomes achieved by all certified drug
371 courts. Provide monthly data reports to the State Drug Courts
372 Advisory Committee and to the Oversight Task Force.

373 (h) Every three (3) years contract with an external
374 evaluator to conduct an evaluation of the effectiveness of the
375 drug court program, both statewide and individual drug court
376 programs, in complying with the key components of the drug courts
377 adopted by the National Association of Drug Court Professionals.

378 (* * *i) Adopt rules to implement this chapter.

379 **SECTION 8.** Section 9-23-19, Mississippi Code of 1972, is
380 amended as follows:

381 9-23-19. (1) All monies received from any source by the
382 drug court shall be accumulated in a fund to be used only for drug
383 court purposes. Any funds remaining in this fund at the end of a
384 fiscal year shall not lapse into any general fund, but shall be
385 retained in the drug court fund for the funding of further
386 activities by the drug court.

387 (2) A drug court may apply for and receive the following:

388 (a) Gifts, bequests and donations from private sources.

389 (b) Grant and contract money from governmental sources.



390 (c) Other forms of financial assistance approved by the
391 court to supplement the budget of the drug court.

392 (3) The costs of participation in an alcohol and drug
393 intervention program required by the certified drug court may be
394 paid by the participant or out of user fees or such other state,
395 federal or private funds that may, from time to time, be made
396 available.

397 (4) The court may assess such reasonable and appropriate
398 fees to be paid to the local drug court fund for participation in
399 an alcohol or drug intervention program.

400 **SECTION 9.** Section 99-15-26, Mississippi Code of 1972, is
401 amended as follows:

402 99-15-26. (1) (a) In all criminal cases, felony and
403 misdemeanor, other than crimes against the person, a crime of
404 violence as defined in Section 97-3-2 or a violation of Section
405 97-11-31, the circuit or county court shall be empowered, upon the
406 entry of a plea of guilty by a criminal defendant made on or after
407 July 1, 2014, to withhold acceptance of the plea and sentence
408 thereon pending successful completion of such conditions as may be
409 imposed by the court pursuant to subsection (2) of this section.

410 (b) In all misdemeanor criminal cases, other than
411 crimes against the person, the justice or municipal court shall be
412 empowered, upon the entry of a plea of guilty by a criminal
413 defendant, to withhold acceptance of the plea and sentence thereon



414 pending successful completion of such conditions as may be imposed
415 by the court pursuant to subsection (2) of this section.

416 (c) Notwithstanding Section 97-3-2, in all criminal
417 cases charging a misdemeanor of domestic violence as defined in
418 Section 99-3-7(5) or aggravated domestic violence as defined in
419 Section 97-3-7(4), a circuit, county, justice or municipal court
420 shall be empowered, upon the entry of a plea of guilty by the
421 criminal defendant, to withhold acceptance of the plea and
422 sentence thereon pending successful completion of such conditions
423 as may be imposed by the court pursuant to subsection (2) of this
424 section.

425 (d) No person having previously qualified and been
426 granted release under the provisions of this section * * * after
427 pleading guilty to a charge under the same code section for which
428 the person is currently charged shall be eligible to qualify for
429 release in accordance with this section. A person shall not be
430 eligible to qualify for release in accordance with this section if
431 such person has been charged with trafficking of a controlled
432 substance, as provided in Section 41-29-139(g).

433 (2) (a) Conditions which the circuit, county, justice or
434 municipal court may impose under subsection (1) of this section
435 shall consist of:

436 (i) Reasonable restitution to the victim of the
437 crime.



438 (ii) Performance of not more than nine hundred
439 sixty (960) hours of public service work approved by the court.

440 (iii) Payment of a fine not to exceed the
441 statutory limit.

442 (iv) Successful completion of drug, alcohol,
443 psychological or psychiatric treatment, successful completion of a
444 program designed to bring about the cessation of domestic abuse,
445 or any combination thereof, if the court deems treatment
446 necessary.

447 (v) The circuit or county court, in its
448 discretion, may require the defendant to remain in the program
449 subject to good behavior for a period of time not to exceed five
450 (5) years. The justice or municipal court, in its discretion, may
451 require the defendant to remain in the program subject to good
452 behavior for a period of time not to exceed two (2) years.

453 (b) Conditions which the circuit or county court may
454 impose under subsection (1) of this section also include
455 successful completion of a regimented inmate discipline program.

456 (3) When the court has imposed upon the defendant the
457 conditions set out in this section, the court shall release the
458 bail bond, if any.

459 (4) Upon successful completion of the court-imposed
460 conditions permitted by subsection (2) of this section, the court
461 shall direct that the cause be dismissed and the case be closed.



462 (5) Upon petition therefor, the court shall expunge the
463 record of any case in which an arrest was made, the person
464 arrested was released and the case was dismissed or the charges
465 were dropped or there was no disposition of such case.

466 (6) This section shall take effect and be in force from and
467 after March 31, 1983.

468 **SECTION 10.** Section 47-7-33, Mississippi Code of 1972, is
469 amended as follows:

470 47-7-33. (1) When it appears to the satisfaction of any
471 circuit court or county court in the State of Mississippi having
472 original jurisdiction over criminal actions, or to the judge
473 thereof, that the ends of justice and the best interest of the
474 public, as well as the defendant, will be served thereby, such
475 court, in termtime or in vacation, shall have the power, after
476 conviction or a plea of guilty, except in a case where a death
477 sentence or life imprisonment is the maximum penalty which may be
478 imposed * * *, to suspend the imposition or execution of sentence,
479 and place the defendant on probation as herein provided, except
480 that the court shall not suspend the execution of a sentence of
481 imprisonment after the defendant shall have begun to serve such
482 sentence. In placing any defendant on probation, the court, or
483 judge, shall direct that such defendant be under the supervision
484 of the Department of Corrections.

485 (2) When any circuit or county court places an offender on
486 probation, the court shall give notice to the Mississippi



487 Department of Corrections within fifteen (15) days of the court's
488 decision to place the offender on probation. Notice shall be
489 delivered to the central office of the Mississippi Department of
490 Corrections and to the regional office of the department which
491 will be providing supervision to the offender on probation.

492 (3) When any circuit court or county court places a person
493 on probation in accordance with the provisions of this section and
494 that person is ordered to make any payments to his family, if any
495 member of his family whom he is ordered to support is receiving
496 public assistance through the State Department of Public Welfare,
497 the court shall order him to make such payments to the county
498 welfare officer of the county rendering public assistance to his
499 family, for the sole use and benefit of said family.

500 **SECTION 11.** Section 47-5-1003, Mississippi Code of 1972, is
501 amended as follows:

502 47-5-1003. (1) An intensive supervision program may be used
503 as an alternative to incarceration for offenders who are * * * not
504 convicted of a crime of violence pursuant to Section 97-3-2 as
505 selected by the * * * court and for juvenile offenders as provided
506 in Section 43-21-605. Any offender convicted of a sex crime shall
507 not be placed in the program.

508 (2) The court * * * may place the defendant on intensive
509 supervision, except when a death sentence or life imprisonment is
510 the maximum penalty which may be imposed * * * by a court or
511 judge.



512 (3) To protect and to ensure the safety of the state's
513 citizens, any offender who violates an order or condition of the
514 intensive supervision program may be arrested by the correctional
515 field officer and placed in the actual custody of the Department
516 of Corrections. Such offender is under the full and complete
517 jurisdiction of the department and subject to removal from the
518 program by the classification hearing officer.

519 (4) When any circuit or county court places an offender in
520 an intensive supervision program, the court shall give notice to
521 the Mississippi Department of Corrections within fifteen (15) days
522 of the court's decision to place the offender in an intensive
523 supervision program. Notice shall be delivered to the central
524 office of the Mississippi Department of Corrections and to the
525 regional office of the department which will be providing
526 supervision to the offender in an intensive supervision program.

527 The courts may not require an offender to participate in the
528 intensive supervision program during a term of probation or
529 post-release supervision.

530 (5) The Department of Corrections shall * * * provide to the
531 Oversight Task Force all relevant data regarding the offenders
532 participating in the intensive supervision program including the
533 number of offenders admitted to the program annually, the number
534 of offenders who leave the program annually and why they leave,
535 the number of offenders who are arrested or convicted annually and



536 the circumstances of the arrest and any other information
537 requested.

538 **SECTION 12.** Section 47-5-1007, Mississippi Code of 1972, is
539 amended as follows:

540 47-5-1007. (1) Any participant in the intensive supervision
541 program who engages in employment shall pay a monthly fee to the
542 department for each month such person is enrolled in the program.
543 The department may waive the monthly fee if the offender is a
544 full-time student or is engaged in vocational training. Juvenile
545 offenders shall pay a monthly fee of not less than Ten Dollars
546 (\$10.00) but not more than Fifty Dollars (\$50.00) based on a
547 sliding scale using the standard of need for each family that is
548 used to calculate TANF benefits. Money received by the department
549 from participants in the program shall be deposited into a special
550 fund which is hereby created in the State Treasury. It shall be
551 used, upon appropriation by the Legislature, for the purpose of
552 helping to defray the costs involved in administering and
553 supervising such program. Unexpended amounts remaining in such
554 special fund at the end of a fiscal year shall not lapse into the
555 State General Fund, and any interest earned on amounts in such
556 special fund shall be deposited to the credit of the special fund.

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



560 (3) The participant shall make the necessary arrangements to
561 allow for correctional officers to visit the participant's place
562 of education or employment at any time, based upon the approval of
563 the educational institution or employer, for the purpose of
564 verifying the participant's compliance with the conditions of his
565 detention.

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

570 (5) The participant shall be responsible for and shall
571 maintain the following:

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

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

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

577 (6) The participant shall obtain approval from the
578 correctional field officer before the participant changes
579 residence.

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

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



585 (9) The participant shall abide by other conditions as set
586 by the court or the department.

587 **SECTION 13.** Section 99-15-107, Mississippi Code of 1972, is
588 amended as follows:

589 99-15-107. A person shall not be considered for intervention
590 if he or she has * * * been charged with any crime of violence
591 * * * pursuant to Section 97-3-2. A person shall not be eligible
592 for acceptance into the intervention program provided by Sections
593 99-15-101 through 99-15-127 if such person has been charged * * *
594 with an offense pertaining to * * * trafficking in a controlled
595 substance, as provided in Section 41-29-139(* * *f) * * *.

596 **SECTION 14.** Section 97-17-39, Mississippi Code of 1972, is
597 amended as follows:

598 97-17-39. If any person, by any means whatever, shall
599 willfully or mischievously injure or destroy any of the burial
600 vaults, urns, memorials, vases, foundations, bases or other
601 similar items in a cemetery, or injure or destroy any of the work,
602 materials, or furniture of any courthouse or jail, or other public
603 building, or schoolhouse or church, or deface any of the walls or
604 other parts thereof, or shall write, or make any drawings or
605 character, or do any other act, either on or in said building or
606 the walls thereof, or shall deface or injure the trees, fences,
607 pavements, or soil, on the grounds belonging thereto, or an
608 ornamental or shade tree on any public road or street leading



609 thereto, such person, upon conviction, for such offense, shall be
610 punished as follows:

611 (a) If the damage caused by the destruction or
612 defacement of such property has a value of less than * * * One
613 Thousand Dollars (\$1,000.00), any person who is convicted of * * *
614 this offense shall be fined not more than One Thousand Dollars
615 (\$1,000.00) or be * * * sentenced to a term of probation for not
616 more than one (1) year, or both. The court may impose a sentence
617 of imprisonment in the county jail for not more than one (1) year
618 if the court finds substantial and compelling reasons why the
619 offender cannot be safely and effectively supervised in the
620 community, is not amenable to community-based treatment, or poses
621 a significant risk to public safety. If such a finding is made,
622 the finding shall be stated on the record at the time of
623 sentencing. Any person convicted of a third or subsequent offense
624 under this subsection where the value of the property is not less
625 than Five Hundred Dollars (\$500.00), shall be imprisoned in the
626 Penitentiary for a term not exceeding three (3) years or fined an
627 amount not exceeding Two Thousand Dollars (\$2,000.00), or both.

628 (b) If the damage caused by the destruction or
629 defacement of such property has a value * * * of Five Hundred
630 Dollars (\$500.00) or more, but less than Five Thousand Dollars
631 (\$5,000.00), any person who is convicted of * * * this offense
632 shall be fined not more than Five Thousand Dollars (\$5,000.00) or



633 be imprisoned in the State Penitentiary for up to five (5) years,
634 or both.

635 (c) If the damage caused by the destruction or
636 defacement of such property has a value of Five Thousand Dollars
637 (\$5,000.00) or more but less than Twenty-five Thousand Dollars
638 (\$25,000.00), any person who is convicted of this offense shall be
639 fined not more than Ten Thousand Dollars (\$10,000.00) or be
640 imprisoned in the Penitentiary for up to ten (10) years.

641 (d) If the damage caused by the destruction or
642 defacement of such property has a value of Twenty-five Thousand
643 Dollars (\$25,000.00) or more, any person who is convicted of this
644 offense shall be fined not more than Ten Thousand Dollars
645 (\$10,000.00) or be imprisoned in the Penitentiary for up to twenty
646 (20) years.

647 **SECTION 15.** Section 97-17-41, Mississippi Code of 1972, is
648 amended as follows:

649 97-17-41. (1) * * * Any person who shall be convicted of
650 taking and carrying away, feloniously, the personal property of
651 another, of the value of * * * One Thousand Dollars (\$1,000.00) or
652 more, but less than Five Thousand Dollars (\$5,000.00), shall be
653 guilty of grand larceny, and shall be imprisoned in the
654 Penitentiary for a term not exceeding * * * five (5) years; or
655 shall be fined not more than Ten Thousand Dollars (\$10,000.00), or
656 both. The total value of property taken and carried away by the



657 person from a single victim shall be aggregated in determining the
658 gravity of the offense.

659 (2) Any person who shall be convicted of taking and carrying
660 away, feloniously, the personal property of another, of the value
661 of Five Thousand Dollars (\$5,000.00) or more, but less than
662 Twenty-five Thousand Dollars (\$25,000.00), shall be guilty of
663 grand larceny, and shall be imprisoned in the Penitentiary for a
664 term not exceeding ten (10) years; or shall be fined not more than
665 Ten Thousand Dollars (\$10,000.00), or both. The total value of
666 property taken and carried away by the person from a single victim
667 shall be aggregated in determining the gravity of the offense.

668 (3) Any person who shall be convicted of taking and carrying
669 away, feloniously, the personal property of another, of the value
670 of Twenty-five Thousand Dollars (\$25,000.00) or more, shall be
671 guilty of grand larceny, and shall be imprisoned in the
672 Penitentiary for a term not exceeding twenty (20) years; or shall
673 be fined not more than Ten Thousand Dollars (\$10,000.00), or both.
674 The total value of property taken and carried away by the person
675 from a single victim shall be aggregated in determining the
676 gravity of the offense.

677 (* * *4) * * * (a) Any person who shall be convicted of
678 taking and carrying away, feloniously, the property of a church,
679 synagogue, temple or other established place of worship, of the
680 value of * * * One Thousand Dollars (\$1,000.00) or more, shall be
681 guilty of grand larceny, and shall be imprisoned in the



682 Penitentiary for a term not exceeding ten (10) years, or shall be
683 fined not more than Ten Thousand Dollars (\$10,000.00), or both.

684 (b) Any person who shall be convicted of taking and
685 carrying away, feloniously, the property of a church, synagogue,
686 temple or other established place of worship, of the value of
687 Twenty-five Thousand Dollars (\$25,000.00) or more, shall be guilty
688 of grand larceny, and shall be imprisoned in the Penitentiary for
689 a term not exceeding twenty (20) years, or shall be fined not more
690 than Ten Thousand Dollars (\$10,000.00), or both. The total value
691 of property taken and carried away by the person from a single
692 victim shall be aggregated in determining the gravity of the
693 offense.

694 **SECTION 16.** Section 97-17-42, Mississippi Code of 1972, is
695 amended as follows:

696 97-17-42. (1) Any person who shall, willfully and without
697 authority, take possession of or take away a motor vehicle of any
698 value belonging to another, with intent to either permanently or
699 temporarily convert it or to permanently or temporarily deprive
700 the owner of possession or ownership, and any person who knowingly
701 shall aid and abet in the taking possession or taking away of the
702 motor vehicle, shall be guilty of * * * larceny and shall be
703 punished * * * based on the value of the motor vehicle involved
704 according to the schedule in Section 97-17-41. If the value of
705 the motor vehicle involved is One Thousand Dollars (\$1,000.00) or



706 less, the person shall be punished according to the schedule in
707 Section 97-17-43.

708 (2) Any person convicted under this section who causes
709 damage to any motor vehicle shall be ordered by the court to pay
710 restitution to the owner or owners of the motor vehicle or
711 vehicles damaged.

712 (3) This section shall not apply to the enforcement of a
713 security interest in a motor vehicle.

714 (4) Any person who shall be convicted for a second or
715 subsequent offense under this section shall be imprisoned in the
716 Penitentiary for a term not exceeding * * * twice the term
717 authorized based on the value of the motor vehicle involved in the
718 subsequent offense according to the schedule in Section 97-17-41
719 or shall be fined not more than Ten Thousand Dollars (\$10,000.00),
720 or both.

721 **SECTION 17.** Section 97-17-43, Mississippi Code of 1972, is
722 amended as follows:

723 97-17-43. (1) If any person shall feloniously take, steal
724 and carry away any personal property of another under the value
725 of * * * One Thousand Dollars (\$1,000.00), he shall be guilty of
726 petit larceny and, upon conviction, * * * may be punished by
727 imprisonment in the county jail not exceeding * * * one (1) year
728 or by fine not exceeding One Thousand Dollars (\$1,000.00), or both
729 if the court finds substantial and compelling reasons why the
730 offender cannot be safely and effectively supervised in the



731 community, is not amenable to community-based treatment, or poses
732 a significant risk to public safety. If such a finding is not
733 made, the court shall suspend the sentence of imprisonment and
734 impose a period of probation not exceeding one (1) year or a fine
735 not exceeding One Thousand Dollars (\$1,000.00), or both. The
736 total value of property taken, stolen or carried away by the
737 person from a single victim shall be aggregated in determining the
738 gravity of the offense. Any person convicted of a third or
739 subsequent offense under this section where the value of the
740 property is not less than Five Hundred Dollars (\$500.00), the
741 person shall be imprisoned in the Penitentiary for a term not
742 exceeding three (3) years or fined an amount not exceeding One
743 Thousand Dollars (\$1,000.00), or both.

744 (2) If any person shall feloniously take, steal and carry
745 away any property of a church, synagogue, temple or other
746 established place of worship under the value of * * * One Thousand
747 Dollars (\$1,000.00), he shall be guilty of petit larceny and, upon
748 conviction, * * * may be punished by imprisonment in the county
749 jail not exceeding one (1) year or by fine not exceeding Two
750 Thousand Dollars (\$2,000.00), or both if the court finds
751 substantial and compelling reasons why the offender cannot be
752 safely and effectively supervised in the community, is not
753 amenable to community-based treatment, or poses a significant risk
754 to public safety. If such a finding is not made, the court shall
755 suspend the sentence of imprisonment and impose a period of



756 probation not exceeding one (1) year or a fine not exceeding Two
757 Thousand Dollars (\$2,000.00), or both. Any person convicted of a
758 third or subsequent offense under this section where the value of
759 the property is not less than Five Hundred Dollars (\$500.00),
760 shall be imprisoned in the Penitentiary for a term not exceeding
761 three (3) years or fined an amount not exceeding Two Thousand
762 Dollars (\$2,000.00), or both.

763 (3) Any person who leaves the premises of an establishment
764 at which motor fuel offered for retail sale was dispensed into the
765 fuel tank of a motor vehicle by driving away in that motor vehicle
766 without having made due payment or authorized charge for the motor
767 fuel so dispensed, with intent to defraud the retail
768 establishment, shall be guilty of petit larceny and punished as
769 provided in subsection (1) of this section and, upon any second or
770 subsequent such offense, the driver's license of the person shall
771 be suspended as follows:

772 (a) The person shall submit the driver's license to the
773 court upon conviction and the court shall forward the driver's
774 license to the Department of Public Safety.

775 (b) The first suspension of a driver's license under
776 this subsection shall be for a period of six (6) months.

777 (c) A second or subsequent suspension of a driver's
778 license under this subsection shall be for a period of one (1)
779 year.



780 (d) At the expiration of the suspension period, and
781 upon payment of a restoration fee of Twenty-five Dollars (\$25.00),
782 the suspension shall terminate and the Department of Public Safety
783 shall return the person's driver's license to the person. The
784 restoration fee shall be in addition to the fees provided for in
785 Title 63, Chapter 1, and shall be deposited into the State General
786 Fund in accordance with Section 45-1-23.

787 **SECTION 18.** Section 97-17-47, Mississippi Code of 1972, is
788 amended as follows:

789 97-17-47. If any person shall sever from the soil of another
790 any produce growing thereon, or shall sever from any building,
791 gate, fence, railing, or other improvement or enclosure any part
792 thereof, and shall take and convert the same to his own use with
793 intent to steal the same, he shall be guilty of larceny in the
794 same manner and of the same degree as if the article so taken had
795 been severed at some previous and different time and shall be
796 punished based on the value of the property involved according to
797 the schedule in Sections 97-17-41 and 97-17-43.

798 **SECTION 19.** Section 97-17-60, Mississippi Code of 1972, is
799 amended as follows:

800 97-17-60. (1) Any person who acquires, with the consent of
801 an owner, any timber product from that owner and who receives
802 payment for the timber product shall, within thirty (30) days of
803 such receipt, make payment in full to the owner.



804 (2) If the owner has not received payment within the
805 required thirty (30) days, the owner shall notify the offender of
806 his demand for payment at the offender's last known address by
807 certified mail or by personal delivery of the written notice to
808 the offender. The offender shall make payment in full within ten
809 (10) days after the mailing or delivery of the written notice or
810 the offender shall be in violation of this section.

811 (3) A written agreement signed by the owner providing for a
812 means of payment contrary to this section shall constitute an
813 affirmative defense.

814 (4) For the purposes of this section, the following terms
815 shall have the meanings ascribed to them herein unless the context
816 clearly indicates otherwise:

817 (a) "Timber product" means timber of all kinds, species
818 or sizes, including, but not limited to, logs, lumber, poles,
819 pilings, posts, blocks, bolts, cordwood and pulpwood, pine
820 stumpwood, pine knots or other distillate wood, crossties,
821 turpentine (crude gum), pine straw, firewood and all other
822 products derived from timber or trees which have a sale or
823 commercial value.

824 (b) "Owner" means any person, partnership, corporation,
825 unincorporated association or other legal entity having any
826 interest in any timber product, any land upon which a timber
827 product is growing or any land from which a timber product has
828 been removed.



829 (5) Whoever violates this section, upon conviction thereof,
830 when the value of the timber product is * * * One Thousand Dollars
831 (\$1,000.00) or less, shall be fined not more than One Thousand
832 Dollars (\$1,000.00), or imprisoned for not more than one (1) year,
833 or both. When the value of the timber product is more than * * *
834 One Thousand Dollars (\$1,000.00), the violator, upon conviction
835 thereof, shall be fined not more than Five Thousand Dollars
836 (\$5,000.00), or imprisoned for not more than ten (10) years, or
837 both.

838 **SECTION 20.** Section 97-17-62, Mississippi Code of 1972, is
839 amended as follows:

840 97-17-62. (1) (a) It is unlawful to obtain custody of
841 personal property or equipment by trick, deceit, fraud or willful
842 false representation with intent to defraud the owner or any
843 person in lawful possession of the personal property or equipment.

844 (b) It is unlawful to hire or lease personal property
845 or equipment from any person who is in lawful possession of the
846 personal property or equipment with intent to defraud that person
847 of the rental due under the rental agreement.

848 (c) It is unlawful to abandon or willfully refuse to
849 redeliver personal property as required under a rental agreement
850 without the consent of the lessor or the lessor's agent with
851 intent to defraud the lessor or the lessor's agent.

852 (d) A person who violates this subsection (1) shall be
853 guilty of a misdemeanor, punishable as provided in Section



854 97-17-43, unless the value of the personal property or equipment
855 is of a value of * * * One Thousand Dollars (\$1,000.00) or more;
856 in that event the violation constitutes a felony, * * * and shall
857 be punished based on the property involved according to the
858 schedule in Section 97-17-41.

859 (2) (a) In prosecutions under this section, the following
860 acts are prima facie evidence of fraudulent intent: obtaining the
861 property or equipment under false pretenses; absconding without
862 payment; or removing or attempting to remove the property or
863 equipment from the county without the express written consent of
864 the lessor or the lessor's agent.

865 (b) Demand for return of overdue property or equipment
866 and for payment of amounts due may be made personally, by hand
867 delivery, or by certified mail, return receipt requested, to the
868 lessee's address shown in the rental contract.

869 (c) In a prosecution under subsection (1)(c):

870 (i) Failure to redeliver the property or equipment
871 within five (5) days after hand delivery to or return receipt from
872 the lessee is prima facie evidence of fraudulent intent. Notice
873 that is returned undelivered after mailing to the address given by
874 the lessee at the time of rental shall be deemed equivalent to
875 return receipt from the lessee.

876 (ii) Failure to pay any amount due which is
877 incurred as the result of the failure to redeliver property after
878 the rental period expires is prima facie evidence of fraudulent



879 intent. Amounts due include unpaid rental for the time period
880 during which the property or equipment was not returned, and
881 include the lesser of the cost of repairing or replacing the
882 property or equipment, as necessary, if it has been damaged or not
883 returned.

884 **SECTION 21.** Section 97-17-64, Mississippi Code of 1972, is
885 amended as follows:

886 97-17-64. (1) A person who obtains personal property of
887 another under a lease or rental agreement is guilty of theft if he
888 exercises unlawful or unauthorized control over the property with
889 purpose to deprive the owner thereof. As used in this section,
890 the word "deprive" means to withhold property of another
891 permanently or for so extended a period that a significant portion
892 of its economic value, or the use or benefit thereof, is lost to
893 the owner; or to withhold the property with intent to restore it
894 to the owner only upon payment of a reward or other compensation;
895 or to conceal, abandon or dispose of the property so as to make it
896 unlikely that the owner will recover it; or to sell, give, pledge,
897 or otherwise transfer any interest in the property.

898 (2) It shall be prima facie evidence of purpose to deprive
899 when a person:

900 (a) In obtaining such property presents identification
901 or information which is materially false, fictitious, misleading
902 or not current, with respect to such person's name, address, place
903 of employment, or any other material matter; or



904 (b) Fails to return such property to the owner or his
905 representative within ten (10) days after proper notice following
906 the expiration of the term for which such person's use, possession
907 or control of the property is authorized; or

908 (c) Fails to contact the owner or his representative to
909 make arrangements to return such property within ten (10) days
910 after proper notice following the expiration of the term for which
911 such person's use, possession or control of such property is
912 authorized.

913 (3) For the purpose of this section, "proper notice" means
914 either actual notification as may be otherwise proven beyond a
915 reasonable doubt or a written demand for return of the property
916 mailed to the defendant, which satisfies the following procedure:

917 (a) The written demand must be mailed to the defendant
918 by certified or registered mail with return receipt attached,
919 which return receipt by its terms must be signed by the defendant
920 personally and not by his representative;

921 (b) The written demand must be mailed to the defendant
922 at either the address given at the time he obtained the property
923 or the defendant's last known address if later furnished in
924 writing by the defendant to the owner or his representative; and

925 (c) The return receipt bearing the defendant's
926 signature must be returned to the owner or his representative.

927 (4) It shall be an affirmative defense to prosecution under
928 this section that:



929 (a) The defendant was unaware that the property was
930 that of another; or

931 (b) The defendant acted under an honest claim of right
932 to the property involved or that he had a right to acquire or
933 dispose of it as he did; or

934 (c) The defendant was physically incapacitated and
935 unable to request or obtain permission of the owner to retain the
936 property; or

937 (d) The property was in such a condition, through no
938 fault of the defendant, that it could not be returned within the
939 requisite time after receipt of proper notice.

940 (5) Any person convicted of the offense of theft under this
941 section shall be:

942 (a) Guilty of a misdemeanor when the value of the
943 personal property is less than * * * One Thousand Dollars
944 (\$1,000.00) and punished by a fine of not more than Two Hundred
945 Fifty Dollars (\$250.00), or by imprisonment in the county jail for
946 a term of not more than * * * one (1) year if the court finds
947 substantial and compelling reasons why the offender cannot be
948 safely and effectively supervised in the community, is not
949 amenable to community-based treatment, or poses a significant risk
950 to public safety. If such a finding is not made, the court shall
951 suspend the sentence of imprisonment and impose a period of
952 probation not exceeding one (1) year or a fine not exceeding Two
953 Hundred Fifty Dollars (\$250.00), or both. Any person convicted of



954 a third or subsequent offense under this subsection where the
955 value of the property is not less than Five Hundred Dollars
956 (\$500.00), shall be imprisoned in the Penitentiary for a term not
957 exceeding three (3) years or fined an amount not exceeding One
958 Thousand Dollars (\$1,000.00); or

959 (b) Guilty of a felony when the value of the personal
960 property is * * * One Thousand Dollars (\$1,000.00) or more and
961 punished by a fine of not more than One Thousand Dollars
962 (\$1,000.00), or by imprisonment in the State Penitentiary for a
963 term of not more than * * * five (5) years, or by both such fine
964 and imprisonment.

965 **SECTION 22.** Section 97-17-67, Mississippi Code of 1972, is
966 amended as follows:

967 97-17-67. (1) Every person who shall maliciously or
968 mischievously destroy, disfigure, or injure, or cause to be
969 destroyed, disfigured, or injured, any property of another, either
970 real or personal, shall be guilty of malicious mischief.

971 (2) If the value of the property destroyed, disfigured or
972 injured is * * * One Thousand Dollars (\$1,000.00) or less, it
973 shall be a misdemeanor punishable by a fine of not more than One
974 Thousand Dollars (\$1,000.00) or * * * by imprisonment in the
975 county jail not exceeding twelve (12) months * * *, or both; if
976 the court finds substantial and compelling reasons why the
977 offender cannot be safely and effectively supervised in the
978 community, is not amenable to community-based treatment, or poses



979 a significant risk to public safety. If such a finding is not
980 made, the court shall suspend the sentence of imprisonment and
981 impose a period of probation not exceeding one (1) year or a fine
982 of not more than One Thousand Dollars (\$1,000.00), or both. Any
983 person convicted of a third or subsequent offense under this
984 subsection where the value of the property is not less than Five
985 Hundred Dollars (\$500.00), shall be imprisoned in the Penitentiary
986 for a term not exceeding three (3) years or fined an amount not
987 exceeding One Thousand Dollars (\$1,000.00), or both.

988 (3) If the value of the property destroyed, disfigured or
989 injured is in excess of * * * One Thousand Dollars (\$1,000.00) but
990 less than Five Thousand Dollars (\$5,000.00), it shall be a felony
991 punishable by a fine not exceeding Ten Thousand Dollars
992 (\$10,000.00) or imprisonment in the Penitentiary not exceeding
993 five (5) years, or both.

994 (4) If the value of the property is Five Thousand Dollars
995 (\$5,000.00) or more but less than Twenty-five Thousand Dollars
996 (\$25,000.00), it shall be punishable by a fine not more than Ten
997 Thousand Dollars (\$10,000.00) or imprisonment in the Penitentiary
998 not exceeding ten (10) years, or both.

999 (5) If the value of the property is Twenty-five Thousand
1000 Dollars (\$25,000.00) or more, it shall be punishable by a fine not
1001 more than Ten Thousand Dollars (\$10,000.00) or imprisonment in the
1002 Penitentiary not exceeding twenty (20) years, or both.



1003 (* * *6) In all cases restitution to the victim for all
1004 damages shall be ordered. The value of property destroyed,
1005 disfigured or injured by the same party as part of a common crime
1006 against the same or multiple victims may be aggregated together
1007 and if the value exceeds One Thousand Dollars (\$1,000.00), shall
1008 be a felony.

1009 (* * *7) For purposes of this statute, value shall be the
1010 cost of repair or replacement of the property damaged or
1011 destroyed.

1012 (* * *8) Anyone who by any word, deed or act directly or
1013 indirectly urges, aids, abets, suggests or otherwise instills in
1014 the mind of another the will to so act shall be considered a
1015 principal in the commission of said crime and shall be punished in
1016 the same manner.

1017 **SECTION 23.** Section 97-17-70, Mississippi Code of 1972, is
1018 amended as follows:

1019 97-17-70. (1) A person commits the crime of receiving
1020 stolen property if he intentionally possesses, receives, retains
1021 or disposes of stolen property knowing that it has been stolen or
1022 having reasonable grounds to believe it has been stolen, unless
1023 the property is possessed, received, retained or disposed of with
1024 intent to restore it to the owner.

1025 (2) The fact that the person who stole the property has not
1026 been convicted, apprehended or identified is not a defense to a
1027 charge of receiving stolen property.



1028 (3) (a) Evidence that the person charged under this section
1029 stole the property that is the subject of the charge of receiving
1030 stolen property is not a defense to a charge under this section;
1031 however, dual charges of both stealing and receiving the same
1032 property shall not be brought against a single defendant in a
1033 single jurisdiction.

1034 (b) Proof that a defendant stole the property that is
1035 the subject of a charge under this section shall be prima facie
1036 evidence that the defendant had knowledge that the property was
1037 stolen.

1038 (4) Any person who shall be convicted of receiving stolen
1039 property which exceeds * * * One Thousand Dollars (\$1,000.00) or
1040 more, but less than Five Thousand Dollars (\$5,000.00) in value
1041 shall be committed to the custody of the State Department of
1042 Corrections for a term not exceeding * * * five (5) years or by a
1043 fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

1044 (5) Any person who shall be convicted of receiving stolen
1045 property which exceeds Five Thousand Dollars (\$5,000.00) or more,
1046 but less than Twenty-five Thousand Dollars (\$25,000.00) in value
1047 shall be committed to the custody of the State Department of
1048 Corrections for a term not exceeding ten (10) years or a fine not
1049 more than Ten Thousand Dollars (\$10,000.00), or both.

1050 (6) Any person who shall be convicted of receiving stolen
1051 property which exceeds Twenty-five Thousand Dollars (\$25,000.00)
1052 in value shall be committed to the custody of the State Department



1053 of Corrections for a term not exceeding twenty (20) years or a
1054 fine not more than Ten Thousand Dollars (\$10,000.00), or both.

1055 (* * *7) Any person who shall be convicted of receiving
1056 stolen property which does not exceed * * * One Thousand Dollars
1057 (\$1,000.00) in value shall be punished by imprisonment in the
1058 county jail for not more than * * * one (1) year or by a fine of
1059 not more than One Thousand Dollars (\$1,000.00), or both, if the
1060 court finds substantial and compelling reasons why the offender
1061 cannot be safely and effectively supervised in the community, is
1062 not amenable to community-based treatment, or poses a significant
1063 risk to public safety. If such a finding is not made, the court
1064 shall suspend the sentence of imprisonment and impose a period of
1065 probation not exceeding one (1) year or a fine of not more than
1066 One Thousand Dollars (\$1,000.00), or both. Any person convicted
1067 of a third or subsequent offense under this subsection where the
1068 value of the property is not less than Five Hundred Dollars
1069 (\$500.00), shall be imprisoned in the Penitentiary for a term not
1070 exceeding three (3) years or fined an amount not exceeding One
1071 Thousand Dollars (\$1,000.00), or both.

1072 **SECTION 24.** Section 97-17-71, Mississippi Code of 1972, is
1073 amended as follows:

1074 97-17-71. (1) For the purposes of this section, the
1075 following terms shall have the meanings ascribed in this section:



1076 (a) "Railroad materials" means any materials, equipment
1077 and parts used in the construction, operation, protection and
1078 maintenance of a railroad.

1079 (b) "Copper materials" means any copper wire, bars,
1080 rods or tubing, including copper wire or cable or coaxial cable of
1081 the type used by public utilities, common carriers or
1082 communication services providers, whether wireless or wire line,
1083 copper air conditioner evaporator coil or condenser, aluminum
1084 copper radiators not attached to a motor vehicle, or any
1085 combination of these.

1086 (c) "Aluminum materials" means any aluminum cable,
1087 bars, rods or tubing of the type used to construct utility,
1088 communication or broadcasting towers, aluminum utility wire and
1089 aluminum irrigation pipes or tubing. "Aluminum materials" does
1090 not include aluminum cans that have served their original economic
1091 purpose.

1092 (d) "Law enforcement officer" means any person
1093 appointed or employed full time by the state or any political
1094 subdivision thereof, or by the state military department as
1095 provided in Section 33-1-33, who is duly sworn and vested with
1096 authority to bear arms and make arrests, and whose primary
1097 responsibility is the prevention and detection of crime, the
1098 apprehension of criminals and the enforcement of the criminal
1099 traffic laws of this state or the ordinances of any political
1100 subdivision thereof.



1101 (e) "Metal property" means materials as defined in this
1102 section as railroad track materials, copper materials and aluminum
1103 materials and electrical, communications or utility brass, metal
1104 covers for service access and entrances to sewers and storm
1105 drains, metal bridge pilings, irrigation wiring and other metal
1106 property attached to or part of center pivots, grain bins,
1107 stainless steel sinks, catalytic converters not attached to a
1108 motor vehicle and metal beer kegs. Metal property does not
1109 include ferrous materials not listed in this section.

1110 (f) "Person" means an individual, partnership,
1111 corporation, joint venture, trust, limited liability company,
1112 association or any other legal or commercial entity.

1113 (g) "Personal identification card" means any government
1114 issued photographic identification card.

1115 (h) "Photograph" or "photographically" means a still
1116 photographic image, including images captured in digital format,
1117 that are of such quality that the persons and objects depicted are
1118 clearly identifiable.

1119 (i) "Purchase transaction" means a transaction in which
1120 a person gives consideration in exchange for metal property.

1121 (j) "Purchaser" means a person who gives consideration
1122 in exchange for metal property.

1123 (k) "Record" or "records" means a paper, electronic or
1124 other method of storing information.



1125 (1) "Scrap metal dealer" means any person who is
1126 engaged, from a fixed location or otherwise, in the business of
1127 paying compensation for metal property that has served its
1128 original economic purpose, whether or not the person is engaged in
1129 the business of performing the manufacturing process by which
1130 metals are converted into raw material products consisting of
1131 prepared grades and having an existing or potential economic
1132 value.

1133 (2) Every scrap metal dealer or other purchaser shall keep
1134 an accurate and legible record in which he shall enter the
1135 following information for each purchase transaction:

1136 (a) The name, address and age of the person from whom
1137 the metal property is purchased as obtained from the seller's
1138 personal identification card;

1139 (b) The date and place of each acquisition of the metal
1140 property;

1141 (c) The weight, quantity or volume and a general
1142 physical description of the type of metal property, such as wire,
1143 tubing, extrusions or casting, purchased in a purchase
1144 transaction;

1145 (d) The amount of consideration given in a purchase
1146 transaction for the metal property;

1147 (e) The vehicle license tag number, state of issue and
1148 the make and type of the vehicle used to deliver the metal
1149 property to the purchaser;



1150 (f) If a person other than the seller delivers the
1151 metal property to the purchaser, the name, address and age of the
1152 person who delivers the metal property;

1153 (g) A signed statement from the person receiving
1154 consideration in the purchase transaction stating that he is the
1155 rightful owner of the metal property or is entitled to sell the
1156 metal property being sold;

1157 (h) (i) A scanned copy or a photocopy of the personal
1158 identification card of the person receiving consideration in the
1159 purchase transaction; or

1160 (ii) If a person other than the seller delivers
1161 the metal property to the purchaser, a scanned copy or a photocopy
1162 of the personal identification card of the person delivering the
1163 metal property to the purchaser; and

1164 (i) A photograph, videotape or similar likeness of the
1165 person receiving consideration or any person other than the seller
1166 who delivers the metal property to the purchaser in which the
1167 person's facial features are clearly visible and in which the
1168 metal property the person is selling or delivering is clearly
1169 visible.

1170 Such records shall be maintained by the scrap metal dealer or
1171 purchaser for not less than two (2) years from the date of the
1172 purchase transaction, and such records shall be made available to
1173 any law enforcement officer during usual and customary business
1174 hours.



1175 (3) The purchaser of metal property must hold the metal
1176 property separate and identifiable from other purchases for not
1177 less than three (3) business days from the date of purchase. The
1178 purchaser shall also photographically capture the metal property
1179 in the same form, without change, in which the metal property was
1180 acquired, and maintain the photograph for a period of not less
1181 than two (2) years. The time and date shall be digitally recorded
1182 on the photograph, and the identity of the person taking the
1183 photograph shall be recorded. The purchaser shall permit any law
1184 enforcement officer to make an inspection of the metal property
1185 during the holding period, and of all photographs of the metal
1186 property. Any photograph of metal property taken and maintained
1187 pursuant to this subsection shall be admissible in any civil or
1188 criminal proceeding.

1189 (4) During the usual and customary business hours of a scrap
1190 metal dealer or other purchaser, a law enforcement officer, after
1191 proper identification as a law enforcement officer, shall have the
1192 right to inspect all purchased metal property in the possession of
1193 the scrap metal dealer or purchaser.

1194 (5) (a) Whenever a law enforcement officer has reasonable
1195 cause to believe that any item of metal property in the possession
1196 of a scrap metal dealer or other purchaser has been stolen, a law
1197 enforcement officer who has an affidavit from the alleged rightful
1198 owner of the property identifying the property with specificity,
1199 including any identifying markings, may issue and deliver a



1200 written hold notice to the scrap metal dealer or other purchaser.
1201 The hold notice shall specifically identify those items of metal
1202 property that are believed to have been stolen and that are
1203 subject to the hold notice. Upon receipt of the notice, the scrap
1204 metal dealer or other purchaser may not process or remove the
1205 metal property identified in the notice from the place of business
1206 of the scrap metal dealer or purchaser for fifteen (15) calendar
1207 days after receipt of the notice, unless sooner released by a law
1208 enforcement officer.

1209 (b) No later than the expiration of the fifteen-day
1210 period, a law enforcement officer, after receiving additional
1211 substantive evidence beyond the initial affidavit, may issue and
1212 deliver a second written hold notice, which shall be an extended
1213 hold notice. The extended hold notice shall specifically identify
1214 those items of metal property that are believed to have been
1215 stolen and that are subject to the extended hold notice. Upon
1216 receipt of the extended hold notice, the scrap metal dealer or
1217 purchaser may not process or remove the items of metal property
1218 identified in the notice from the place of business of the scrap
1219 metal dealer or purchaser for fifteen (15) calendar days after
1220 receipt of the extended hold notice, unless sooner released by a
1221 law enforcement officer.

1222 (c) At the expiration of the hold period or, if
1223 extended in accordance with this subsection, at the expiration of
1224 the extended hold period, the hold is automatically released, then



1225 the scrap metal dealer or purchaser may dispose of the metal
1226 property unless other disposition has been ordered by a court of
1227 competent jurisdiction.

1228 (d) If the scrap metal dealer or other purchaser
1229 contests the identification or ownership of the metal property,
1230 the party other than the scrap metal dealer or other purchaser
1231 claiming ownership of any metal property in the possession of a
1232 scrap metal dealer or other purchaser, provided that a timely
1233 report of the theft of the metal property was made to the proper
1234 authorities, may bring a civil action in the circuit court of the
1235 county in which the scrap metal dealer or purchaser is located.
1236 The petition for the action shall include the means of
1237 identification of the metal property utilized by the petitioner to
1238 determine ownership of the metal property in the possession of the
1239 scrap metal dealer or other purchaser.

1240 (e) When a lawful owner recovers stolen metal property
1241 from a scrap metal dealer or other purchaser who has complied with
1242 this section, and the person who sold the metal property to the
1243 scrap metal dealer or other purchaser is convicted of a violation
1244 of this section, or theft by receiving stolen property under
1245 Section 97-17-70, the court shall order the convicted person to
1246 make full restitution to the scrap metal dealer or other
1247 purchaser, including, without limitation, attorney's fees, court
1248 costs and other expenses.



1249 (6) This section shall not apply to purchases of metal
1250 property from any of the following:

1251 (a) A law enforcement officer acting in an official
1252 capacity;

1253 (b) A trustee in bankruptcy, executor, administrator or
1254 receiver who has presented proof of such status to the scrap metal
1255 dealer;

1256 (c) Any public official acting under a court order who
1257 has presented proof of such status to the scrap metal dealer;

1258 (d) A sale on the execution, or by virtue of any
1259 process issued by a court, if proof thereof has been presented to
1260 the scrap metal dealer; or

1261 (e) A manufacturing, industrial or other commercial
1262 vendor that generates or sells regulated metal property in the
1263 ordinary course of its business.

1264 (7) It shall be unlawful for any person to give a false
1265 statement of ownership or to give a false or altered
1266 identification or vehicle tag number and receive money or other
1267 consideration from a scrap metal dealer or other purchaser in
1268 return for metal property.

1269 (8) A scrap metal dealer or other purchaser shall not enter
1270 into any cash transactions in payment for the purchase of metal
1271 property. Payment shall be made by check issued to the seller of
1272 the metal, made payable to the name and address of the seller and
1273 mailed to the recorded address of the seller, or by electronic



1274 funds transfer. Payment shall not be made for a period of three
1275 (3) days after the purchase transaction.

1276 (9) If a person acquiring metal property fails to maintain
1277 the records or to hold such materials for the period of time
1278 prescribed by this section, such failure shall be prima facie
1279 evidence that the person receiving the metal property received it
1280 knowing it to be stolen in violation of Section 97-17-70.

1281 (10) It shall be unlawful for any person to transport or
1282 cause to be transported for himself or another from any point
1283 within this state to any point outside this state any metal
1284 property, unless the person or entity first reports to the sheriff
1285 of the county from which he departs this state transporting such
1286 materials the same information that a purchaser in this state
1287 would be required to obtain and keep in a record as set forth in
1288 subsection (2) of this section. In such a case the sheriff
1289 receiving the report shall keep the information in records
1290 maintained in his office as a public record available for
1291 inspection by any person at all reasonable times. This section
1292 shall not apply to a public utility, as that term is defined in
1293 Section 77-3-3, engaged in carrying on utility operations; to a
1294 railroad, as that term is defined in Section 77-9-5; to a
1295 communications service provider, whether wireless or wire line; to
1296 a scrap metal dealer; or to a person identified in subsection (6)
1297 as being exempt from the provisions of this section.



1298 (11) It shall be unlawful for a scrap metal dealer or other
1299 purchaser to knowingly purchase or possess a metal beer keg, or a
1300 metal syrup tank generally used by the soft drink industry,
1301 whether damaged or undamaged, or any reasonably recognizable part
1302 thereof, on any premises that the dealer uses to buy, sell, store,
1303 shred, melt, cut or otherwise alter scrap metal. However, it
1304 shall not be unlawful to purchase or possess a metal syrup tank
1305 generally used by the soft drink industry if the scrap metal
1306 dealer or other purchaser obtains a bill of sale at the time of
1307 purchase from a seller if the seller is a manufacturer of such
1308 tanks, a soft drink company or a soft drink distributor.

1309 (12) It shall be unlawful to sell to a scrap metal dealer
1310 any bronze vase and/or marker, memorial, statue, plaque, or other
1311 bronze object used at a cemetery or other location where deceased
1312 persons are interred or memorialized, or for any such dealer to
1313 purchase those objects, unless the source of the bronze is known
1314 and notice is provided to the municipal or county law enforcement
1315 agency where the dealer is located. The notice shall identify all
1316 names, letters, dates and symbols on the bronze and a photograph
1317 of the bronze shall be attached thereto. Written permission from
1318 the cemetery and the appropriate law enforcement agency must be
1319 received before any type of bronze described in this subsection
1320 may be purchased, processed, sold or melted.

1321 (13) It shall be unlawful for any scrap metal dealer to
1322 purchase any manhole cover and other similar types of utility



1323 access covers, including storm drain covers, or any metal property
1324 clearly identified as belonging to a political subdivision of the
1325 state or a municipality, unless that metal property is purchased
1326 from the political subdivision, the municipal utility or the
1327 manufacturer of the metal. Any purchaser who purchases metal
1328 property in bulk shall be allowed twenty-four (24) hours to
1329 determine if any metal property prohibited by this subsection is
1330 included in a bulk purchase. If such prohibited metal property is
1331 included in a bulk purchase, the purchaser shall notify law
1332 enforcement no later than twenty-four (24) hours after the
1333 purchase.

1334 (14) It shall be unlawful for a scrap metal dealer or other
1335 purchaser to purchase metal property from a person younger than
1336 eighteen (18) years of age.

1337 (15) Metal property may not be purchased, acquired or
1338 collected between the hours of 9:00 p.m. and 6:00 a.m.

1339 (16) Except as provided in this subsection, any person
1340 willfully or knowingly violating the provisions of this section
1341 shall, upon conviction thereof, be deemed guilty of a misdemeanor,
1342 and shall be punished by a fine not to exceed One Thousand Dollars
1343 (\$1,000.00) per offense, unless the purchase transaction or
1344 transactions related to the violation, in addition to any costs
1345 which are, or would be, incurred in repairing or in the attempt to
1346 recover any property damaged in the theft of or removal of the
1347 metal property, are in aggregate an amount which exceeds * * * One



1348 Thousand Dollars (\$1,000.00) but less than Five Thousand Dollars
1349 (\$5,000.00), in which case the person shall be guilty of a felony
1350 and shall be imprisoned in the custody of the Department of
1351 Corrections for a term not to exceed * * * five (5) years, fined
1352 not more than Ten Thousand Dollars (\$10,000.00), or both. Any
1353 person found guilty of stealing metal property or receiving metal
1354 property, knowing it to be stolen in violation of Section
1355 97-17-70, shall be ordered to make full restitution to the victim,
1356 including, without limitation, restitution for property damage
1357 that resulted from the theft of the property.

1358 (17) If the purchase transaction or transactions related to
1359 the violation, in addition to any costs which are, or would be,
1360 incurred in repairing or in the attempt to recover any property
1361 damaged in the theft of or removal of the metal property, are in
1362 aggregate an amount which exceeds Five Thousand Dollars
1363 (\$5,000.00) but less than Twenty-five Thousand Dollars
1364 (\$25,000.00), the person shall be guilty of a felony and shall be
1365 imprisoned in the custody of the Department of Corrections for a
1366 term not to exceed ten (10) years, fined not more than Ten
1367 Thousand Dollars (\$10,000.00), or both.

1368 (18) If the purchase transaction or transactions related to
1369 the violation, in addition to any costs which are, or would be,
1370 incurred in repairing or in the attempt to recover any property
1371 damaged in the theft of or removal of the metal property, are in
1372 aggregate an amount which exceeds Twenty-five Thousand Dollars



1373 (\$25,000.00), the person shall be guilty of a felony and shall be
1374 imprisoned in the custody of the Department of Corrections for a
1375 term not to exceed twenty (20) years, fined not more than Ten
1376 Thousand Dollars (\$10,000.00), or both.

1377 (* * *19) This section shall not be construed to repeal
1378 other criminal laws. Whenever conduct proscribed by any provision
1379 of this section is also proscribed by any other provision of law,
1380 the provision which carries the more serious penalty shall be
1381 applied.

1382 (* * *20) This section shall apply to all businesses
1383 regulated under this section without regard to the location within
1384 the State of Mississippi.

1385 (* * *21) This section shall not be construed to prohibit
1386 municipalities and counties from enacting and implementing
1387 ordinances, rules and regulations that impose stricter
1388 requirements relating to purchase transactions.

1389 **SECTION 25.** Section 97-21-29, Mississippi Code of 1972, is
1390 amended as follows:

1391 97-21-29. If any person shall, with intent to injure or
1392 defraud, make any instrument in his own name, intended to create,
1393 increase, discharge, defeat, or diminish any pecuniary obligation,
1394 right or interest, or to transfer or affect any property whatever,
1395 and shall utter and pass it under the pretense that it is the act
1396 of another who bears the same name, he shall be guilty of forgery



1397 and shall be punished according to the schedule in Section
1398 97-21-33.

1399 **SECTION 26.** Section 97-21-33, Mississippi Code of 1972, is
1400 amended as follows:

1401 97-21-33. (1) * * * Any person convicted of forgery may be
1402 punished by imprisonment in the county jail for a term of not more
1403 than one (1) year, or by a fine of not more than One Thousand
1404 Dollars (\$1,000.00), or both, if the court finds substantial and
1405 compelling reasons why the offender cannot be safely and
1406 effectively supervised in the community, is not amenable to
1407 community-based treatment, or poses a significant risk to public
1408 safety. If such a finding is not made, the court shall suspend
1409 the sentence of imprisonment and impose a period of probation not
1410 exceeding one (1) year or a fine of not more than One Thousand
1411 Dollars (\$1,000.00), or both. The total value of the forgery by
1412 the person from a single victim shall be aggregated in determining
1413 the gravity of the offense. Any person convicted of a third or
1414 subsequent offense under this subsection where the value of the
1415 property is not less than Five Hundred Dollars (\$500.00), shall be
1416 punished by imprisonment in the Penitentiary for a term not
1417 exceeding three (3) years or by a fine not exceeding One Thousand
1418 Dollars (\$1,000.00), or both.

1419 (2) Any person convicted of forgery for the value of One
1420 Thousand Dollars (\$1,000.00) or more but less than Five Thousand
1421 Dollars (\$5,000.00) shall be punished by imprisonment in the



1422 Penitentiary for a term of not * * * more than * * * five (5)
1423 years, or by a fine of not more than Ten Thousand Dollars
1424 (\$10,000.00), or both, * * * within the discretion of the court.

1425 (3) Any person who shall be convicted of forgery for the
1426 value of Five Thousand Dollars (\$5,000.00) or more, but less than
1427 Twenty-five Thousand Dollars (\$25,000.00) shall be imprisoned in
1428 the Penitentiary for a term not exceeding ten (10) years; or shall
1429 be fined not more than Ten Thousand Dollars (\$10,000.00), or both.

1430 (4) Any person who shall be convicted of forgery for the
1431 value of Twenty-five Thousand Dollars (\$25,000.00) or more, shall
1432 be imprisoned in the Penitentiary for a term not exceeding twenty
1433 (20) years; or shall be fined not more than Ten Thousand Dollars
1434 (\$10,000.00), or both. The total value of the forgery by the
1435 person from a single victim shall be aggregated in determining the
1436 gravity of the offense.

1437 **SECTION 27.** Section 97-21-37, Mississippi Code of 1972, is
1438 amended as follows:

1439 97-21-37. Every person who shall have in his possession any
1440 forged, altered or counterfeited negotiable note, bill, draft, or
1441 other evidence of debt issued or purported to have been issued by
1442 any corporation or company duly authorized for that purpose by the
1443 laws of the United States or of this state, or of any other state,
1444 government, or country, or any other forged, altered, or
1445 counterfeit, instrument the forgery of which is declared by the
1446 provisions of this chapter to be punishable, knowing the same to



1447 be forged, altered, or counterfeited, with intention to utter the
1448 same as true or as false, or to cause the same to be uttered, with
1449 intent to injure or defraud, shall be guilty of forgery and shall
1450 be punished according to the schedule in Section 97-21-33.

1451 **SECTION 28.** Section 97-21-59, Mississippi Code of 1972, is
1452 amended as follows:

1453 97-21-59. Every person who shall be convicted of having
1454 uttered or published as true, and with intent to defraud, any
1455 forged, altered, or counterfeit instrument, or any counterfeit
1456 gold or silver coin, the forgery, altering, or counterfeiting of
1457 which is declared by the provisions of this chapter to be an
1458 offense, knowing such instrument or coin to be forged, altered, or
1459 counterfeited, shall suffer the punishment herein provided for
1460 forgery, pursuant to Section 97-21-33.

1461 **SECTION 29.** Section 97-23-19, Mississippi Code of 1972, is
1462 amended as follows:

1463 97-23-19. If any person shall embezzle or fraudulently
1464 secrete, conceal, or convert to his own use, or make way with, or
1465 secrete with intent to embezzle or convert to his own use, any
1466 goods, rights in action, money, or other valuable security,
1467 effects, or property of any kind or description which shall have
1468 come or been entrusted to his care or possession by virtue of his
1469 office, position, place, or employment, either in mass or
1470 otherwise, he shall be guilty of embezzlement.



1471 (a) Any person guilty of embezzlement of any goods,
1472 rights of action, money, or other valuable security, effects or
1473 property of any kind or description with a value of less than One
1474 Thousand Dollars (\$1,000.00), shall be guilty of misdemeanor
1475 embezzlement, and, upon conviction thereof, may be sentenced to a
1476 term of imprisonment in the county jail not exceeding one (1)
1477 year, or fined not more than One Thousand Dollars (\$1,000.00), or
1478 both, if the court finds substantial and compelling reasons why
1479 the offender cannot be safely and effectively supervised in the
1480 community, is not amenable to community-based treatment, or poses
1481 a significant risk to public safety. If such a finding is not
1482 made, the court shall suspend the sentence of imprisonment and
1483 impose a period of probation not exceeding one (1) year or a fine
1484 of not more than One Thousand Dollars (\$1,000.00). Any person
1485 convicted of a third or subsequent offense under this subsection
1486 where the value of the property is not less than Five Hundred
1487 Dollars (\$500.00), shall be imprisoned in the Penitentiary for a
1488 term not exceeding three (3) years or fined an amount not
1489 exceeding Two Thousand Dollars (\$2,000.00), or both.

1490 (b) Any person guilty of embezzlement of any goods,
1491 rights in action, money, or other valuable security, effects or
1492 property of any kind or description with a value of * * * One
1493 Thousand Dollars (\$1,000.00) or more but less than Five Thousand
1494 Dollars (\$5,000.00), * * * shall be guilty of felony embezzlement,
1495 and, upon conviction thereof, shall be imprisoned in the custody



1496 of the Department of Corrections not more than * * * five (5)
1497 years, or fined not more than Twenty-five Thousand Dollars
1498 (\$25,000.00), or both. If the value of such goods, rights in
1499 action, money or other valuable security, effects, or property of
1500 any kind is less than Five Hundred Dollars (\$500.00), he shall be
1501 guilty of misdemeanor embezzlement, and, upon conviction thereof,
1502 shall be imprisoned in the county jail not more than six (6)
1503 months, or fined not more than One Thousand Dollars (\$1,000.00),
1504 or both.

1505 (c) Any person guilty of embezzlement of any goods,
1506 rights in action, money, or other valuable security, effects or
1507 property of any kind or description with a value of Five Thousand
1508 Dollars (\$5,000.00) or more, but less than Twenty-five Thousand
1509 Dollars (\$25,000.00), shall be guilty of felony embezzlement, and,
1510 upon conviction thereof, shall be imprisoned in the Penitentiary
1511 for not more than ten (10) years, or fined not more than
1512 Twenty-five Thousand Dollars (\$25,000.00), or both.

1513 (d) Any person guilty of embezzlement of any goods,
1514 rights in action, money, or other valuable security, effects or
1515 property of any kind or description with a value of Twenty-five
1516 Thousand Dollars (\$25,000.00) or more, shall be guilty of felony
1517 embezzlement, and, upon conviction thereof, shall be imprisoned in
1518 the Penitentiary not more than twenty (20) years, or fined not
1519 more than Twenty-five Thousand Dollars (\$25,000.00), or both.



1520 **SECTION 30.** Section 97-23-93, Mississippi Code of 1972, is
1521 amended as follows:

1522 97-23-93. (1) Any person who shall willfully and unlawfully
1523 take possession of any merchandise owned or held by and offered or
1524 displayed for sale by any merchant, store or other mercantile
1525 establishment with the intention and purpose of converting such
1526 merchandise to his own use without paying the merchant's stated
1527 price therefor shall be guilty of the crime of shoplifting and,
1528 upon conviction, shall be punished as is provided in this section.

1529 (2) The requisite intention to convert merchandise without
1530 paying the merchant's stated price for the merchandise is
1531 presumed, and shall be prima facie evidence thereof, when such
1532 person, alone or in concert with another person, willfully:

1533 (a) Conceals the unpurchased merchandise;

1534 (b) Removes or causes the removal of unpurchased
1535 merchandise from a store or other mercantile establishment;

1536 (c) Alters, transfers or removes any price-marking, any
1537 other marking which aids in determining value affixed to the
1538 unpurchased merchandise, or any tag or device used in electronic
1539 surveillance of unpurchased merchandise;

1540 (d) Transfers the unpurchased merchandise from one
1541 container to another; or

1542 (e) Causes the cash register or other sales recording
1543 device to reflect less than the merchant's stated price for the
1544 unpurchased merchandise.



1545 (3) Evidence of stated price or ownership of merchandise may
1546 include, but is not limited to:

1547 (a) The actual merchandise or the container which held
1548 the merchandise alleged to have been shoplifted; or

1549 (b) The content of the price tag or marking from such
1550 merchandise; or

1551 (c) Properly identified photographs of such
1552 merchandise.

1553 (4) Any merchant or his agent or employee may testify at a
1554 trial as to the stated price or ownership of merchandise.

1555 (5) A person convicted of shoplifting merchandise for which
1556 the merchant's stated price is less than or equal to * * * One
1557 Thousand Dollars (\$1,000.00) shall be punished as follows:

1558 (a) Upon a first shoplifting conviction the defendant
1559 shall be guilty of a misdemeanor and fined not more than One
1560 Thousand Dollars (\$1,000.00), or punished by imprisonment in the
1561 county jail for a term not to exceed * * * one (1) year, or by
1562 both * * *, if the court finds substantial and compelling reasons
1563 why the offender cannot be safely and effectively supervised in
1564 the community, is not amenable to community-based treatment, or
1565 poses a significant risk to public safety. If such a finding is
1566 not made, the court shall suspend the sentence of imprisonment and
1567 impose a period of probation not exceeding one (1) year or a fine
1568 of not more than One Thousand Dollars (\$1,000.00).



1569 (b) Upon a second shoplifting conviction the defendant
1570 shall be guilty of a misdemeanor and fined not more than One
1571 Thousand Dollars (\$1,000.00) or punished by imprisonment in the
1572 county jail for a term not to exceed * * * one (1) year, or by
1573 both * * *, if the court finds substantial and compelling reasons
1574 why the offender cannot be safely and effectively supervised in
1575 the community, is not amenable to community-based treatment, or
1576 poses a significant risk to public safety. If such a finding is
1577 made, the finding shall be stated on the record at the time of
1578 sentencing.

1579 (6) Upon a third or subsequent shoplifting conviction the
1580 defendant shall be guilty of a felony and fined not more than Five
1581 Thousand Dollars (\$5,000.00), or imprisoned for a term not
1582 exceeding five (5) years, or by both such fine and imprisonment.

1583 (7) A person convicted of shoplifting merchandise for which
1584 the merchant's stated price exceeds * * * One Thousand Dollars
1585 (\$1,000.00) shall be guilty of a felony and, upon conviction,
1586 punished as provided in Section 97-17-41 for the offense of grand
1587 larceny.

1588 (8) In determining the number of prior shoplifting
1589 convictions for purposes of imposing punishment under this
1590 section, the court shall disregard all such convictions occurring
1591 more than seven (7) years prior to the shoplifting offense in
1592 question.



1593 (9) For the purpose of determining the gravity of the
1594 offense under subsection (7) of this section, the prosecutor may
1595 aggregate the value of merchandise shoplifted from three (3) or
1596 more separate mercantile establishments within the same legal
1597 jurisdiction over a period of thirty (30) or fewer days.

1598 **SECTION 31.** Section 97-23-94, Mississippi Code of 1972, is
1599 amended as follows:

1600 97-23-94. (1) In addition to any other offense and penalty
1601 provided by law, it shall be unlawful for any person eighteen (18)
1602 years of age or older to encourage, aid or abet any person under
1603 the age of eighteen (18) years to commit the crime of shoplifting
1604 as defined in Section 97-23-93. In addition to any other penalty
1605 provided by law, any person who violates this section shall be
1606 punished as follows:

1607 (a) Upon a first conviction the defendant shall be
1608 guilty of a misdemeanor and fined not more than Seven Hundred
1609 Fifty Dollars (\$750.00), or punished by imprisonment not to exceed
1610 thirty (30) days, or by both such fine and imprisonment.

1611 (b) Upon a second conviction the defendant shall be
1612 guilty of a misdemeanor and fined not more than One Thousand
1613 Dollars (\$1,000.00) or punished by imprisonment not to exceed
1614 ninety (90) days, or by both such fine and imprisonment.

1615 (c) Upon a third or subsequent conviction the defendant
1616 shall be guilty of a felony and fined One Thousand Dollars



1617 (\$1,000.00), or imprisoned for a term not exceeding * * * three
1618 (3) years, or by both such fine and imprisonment.

1619 (2) In addition to the penalties prescribed in subsection
1620 (1) of this section, the court is authorized to require the
1621 defendant to make restitution to the owner of the property where
1622 shoplifting occurred in an amount equal to twice the value of such
1623 property.

1624 **SECTION 32.** Section 97-45-3, Mississippi Code of 1972, is
1625 amended as follows:

1626 97-45-3. (1) Computer fraud is the accessing or causing to
1627 be accessed of any computer, computer system, computer network or
1628 any part thereof with the intent to:

1629 (a) Defraud;

1630 (b) Obtain money, property or services by means of
1631 false or fraudulent conduct, practices or representations; or
1632 through the false or fraudulent alteration, deletion or insertion
1633 of programs or data; or

1634 (c) Insert or attach or knowingly create the
1635 opportunity for an unknowing and unwanted insertion or attachment
1636 of a set of instructions or a computer program into a computer
1637 program, computer, computer system, or computer network, that is
1638 intended to acquire, alter, damage, delete, disrupt, or destroy
1639 property or otherwise use the services of a computer program,
1640 computer, computer system or computer network.



1641 (2) Whoever commits the offense of computer fraud shall be
1642 punished, upon conviction, by a fine of not more than One Thousand
1643 Dollars (\$1,000.00), or by imprisonment in the county jail for a
1644 term of * * * not more than * * * one (1) year, or by both * * *,
1645 if the court finds substantial and compelling reasons why the
1646 offender cannot be safely and effectively supervised in the
1647 community, is not amenable to community-based treatment, or poses
1648 a significant risk to public safety. If such a finding is not
1649 made, the court shall suspend the sentence of imprisonment and
1650 impose a period of probation not exceeding one (1) year or a fine
1651 of not more than One Thousand Dollars (\$1,000.00), or both. The
1652 total value of property taken, stolen or carried away by the
1653 person from a single victim shall be aggregated in determining the
1654 gravity of the offense. Any person convicted of a third or
1655 subsequent offense under this subsection where the value of the
1656 property is not less than Five Hundred Dollars (\$500.00), shall be
1657 imprisoned in the Penitentiary for a term not exceeding three (3)
1658 years or fined an amount not exceeding Two Thousand Dollars
1659 (\$2,000.00), or both.

1660 (3) * * * Whoever commits the offense of computer fraud when
1661 the damage or loss or attempted damage or loss amounts to a value
1662 of * * * One Thousand Dollars (\$1,000.00) but less than Five
1663 Thousand Dollars (\$5,000.00), the offender may be punished, upon
1664 conviction, by a fine of not more than Ten Thousand Dollars



1665 (\$10,000.00) or by imprisonment for not more than five (5) years,
1666 or by both such fine and imprisonment.

1667 (4) Whoever commits the offense of computer fraud when the
1668 damage or loss or attempted damage or loss amounts to a value of
1669 Five Thousand Dollars (\$5,000.00) or more, but less than
1670 Twenty-five Thousand Dollars (\$25,000.00), the offender may be
1671 punished, upon conviction, by a fine of not more than Ten Thousand
1672 Dollars (\$10,000.00) or by imprisonment for not more than ten (10)
1673 years, or by both such fine and imprisonment.

1674 (5) Whoever commits the offense of computer fraud when the
1675 damage or loss or attempted damage or loss amounts to a value of
1676 Twenty-five Thousand Dollars (\$25,000.00) or more, the offender
1677 may be punished, upon conviction, by a fine of not more than Ten
1678 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
1679 twenty (20) years, or by both such fine and imprisonment.

1680 (* * *6) The definition of the term "computer network"
1681 includes the Internet, as defined in Section 230 of Title II of
1682 the Communications Act of 1934, Chapter 652, 110 Stat. 137,
1683 codified at 47 USCS 230.

1684 **SECTION 33.** Section 97-45-5, Mississippi Code of 1972, is
1685 amended as follows:

1686 97-45-5. (1) An offense against computer users is the
1687 intentional:



1688 (a) Denial to an authorized user, without consent, of
1689 the full and effective use of or access to a computer, a computer
1690 system, a computer network or computer services; or

1691 (b) Use or disclosure to another, without consent, of
1692 the numbers, codes, passwords or other means of access to a
1693 computer, a computer system, a computer network or computer
1694 services.

1695 (2) Whoever commits an offense against computer users shall
1696 be punished, upon conviction, by a fine of not more than One
1697 Thousand Dollars (\$1,000.00), or by imprisonment in the county
1698 jail for a term of * * * not more than * * * one (1) year, or by
1699 both * * *, if the court finds substantial and compelling reasons
1700 why the offender cannot be safely and effectively supervised in
1701 the community, is not amenable to community-based treatment, or
1702 poses a significant risk to public safety. If such a finding is
1703 not made, the court shall suspend the sentence of imprisonment and
1704 impose a period of probation not exceeding one (1) year or a fine
1705 of not more than One Thousand Dollars (\$1,000.00), or both. The
1706 total value of property taken, stolen or carried away by the
1707 person from a single victim shall be aggregated in determining the
1708 gravity of the offense. Any person convicted of a third or
1709 subsequent offense under this subsection where the value of the
1710 property is not less than Five Hundred Dollars (\$500.00), shall be
1711 imprisoned in the Penitentiary for a term not exceeding three (3)



1712 years or fined an amount not exceeding One Thousand Dollars
1713 (\$1,000.00), or both.

1714 (3) * * * Whoever commits an offense against computer users
1715 when the damage or loss amounts to a value of * * * One Thousand
1716 Dollars (\$1,000.00) or more but less than Five Thousand Dollars
1717 (\$5,000.00), * * * may be punished, upon conviction, by a fine of
1718 not more than Ten Thousand Dollars (\$10,000.00), or imprisonment
1719 for not more than five (5) years, or by both such fine and
1720 imprisonment.

1721 (4) Whoever commits an offense against computer users when
1722 the damage or loss amounts to a value of Five Thousand Dollars
1723 (\$5,000.00) or more, but less than Twenty-five Thousand Dollars
1724 (\$25,000.00), may be punished, upon conviction, by a fine of not
1725 more than Ten Thousand Dollars (\$10,000.00), or imprisonment for
1726 not more than ten (10) years, or by both such fine and
1727 imprisonment.

1728 (5) Whoever commits an offense against computer users when
1729 the damage or loss amounts to a value of Twenty-five Thousand
1730 Dollars (\$25,000.00) or more, may be punished, upon conviction, by
1731 a fine of not more than Ten Thousand Dollars (\$10,000.00), or
1732 imprisonment for not more than twenty-five (25) years, or by both
1733 such fine and imprisonment.

1734 **SECTION 34.** Section 97-45-7, Mississippi Code of 1972, is
1735 amended as follows:



1736 97-45-7. (1) An offense against computer equipment or
1737 supplies is the intentional modification or destruction, without
1738 consent, of computer equipment or supplies used or intended to be
1739 used in a computer, computer system or computer network.

1740 (2) Whoever commits an offense against computer equipment or
1741 supplies shall be punished, upon conviction, by a fine of not more
1742 than One Thousand Dollars (\$1,000.00), or by imprisonment in the
1743 county jail for a term of * * * not more than * * * one (1) year,
1744 or both * * *, if the court finds substantial and compelling
1745 reasons why the offender cannot be safely and effectively
1746 supervised in the community, is not amenable to community-based
1747 treatment, or poses a significant risk to public safety. If such
1748 a finding is not made, the court shall suspend the sentence of
1749 imprisonment and impose a period of probation not exceeding one
1750 (1) year or a fine of not more than One Thousand Dollars
1751 (\$1,000.00), or both. The total value of property taken, stolen
1752 or carried away by the person from a single victim shall be
1753 aggregated in determining the gravity of the offense. Any person
1754 convicted of a third or subsequent offense under this subsection
1755 where the value of the property is not less than Five Hundred
1756 Dollars (\$500.00), shall be imprisoned in the Penitentiary for a
1757 term not exceeding three (3) years or fined an amount not
1758 exceeding One Thousand Dollars (\$1,000.00), or both.

1759 (3) * * * Whoever commits an offense against computer
1760 equipment or supplies when the damage or loss amounts to a value



1761 of * * * One Thousand Dollars (\$1,000.00) or more but less than
1762 Five Thousand Dollars (\$5,000.00), * * * may be punished, upon
1763 conviction, by a fine of not more than Ten Thousand Dollars
1764 (\$10,000.00) or by imprisonment for not more than five (5) years,
1765 or by both such fine and imprisonment.

1766 (4) Whoever commits an offense against computer equipment or
1767 supplies when the damage or loss amounts to a value of Five
1768 Thousand Dollars (\$5,000.00) or more, but less than Twenty-five
1769 Thousand Dollars (\$25,000.00), may be punished, upon conviction,
1770 by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by
1771 imprisonment for not more than ten (10) years, or by both such
1772 fine and imprisonment.

1773 (5) Whoever commits an offense against computer equipment or
1774 supplies when the damage or loss amounts to a value of Twenty-five
1775 Thousand Dollars (\$25,000.00) or more, may be punished, upon
1776 conviction, by a fine of not more than Ten Thousand Dollars
1777 (\$10,000.00) or by imprisonment for not more than twenty (20)
1778 years, or by both such fine and imprisonment.

1779 **SECTION 35.** Section 97-45-9, Mississippi Code of 1972, is
1780 amended as follows:

1781 97-45-9. (1) An offense against intellectual property is
1782 the intentional:

1783 (a) Destruction, insertion or modification, without
1784 consent, of intellectual property; or



1785 (b) Disclosure, use, copying, taking or accessing,
1786 without consent, of intellectual property.

1787 (2) Whoever commits an offense against intellectual property
1788 shall be punished, upon conviction, by a fine of not more than One
1789 Thousand Dollars (\$1,000.00), or by imprisonment in the county
1790 jail for not more than * * * one (1) year, or by both * * *, if
1791 the court finds substantial and compelling reasons why the
1792 offender cannot be safely and effectively supervised in the
1793 community, is not amenable to community-based treatment, or poses
1794 a significant risk to public safety. If such a finding is not
1795 made, the court shall suspend the sentence of imprisonment and
1796 impose a period of probation not exceeding one (1) year or a fine
1797 of not more than One Thousand Dollars (\$1,000.00), or both. The
1798 total value of property taken, stolen or carried away by the
1799 person from a single victim shall be aggregated in determining the
1800 gravity of the offense. Any person convicted of a third or
1801 subsequent offense under this subsection where the value of the
1802 property is not less than Five Hundred Dollars (\$500.00), shall be
1803 imprisoned in the Penitentiary for a term not exceeding three (3)
1804 years or fined an amount not exceeding One Thousand Dollars
1805 (\$1,000.00), or by both.

1806 (3) * * * Whoever commits an offense against intellectual
1807 property when the damage or loss amounts to a value of * * * One
1808 Thousand Dollars (\$1,000.00) or more but less than Five Thousand
1809 Dollars (\$5,000.00), the offender may be punished, upon



1810 conviction, by a fine of not more than Ten Thousand Dollars
1811 (\$10,000.00) or by imprisonment for not more than five (5) years,
1812 or by both such fine and imprisonment.

1813 (4) Whoever commits an offense against intellectual property
1814 when the damage or loss amounts to a value of Five Thousand
1815 Dollars (\$5,000.00) or more, but less than Twenty-five Thousand
1816 Dollars (\$25,000.00), may be punished, upon conviction, by a fine
1817 of not more than Ten Thousand Dollars (\$10,000.00) or by
1818 imprisonment for not more than ten (10) years, or by both such
1819 fine and imprisonment.

1820 (5) Whoever commits an offense against intellectual property
1821 when the damage or loss amounts to a value of Twenty-five Thousand
1822 Dollars (\$25,000.00) or more, may be punished, upon conviction, by
1823 a fine of not more than Ten Thousand Dollars (\$10,000.00) or by
1824 imprisonment for not more than twenty (20) years, or by both such
1825 fine and imprisonment.

1826 (* * *6) The provisions of this section shall not apply to
1827 the disclosure, use, copying, taking, or accessing by proper means
1828 as defined in this chapter.

1829 **SECTION 36.** Section 97-45-19, Mississippi Code of 1972, is
1830 brought forward as follows:

1831 97-45-19. (1) A person shall not obtain or attempt to
1832 obtain personal identity information of another person with the
1833 intent to unlawfully use that information for any of the following
1834 purposes without that person's authorization:



1835 (a) To obtain financial credit.

1836 (b) To purchase or otherwise obtain or lease any real
1837 or personal property.

1838 (c) To obtain employment.

1839 (d) To obtain access to medical records or information
1840 contained in medical records.

1841 (e) To commit any illegal act.

1842 (2) (a) A person who violates this section is guilty of a
1843 felony punishable by imprisonment for not less than two (2) nor
1844 more than fifteen (15) years or a fine of not more than Ten
1845 Thousand Dollars (\$10,000.00), or both.

1846 (b) Notwithstanding the provisions of paragraph (a) of
1847 this subsection (2), if the violation involves an amount of less
1848 than Two Hundred Fifty Dollars (\$250.00), a person who violates
1849 this section may be found guilty of a misdemeanor punishable by
1850 imprisonment in the county jail for a term of not more than six
1851 (6) months, or by a fine of not more than One Thousand Dollars
1852 (\$1,000.00), or both, in the discretion of the court.

1853 (c) For purposes of determining the amount of the
1854 violation, the value of all goods, property, services and other
1855 things of value obtained or attempted to be obtained by the use of
1856 an individual's identity information shall be aggregated.

1857 (3) This section does not prohibit the person from being
1858 charged with, convicted of, or sentenced for any other violation



1859 of law committed by that person using information obtained in
1860 violation of this section.

1861 (4) This section does not apply to a person who obtains or
1862 attempts to obtain personal identity information of another person
1863 pursuant to the discovery process of a civil action, an
1864 administrative proceeding or an arbitration proceeding.

1865 (5) Upon the request of a person whose identifying
1866 information was appropriated, the Attorney General may provide
1867 assistance to the victim in obtaining information to correct
1868 inaccuracies or errors in the person's credit report or other
1869 identifying information; however, no legal representation shall be
1870 afforded such person by the Office of the Attorney General.

1871 (6) A person convicted under this section or under Section
1872 97-19-85 shall be ordered to pay restitution as provided in
1873 Section 99-37-1 et seq., and any legal interest in addition to any
1874 other fine or imprisonment which may be imposed.

1875 **SECTION 37.** Section 97-43-5, Mississippi Code of 1972, is
1876 brought forward as follows:

1877 97-43-5. (1) It is unlawful for any person who has with
1878 criminal intent received any proceeds derived, directly or
1879 indirectly, from a pattern of racketeering activity or through the
1880 collection of an unlawful debt to use or invest, whether directly
1881 or indirectly, any part of such proceeds or the proceeds derived
1882 from the investment or use thereof, in the acquisition of any



1883 title to, or any right, interest, or equity in, real property or
1884 in the establishment or operation of any enterprise.

1885 (2) It is unlawful for any person, through a pattern of
1886 racketeering activity or through the collection of an unlawful
1887 debt, to acquire or maintain, directly or indirectly, any interest
1888 in or control of any enterprise or real property.

1889 (3) It is unlawful for any person employed by, or associated
1890 with, any enterprise to conduct or participate, directly or
1891 indirectly, in such enterprise through a pattern of racketeering
1892 activity or the collection of an unlawful debt.

1893 (4) It is unlawful for any person to conspire to violate any
1894 of the provisions of subsections (1), (2) or (3) of this section.

1895 **SECTION 38.** Section 41-29-139, Mississippi Code of 1972, is
1896 amended as follows:

1897 41-29-139. (a) Except as authorized by this article, it is
1898 unlawful for any person knowingly or intentionally:

1899 (1) To sell, barter, transfer, manufacture, distribute,
1900 dispense or possess with intent to sell, barter, transfer,
1901 manufacture, distribute or dispense, a controlled substance; or

1902 (2) To create, sell, barter, transfer, distribute,
1903 dispense or possess with intent to create, sell, barter, transfer,
1904 distribute or dispense, a counterfeit substance.

1905 (b) Except as otherwise provided in * * * Section 41-29-142,
1906 any person who violates subsection (a) of this section in the
1907 following amounts shall be, if convicted, sentenced as follows:



1908 (1) In the case of controlled substances classified in
1909 Schedule I or II, as set out in Sections 41-29-113 and 41-29-115,
1910 except thirty (30) grams or less of marijuana or synthetic
1911 cannabinoids, and except a first offender as defined in Section
1912 41-29-149(e) who violates subsection (a) of this section with
1913 respect to less than one (1) kilogram but more than thirty (30)
1914 grams of marijuana or synthetic cannabinoids, such person may,
1915 upon conviction * * * for an amount of the controlled substance
1916 of:

1917 (A) Less than two (2) grams or ten (10) dosage
1918 units, be imprisoned for not more than five (5) years or fined not
1919 more than Fifty Thousand Dollars (\$50,000.00), or both;

1920 (B) Two (2) grams or ten (10) dosage units or more
1921 but less than ten (10) grams or twenty (20) dosage units, be
1922 imprisoned for not less than three (3) years nor more than twenty
1923 (20) years or fined not more than Two Hundred Fifty Thousand
1924 Dollars (\$ 250,000.00), or both;

1925 (C) Ten (10) grams or twenty (20) dosage units or
1926 more but less than thirty (30) grams or forty (40) dosage units,
1927 be imprisoned for not less five (5) years nor more than thirty
1928 (30) years or fined not more than Five Hundred Thousand Dollars
1929 (\$500,000.00).

1930 (2) In the case of a first offender who violates
1931 subsection (a) of this section with an amount less than one (1)
1932 kilogram but more than thirty (30) grams of marijuana or synthetic



1933 cannabinoids as classified in Schedule I, as set out in Section
1934 41-29-113, such person is guilty of a felony and, upon conviction,
1935 may be imprisoned for not more than * * * five (5) years or fined
1936 not more than Thirty Thousand Dollars (\$30,000.00), or both;

1937 (3) In the case of thirty (30) grams or less of
1938 marijuana or synthetic cannabinoids, such person may, upon
1939 conviction, be imprisoned for not more than three (3) years or
1940 fined not more than Three Thousand Dollars (\$3,000.00), or both;

1941 (4) In the case of controlled substances classified in
1942 Schedules III and IV, as set out in Sections 41-29-117 and
1943 41-29-119, such person may, upon conviction * * * for an amount of
1944 the controlled substance of:

1945 (A) Less than two (2) grams or ten (10) dosage
1946 units, be imprisoned for not more than two (2) years or fined not
1947 more than Five Thousand Dollars (\$5,000.00), or both;

1948 (B) Two (2) grams or ten (10) dosage units or more
1949 but less than ten (10) grams or twenty (20) dosage units, be
1950 imprisoned for not more than eight (8) years or fined not more
1951 than Fifty Thousand Dollars (\$50,000.00), or both;

1952 (C) Ten grams (10) or twenty (20) dosage units or
1953 more but less than thirty (30) grams or forty (40) dosage units,
1954 be imprisoned for not more than fifteen (15) years or fined not
1955 more than One Hundred Thousand Dollars (\$100,000.00).



1956 (5) In the case of controlled substances classified in
1957 Schedule V, as set out in Section 41-29-121, such person may, upon
1958 conviction * * * for an amount of the controlled substance of:

1959 (A) Less than two (2) grams or ten (10) dosage
1960 units, be imprisoned for not more than one (1) year or fined not
1961 more than One Thousand Dollars (\$1,000.00), or both;

1962 (B) Two (2) grams or ten (10) dosage units or more
1963 but less than ten (10) grams or twenty (20) dosage units, be
1964 imprisoned for not more than five years (5) years or fined not
1965 more than Ten Thousand Dollars (\$10,000.00), or both;

1966 (C) Ten grams (10) or twenty (20) dosage units or
1967 more but less than thirty (30) grams or forty (40) dosage units,
1968 be imprisoned for not more than ten (10) years or fined not more
1969 than Twenty Thousand Dollars (\$20,000.00).

1970 (c) It is unlawful for any person knowingly or intentionally
1971 to possess any controlled substance unless the substance was
1972 obtained directly from, or pursuant to, a valid prescription or
1973 order of a practitioner while acting in the course of his
1974 professional practice, or except as otherwise authorized by this
1975 article. The penalties for any violation of this subsection (c)
1976 with respect to a controlled substance classified in Schedule I,
1977 II, III, IV or V, as set out in Section 41-29-113, 41-29-115,
1978 41-29-117, 41-29-119 or 41-29-121, including marijuana or
1979 synthetic cannabinoids, shall be based on dosage unit as defined



1980 herein or the weight of the controlled substance as set forth
1981 herein as appropriate:

1982 "Dosage unit (d.u.)" means a tablet or capsule, or in the
1983 case of a liquid solution, one (1) milliliter. In the case of
1984 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
1985 stamp, square, dot, microdot, tablet or capsule of a controlled
1986 substance.

1987 For any controlled substance that does not fall within the
1988 definition of the term "dosage unit," the penalties shall be based
1989 upon the weight of the controlled substance.

1990 The weight set forth refers to the entire weight of any
1991 mixture or substance containing a detectable amount of the
1992 controlled substance.

1993 If a mixture or substance contains more than one (1)
1994 controlled substance, the weight of the mixture or substance is
1995 assigned to the controlled substance that results in the greater
1996 punishment.

1997 Any person who violates this subsection with respect to:

1998 (1) A controlled substance classified in Schedule I or
1999 II, except marijuana or synthetic cannabinoids, in the following
2000 amounts shall be charged and sentenced as follows:

2001 (A) Less than one-tenth (0.1) gram or * * * two
2002 (2) dosage units * * * shall be charged as a misdemeanor * * *
2003 and, upon conviction, may be imprisoned * * * for up to one (1)



2004 year * * * or fined not more than One Thousand Dollars

2005 (\$1,000.00), or both.

2006 (B) One-tenth (0.1) gram or two (2) dosage units

2007 or more but less than two (2) grams or * * * ten (10) dosage

2008 units, * * * may be imprisoned for not * * * more than * * * three

2009 (3) years * * * or a fine of not more than Fifty Thousand Dollars

2010 (\$50,000.00), or both.

2011 (C) Two (2) grams or ten (10) dosage units or more

2012 but less than ten (10) grams or * * * twenty (20) dosage

2013 units, * * * may be imprisoned for not * * * more than * * * eight

2014 (8) years and * * * fined not more than Two Hundred Fifty Thousand

2015 Dollars (\$250,000.00), or both.

2016 (D) Ten (10) grams or twenty (20) dosage units or

2017 more but less than thirty (30) grams or * * * forty (40) dosage

2018 units, * * * may be imprisoned for not less than * * * three (3)

2019 years nor more than * * * twenty (20) years and * * * fined not

2020 more than Five Hundred Thousand Dollars (\$500,000.00), or both.

2021 * * *

2022 (2) Marijuana or synthetic cannabinoids in

2023 the following amounts shall be charged and sentenced as follows:

2024 (A) Thirty (30) grams or less by a fine of not

2025 less than One Hundred Dollars (\$100.00) nor more than Two Hundred

2026 Fifty Dollars (\$250.00). The provisions of this paragraph shall

2027 be enforceable by summons, provided the offender provides proof of

2028 identity satisfactory to the arresting officer and gives written



2029 promise to appear in court satisfactory to the arresting officer,
2030 as directed by the summons. A second conviction under this
2031 section within two (2) years shall be punished by a fine of Two
2032 Hundred Fifty Dollars (\$250.00) and not less than five (5) days
2033 nor more than sixty (60) days in the county jail and mandatory
2034 participation in a drug education program, approved by the
2035 Division of Alcohol and Drug Abuse of the State Department of
2036 Mental Health, unless the court enters a written finding that such
2037 drug education program is inappropriate. A third or subsequent
2038 conviction under this section within two (2) years is a
2039 misdemeanor punishable by a fine of not less than Two Hundred
2040 Fifty Dollars (\$250.00) nor more than Five Hundred Dollars
2041 (\$500.00) and confinement for not less than five (5) days nor more
2042 than six (6) months in the county jail. Upon a first or second
2043 conviction under this section, the courts shall forward a report
2044 of such conviction to the Mississippi Bureau of Narcotics which
2045 shall make and maintain a private, nonpublic record for a period
2046 not to exceed two (2) years from the date of conviction. The
2047 private, nonpublic record shall be solely for the use of the
2048 courts in determining the penalties which attach upon conviction
2049 under this section and shall not constitute a criminal record for
2050 the purpose of private or administrative inquiry and the record of
2051 each conviction shall be expunged at the end of the period of two
2052 (2) years following the date of such conviction;



2053 (B) Additionally, a person who is the operator of
2054 a motor vehicle, who possesses on his person or knowingly keeps or
2055 allows to be kept in a motor vehicle within the area of the
2056 vehicle normally occupied by the driver or passengers, more than
2057 one (1) gram, but not more than thirty (30) grams, of marijuana or
2058 synthetic cannabinoids is guilty of a misdemeanor and, upon
2059 conviction, may be fined not more than One Thousand Dollars
2060 (\$1,000.00) and confined for not more than ninety (90) days in the
2061 county jail. For the purposes of this subsection, such area of
2062 the vehicle shall not include the trunk of the motor vehicle or
2063 the areas not normally occupied by the driver or passengers if the
2064 vehicle is not equipped with a trunk. A utility or glove
2065 compartment shall be deemed to be within the area occupied by the
2066 driver and passengers;

2067 (C) More than thirty (30) grams but less than two
2068 hundred fifty (250) grams may be fined not more than One Thousand
2069 Dollars (\$1,000.00), or confined in the county jail for not more
2070 than one (1) year, or both; or fined not more than Three Thousand
2071 Dollars (\$3,000.00), or imprisoned in the State Penitentiary for
2072 not more than three (3) years, or both;

2073 (D) Two hundred fifty (250) grams but less than
2074 five hundred (500) grams, by imprisonment for not less than two
2075 (2) years nor more than eight (8) years * * * or by a fine of not
2076 more than Fifty Thousand Dollars (\$50,000.00), or both;



2077 (E) Five hundred (500) grams but less than one (1)
2078 kilogram, by imprisonment for not less than four (4) years nor
2079 more than sixteen (16) years * * * or a fine of less than Two
2080 Hundred Fifty Thousand Dollars (\$250,000.00), or both;

2081 (F) One (1) kilogram but less than five (5)
2082 kilograms, by imprisonment for not less than six (6) years nor
2083 more than twenty-four (24) years * * * or a fine of not more than
2084 Five Hundred Thousand Dollars (\$500,000.00), or both;

2085 (G) Five (5) kilograms or more, by imprisonment
2086 for not less than ten (10) years nor more than thirty (30)
2087 years * * * or a fine of not more than One Million Dollars
2088 (\$1,000,000.00), or both.

2089 (3) A controlled substance classified in Schedule III,
2090 IV or V as set out in Sections 41-29-117 through 41-29-121, upon
2091 conviction, may be punished as follows:

2092 (A) Less than fifty (50) grams or less than one
2093 hundred (100) dosage units is a misdemeanor and punishable by not
2094 more than one (1) year * * * or a fine of not more than One
2095 Thousand Dollars (\$1,000.00), or both.

2096 (B) Fifty (50) grams or one hundred (100) dosage
2097 units or more but less than one hundred fifty (150) grams or * * *
2098 five hundred (500) dosage units, by imprisonment for not less than
2099 one (1) year nor more than four (4) years * * * or a fine of not
2100 more than Ten Thousand Dollars (\$10,000.00), or both.



2101 (C) One hundred fifty (150) grams or Five Hundred
2102 (500) dosage units but less than three hundred (300) grams
2103 or * * * one thousand (1,000) dosage units, by imprisonment for
2104 not less than two (2) years nor more than eight (8) years * * * or
2105 a fine of not more than Fifty Thousand Dollars (\$50,000.00), or
2106 both.

2107 (D) More than three hundred (300) grams or one
2108 thousand (1000) dosage units but less than five hundred (500)
2109 grams or * * * two thousand five hundred (2,500) dosage units, by
2110 imprisonment for not less than four (4) years nor more than
2111 sixteen (16) years * * * or a fine of not more than Two Hundred
2112 Fifty Thousand Dollars (\$250,000.00), or both.

2113 * * *

2114 (d) (1) It is unlawful for a person who is not authorized
2115 by the State Board of Medical Licensure, State Board of Pharmacy,
2116 or other lawful authority to use, or to possess with intent to
2117 use, paraphernalia to plant, propagate, cultivate, grow, harvest,
2118 manufacture, compound, convert, produce, process, prepare, test,
2119 analyze, pack, repack, store, contain, conceal, inject, ingest,
2120 inhale or otherwise introduce into the human body a controlled
2121 substance in violation of the Uniform Controlled Substances Law.
2122 Any person who violates this subsection is guilty of a misdemeanor
2123 and, upon conviction, may be confined in the county jail for not
2124 more than six (6) months, or fined not more than Five Hundred
2125 Dollars (\$500.00), or both; however, no person shall be charged



2126 with a violation of this subsection when such person is also
2127 charged with the possession of one (1) ounce or less of marijuana
2128 or synthetic cannabinoids under subsection (c) (2) (A) of this
2129 section.

2130 (2) It is unlawful for any person to deliver, sell,
2131 possess with intent to deliver or sell, or manufacture with intent
2132 to deliver or sell, paraphernalia, knowing, or under circumstances
2133 where one reasonably should know, that it will be used to plant,
2134 propagate, cultivate, grow, harvest, manufacture, compound,
2135 convert, produce, process, prepare, test, analyze, pack, repack,
2136 store, contain, conceal, inject, ingest, inhale, or otherwise
2137 introduce into the human body a controlled substance in violation
2138 of the Uniform Controlled Substances Law. Any person who violates
2139 this subsection is guilty of a misdemeanor and, upon conviction,
2140 may be confined in the county jail for not more than six (6)
2141 months, or fined not more than Five Hundred Dollars (\$500.00), or
2142 both.

2143 (3) Any person eighteen (18) years of age or over who
2144 violates subsection (d) (2) of this section by delivering or
2145 selling paraphernalia to a person under eighteen (18) years of age
2146 who is at least three (3) years his junior is guilty of a
2147 misdemeanor and, upon conviction, may be confined in the county
2148 jail for not more than one (1) year, or fined not more than One
2149 Thousand Dollars (\$1,000.00), or both.



2150 (4) It is unlawful for any person to place in any
2151 newspaper, magazine, handbill, or other publication any
2152 advertisement, knowing, or under circumstances where one
2153 reasonably should know, that the purpose of the advertisement, in
2154 whole or in part, is to promote the sale of objects designed or
2155 intended for use as paraphernalia. Any person who violates this
2156 subsection is guilty of a misdemeanor and, upon conviction, may be
2157 confined in the county jail for not more than six (6) months, or
2158 fined not more than Five Hundred Dollars (\$500.00), or both.

2159 (e) It shall be unlawful for any physician practicing
2160 medicine in this state to prescribe, dispense or administer any
2161 amphetamine or amphetamine-like anorectics and/or central nervous
2162 system stimulants classified in Schedule II, pursuant to Section
2163 41-29-115, for the exclusive treatment of obesity, weight control
2164 or weight loss. Any person who violates this subsection, upon
2165 conviction, is guilty of a misdemeanor and may be confined for a
2166 period not to exceed six (6) months, or fined not more than One
2167 Thousand Dollars (\$1,000.00), or both.

2168 * * *

2169 (* * * f) (1) Any person trafficking in controlled
2170 substances shall be guilty of a felony and, upon conviction, shall
2171 be imprisoned for a term of * * * not less than ten (10) years nor
2172 more than forty (40) years * * * . The ten-year mandatory
2173 sentence shall not be reduced or suspended * * * . The person
2174 shall not be eligible for probation or parole, the provisions of



2175 Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, Mississippi Code
2176 of 1972, to the contrary notwithstanding during the sentence and
2177 shall be fined not less than Five Thousand Dollars (\$5,000.00) nor
2178 more than One Million Dollars (\$1,000,000.00).

2179 (2) "Trafficking in controlled substances" as used
2180 herein means: * * *

2181 (A) A violation of subsection (a) of this section
2182 involving thirty (30) grams or forty (40) dosage units or more of
2183 a Schedule I or II substance except marijuana;

2184 (B) Five hundred (500) grams or two thousand five
2185 hundred (2,500) dosage units of a Schedule III, IV or V substance;
2186 or

2187 (C) A violation of subsection (c) of this section
2188 involving thirty (30) grams or forty (40) dosage units or more of
2189 a Schedule I or II substance except marijuana;

2190 (3) * * * The provisions of this subsection shall not
2191 apply to any person who furnishes information and assistance to
2192 the bureau, or its designee, which, in the opinion of the trial
2193 judge objectively should or would have aided in the arrest or
2194 prosecution of others who violate this subsection. The accused
2195 shall have adequate opportunity to develop and make a record of
2196 all information and assistance so furnished.

2197 (g) Any person trafficking in Schedule I or II substances,
2198 except marijuana, of two hundred (200) grams or more shall be
2199 guilty of aggravated trafficking and, upon conviction, shall be



2200 sentenced to a term of not less than twenty-five (25) years nor
2201 more than life in prison. The twenty-five-years sentence shall be
2202 a mandatory sentence and shall not be reduced or suspended. The
2203 person shall not be eligible for probation or parole, the
2204 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33,
2205 Mississippi Code of 1972, to the contrary notwithstanding during
2206 the sentence and shall be fined not less than Five Thousand
2207 Dollars (\$5,000.00) nor more than One Million Dollars
2208 (\$1,000,000.00).

2209 (h) (1) Notwithstanding any provision of this section, a
2210 person who has been convicted of an offense under this section
2211 that requires the judge to impose a prison sentence which cannot
2212 be suspended or reduced and is ineligible for probation or parole
2213 may, at the discretion of the court, receive a sentence of
2214 imprisonment that is no less than twenty-five (25) percent of the
2215 sentence prescribed by the applicable statute. In considering
2216 whether to apply the departure from the sentence prescribed, the
2217 court shall conclude that:

2218 (A) The offender was not a leader of the criminal
2219 enterprise;

2220 (B) The offender did not use violence or a weapon
2221 during the crime;

2222 (C) The offense did not result in a death or
2223 serious bodily injury of a person not a party to the criminal
2224 enterprise; and



2225 (D) The interests of justice are not served by the
2226 imposition of the prescribed mandatory sentence.

2227 (2) If the court reduces the prescribed sentence
2228 pursuant to this subsection, it must specify on the record the
2229 circumstances warranting the departure.

2230 **SECTION 39.** Section 41-29-313, Mississippi Code of 1972, is
2231 amended as follows:

2232 41-29-313. (1) (a) Except as authorized in this section,
2233 it is unlawful for any person to knowingly or intentionally:

2234 (i) Purchase, possess, transfer, manufacture,
2235 attempt to manufacture or distribute any two (2) or more of the
2236 listed precursor chemicals or drugs in any amount with the intent
2237 to unlawfully manufacture a controlled substance;

2238 (ii) Purchase, possess, transfer, manufacture,
2239 attempt to manufacture or distribute any two (2) or more of the
2240 listed precursor chemicals or drugs in any amount, knowing, or
2241 under circumstances where one reasonably should know, that the
2242 listed precursor chemical or drug will be used to unlawfully
2243 manufacture a controlled substance;

2244 (b) The term "precursor drug or chemical" means a drug
2245 or chemical that, in addition to legitimate uses, may be used in
2246 manufacturing a controlled substance in violation of this chapter.
2247 The term includes any salt, optical isomer or salt of an optical
2248 isomer, whenever the existence of a salt, optical isomer or salt
2249 of optical isomer is possible within the specific chemical



2250 designation. The chemicals or drugs listed in this section are
2251 included by whatever official, common, usual, chemical or trade
2252 name designated. A "precursor drug or chemical" includes, but is
2253 not limited to, the following:

- 2254 (i) Ether;
- 2255 (ii) Anhydrous ammonia;
- 2256 (iii) Ammonium nitrate;
- 2257 (iv) Pseudoephedrine;
- 2258 (v) Ephedrine;
- 2259 (vi) Denatured alcohol (Ethanol);
- 2260 (vii) Lithium;
- 2261 (viii) Freon;
- 2262 (ix) Hydrochloric acid;
- 2263 (x) Hydriodic acid;
- 2264 (xi) Red phosphorous;
- 2265 (xii) Iodine;
- 2266 (xiii) Sodium metal;
- 2267 (xiv) Sodium hydroxide;
- 2268 (xv) Muriatic acid;
- 2269 (xvi) Sulfuric acid;
- 2270 (xvii) Hydrogen chloride gas;
- 2271 (xviii) Potassium;
- 2272 (xix) Methanol;
- 2273 (xx) Isopropyl alcohol;
- 2274 (xxi) Hydrogen peroxide;



- 2275 (xxii) Hexanes;
- 2276 (xxiii) Heptanes;
- 2277 (xxiv) Acetone;
- 2278 (xxv) Toluene;
- 2279 (xxvi) Xylenes.

2280 (c) Any person who violates this subsection (1), upon
2281 conviction, is guilty of a felony and may be imprisoned for a
2282 period not to exceed * * * five (5) years and shall be fined not
2283 less than Five Thousand Dollars (\$5,000.00) nor more than * * *
2284 Fifty Thousand Dollars (\$50,000.00), or both * * *.

2285 (d) Any person who violates this subsection (1) while
2286 also in possession of two (2) grams or less of a controlled
2287 substance that can be manufactured by using the precursor drugs or
2288 chemicals, upon conviction, is guilty of a felony and may be
2289 imprisoned for a period not to exceed eight (8) years or a fine of
2290 not less than Fifty Thousand Dollars (\$50,000.00), or both.

2291 (e) Any person who violates this subsection (1) while
2292 also in possession of more than two (2) grams but less than ten
2293 (10) grams of a controlled substance that can be manufactured by
2294 using the precursor drugs or chemicals, upon conviction, is guilty
2295 of a felony and may be imprisoned for a period not to exceed ten
2296 (10) years or a fine of not less than Fifty Thousand Dollars
2297 (\$50,000.00), or both.

2298 (f) Any person who violates this subsection (1) while
2299 also in possession of more than ten (10) grams but less than



2300 thirty (30) grams of a controlled substance that can be
2301 manufactured by using the precursor drugs or chemicals, upon
2302 conviction, is guilty of a felony and may be imprisoned for a
2303 period no less than three (3) years nor more than twenty (20)
2304 years or a fine of not less than Two Hundred Fifty Thousand
2305 Dollars (\$250,000.00), or both.

2306 (g) Any person who violates this subsection (1) while
2307 also in possession of a quantity of more than thirty (30) grams of
2308 a controlled substance that can be manufactured by using the
2309 precursor drugs or chemicals, upon conviction, is guilty of a
2310 felony and may be imprisoned for a period no less than three (3)
2311 years nor more than twenty (20) years or a fine of not less than
2312 Two Hundred Fifty Thousand Dollars (\$250,000.00), or both.

2313 (2) (a) It is unlawful for any person to knowingly or
2314 intentionally steal or unlawfully take or carry away any amount of
2315 anhydrous ammonia or to break, cut, or in any manner damage the
2316 valve or locking mechanism on an anhydrous ammonia tank with the
2317 intent to steal or unlawfully take or carry away anhydrous
2318 ammonia.

2319 (b) (i) It is unlawful for any person to purchase,
2320 possess, transfer or distribute any amount of anhydrous ammonia
2321 knowing, or under circumstances where one reasonably should know,
2322 that the anhydrous ammonia will be used to unlawfully manufacture
2323 a controlled substance.



2324 (ii) The possession of any amount of anhydrous
2325 ammonia in a container unauthorized for containment of anhydrous
2326 ammonia pursuant to Section 75-57-9 shall be prima facie evidence
2327 of intent to use the anhydrous ammonia to unlawfully manufacture a
2328 controlled substance.

2329 (c) (i) It is unlawful for any person to purchase,
2330 possess, transfer or distribute two hundred fifty (250) dosage
2331 units or fifteen (15) grams in weight (dosage unit and weight as
2332 defined in Section 41-29-139) of pseudoephedrine or ephedrine,
2333 knowing, or under circumstances where one reasonably should know,
2334 that the pseudoephedrine or ephedrine will be used to unlawfully
2335 manufacture a controlled substance.

2336 (ii) Except as provided in this subparagraph,
2337 possession of one or more products containing more than
2338 twenty-four (24) grams of ephedrine or pseudoephedrine shall
2339 constitute a rebuttable presumption of intent to use the product
2340 as a precursor to methamphetamine or another controlled substance.
2341 The rebuttable presumption established by this subparagraph shall
2342 not apply to the following persons who are lawfully possessing the
2343 identified drug products in the course of legitimate business:

2344 1. A retail distributor of the drug products
2345 described in this subparagraph possessing a valid business license
2346 or wholesaler;

2347 2. A wholesale drug distributor, or its
2348 agents, licensed by the Mississippi State Board of Pharmacy;



2349 3. A manufacturer of drug products described
2350 in this subparagraph, or its agents, licensed by the Mississippi
2351 State Board of Pharmacy;

2352 4. A pharmacist licensed by the Mississippi
2353 State Board of Pharmacy; or

2354 5. A licensed health care professional
2355 possessing the drug products described in this subparagraph (ii)
2356 in the course of carrying out his profession.

2357 (d) Any person who violates this subsection (2), upon
2358 conviction, is guilty of a felony and may be imprisoned for a
2359 period not to exceed five (5) years and shall be fined not more
2360 than Five Thousand Dollars (\$5,000.00), or both fine and
2361 imprisonment.

2362 (3) Nothing in this section shall preclude any farmer from
2363 storing or using any of the listed precursor drugs or chemicals
2364 listed in this section in the normal pursuit of farming
2365 operations.

2366 (4) Nothing in this section shall preclude any wholesaler,
2367 retailer or pharmacist from possessing or selling the listed
2368 precursor drugs or chemicals in the normal pursuit of business.

2369 (5) Any person who violates the provisions of this section
2370 with children under the age of eighteen (18) years present may be
2371 subject to a term of imprisonment or a fine, or both, of twice
2372 that provided in this section.



2373 (6) Any person who violates the provisions of this section
2374 when the offense occurs in any hotel or apartment building or
2375 complex may be subject to a term of imprisonment or a fine, or
2376 both, of twice that provided in this section. For the purposes of
2377 this subsection (6), the following terms shall have the meanings
2378 ascribed to them:

2379 (a) "Hotel" means a hotel, inn, motel, tourist court,
2380 apartment house, rooming house or any other place where sleeping
2381 accommodations are furnished or offered for pay if four (4) or
2382 more rooms are available for transient guests.

2383 (b) "Apartment building" means any building having four
2384 (4) or more dwelling units, including, without limitation, a
2385 condominium building.

2386 (7) Any person who violates the provisions of this section
2387 who has in his possession any firearm, either at the time of the
2388 commission of the offense or at the time any arrest is made, may
2389 be subject to a term of imprisonment or a fine, or both, of twice
2390 that provided in this section.

2391 (8) Any person who violates the provisions of this section
2392 upon any premises upon which any booby trap has been installed or
2393 rigged may be subject to a term of imprisonment or a fine, or
2394 both, of twice that provided in this section. For the purposes of
2395 this subsection, the term "booby trap" means any concealed or
2396 camouflaged device designed to cause bodily injury when triggered
2397 by any action of a person making contact with the device. The



2398 term includes guns, ammunition or explosive devices attached to
2399 trip wires or other triggering mechanisms, sharpened stakes,
2400 nails, spikes, electrical devices, lines or wires with hooks
2401 attached, and devices designed for the production of toxic fumes
2402 or gases.

2403 **SECTION 40.** The following shall be codified as Section
2404 97-3-2, Mississippi Code of 1972:

2405 97-3-2. (1) With regard to violent crime classification for
2406 purposes of Code Sections 47-7-3, 99-15-107 and 99-19-83, crimes
2407 of violence are:

2408 (a) Driving under the influence as provided in Sections
2409 63-11-30(5) and 63-11-30(12) (d);

2410 (b) Murder and attempted murder as provided in Sections
2411 97-1-7(2), 97-3-19, 97-3-23 and 97-3-25;

2412 (c) Aggravated assault as provided in Sections
2413 97-3-7(2) (a), 97-3-7(2) (b), 97-3-7(2) and 97-3-7(4);

2414 (d) Manslaughter as provided in Sections 97-3-27,
2415 97-3-29, 97-3-31, 97-3-33, 97-3-35, 97-3-39, 97-3-41, 97-3-43,
2416 97-3-45 and 97-3-47;

2417 (e) Killing of an unborn child as provided in Sections
2418 97-3-37(2) (a) and 97-3-37(2) (b);

2419 (f) Kidnapping as provided in Section 97-3-53;

2420 (g) Human trafficking as provided in Section 97-3-54.1;

2421 (h) Poisoning as provided in Section 97-3-61;



2422 (i) Rape as provided in Sections 97-3-65(4) (a) and
2423 97-3-71;

2424 (j) Robbery with a deadly weapon as provided in
2425 Sections 97-3-73 and 97-3-79;

2426 (k) Sexual battery as provided in Sections 97-3-101(1),
2427 97-3-101(2) (b) and 97-3-101(3);

2428 (l) Drive-by shooting or bombing as provided in Section
2429 97-3-109;

2430 (m) Carjacking with a deadly weapon as provided in
2431 Section 97-3-117(2);

2432 (n) Felonious neglect, abuse or battery of a child as
2433 provided in Section 97-5-39(2);

2434 (o) Burglary of a dwelling as provided in Sections
2435 97-17-23(1), 97-17-23(2) and 97-17-37;

2436 (p) Use of explosives or weapons of mass destruction as
2437 provided in Section 97-37-25;

2438 (q) Statutory rape as provided in Section 97-3-65;
2439 however, such classification is rebuttable on hearing by a judge;
2440 and

2441 (r) Shooting into a dwelling as provided in Section
2442 97-37-29.

2443 (2) In any felony offense with a maximum sentence of no less
2444 than five (5) years, upon conviction, the judge may find and place
2445 in the sentencing order, on the record in open court, that the
2446 offense, while not listed in subsection (1) of this section, shall



2447 be classified as a crime of violence if the facts show that the
2448 defendant used physical force, or made a credible attempt or
2449 threat of physical force against another person as part of the
2450 criminal act.

2451 **SECTION 41.** Section 47-7-3, Mississippi Code of 1972, is
2452 amended as follows:

2453 47-7-3. (1) Every prisoner who has been convicted of any
2454 offense against the State of Mississippi, and is confined in the
2455 execution of a judgment of such conviction in the Mississippi
2456 Department of Corrections for a definite term or terms of one (1)
2457 year or over, or for the term of his or her natural life, whose
2458 record of conduct shows that such prisoner has observed the rules
2459 of the department, and who has served not less than one-fourth
2460 (1/4) of the total of such term or terms for which such prisoner
2461 was sentenced * * * may be released on parole as hereinafter
2462 provided, except that:

2463 (a) No prisoner convicted as a confirmed and habitual
2464 criminal under the provisions of Sections 99-19-81 through
2465 99-19-87 shall be eligible for parole;

2466 (b) Any person who shall have been convicted of a sex
2467 crime shall not be released on parole except for a person under
2468 the age of nineteen (19) who has been convicted under Section
2469 97-3-67;

2470 * * *



2471 (* * *c) (i) No person shall be eligible for parole who
2472 shall, on or after January 1, 1977, be convicted of robbery or
2473 attempted robbery through the display of a firearm until he shall
2474 have served ten (10) years if sentenced to a term or terms of more
2475 than ten (10) years or if sentenced for the term of the natural
2476 life of such person. If such person is sentenced to a term or
2477 terms of ten (10) years or less, then such person shall not be
2478 eligible for parole. The provisions of this paragraph * * *
2479 (c) (i) shall also apply to any person who shall commit robbery or
2480 attempted robbery on or after July 1, 1982, through the display of
2481 a deadly weapon. This paragraph * * * (c) (i) shall not apply to
2482 persons convicted after September 30, 1994;

2483 (ii) No person shall be eligible for parole who
2484 shall, on or after October 1, 1994, be convicted of robbery,
2485 attempted robbery or carjacking as provided in Section 97-3-115 et
2486 seq., through the display of a firearm or drive-by shooting as
2487 provided in Section 97-3-109. The provisions of this paragraph
2488 (d) (ii) shall also apply to any person who shall commit robbery,
2489 attempted robbery, carjacking or a drive-by shooting on or after
2490 October 1, 1994, through the display of a deadly weapon. This
2491 paragraph (c) (ii) shall not apply to persons convicted after July
2492 1, 2014;

2493 (* * *d) No person shall be eligible for parole who,
2494 on or after July 1, 1994, is charged, tried, convicted and



2495 sentenced to life imprisonment without eligibility for parole
2496 under the provisions of Section 99-19-101;

2497 (* * *e) No person shall be eligible for parole who is
2498 charged, tried, convicted and sentenced to life imprisonment under
2499 the provisions of Section 99-19-101;

2500 * * *

2501 (* * *f) No person shall be eligible for parole who is
2502 convicted or whose suspended sentence is revoked after June 30,
2503 1995, except that an offender convicted of only nonviolent crimes
2504 after June 30, 1995, may be eligible for parole if the offender
2505 meets the requirements in subsection (1) and this paragraph. In
2506 addition to other requirements, if an offender is convicted of a
2507 drug or driving under the influence felony, the offender must
2508 complete a drug and alcohol rehabilitation program prior to parole
2509 or the offender may be required to complete a post-release drug
2510 and alcohol program as a condition of parole. For purposes of
2511 this paragraph, "nonviolent crime" means a felony other than
2512 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
2513 occupied dwelling, aggravated assault, kidnapping, felonious abuse
2514 of vulnerable adults, felonies with enhanced penalties, the sale
2515 or manufacture of a controlled substance under the Uniform
2516 Controlled Substances Law, felony child abuse, or exploitation or
2517 any crime under Section 97-5-33 or Section 97-5-39(2) or
2518 97-5-39(1) (b), 97-5-39(1) (c) or a violation of Section
2519 63-11-30(5). An offender convicted of a violation under Section



2520 41-29-139(a), not exceeding the amounts specified under Section
2521 41-29-139(b), may be eligible for parole. In addition, an
2522 offender incarcerated for committing the crime of possession of a
2523 controlled substance under the Uniform Controlled Substances Law
2524 after July 1, 1995, shall be eligible for parole. This paragraph
2525 (f) shall not apply to persons convicted on or after July 1, 2014;
2526 (g) No person who, on or after July 1, 2014, is
2527 convicted of a crime of violence pursuant to Section 97-3-2, a sex
2528 crime or an offense that specifically prohibits parole release,
2529 shall be eligible for parole. All persons convicted of any other
2530 offense on or after July 1, 2014, are eligible for parole after
2531 they have served one-fourth (1/4) of the sentence or sentences
2532 imposed by the trial court.

2533 (2) Notwithstanding any other provision of law, an inmate
2534 shall not be eligible to receive earned time, good time or any
2535 other administrative reduction of time which shall reduce the time
2536 necessary to be served for parole eligibility as provided in
2537 subsection (1) of this section * * *.

2538 (3) The State Parole Board shall, by rules and regulations,
2539 establish a method of determining a tentative parole hearing date
2540 for each eligible offender taken into the custody of the
2541 Department of Corrections. The tentative parole hearing date
2542 shall be determined within ninety (90) days after the department
2543 has assumed custody of the offender. * * * The parole hearing
2544 date shall occur when the offender is within thirty (30) days of



2545 the month of his parole eligibility date. The parole eligibility
2546 date is no earlier than one-fourth (1/4) of the prison sentence or
2547 sentences imposed by the court.

2548 (4) Any inmate within twenty-four (24) months of his parole
2549 eligibility date and who meets the criteria established by the
2550 classification board shall receive priority for placement in any
2551 educational development and job training programs that are part of
2552 his or her parole case plan. Any inmate refusing to participate
2553 in an educational development or job training program that is part
2554 of the case plan may be * * * in jeopardy of noncompliance with
2555 the case plan and may be denied parole.

2556 **SECTION 42.** Section 47-5-138.1, Mississippi Code of 1972, is
2557 amended as follows:

2558 47-5-138.1. (1) In addition to any other administrative
2559 reduction of sentence, an offender in trusty status as defined by
2560 the classification board of the Department of Corrections may be
2561 awarded a trusty time allowance of thirty (30) days' reduction of
2562 sentence for each thirty (30) days of participation during any
2563 calendar month in an approved program while in trusty status,
2564 including satisfactory participation in education or instructional
2565 programs, satisfactory participation in work projects and
2566 satisfactory participation in any special incentive program.

2567 (2) An offender in trusty status shall not be eligible for a
2568 reduction of sentence under this section if:

2569 (a) The offender was sentenced to life imprisonment;



2570 (b) The offender was convicted as an habitual offender
2571 under Sections 99-19-81 through 99-19-87;

2572 (c) The offender was convicted of a sex crime;

2573 (d) The offender has not served the mandatory time
2574 required for parole eligibility, as prescribed under Section
2575 47-7-3, for a conviction of robbery or attempted robbery through
2576 the display of a deadly weapon, carjacking through the display of
2577 a deadly weapon or a drive-by shooting; or

2578 * * *

2579 (* * *e) The offender was convicted of trafficking in
2580 controlled substances under Section 41-29-139.

2581 **SECTION 43.** The following shall be codified in Chapter 7,
2582 Title 47, Mississippi Code of 1972:

2583 (1) In consultation with the Parole Board, the department
2584 shall develop a case plan for all parole eligible inmates to guide
2585 an inmate's rehabilitation while in the department's custody and
2586 to reduce the likelihood of recidivism after release.

2587 (2) Within ninety (90) days of admission, the department
2588 shall complete a case plan on all inmates which shall include, but
2589 not limited to:

2590 (a) Programming and treatment requirements based on the
2591 results of a risk and needs assessment;

2592 (b) Any programming or treatment requirements contained
2593 in the sentencing order; and



2594 (c) General behavior requirements in accordance with
2595 the rules and policies of the department.

2596 (3) The department shall provide the inmate with a written
2597 copy of the case plan and the inmate's caseworker shall explain
2598 the conditions set forth in the case plan.

2599 (a) Within ninety (90) days of admission, the
2600 caseworker shall notify the inmate of their parole eligibility
2601 date as calculated in accordance with Section 47-7-3(3).

2602 (b) At the time parole eligible inmate receives the
2603 case plan, the department shall send the case plan to the Parole
2604 Board for approval.

2605 (4) The department shall ensure that the case plan is
2606 achievable prior to inmate's parole eligibility date.

2607 (5) The caseworker shall meet with the inmate every eight
2608 (8) weeks from the date the offender received the case plan to
2609 review the inmate's case plan progress.

2610 (6) Every four (4) months the department shall submit a
2611 progress report on each parole-eligible inmate's case plan to the
2612 Parole Board. The board may provide written input to the
2613 caseworker on the inmate's progress toward completion of the case
2614 plan.

2615 (7) The Parole Board shall provide semiannually to the
2616 Oversight Task Force the number of parole hearings held, the
2617 number of prisoners released to parole without a hearing and the
2618 number of parolees released after a hearing.



2619 **SECTION 44.** The following shall be codified in Chapter 7,
2620 Title 47, Mississippi Code of 1972:

2621 (1) Each inmate eligible for parole pursuant to Section
2622 47-7-3, shall be released from incarceration to parole supervision
2623 on the inmate's parole eligibility date, without a hearing before
2624 the board, if:

2625 (a) The inmate has met the requirements of the parole
2626 case plan authorized by this act;

2627 (b) A victim of the offense has not requested the board
2628 conduct a hearing;

2629 (c) The inmate has not received a serious or major
2630 violation report within the past six (6) months;

2631 (d) The inmate has agreed to the conditions of
2632 supervision; and

2633 (e) The inmate has a discharge plan approved by the
2634 board.

2635 (2) At least thirty (30) days prior to an inmate's parole
2636 eligibility date, the department shall notify the board in writing
2637 of the inmate's compliance or noncompliance with the case plan.
2638 If an inmate fails to meet a requirement of the case plan, prior
2639 to the parole eligibility date, he or she shall have a hearing
2640 before the board to determine if completion of the case plan can
2641 occur while in the community.



2642 (3) Any inmate for whom there is insufficient information
2643 for the department to determine compliance with the case plan
2644 shall have a hearing with the board.

2645 (4) A hearing shall be held with the board if requested by
2646 the victim following notification of the inmate's parole release
2647 date pursuant to Section 47-5-177.

2648 (5) A hearing shall be held by the board if a law
2649 enforcement official from the community to which the inmate will
2650 return contacts the board or the department and requests a hearing
2651 to consider information relevant to public safety risks posed by
2652 the inmate if paroled at the initial parole eligibility date. The
2653 law enforcement official shall submit an explanation documenting
2654 these concerns for the board to consider.

2655 (6) If a parole hearing is held, the board may determine the
2656 inmate has sufficiently complied with the case plan or that the
2657 incomplete case plan is not the fault of the inmate and that
2658 granting parole is not incompatible with public safety, the board
2659 may then parole the inmate with appropriate conditions. If the
2660 board determines that the inmate has sufficiently complied with
2661 the case plan but the discharge plan indicates that the inmate
2662 does not have appropriate housing immediately upon release, the
2663 board may parole the inmate to a transitional re-entry center with
2664 the condition that the inmate spends no more than six (6) months
2665 in the center. If the board determines that the inmate has not
2666 substantively complied with the requirement(s) of the case plan it



2667 may deny parole. If the board denies parole, the board may
2668 schedule a subsequent parole hearing and, if a new date is
2669 scheduled, the board shall identify the corrective action the
2670 inmate will need to take in order to be granted parole. Any
2671 inmate not released at the time of the inmate's initial parole
2672 date shall have a parole hearing at least every year.

2673 **SECTION 45.** Section 47-7-17, Mississippi Code of 1972, is
2674 amended as follows:

2675 47-7-17. Within one (1) year after his admission and at such
2676 intervals thereafter as it may determine, the board shall secure
2677 and consider all pertinent information regarding each offender,
2678 except any under sentence of death or otherwise ineligible for
2679 parole, including the circumstances of his offense, his previous
2680 social history, his previous criminal record, including any
2681 records of law enforcement agencies or of a youth court regarding
2682 that offender's juvenile criminal history, his conduct, employment
2683 and attitude while in the custody of the department, the case plan
2684 created to prepare the offender for parole, and the reports of
2685 such physical and mental examinations as have been made. The
2686 board shall furnish at least three (3) months' written notice to
2687 each such offender of the date on which he is eligible for parole.

2688 Before ruling on the application for parole of any offender,
2689 the board may * * * require * * * a parole eligible offender to
2690 have a hearing pursuant to Sections 53 and 54 of this act appear
2691 before it and interview him or her. The hearing shall be held



2692 * * * no later than thirty (30) months prior to the month of
2693 eligibility * * *. No application for parole of a person
2694 convicted of a capital offense shall be considered by the board
2695 unless and until notice of the filing of such application shall
2696 have been published at least once a week for two (2) weeks in a
2697 newspaper published in or having general circulation in the county
2698 in which the crime was committed. The board shall, within thirty
2699 (30) days prior to the scheduled hearing, also give notice of the
2700 filing of the application for parole to the victim of the offense
2701 for which the prisoner is incarcerated and being considered for
2702 parole or, in case the offense be homicide, a designee of the
2703 immediate family of the victim, provided the victim or designated
2704 family member has furnished in writing a current address to the
2705 board for such purpose. * * * Parole release shall, at the
2706 hearing, be ordered only for the best interest of society, not as
2707 an award of clemency; it shall not be considered to be a reduction
2708 of sentence or pardon. An offender shall be placed on parole only
2709 when arrangements have been made for his proper employment or for
2710 his maintenance and care, and when the board believes that he is
2711 able and willing to fulfill the obligations of a law-abiding
2712 citizen. When the board determines that the offender will need
2713 transitional housing upon release in order to improve the
2714 likelihood of him or her becoming a law-abiding citizen, the board
2715 may parole the offender with the condition that the inmate spends
2716 no more than six (6) months in a transitional re-entry center.



2717 * * * At least fifteen (15) days prior to the release of an
2718 offender on parole, the Director of Records of the department
2719 shall give the written notice which is required pursuant to
2720 Section 47-5-177. Every offender while on parole shall remain in
2721 the legal custody of the department from which he was released and
2722 shall be amenable to the orders of the board. * * * Upon
2723 determination by the board that an offender is eligible for
2724 release by parole, notice shall also be given within at least
2725 fifteen (15) days before release, by the board to the victim of
2726 the offense or the victim's family member, as indicated above,
2727 regarding the date when the offender's release shall occur,
2728 provided a current address of the victim or the victim's family
2729 member has been furnished in writing to the board for such
2730 purpose.

2731 Failure to provide notice to the victim or the victim's
2732 family member of the filing of the application for parole or of
2733 any decision made by the board regarding parole shall not
2734 constitute grounds for vacating an otherwise lawful parole
2735 determination nor shall it create any right or liability, civilly
2736 or criminally, against the board or any member thereof.

2737 A letter of protest against granting an offender parole shall
2738 not be treated as the conclusive and only reason for not granting
2739 parole.

2740 The board may adopt such other rules not inconsistent with
2741 law as it may deem proper or necessary with respect to the



2742 eligibility of offenders for parole, the conduct of parole
2743 hearings, or conditions to be imposed upon parolees, including a
2744 condition that the parolee submit, as provided in Section 47-5-601
2745 to any type of breath, saliva or urine chemical analysis test, the
2746 purpose of which is to detect the possible presence of alcohol or
2747 a substance prohibited or controlled by any law of the State of
2748 Mississippi or the United States. The board shall have the
2749 authority to adopt rules * * * related to the placement of certain
2750 offenders * * * on unsupervised parole and for the operation of
2751 transitional re-entry centers. However, in no case shall an
2752 offender be placed on unsupervised parole before he has served a
2753 minimum of * * * fifty percent (50%) of the period of supervised
2754 parole.

2755 **SECTION 46.** Section 47-5-157, Mississippi Code of 1972, is
2756 amended as follows:

2757 47-5-157. When an offender is entitled to a discharge from
2758 the custody of the department, or is released therefrom on parole,
2759 pardon, or otherwise, the commissioner or his designee shall
2760 prepare and deliver to him a written discharge or release, as the
2761 case may be, dated and signed by him with seal annexed, giving the
2762 offender's name, the name of the offense or offenses for which he
2763 was convicted, the term of sentence imposed and the date thereof,
2764 the county in which he was sentenced, the amount of commutation
2765 received, if any, the trade he has learned, if any, his
2766 proficiency in same, and such description of the offender as may



2767 be practicable and the discharge plan developed pursuant to
2768 Sections 53 and 54 of this act. * * * At least fifteen (15) days
2769 prior to the release of an offender as described herein, the
2770 director of records of the department shall give the written
2771 notice which is required pursuant to Section 47-5-177. * * * The
2772 offender shall be furnished, if needed, suitable civilian clothes,
2773 a Mississippi driver's license, or a state identification card
2774 that is not a department-issued identification card and all money
2775 held to his credit by any official of the correctional system
2776 shall be delivered to him.

2777 The amount of money which an offender is entitled to receive
2778 from the State of Mississippi when he is discharged from the state
2779 correctional system shall be determined as follows:

2780 (a) If he has continuously served his sentence in one
2781 (1) year or less flat time, he shall be given Fifteen Dollars
2782 (\$15.00).

2783 (b) If he has served his sentence in more than one (1)
2784 year flat time and in less than ten (10) years flat time, he shall
2785 be given Twenty-five Dollars (\$25.00).

2786 (c) If he has continuously served his sentence in ten
2787 (10) or more years flat time, he shall be given Seventy-five
2788 Dollars (\$75.00).

2789 (d) If he has continuously served his sentence in
2790 twenty (20) or more years flat time, he shall be given One Hundred
2791 Dollars (\$100.00).



2792 There shall be given in addition to the above specified
2793 moneys in subsections (a), (b), (c) and (d), a bus ticket to the
2794 county of conviction or to a state line of Mississippi.

2795 **SECTION 47.** Section 47-5-139, Mississippi Code of 1972, is
2796 amended as follows:

2797 47-5-139. (1) An inmate shall not be eligible for the
2798 earned time allowance if:

2799 (a) The inmate was sentenced to life imprisonment; but
2800 an inmate, except an inmate sentenced to life imprisonment for
2801 capital murder or convicted as a habitual offender under Sections
2802 99-19-81 through 99-19-87, who has reached the age of * * * sixty
2803 (60) or older and who has served at least * * * ten (10) years may
2804 petition the * * * parole board for conditional release;

2805 (b) The inmate was convicted as a habitual offender
2806 under Sections 99-19-81 through 99-19-87;

2807 (c) The inmate has forfeited his earned time allowance
2808 by order of the commissioner;

2809 (d) The inmate was convicted of a sex crime; or

2810 (e) The inmate has not served the mandatory time
2811 required for parole eligibility for a conviction of robbery or
2812 attempted robbery with a deadly weapon.

2813 (2) An offender under two (2) or more consecutive sentences
2814 shall be allowed commutation based upon the total term of the
2815 sentences.



2816 (3) All earned time shall be forfeited by the inmate in the
2817 event of escape and/or aiding and abetting an escape. The
2818 commissioner may restore all or part of the earned time if the
2819 escapee returns to the institution voluntarily, without expense to
2820 the state, and without act of violence while a fugitive from the
2821 facility.

2822 (4) Any officer or employee who shall willfully violate the
2823 provisions of this section and be convicted therefor shall be
2824 removed from office or employment.

2825 **SECTION 48.** Section 47-7-2, Mississippi Code of 1972, is
2826 amended as follows:

2827 47-7-2. For purposes of this chapter, the following words
2828 shall have the meaning ascribed herein unless the context shall
2829 otherwise require:

2830 (a) "Adult" means a person who is seventeen (17) years
2831 of age or older, or any person convicted of any crime not subject
2832 to the provisions of the youth court law, or any person
2833 "certified" to be tried as an adult by any youth court in the
2834 state.

2835 (b) "Board" means the State Parole Board.

2836 (c) "Parole case plan" means an individualized,
2837 accountability and behavior change strategy developed by the
2838 department in collaboration with the parole board to prepare
2839 offenders for release on parole at the parole eligibility date.



2840 The case plan shall focus on the offender's criminal risk factors
2841 that, if addressed, reduce the likelihood of re-offending.

2842 (* * *d) "Commissioner" means the Commissioner of
2843 Corrections.

2844 (* * *e) "Correctional system" means the facilities,
2845 institutions, programs and personnel of the department utilized
2846 for adult offenders who are committed to the custody of the
2847 department.

2848 (f) "Criminal risk factors" means characteristics that
2849 increase a person's likelihood of re-offending. These
2850 characteristics include: antisocial behavior; antisocial
2851 personality; criminal thinking; criminal associates; dysfunctional
2852 family; low levels of employment or education; poor use of leisure
2853 and recreation; and substance abuse.

2854 (* * *g) "Department" means the Mississippi Department
2855 of Corrections.

2856 (* * *h) "Detention" means the temporary care of
2857 juveniles and adults who require secure custody for their own or
2858 the community's protection in a physically restricting facility
2859 prior to adjudication, or retention in a physically restricting
2860 facility upon being taken into custody after an alleged parole or
2861 probation violation.

2862 (i) "Discharge plan" means an individualized written
2863 document that provides information to support the offender in
2864 meeting the basic needs identified in the pre-release assessment.



2865 This information shall include, but is not limited to: contact
2866 names, phone numbers, and addresses of referrals and resources.

2867 (j) "Evidence-based practices" means supervision
2868 policies, procedures, and practices that scientific research
2869 demonstrates reduce recidivism.

2870 (* * *k) "Facility" or "institution" means any
2871 facility for the custody, care, treatment and study of offenders
2872 which is under the supervision and control of the department.

2873 (* * *l) "Juvenile," "minor" or "youthful" means a
2874 person less than seventeen (17) years of age.

2875 (* * *m) "Offender" means any person convicted of a
2876 crime or offense under the laws and ordinances of the state and
2877 its political subdivisions.

2878 (n) "Pre-release assessment" means a determination of
2879 an offender's ability to attend to basic needs, including, but not
2880 limited to, transportation, clothing and food, financial
2881 resources, personal identification documents, housing, employment,
2882 education, and health care, following release.

2883 (* * *o) "Special meetings" means those meetings
2884 called by the chairman with at least twenty-four (24) hours'
2885 notice or a unanimous waiver of notice.

2886 (p) "Supervision plan" means a plan developed by the
2887 community corrections department to manage offenders on probation
2888 and parole in a way that reduces the likelihood they will commit a
2889 new criminal offense or violate the terms of supervision and that



2890 increases the likelihood of obtaining stable housing, employment
2891 and skills necessary to sustain positive conduct.

2892 (q) "Technical violation" means an act or omission by
2893 the probationer that violates a condition or conditions of
2894 probation placed on the probationer by the court or the probation
2895 officer.

2896 (r) "Transitional re-entry center" means a
2897 state-operated or state-contracted facility used to house
2898 offenders leaving the physical custody of the Department of
2899 Corrections on parole, probation or post-release supervision who
2900 are in need of temporary housing and services that reduce their
2901 risk to re-offend.

2902 (* * *s) "Unit of local government" means a county,
2903 city, town, village or other general purpose political subdivision
2904 of the state.

2905 (t) "Risk and needs assessment" means the determination
2906 of a person's risk to re-offend an actuarial assessment tool
2907 validated on Mississippi corrections populations and the needs
2908 that, when addressed, reduce the risk to re-offend.

2909 **SECTION 49.** The following shall be codified in Chapter 7,
2910 Title 47, Mississippi Code of 1972:

2911 (1) The department shall create a discharge plan for any
2912 offender returning to the community, regardless of whether the
2913 person will discharge from the custody of the department, or is
2914 released on parole, pardon, or otherwise. At least ninety (90)



2915 days prior to an offender's earliest release date, the
2916 commissioner shall conduct a pre-release assessment and complete a
2917 written discharge plan based on the assessment results. The
2918 discharge plan for parole eligible offenders shall be sent to the
2919 Parole Board at least thirty (30) days prior to the offender's
2920 parole eligibility date for approval. The board may suggest
2921 changes to the plan that it deems necessary to ensure a successful
2922 transition.

2923 (2) The pre-release assessment shall identify whether an
2924 inmate requires assistance obtaining the following basic needs
2925 upon release: transportation, clothing and food, financial
2926 resources, identification documents, housing, employment
2927 education, health care and support systems. The discharge plan
2928 shall include information necessary to address these needs and the
2929 steps being taken by the department to assist in this process.
2930 Based on the findings of the assessment, the commissioner shall:

2931 (a) Arrange transportation for inmates from the
2932 correctional facility to their release destination;

2933 (b) Ensure inmates have clean, seasonally appropriate
2934 clothing, and provide inmates with a list of food providers and
2935 other basic resources immediately accessible upon release;

2936 (c) Ensure inmates have a Mississippi driver's license
2937 or a state-issued identification card or an identification card
2938 that is not a Department of Corrections identification card;



2939 (d) Assist inmates in identifying safe, affordable
2940 housing upon release. If accommodations are not available,
2941 determine whether temporary housing is available for at least ten
2942 (10) days after release. If temporary housing is not available,
2943 the discharge plan shall reflect that satisfactory housing has not
2944 been established and the person may be a candidate for
2945 transitional re-entry center placement;

2946 (e) Refer inmates without secured employment to
2947 employment opportunities;

2948 (f) Provide inmates with contact information of a
2949 health care facility/provider in the community in which they plan
2950 to reside;

2951 (g) Notify family members of the release date and
2952 release plan, if inmate agrees;

2953 (h) Refer inmates to a community or a faith-based
2954 organization that can offer support within the first twenty-four
2955 (24) hours of release;

2956 (3) A written discharge plan shall be provided to the
2957 offender and supervising probation officer or parole officer, if
2958 applicable.

2959 (4) A discharge plan created for a parole-eligible offender
2960 shall also include supervision conditions and the intensity of
2961 supervision based on the assessed risk to recidivate and whether
2962 there is a need for transitional housing. The board shall approve



2963 discharge plans before an offender is released on parole pursuant
2964 to this act.

2965 **SECTION 50.** Section 47-5-173, Mississippi Code of 1972, is
2966 amended as follows:

2967 47-5-173. The commissioner, or his designees, may grant
2968 leave to an offender and may take into consideration sickness or
2969 death in the offender's family or the seeking of employment by the
2970 offender in connection with application for parole, for a period
2971 of time not to exceed ten (10) days. * * * At least fifteen (15)
2972 days prior to the release of an offender on leave, the director of
2973 records of the department shall give the written notice required
2974 pursuant to Section 47-5-177. However, if an offender is granted
2975 leave because of sickness or death in the offender's family,
2976 written notice shall not be required but the inmate shall be
2977 accompanied by a correctional officer or a law enforcement
2978 officer. In all other cases the commissioner, or his designees,
2979 shall provide required security when deemed necessary. The
2980 commissioner, or his designees, in granting leave, shall take into
2981 consideration the conduct and work performance of the offender.

2982 **SECTION 51.** Section 47-5-177, Mississippi Code of 1972, is
2983 amended as follows:

2984 47-5-177. * * * At least fifteen (15) days prior to the
2985 release of an offender from the custody of the department because
2986 of discharge, parole, pardon, temporary personal leave or pass, or
2987 otherwise, except for sickness or death in the offender's family,



2988 the Director of Records of the department shall give written or
2989 electronic notice of such release to the sheriff of the county and
2990 to the chief of police of the municipality where the offender was
2991 convicted. If the offender is paroled to a county other than the
2992 county of conviction, the Director of Records shall give written
2993 or electronic notice of the release to the sheriff, district
2994 attorney and circuit judge of the county and to the chief of
2995 police of the municipality where the offender is paroled and to
2996 the sheriff of the county and to the chief of police of the
2997 municipality where the offender was convicted. The department
2998 shall notify the parole officer of the county where the offender
2999 is paroled or discharged to probation of any chronic mental
3000 disorder incurred by the offender, of any type of infectious
3001 disease for which the offender has been examined and treated, and
3002 of any medications provided to the offender for such conditions.

3003 The commissioner shall require the Director of Records to
3004 clearly identify the notice of release of an offender who has been
3005 convicted of arson at any time. The fact that the offender to be
3006 released had been convicted of arson at any time shall appear
3007 prominently on the notice of release and the sheriff shall notify
3008 all officials who are responsible for investigation of arson
3009 within the county of such offender's release and the chief of
3010 police shall notify all such officials within the municipality of
3011 such offender's release.



3012 **SECTION 52.** Section 47-7-5, Mississippi Code of 1972, is
3013 amended as follows:

3014 47-7-5. (1) The State Parole Board, created under former
3015 Section 47-7-5, is hereby created, continued and reconstituted and
3016 shall be composed of five (5) members. The Governor shall appoint
3017 the members with the advice and consent of the Senate. All terms
3018 shall be at the will and pleasure of the Governor. Any vacancy
3019 shall be filled by the Governor, with the advice and consent of
3020 the Senate. The Governor shall appoint a chairman of the board.

3021 (2) Any person who is appointed to serve on the board shall
3022 possess at least a bachelor's degree or a high school diploma and
3023 four (4) years' work experience. Each member shall devote his
3024 full time to the duties of his office and shall not engage in any
3025 other business or profession or hold any other public office. A
3026 member shall not receive compensation or per diem in addition to
3027 his salary as prohibited under Section 25-3-38. Each member shall
3028 keep such hours and workdays as required of full-time state
3029 employees under Section 25-1-98. Individuals shall be appointed
3030 to serve on the board without reference to their political
3031 affiliations. Each board member, including the chairman, may be
3032 reimbursed for actual and necessary expenses as authorized by
3033 Section 25-3-41. Each member of the board shall complete annual
3034 training developed based on guidance from the National Institute
3035 of Corrections, the Association of Paroling Authorities
3036 International, or the American Probation and Parole Association.



3037 Each first-time appointee of the board shall, within sixty (60)
3038 days of appointment, complete training for first-time parole
3039 members developed in consideration of information from the
3040 National Institute of Corrections, the Association of Paroling
3041 Authorities International, or the American Probation and Parole
3042 Association.

3043 (3) The board shall have exclusive responsibility for the
3044 granting of parole as provided by Sections 47-7-3 and 47-7-17 and
3045 shall have exclusive authority for revocation of the same. The
3046 board shall have exclusive responsibility for investigating
3047 clemency recommendations upon request of the Governor.

3048 (4) The board, its members and staff, shall be immune from
3049 civil liability for any official acts taken in good faith and in
3050 exercise of the board's legitimate governmental authority.

3051 (5) The budget of the board shall be funded through a
3052 separate line item within the general appropriation bill for the
3053 support and maintenance of the department. Employees of the
3054 department which are employed by or assigned to the board shall
3055 work under the guidance and supervision of the board. There shall
3056 be an executive secretary to the board who shall be responsible
3057 for all administrative and general accounting duties related to
3058 the board. The executive secretary shall keep and preserve all
3059 records and papers pertaining to the board.

3060 (6) The board shall have no authority or responsibility for
3061 supervision of offenders granted a release for any reason,



3062 including, but not limited to, probation, parole or executive
3063 clemency or other offenders requiring the same through interstate
3064 compact agreements. The supervision shall be provided exclusively
3065 by the staff of the Division of Community Corrections of the
3066 department.

3067 (7) (a) The Parole Board is authorized to select and place
3068 offenders in an electronic monitoring program under the conditions
3069 and criteria imposed by the Parole Board. The conditions,
3070 restrictions and requirements of Section 47-7-17 and Sections
3071 47-5-1001 through 47-5-1015 shall apply to the Parole Board and
3072 any offender placed in an electronic monitoring program by the
3073 Parole Board.

3074 (b) Any offender placed in an electronic monitoring
3075 program under this subsection shall pay the program fee provided
3076 in Section 47-5-1013. The program fees shall be deposited in the
3077 special fund created in Section 47-5-1007.

3078 (c) The department shall have absolute immunity from
3079 liability for any injury resulting from a determination by the
3080 Parole Board that an offender be placed in an electronic
3081 monitoring program.

3082 (8) (a) The Parole Board shall maintain a central registry
3083 of paroled inmates. The Parole Board shall place the following
3084 information on the registry: name, address, photograph, crime for
3085 which paroled, the date of the end of parole or flat-time date and
3086 other information deemed necessary. The Parole Board shall



3087 immediately remove information on a parolee at the end of his
3088 parole or flat-time date.

3089 (b) When a person is placed on parole, the Parole Board
3090 shall inform the parolee of the duty to report to the parole
3091 officer any change in address ten (10) days before changing
3092 address.

3093 (c) The Parole Board shall utilize an Internet website
3094 or other electronic means to release or publish the information.

3095 (d) Records maintained on the registry shall be open to
3096 law enforcement agencies and the public and shall be available no
3097 later than July 1, 2003.

3098 (9) An affirmative vote of at least four (4) members of the
3099 Parole Board shall be required to grant parole to an inmate
3100 convicted of capital murder or a sex crime.

3101 * * *

3102 **SECTION 53.** Section 47-7-9, Mississippi Code of 1972, is
3103 amended as follows:

3104 47-7-9. (1) The circuit judges and county judges in the
3105 districts to which Division of Community Corrections personnel
3106 have been assigned shall have the power to request of the
3107 department transfer or removal of the division personnel from
3108 their court.

3109 (2) (a) Division personnel shall investigate all cases
3110 referred to them for investigation by the board, the division or
3111 by any court in which they are authorized to serve. They shall



3112 furnish to each person released under their supervision a written
3113 statement of the conditions of probation, parole, earned-release
3114 supervision, post-release supervision or suspension and shall
3115 instruct * * * the person regarding the same. They shall
3116 administer a risk and needs assessment on each person under their
3117 supervision to measure criminal risk factors and individual needs.
3118 They shall use the results of the risk and needs assessment to
3119 guide supervision responses consistent with evidence-based
3120 practices as to the level of supervision and the practices used to
3121 reduce recidivism. They shall develop a supervision plan for each
3122 person assessed as moderate to high risk to reoffend. They shall
3123 keep informed concerning the conduct and conditions of persons
3124 under their supervision and use all suitable methods that are
3125 consistent with evidence-based practices to aid and encourage them
3126 and to bring about improvements in their conduct and condition and
3127 to reduce the risk of recidivism. They shall keep detailed
3128 records of their work and shall make such reports in writing as
3129 the court or the board may require.

3130 (b) Division personnel shall complete annual training
3131 on evidence-based practices and criminal risk factors, as well as
3132 instructions on how to target these factors to reduce recidivism.

3133 (* * * c) The division personnel duly assigned to court
3134 districts are hereby vested with all the powers of police officers
3135 or sheriffs to make arrests or perform any other duties required
3136 of policemen or sheriffs which may be incident to the division



3137 personnel responsibilities. All probation and parole officers
3138 hired on or after July 1, 1994, will be placed in the Law
3139 Enforcement Officers Training Program and will be required to meet
3140 the standards outlined by that program.

3141 (* * *d) It is the intention of the Legislature that
3142 insofar as practicable the case load of each division personnel
3143 supervising offenders in the community (hereinafter field
3144 supervisor) shall not exceed the number of cases that may be
3145 adequately handled.

3146 (3) (a) Division personnel shall be provided to perform
3147 investigation for the court as provided in this subsection.
3148 Division personnel shall conduct presentence investigations on all
3149 persons convicted of a felony in any circuit court of the state,
3150 prior to sentencing and at the request of the circuit court judge
3151 of the court of conviction. The presentence evaluation report
3152 shall consist of a complete record of the offender's criminal
3153 history, educational level, employment history, psychological
3154 condition and such other information as the department or judge
3155 may deem necessary. Division personnel shall also prepare written
3156 victim impact statements at the request of the sentencing judge as
3157 provided in Section 99-19-157.

3158 (b) In order that offenders in the custody of the
3159 department on July 1, 1976, may benefit from the kind of
3160 evaluations authorized in this section, an evaluation report to
3161 consist of the information required hereinabove, supplemented by



3162 an examination of an offender's record while in custody, shall be
3163 compiled by the division upon all offenders in the custody of the
3164 department on July 1, 1976. After a study of such reports by the
3165 State Parole Board those cases which the board believes would
3166 merit some type of executive clemency shall be submitted by the
3167 board to the Governor with its recommendation for the appropriate
3168 executive action.

3169 (c) The department is authorized to accept gifts,
3170 grants and subsidies to conduct this activity.

3171 **SECTION 54.** The following shall be codified in Chapter 7,
3172 Title 47, Mississippi Code of 1972:

3173 (1) The department shall have the authority to impose
3174 graduated sanctions as an alternative to judicial modification or
3175 revocation, as provided in Sections 47-7-27 and 47-7-37, for
3176 offenders on probation, parole, or post-release supervision who
3177 commit technical violations of the conditions of supervision as
3178 defined by Section 47-7-2.

3179 (2) The commissioner shall develop a standardized graduated
3180 sanctions system, which shall include a grid to guide field
3181 officers in determining the suitable response to a technical
3182 violation. The commissioner shall promulgate rules and
3183 regulations for the development and application of the system of
3184 sanctions. Field officers shall be required to conform to the
3185 sanction grid developed.



3186 (3) The system of sanctions shall include a list of
3187 sanctions for the most common types of violations. When
3188 determining the sanction to impose, the field officer shall take
3189 into account the offender's assessed risk level, previous
3190 violations and sanctions, and severity of the current and prior
3191 violations.

3192 (4) Field officers shall notify the sentencing court when a
3193 probationer has committed a technical violation or the parole
3194 board when a parolee has committed a technical violation of the
3195 type of violation and the sanction imposed. When the technical
3196 violation is an arrest for a new criminal offense, the field
3197 officer shall notify the court within forty-eight (48) hours of
3198 becoming aware of the arrest.

3199 (5) The graduated sanctions that the department may impose
3200 include, but shall not be limited to:

- 3201 (a) Verbal warnings;
- 3202 (b) Increased reporting;
- 3203 (c) Increased drug and alcohol testing;
- 3204 (d) Mandatory substance abuse treatment;
- 3205 (e) Loss of earned discharge credits; and
- 3206 (f) Incarceration in a county jail for no more than two
3207 (2) days. Incarceration as a sanction shall not be used more than
3208 two (2) times per month for a total period incarcerated of no more
3209 than four (4) days.



3210 (6) The system shall also define positive reinforcements
3211 that offenders will receive for compliance with conditions of
3212 supervision. These positive reinforcements shall include, but not
3213 limited to:

3214 (a) Verbal recognition;

3215 (b) Reduced reporting; and

3216 (c) Credits for earned discharge which shall be awarded
3217 pursuant to this act.

3218 (7) The Department of Corrections shall provide
3219 semi-annually to the Oversight Task Force the number and
3220 percentage of offenders who have one or more violations during the
3221 year, the average number of violations per offender during the
3222 year and the total and average number of incarceration sanctions
3223 as defined in Section (4) (f) imposed during the year.

3224 **SECTION 55.** The following shall be codified in Chapter 7,
3225 Title 47, Mississippi Code of 1972:

3226 (1) The commissioner shall establish rules and regulations
3227 for implementing the earned discharge program that allows
3228 offenders on probation and parole to reduce the period of
3229 supervision for complying with conditions of probation. The
3230 department shall have the authority to award earned discharge
3231 credits to all offenders placed on probation, parole, or
3232 post-release supervision who are in compliance with the terms and
3233 conditions of supervision.



3234 (a) An offender serving a Mississippi sentence for an
3235 eligible offense in any jurisdiction under the Interstate Compact
3236 for Adult Offender Supervision shall be eligible for earned
3237 discharge credits under this section.

3238 (2) For each full calendar month of compliance with the
3239 conditions of supervision, earned discharge credits equal to the
3240 number of days in that month shall be deducted from the offenders
3241 sentence discharge date established in this act. Credits begin to
3242 accrue for eligible offenders after the first full calendar month
3243 of compliance supervision conditions. For the purposes of this
3244 section, an offender is deemed to be in compliance with the
3245 conditions of supervision if there was no violation of the
3246 conditions of supervision.

3247 (3) No earned discharge credits may accrue for a calendar
3248 month in which a violation report has been submitted, the offender
3249 has absconded from supervision, the offender is serving a term of
3250 imprisonment in a technical violation center, or for the months
3251 between the submission of the violation report and the final
3252 action on the violation report by the court or the board.

3253 (4) Earned discharge credits shall be applied to the
3254 sentence within thirty (30) days of the end of the month in which
3255 the credits were earned. At least every six (6) months, an
3256 offender who is serving a sentence eligible for earned discharge
3257 credits shall be notified of the current sentence discharge date.



3258 (5) Once the combination of time served on probation, parole
3259 or post-release supervision, and earned discharge credits satisfy
3260 the term of probation, parole, or post-release supervision, the
3261 board or sentencing court shall order final discharge of the
3262 offender. No less than sixty (60) days prior to the date of final
3263 discharge, the department shall notify the sentencing court and
3264 the board of the impending discharge.

3265 (6) The department shall provide semiannually to the
3266 Oversight Task Force the number and percentage of offenders who
3267 qualify for earned discharge in one or more months of the year and
3268 the average amount of credits earned within the year.

3269 **SECTION 56.** Section 47-7-27, Mississippi Code of 1972, is
3270 amended as follows:

3271 47-7-27. (1) The board may, at any time and upon a showing
3272 of probable violation of parole, issue a warrant for the return of
3273 any paroled offender to the custody of the department. The
3274 warrant shall authorize all persons named therein to return the
3275 paroled offender to actual custody of the department from which he
3276 was paroled. * * *

3277 (2) Any field supervisor may arrest an offender without a
3278 warrant or may deputize any other person with power of arrest by
3279 giving him a written statement setting forth that the offender
3280 has, in the judgment of that field supervisor, violated the
3281 conditions of his parole or earned-release supervision. The
3282 written statement delivered with the offender by the arresting



3283 officer to the official in charge of the department facility from
3284 which the offender was released or other place of detention
3285 designated by the department shall be sufficient warrant for the
3286 detention of the offender.

3287 (3) The field supervisor, after making an arrest, shall
3288 present to the detaining authorities a similar statement of the
3289 circumstances of violation. The field supervisor shall at once
3290 notify the board or department of the arrest and detention of the
3291 offender and shall submit a written report showing in what manner
3292 the offender has violated the conditions of parole or
3293 earned-release supervision. An offender for whose return a
3294 warrant has been issued by the board shall, after the issuance of
3295 the warrant, be deemed a fugitive from justice.

3296 (4) Whenever an offender is arrested on a warrant for an
3297 alleged violation of parole as herein provided, the board shall
3298 hold an informal preliminary hearing within seventy-two (72) hours
3299 to determine whether there is reasonable cause to believe the
3300 person has violated a condition of parole. A preliminary hearing
3301 shall not be required when the offender is not under arrest on a
3302 warrant or the offender signed a waiver of a preliminary hearing.
3303 The preliminary hearing may be conducted electronically.

3304 (* * *5) The right of the State of Mississippi to extradite
3305 persons and return fugitives from justice, from other states to
3306 this state, shall not be impaired by this chapter and shall remain
3307 in full force and effect. An offender convicted of a felony



3308 committed while on parole, whether in the State of Mississippi or
3309 another state, shall immediately have his parole revoked upon
3310 presentment of a certified copy of the commitment order to the
3311 board. If an offender is on parole and the offender is convicted
3312 of a felony for a crime committed prior to the offender being
3313 placed on parole, whether in the State of Mississippi or another
3314 state, the offender may have his parole revoked upon presentment
3315 of a certified copy of the commitment order to the board.

3316 (* * *6) * * * (a) The board shall hold a hearing for any
3317 parolee who is detained as a result of a warrant or a violation
3318 report within twenty-one (21) days of the parolee's admission to
3319 detention. The board may, in its discretion, terminate the parole
3320 or modify the terms and conditions thereof. If the board revokes
3321 parole for a technical violation the board shall impose a period
3322 of imprisonment to be served in a technical violation center
3323 operated by the department not to exceed ninety (90) days for the
3324 first technical violation and not to exceed one hundred twenty
3325 (120) days for the second technical violation. For the third
3326 technical violation, the board may impose a period of imprisonment
3327 to be served in a technical violation center for up to one hundred
3328 and eighty (180) days or the board may impose the remainder of the
3329 suspended portion of the sentence. For the fourth and any
3330 subsequent technical violation, the board may impose up to the
3331 remainder of the suspended portion of the sentence. The period of



3332 imprisonment in a technical violation center imposed under this
3333 section shall not be reduced in any manner.

3334 (b) If the board does not hold a hearing or does not
3335 take action on the violation within the 21-day time frame in
3336 paragraph (a) of this subsection, the parolee shall be released
3337 from detention and shall return to parole status. The board may
3338 subsequently hold a hearing and may revoke parole or may continue
3339 parole and modify the terms and conditions of parole. If the
3340 board revokes parole for a technical violation the board shall
3341 impose a period of imprisonment to be served in a technical
3342 violation center operated by the department not to exceed ninety
3343 (90) days for the first technical violation and not to exceed one
3344 hundred twenty (120) days for the second technical violation. For
3345 the third technical violation, the board may impose a period of
3346 imprisonment to be served in a technical violation center for up
3347 to one hundred eighty (180) days or the board may impose the
3348 remainder of the suspended portion of the sentence. For the
3349 fourth and any subsequent technical violation, the board may
3350 impose up to the remainder of the suspended portion of the
3351 sentence. The period of imprisonment in a technical violation
3352 center imposed under this section shall not be reduced in any
3353 manner.

3354 (c) For a parolee charged with a technical violation
3355 who has not been detained awaiting the revocation hearing, the
3356 board may hold a hearing within a reasonable time. The board may



3357 revoke parole or may continue parole and modify the terms and
3358 conditions of parole. If the board revokes parole for a technical
3359 violation the board shall impose a period of imprisonment to be
3360 served in a technical violation center operated by the department
3361 not to exceed ninety (90) days for the first technical violation
3362 and not to exceed one hundred twenty (120) days for the second
3363 technical violation. For the third technical violation, the board
3364 may impose a period of imprisonment to be served in a technical
3365 violation center for up to one hundred eighty (180) days or the
3366 board may impose the remainder of the suspended portion of the
3367 sentence. For the fourth and any subsequent technical violation,
3368 the board may impose up to the remainder of the suspended portion
3369 of the sentence. The period of imprisonment in a technical
3370 violation center imposed under this section shall not be reduced
3371 in any manner.

3372 (7) Unless good cause for the delay is established in the
3373 record of the proceeding, the parole revocation charge shall be
3374 dismissed if the revocation hearing is not held within the thirty
3375 (30) days of the issuance of the warrant.

3376 (* * *8) The chairman and each member of the board and the
3377 designated parole revocation hearing officer may, in the discharge
3378 of their duties, administer oaths, summon and examine witnesses,
3379 and take other steps as may be necessary to ascertain the truth of
3380 any matter about which they have the right to inquire.



3381 (9) The board shall provide semiannually to the Oversight
3382 Task Force the number of warrants issued for an alleged violation
3383 of parole, the average time between detention on a warrant and
3384 preliminary hearing, the average time between detention on a
3385 warrant and revocation hearing, the number of ninety-day sentences
3386 in a technical violation center issued by the board, the number of
3387 one hundred twenty-day sentences in a technical violation center
3388 issued by the board, the number of one hundred eighty-day
3389 sentences issued by the board, and the number and average length
3390 of the suspended sentences imposed by the board in response to a
3391 violation.

3392 **SECTION 57.** Section 47-7-34, Mississippi Code of 1972, is
3393 amended as follows:

3394 47-7-34. (1) When a court imposes a sentence upon a
3395 conviction for any felony committed after June 30, 1995, the
3396 court, in addition to any other punishment imposed if the other
3397 punishment includes a term of incarceration in a state or local
3398 correctional facility, may impose a term of post-release
3399 supervision. However, the total number of years of incarceration
3400 plus the total number of years of post-release supervision shall
3401 not exceed the maximum sentence authorized to be imposed by law
3402 for the felony committed. The defendant shall be placed under
3403 post-release supervision upon release from the term of
3404 incarceration. The period of supervision shall be established by
3405 the court.



3406 (2) The period of post-release supervision shall be
3407 conducted in the same manner as a like period of supervised
3408 probation, including a requirement that the defendant shall abide
3409 by any terms and conditions as the court may establish. Failure
3410 to successfully abide by the terms and conditions shall be grounds
3411 to terminate the period of post-release supervision and to
3412 recommit the defendant to the correctional facility from which he
3413 was previously released. Procedures for termination and
3414 recommitment shall be conducted in the same manner as procedures
3415 for the revocation of probation and imposition of a suspended
3416 sentence as required pursuant to Section 47-7-37.

3417 (3) Post-release supervision programs shall be operated
3418 through the probation and parole unit of the Division of Community
3419 Corrections of the department. The maximum amount of time that
3420 the Mississippi Department of Corrections may supervise an
3421 offender on the post-release supervision program is five (5)
3422 years.

3423 **SECTION 58.** Section 47-7-37, Mississippi Code of 1972, is
3424 amended as follows:

3425 47-7-37. (1) The period of probation shall be fixed by the
3426 court, and may at any time be extended or terminated by the court,
3427 or judge in vacation. Such period with any extension thereof
3428 shall not exceed five (5) years, except that in cases of desertion
3429 and/or failure to support minor children, the period of probation



3430 may be fixed and/or extended by the court for so long as the duty
3431 to support such minor children exists.

3432 (2) At any time during the period of probation, the court,
3433 or judge in vacation, may issue a warrant for violating any of the
3434 conditions of probation or suspension of sentence and cause the
3435 probationer to be arrested. Any probation and parole officer may
3436 arrest a probationer without a warrant, or may deputize any other
3437 officer with power of arrest to do so by giving him a written
3438 statement setting forth that the probationer has, in the judgment
3439 of the probation and parole officer, violated the conditions of
3440 probation. Such written statement delivered with the probationer
3441 by the arresting officer to the official in charge of a county
3442 jail or other place of detention shall be sufficient warrant for
3443 the detention of the probationer.

3444 (3) Whenever an offender is arrested on a warrant for an
3445 alleged violation of probation as herein provided, the department
3446 shall hold an informal preliminary hearing within seventy-two (72)
3447 hours of the arrest to determine whether there is reasonable cause
3448 to believe the person has violated a condition of probation. A
3449 preliminary hearing shall not be required when the offender is not
3450 under arrest on a warrant or the offender signed a waiver of a
3451 preliminary hearing. The preliminary hearing may be conducted
3452 electronically. If reasonable cause is found, the offender may be
3453 confined no more than twenty-one (21) days from the admission to
3454 detention until a revocation hearing is held. If the revocation



3455 hearing is not held within twenty-one (21) days, the probationer
3456 shall be released from custody and returned to probation status.

3457 (4) If a probationer or offender is subject to registration
3458 as a sex offender, the court must make a finding that the
3459 probationer or offender is not a danger to the public prior to
3460 release with or without bail. In determining the danger posed by
3461 the release of the offender or probationer, the court may consider
3462 the nature and circumstances of the violation and any new offenses
3463 charged; the offender or probationer's past and present conduct,
3464 including convictions of crimes and any record of arrests without
3465 conviction for crimes involving violence or sex crimes; any other
3466 evidence of allegations of unlawful sexual conduct or the use of
3467 violence by the offender or probationer; the offender or
3468 probationer's family ties, length of residence in the community,
3469 employment history and mental condition; the offender or
3470 probationer's history and conduct during the probation or other
3471 supervised release and any other previous supervisions, including
3472 disciplinary records of previous incarcerations; the likelihood
3473 that the offender or probationer will engage again in a criminal
3474 course of conduct; the weight of the evidence against the offender
3475 or probationer; and any other facts the court considers relevant.

3476 (5) (a) The probation and parole officer after making an
3477 arrest shall present to the detaining authorities a similar
3478 statement of the circumstances of violation. The probation and
3479 parole officer shall at once notify the court of the arrest and



3480 detention of the probationer and shall submit a report in writing
3481 showing in what manner the probationer has violated the conditions
3482 of probation. * * * Within twenty-one (21) days of arrest and
3483 detention by warrant as herein provided, the court * * * shall
3484 cause the probationer to be brought before it and may continue or
3485 revoke all or any part of the probation or the suspension of
3486 sentence * * *. If the court revokes probation for a technical
3487 violation, the court may place the offender within the legal
3488 custody of a restitution center within the state or may impose a
3489 period of imprisonment to be served in a technical violation
3490 center not to exceed ninety (90) days for the first technical
3491 violation and not to exceed one hundred twenty (120) days for the
3492 second technical violation. For the third technical violation,
3493 the court may place the offender within the legal custody of a
3494 restitution center within the state or may impose a period of
3495 imprisonment to be served in a technical violation center for up
3496 to one hundred eighty (180) days or the court may impose the
3497 remainder of the suspended portion of the sentence. For the
3498 fourth and any subsequent technical violation, the court may place
3499 the offender within the legal custody of a restitution center
3500 within the state or may impose up to the remainder of the
3501 suspended portion of the sentence. The period of imprisonment in
3502 a technical violation center imposed under this section shall not
3503 be reduced in any manner except as otherwise provided in this
3504 paragraph.



3505 (b) If the offender is not detained as a result of the
3506 warrant, the court shall cause the probationer to be brought
3507 before it within a reasonable time and may continue or revoke all
3508 or any part of the probation or the suspension of sentence, and
3509 may cause the sentence imposed to be executed or may impose any
3510 part of the sentence which might have been imposed at the time of
3511 conviction. If the court revokes probation for a technical
3512 violation, the court may place the offender within the legal
3513 custody of a restitution center within the state or may impose a
3514 period of imprisonment to be served in a technical violation
3515 center not to exceed ninety (90) days for the first technical
3516 violation and not to exceed one hundred twenty (120) days for the
3517 second technical violation. For the third technical violation,
3518 the court may place the offender within the legal custody of a
3519 restitution center within the state or may impose a period of
3520 imprisonment to be served in a technical violation center for up
3521 to one hundred eighty (180) days or the court may impose the
3522 remainder of the suspended portion of the sentence. For the
3523 fourth and any subsequent technical violation, the court may place
3524 the offender within the legal custody of a restitution center
3525 within the state or may impose up to the remainder of the
3526 suspended portion of the sentence. The period of imprisonment in
3527 a technical violation center imposed under this section shall not
3528 be reduced except as otherwise provided in this paragraph.



3529 (c) If the court does not hold a hearing or does not
3530 take action on the violation within the 21-day timeframe, the
3531 offender shall be released from detention and shall return to
3532 probation status. The court may subsequently hold a hearing and
3533 may revoke probation or may continue probation and modify the
3534 terms and conditions of probation. If the court revokes probation
3535 for a technical violation, the court may place the offender within
3536 the legal custody of a restitution center within the state or may
3537 impose a period of imprisonment to be served in a technical
3538 violation center operated by the department not to exceed ninety
3539 (90) days for the first technical violation and not to exceed one
3540 hundred twenty (120) days for the second technical violation. For
3541 the third technical violation, the court may place the offender
3542 within the legal custody of a restitution center within the state
3543 or may impose a period of imprisonment to be served in a technical
3544 violation center for up to one hundred and eighty (180) days or
3545 the court may impose the remainder of the suspended portion of the
3546 sentence. For the fourth and any subsequent technical violation,
3547 the court may place the offender within the legal custody of a
3548 restitution center within the state or may impose up to the
3549 remainder of the suspended portion of the sentence. The period of
3550 imprisonment in a technical violation center imposed under this
3551 section shall not be reduced in any manner.

3552 (d) For an offender charged with a technical violation
3553 who has not been detained awaiting the revocation hearing, the



3554 court may hold a hearing within a reasonable time. The court may
3555 revoke probation or may continue probation and modify the terms
3556 and conditions of probation. If the court revokes probation for a
3557 technical violation the court may place the offender within the
3558 legal custody of a restitution center within the state or may
3559 impose a period of imprisonment to be served in a technical
3560 violation center operated by the department not to exceed ninety
3561 (90) days for the first technical violation and not to exceed one
3562 hundred twenty (120) days for the second technical violation. For
3563 the third technical violation, the court may place the offender
3564 within the legal custody of a restitution center within the state
3565 or may impose a period of imprisonment to be served in a technical
3566 violation center for up to one hundred eighty (180) days or the
3567 court may impose the remainder of the suspended portion of the
3568 sentence. For the fourth and any subsequent technical violation,
3569 the court may place the offender within the legal custody of a
3570 restitution center within the state or may impose up to the
3571 remainder of the suspended portion of the sentence. The period of
3572 imprisonment in a technical violation center imposed under this
3573 section shall not be reduced in any manner.

3574 (7) If the probationer is arrested in a circuit court
3575 district in the State of Mississippi other than that in which he
3576 was convicted, the probation and parole officer, upon the written
3577 request of the sentencing judge, shall furnish to the circuit
3578 court or the county court of the county in which the arrest is



3579 made, or to the judge of such court, a report concerning the
3580 probationer, and such court or the judge in vacation shall have
3581 authority, after a hearing, to continue or revoke all or any part
3582 of probation or all or any part of the suspension of sentence, and
3583 may in case of revocation proceed to deal with the case as if
3584 there had been no probation. In such case, the clerk of the court
3585 in which the order of revocation is issued shall forward a
3586 transcript of such order to the clerk of the court of original
3587 jurisdiction, and the clerk of that court shall proceed as if the
3588 order of revocation had been issued by the court of original
3589 jurisdiction. Upon the revocation of probation or suspension of
3590 sentence of any offender, such offender shall be placed in the
3591 legal custody of the State Department of Corrections and shall be
3592 subject to the requirements thereof.

3593 (8) Any probationer who removes himself from the State of
3594 Mississippi without permission of the court placing him on
3595 probation, or the court to which jurisdiction has been
3596 transferred, shall be deemed and considered a fugitive from
3597 justice and shall be subject to extradition as now provided by
3598 law. No part of the time that one is on probation shall be
3599 considered as any part of the time that he shall be sentenced to
3600 serve.

3601 (9) The arresting officer, except when a probation and
3602 parole officer, shall be allowed the same fees as now provided by



3603 law for arrest on warrant, and such fees shall be taxed against
3604 the probationer and paid as now provided by law.

3605 (10) The arrest, revocation and recommitment procedures of
3606 this section also apply to persons who are serving a period of
3607 post-release supervision imposed by the court.

3608 (11) Unless good cause for the delay is established in the
3609 record of the proceeding, the probation revocation charge shall be
3610 dismissed if the revocation hearing is not held within thirty (30)
3611 days of the warrant being issued.

3612 (12) The Department of Corrections shall provide
3613 semiannually to the Oversight Task Force the number of warrants
3614 issued for an alleged violation of probation or post-release
3615 supervison, the average time between detention on a warrant and
3616 preliminary hearing, the average time between detention on a
3617 warrant and revocation hearing, the number of ninety-day sentences
3618 in a technical violation center issued by the court, the number of
3619 one hundred twenty-day sentences in a technical violation center
3620 issued by the court, the number of one hundred eighty-day
3621 sentences issued by the court, and the number and average length
3622 of the suspended sentences imposed by the court in response to a
3623 violation.

3624 **SECTION 59.** Section 47-5-901, Mississippi Code of 1972, is
3625 amended as follows:

3626 47-5-901. (1) Any person committed, sentenced or otherwise
3627 placed under the custody of the Department of Corrections, on



3628 order of the sentencing court and subject to the other conditions
3629 of this subsection, may serve all or any part of his sentence in
3630 the county jail of the county wherein such person was convicted if
3631 the Commissioner of Corrections determines that physical space is
3632 not available for confinement of such person in the state
3633 correctional institutions. Such determination shall be promptly
3634 made by the Department of Corrections upon receipt of notice of
3635 the conviction of such person. The commissioner shall certify in
3636 writing that space is not available to the sheriff or other
3637 officer having custody of the person. Any person serving his
3638 sentence in a county jail shall be classified in accordance with
3639 Section 47-5-905.

3640 (2) If state prisoners are housed in county jails due to a
3641 lack of capacity at state correctional institutions, the
3642 Department of Corrections shall determine the cost for food and
3643 medical attention for such prisoners. The cost of feeding and
3644 housing offenders confined in such county jails shall be based on
3645 actual costs or contract price per prisoner. In order to maximize
3646 the potential use of county jail space, the Department of
3647 Corrections is encouraged to negotiate a reasonable per day cost
3648 per prisoner, which in no event may exceed Twenty Dollars (\$20.00)
3649 per day per offender.

3650 (3) (a) Upon vouchers submitted by the board of supervisors
3651 of any county housing persons due to lack of space at state
3652 institutions or due to practical considerations such as location



3653 or scheduling related to pending hearings, the Department of
3654 Corrections shall pay to such county, out of any available funds,
3655 the actual cost of food, or contract price per prisoner, not to
3656 exceed Twenty Dollars (\$20.00) per day per offender, as determined
3657 under subsection (2) of this section for each day an offender is
3658 so confined beginning the day that the Department of Corrections
3659 receives a certified copy of the sentencing order and will
3660 terminate on the date on which the offender is released or
3661 otherwise removed from the custody of the county jail. The
3662 department, or its contracted medical provider, will pay to a
3663 provider of a medical service for any and all incarcerated persons
3664 from a correctional or detention facility an amount based upon
3665 negotiated fees as agreed to by the medical care service providers
3666 and the department and/or its contracted medical provider. In the
3667 absence of negotiated discounted fee schedule, medical care
3668 service providers will be paid by the department, or its
3669 contracted medical service provider, an amount no greater than the
3670 reimbursement rate applicable based on the Mississippi Medicaid
3671 reimbursement rate. The board of supervisors of any county shall
3672 not be liable for any cost associated with medical attention for
3673 prisoners who are pretrial detainees or for prisoners who have
3674 been convicted that exceeds the Mississippi Medicaid reimbursement
3675 rate or the reimbursement provided by the Department of
3676 Corrections, whichever is greater. This limitation applies to all
3677 medical care services, durable and nondurable goods, prescription



3678 drugs and medications. Such payment shall be placed in the county
3679 general fund and shall be expended only for food and medical
3680 attention for such persons.

3681 (b) Upon vouchers submitted by the board of supervisors
3682 of any county housing offenders in county jails pending a
3683 probation or parole revocation hearing, the department shall
3684 pay * * * the reimbursement costs provided in paragraph (a).

3685 (c) If the probation or parole of an offender is
3686 revoked, the additional cost of housing the offender pending the
3687 revocation hearing shall be assessed as part of the offender's
3688 court cost and shall be remitted to the department.

3689 (4) A person, on order of the sentencing court, may serve
3690 not more than twenty-four (24) months of his sentence in a county
3691 jail if the person is classified in accordance with Section
3692 47-5-905 and the county jail is an approved county jail for
3693 housing state inmates under federal court order. The sheriff of
3694 the county shall have the right to petition the Commissioner of
3695 Corrections to remove the inmate from the county jail. The county
3696 shall be reimbursed in accordance with subsection (2).

3697 (5) The Attorney General of the State of Mississippi shall
3698 defend the employees of the Department of Corrections and
3699 officials and employees of political subdivisions against any
3700 action brought by any person who was committed to a county jail
3701 under the provisions of this section.



3702 (6) This section does not create in the Department of
3703 Corrections, or its employees or agents, any new liability,
3704 express or implied, nor shall it create in the Department of
3705 Corrections any administrative authority or responsibility for the
3706 construction, funding, administration or operation of county or
3707 other local jails or other places of confinement which are not
3708 staffed and operated on a full-time basis by the Department of
3709 Corrections. The correctional system under the jurisdiction of
3710 the Department of Corrections shall include only those facilities
3711 fully staffed by the Department of Corrections and operated by it
3712 on a full-time basis.

3713 (7) An offender returned to a county for post-conviction
3714 proceedings shall be subject to the provisions of Section 99-19-42
3715 and the county shall not receive the per day allotment for such
3716 offender after the time prescribed for returning the offender to
3717 the Department of Corrections as provided in Section 99-19-42.

3718 **SECTION 60.** Section 47-5-911, Mississippi Code of 1972, is
3719 amended as follows:

3720 47-5-911. Sections 47-5-901 through 47-5-911 shall stand
3721 repealed on July 1, * * * 2016.

3722 **SECTION 61.** The following shall be codified in Chapter 7, of
3723 Title 47, Mississippi Code of 1972:

3724 (1) The Department of Corrections shall establish technical
3725 violation centers to detain probation and parole violators revoked
3726 by the court or parole board.



3727 (2) The department shall place an offender in a violation
3728 center for a technical violation as ordered by the board pursuant
3729 to Section 47-7-27 and the sentencing court pursuant to Section
3730 47-7-37.

3731 (3) The violation centers shall be equipped to address the
3732 underlying factors that led to the offender's violation as
3733 identified based on the results of a risk and needs assessment.
3734 At a minimum each violation center shall include substance abuse
3735 services shown to reduce recidivism and a reduction in the use of
3736 illicit substances or alcohol, education programs, employment
3737 preparation and training programs and behavioral programs.

3738 (4) As required by Section 47-5-20(b), the department shall
3739 notify, by certified mail, each member of the board of supervisors
3740 of the county in which the violation center shall be located of
3741 the department's intent to convert an existing department facility
3742 to a technical violation center.

3743 (5) The department shall establish rules and regulations for
3744 the implementation and operation of the technical violation
3745 centers.

3746 (6) The Department of Corrections shall provide to the
3747 Oversight Task Force semiannually the average daily population of
3748 the technical violation centers, the number of admissions to the
3749 technical violation centers, and the average time served in the
3750 technical violation centers.



3751 **SECTION 62.** Section 47-5-10, Mississippi Code of 1972, is
3752 amended as follows:

3753 47-5-10. The department shall have the following powers and
3754 duties:

3755 (a) To accept adult offenders committed to it by the
3756 courts of this state for incarceration, care, custody, treatment
3757 and rehabilitation;

3758 (b) To provide for the care, custody, study, training,
3759 supervision and treatment of adult offenders committed to the
3760 department;

3761 (c) To maintain, administer and exercise executive and
3762 administrative supervision over all state correctional
3763 institutions and facilities used for the custody, training, care,
3764 treatment and after-care supervision of adult offenders committed
3765 to the department; provided, however, that such supervision shall
3766 not extend to any institution or facility for which executive and
3767 administrative supervision has been provided by law through
3768 another agency;

3769 (d) To plan, develop and coordinate a statewide,
3770 comprehensive correctional program designed to train and
3771 rehabilitate offenders in order to prevent, control and retard
3772 recidivism;

3773 (e) To maintain records of persons committed to it, and
3774 to establish programs of research, statistics and planning:



3775 (i) An offender's records shall include a single
3776 cover sheet that contains the following information about the
3777 offender: name, including any aliases; department inmate number;
3778 social security number; photograph; court of conviction; cause
3779 number; date of conviction; date of sentence; total number of days
3780 in the department's custody or number of days creditable toward
3781 time served on each charge; date of actual custody; and date of
3782 any revocation of a suspended sentence;

3783 (ii) The department shall maintain an offender's
3784 cover sheet in the course of its regularly conducted business
3785 activities and shall include an offender's cover sheet in each
3786 request from a court, prosecutor or law enforcement agency for a
3787 summary of an offender's records with the department, also known
3788 as a "pen-pack." The cover sheet shall conform to Rules 803(6)
3789 and 803(8) of the Mississippi Rules of Evidence for admission as
3790 an exception to the hearsay rule and may be admissible when
3791 properly authenticated according to evidentiary rules and when
3792 offered for the purpose of enhanced sentencing under Section
3793 41-29-147, 99-19-81 or 99-19-83 or other similar purposes; and

3794 (iii) This subsection is not intended to conflict
3795 with an offender's right of confrontation in criminal proceedings
3796 under the state or federal constitution;

3797 (f) To investigate the grievances of any person
3798 committed to the department, and to inquire into any alleged
3799 misconduct by employees; and for this purpose it may issue



3800 subpoenas and compel the attendance of witnesses and the
3801 production of writings and papers, and may examine under oath any
3802 witnesses who may appear before it;

3803 (g) To administer programs of training and development
3804 of personnel of the department;

3805 (h) To develop and implement diversified programs and
3806 facilities to promote, enhance, provide and assure the
3807 opportunities for the successful custody, training and treatment
3808 of adult offenders properly committed to the department or
3809 confined in any facility under its control. Such programs and
3810 facilities may include but not be limited to institutions, group
3811 homes, halfway houses, diagnostic centers, work and educational
3812 release centers, technical violation centers, restitution centers,
3813 counseling and supervision of probation, parole, suspension and
3814 compact cases, presentence investigating and other state and local
3815 community-based programs and facilities;

3816 (i) To receive, hold and use, as a corporate body, any
3817 real, personal and mixed property donated to the department, and
3818 any other corporate authority as shall be necessary for the
3819 operation of any facility at present or hereafter;

3820 (j) To provide those personnel, facilities, programs
3821 and services the department shall find necessary in the operation
3822 of a modern correctional system for the custody, care, study and
3823 treatment of adult offenders placed under its jurisdiction by the
3824 courts and other agencies in accordance with law;



3825 (k) To develop the capacity and administrative network
3826 necessary to deliver advisory consultation and technical
3827 assistance to units of local government for the purpose of
3828 assisting them in developing model local correctional programs for
3829 adult offenders;

3830 (l) To cooperate with other departments and agencies
3831 and with local communities for the development of standards and
3832 programs for better correctional services in this state;

3833 (m) To administer all monies and properties of the
3834 department;

3835 (n) To report annually to the Legislature and the
3836 Governor on the committed persons, institutions and programs of
3837 the department;

3838 (o) To cooperate with the courts and with public and
3839 private agencies and officials to assist in attaining the purposes
3840 of this chapter and Chapter 7 of this title. The department may
3841 enter into agreements and contracts with other departments of
3842 federal, state or local government and with private agencies
3843 concerning the discharge of its responsibilities or theirs. The
3844 department shall have the authority to accept and expend or use
3845 gifts, grants and subsidies from public and private sources;

3846 (p) To make all rules and regulations and exercise all
3847 powers and duties vested by law in the department;

3848 (q) The department may require a search of all persons
3849 entering the grounds and facilities at the correctional system;



3850 (r) To submit, in a timely manner, to the Oversight
3851 Task Force established in Section 76 of this act any reports
3852 required by law or regulation or requested by the committee.

3853 (* * *s) To discharge any other power or duty imposed
3854 or established by law.

3855 **SECTION 63.** Section 47-5-26, Mississippi Code of 1972, is
3856 amended as follows:

3857 47-5-26. (1) The commissioner shall employ the following
3858 personnel:

3859 (a) A Deputy Commissioner for Administration and
3860 Finance, who shall supervise and implement all fiscal policies and
3861 programs within the department, supervise and implement all hiring
3862 and personnel matters within the department, supervise the
3863 department's personnel director, supervise and implement all
3864 purchasing within the department and supervise and implement all
3865 data processing activities within the department, and who shall
3866 serve as the Chief Executive Officer of the Division of
3867 Administration and Finance. He shall possess either:

3868 (i) A master's degree from an accredited four-year
3869 college or university in public or business administration,
3870 accounting, economics or a directly related field, and four (4)
3871 years of experience in work related to the above-described duties,
3872 one (1) year of which must have included line or functional
3873 supervision; or



3874 (ii) A bachelor's degree from an accredited
3875 four-year college or university in public or business
3876 administration, accounting, economics or a directly related field,
3877 and six (6) years of experience in work related to the
3878 above-described duties, one (1) year of which must have included
3879 line or functional supervision. Certification by the State of
3880 Mississippi as a certified public accountant may be substituted
3881 for one (1) year of the required experience.

3882 (b) A Deputy Commissioner for Community Corrections,
3883 who shall initiate and administer programs, including, but not
3884 limited to, supervision of probationers, parolees and
3885 suspensioners, counseling, community-based treatment, interstate
3886 compact administration and enforcement, prevention programs,
3887 halfway houses and group homes, technical violation centers,
3888 restitution centers, presentence investigations, and work and
3889 educational releases, and shall serve as the Chief Executive
3890 Officer of the Division of Community Services. The Deputy
3891 Commissioner for Community Corrections is charged with full and
3892 complete cooperation with the State Parole Board and shall make
3893 monthly reports to the Chairman of the Parole Board in the form
3894 and type required by the chairman, in his discretion, for the
3895 proper performance of the probation and parole functions. After a
3896 plea or verdict of guilty to a felony is entered against a person
3897 and before he is sentenced, the Deputy Commissioner for Community
3898 Corrections shall procure from any available source and shall file



3899 in the presentence records any information regarding any criminal
3900 history of the person such as fingerprints, dates of arrests,
3901 complaints, civil and criminal charges, investigative reports of
3902 arresting and prosecuting agencies, reports of the National Crime
3903 Information Center, the nature and character of each offense,
3904 noting all particular circumstances thereof and any similar data
3905 about the person. The Deputy Commissioner for Community
3906 Corrections shall keep an accurate and complete duplicate record
3907 of this file and shall furnish the duplicate to the department.
3908 This file shall be placed in and shall constitute a part of the
3909 inmate's master file. The Deputy Commissioner for Community
3910 Corrections shall furnish this file to the State Parole Board when
3911 the file is needed in the course of its official duties. He shall
3912 possess either: (i) a master's degree in counseling, corrections
3913 psychology, guidance, social work, criminal justice or some
3914 related field and at least four (4) years' full-time experience in
3915 such field, including at least one (1) year of supervisory
3916 experience; or (ii) a bachelor's degree in a field described in
3917 subparagraph (i) of this paragraph and at least six (6) years'
3918 full-time work in corrections, one (1) year of which shall have
3919 been at the supervisory level.

3920 (c) A Deputy Commissioner for Institutions, who shall
3921 administer institutions, reception and diagnostic centers,
3922 prerelease centers and other facilities and programs provided
3923 therein, and shall serve as the Chief Executive Officer of the



3924 Division of Institutions. He shall possess either: (i) a
3925 master's degree in counseling, criminal justice, psychology,
3926 guidance, social work, business or some related field, and at
3927 least four (4) years' full-time experience in corrections,
3928 including at least one (1) year of correctional management
3929 experience; or (ii) a bachelor's degree in a field described in
3930 subparagraph (i) of this paragraph and at least six (6) years'
3931 full-time work in corrections, four (4) years of which shall have
3932 been at the correctional management level.

3933 (2) The commissioner shall employ an administrative
3934 assistant for parole matters, who shall be an employee of the
3935 department assigned to the State Parole Board and who shall work
3936 under the guidance and supervision of the board.

3937 (3) The administrative assistant for parole matters shall
3938 receive an annual salary to be established by the Legislature.
3939 The salaries of department employees not established by the
3940 Legislature shall receive an annual salary established by the
3941 State Personnel Board.

3942 (4) The commissioner shall employ a superintendent for the
3943 Parchman facility, Central Mississippi Correctional Facility and
3944 South Mississippi Correctional Institution of the Department of
3945 Corrections. The Superintendent of the Mississippi State
3946 Penitentiary shall reside on the grounds of the Parchman facility.
3947 Each superintendent shall appoint an officer in charge when he is
3948 absent.



3949 Each superintendent shall develop and implement a plan for
3950 the prevention and control of an inmate riot and shall file a
3951 report with the Chairman of the Senate Corrections Committee and
3952 the Chairman of the House Penitentiary Committee on the first day
3953 of each regular session of the Legislature regarding the status of
3954 the plan.

3955 In order that the grievances and complaints of inmates,
3956 employees and visitors at each facility may be heard in a timely
3957 and orderly manner, each superintendent shall appoint or designate
3958 an employee at the facility to hear grievances and complaints and
3959 to report grievances and complaints to the superintendent. Each
3960 superintendent shall institute procedures as are necessary to
3961 provide confidentiality to those who file grievances and
3962 complaints.

3963 **SECTION 64.** Section 9-7-122, Mississippi Code of 1972, is
3964 amended as follows:

3965 9-7-122. (1) Except as otherwise provided herein, no
3966 circuit clerk elected for a full term of office commencing on or
3967 after January 1, 1996, shall exercise any functions of office or
3968 be eligible to take the oath of office unless and until the
3969 circuit clerk has filed in the office of the chancery clerk a
3970 certificate of completion of a course of training and education
3971 conducted by the Mississippi Judicial College of the University of
3972 Mississippi Law Center within six (6) months of the beginning of
3973 the term for which such circuit clerk is elected. A circuit clerk



3974 who has completed the course of training and education and has
3975 satisfied his annual continuing education course requirements, and
3976 who is then elected for a succeeding term of office subsequent to
3977 the initial term for which he completed the training course, shall
3978 not be required to repeat the training and education course upon
3979 reelection. A circuit clerk that has served either a full term of
3980 office or part of a term of office before January 1, 1996, shall
3981 be exempt from the requirements of this subsection.

3982 (2) In addition to meeting the requirements of subsection
3983 (1) of this section, after taking office by election or otherwise,
3984 each circuit clerk shall be required to file annually in the
3985 office of the chancery clerk a certificate of completion of a
3986 course of continuing education conducted by the Mississippi
3987 Judicial College. No circuit clerk shall have to comply with this
3988 subsection unless he will have been in office for five (5) months
3989 or more during a calendar year.

3990 (3) Each circuit clerk elected for a term commencing on or
3991 after January 1, 1992, shall be required to file annually the
3992 certificate required in subsection (2) of this section commencing
3993 January 1, 1993.

3994 (4) The requirements for obtaining the certificates in this
3995 section shall be as provided in subsection (6) of this section.

3996 (5) Upon the failure of any circuit clerk to file with the
3997 chancery clerk the certificates of completion as provided in this
3998 section, such circuit clerk shall, in addition to any other fine



3999 or punishment provided by law for such conduct, not be entitled to
4000 any fee, compensation or salary, from any source, for services
4001 rendered as circuit clerk, for the period of time during which
4002 such certificate remains unfiled.

4003 (6) The Mississippi Judicial College of the University of
4004 Mississippi Law Center shall prepare and conduct courses of
4005 training for basic and continuing education for circuit clerks of
4006 this state. The basic course of training shall be known as the
4007 "Circuit Clerks Training Course" and shall consist of at least
4008 thirty-two (32) hours of training. The continuing education
4009 course shall be known as the "Continuing Education Course for
4010 Circuit Clerks" and shall consist of at least eighteen (18) hours
4011 of training. The content of the basic and continuing education
4012 courses and when and where such courses are to be conducted shall
4013 be determined by the judicial college. The judicial college shall
4014 issue certificates of completion to those circuit clerks who
4015 complete such courses.

4016 (7) The expenses of the training, including training of
4017 those elected as circuit clerk who have not yet begun their term
4018 of office, shall be borne as an expense of the office of the
4019 circuit clerk.

4020 (8) Circuit clerks shall be allowed credit toward their
4021 continuing education course requirements for attendance at circuit
4022 court proceedings if the presiding circuit court judge certifies
4023 that the circuit clerk was in actual attendance at a term or terms



4024 of court; provided, however, that at least twelve (12) hours per
4025 year of the continuing education course requirements must be
4026 completed at a regularly established program or programs conducted
4027 by the Mississippi Judicial College.

4028 (9) By August 1, 2015, and each year thereafter, the
4029 Administrative Office of the Courts shall certify to the
4030 Mississippi Judicial College the names of all circuit clerks who
4031 have failed to provide the information required by Section 2 of
4032 this act. The judicial college shall not issue a certificate of
4033 continuing education required by subsection (2) of this section to
4034 any such clerk, and shall report to the State Auditor, and the
4035 board of supervisors of the county the clerk is elected from that
4036 the clerk shall not be entitled to receive the compensation set
4037 out in subsection (5) of this section. A clerk may be certified
4038 after coming into compliance with the requirements of Section 2 of
4039 this act.

4040 **SECTION 65.** Section 9-11-27, Mississippi Code of 1972, is
4041 amended as follows:

4042 9-11-27. (1) The board of supervisors of each county shall,
4043 at its own expense, appoint one (1) person to serve as clerk of
4044 the justice court system of the county, and may appoint such other
4045 employees for the justice court of the county as it deems
4046 necessary, including a person or persons to serve as deputy clerk
4047 or deputy clerks. The board of supervisors of each county with
4048 two (2) judicial districts may, at its own expense, appoint two



4049 (2) persons to serve as clerks of the justice court system of the
4050 county, one (1) for each judicial district, and may appoint such
4051 other employees for the justice court system of the county as it
4052 deems necessary including persons to serve as deputy clerks. The
4053 clerk and deputy clerks shall be empowered to file and record
4054 actions and pleadings, to receive and receipt for monies, to
4055 acknowledge affidavits, to issue warrants in criminal cases upon
4056 direction by a justice court judge in the county, to approve the
4057 sufficiency of bonds in civil and criminal cases, to certify and
4058 issue copies of all records, documents and pleadings filed in the
4059 justice court and to issue all process necessary for the operation
4060 of the justice court. The clerk or deputy clerks may refuse to
4061 accept a personal check in payment of any fine or cost or to
4062 satisfy any other payment required to be made to the justice
4063 court. All orders from the justice court judge to the clerk of
4064 the justice court shall be written. All cases, civil and
4065 criminal, shall be assigned by the clerk to the justice court
4066 judges of the county in the manner provided in Section 11-9-105
4067 and Section 99-33-2. A deputy clerk who works in an office
4068 separate from the clerk and who is the head deputy clerk of the
4069 separate office may be designated to be trained as a clerk as
4070 provided in Section 9-11-29.

4071 (2) By August 1, 2015, and each year thereafter, the
4072 Administrative Office of Courts shall report the names of all
4073 justice court clerks who have failed to comply with the reporting



4074 requirements of Section 2 of this act to the boards of supervisors
4075 that selected them. Each clerk shall be given three (3) months
4076 from the date on which the board was given notice to come into
4077 compliance with the requirements of Section 2 of this act. The
4078 Administrative Office of Courts shall notify the board of
4079 supervisors of any justice court clerk who fails to come into
4080 compliance after the three-month notice required in this
4081 subsection. Any noncompliant clerks shall be terminated for
4082 failure to comply with Section 2 of this act reporting
4083 requirement.

4084 **SECTION 66.** Section 21-23-12, Mississippi Code of 1972, is
4085 amended as follows:

4086 21-23-12. (1) Every person appointed as clerk of the
4087 municipal court shall be required annually to attend and complete
4088 a comprehensive course of training and education conducted or
4089 approved by the Mississippi Judicial College of the University of
4090 Mississippi Law Center. Attendance shall be required beginning
4091 with the first training seminar conducted after said clerk is
4092 appointed.

4093 (2) The Mississippi Judicial College of the University of
4094 Mississippi Law Center shall prepare and conduct a course of
4095 training and education for municipal court clerks of the state.
4096 The course shall consist of at least twelve (12) hours of training
4097 per year. After completion of the first year's requirement, a
4098 maximum of six (6) hours training, over and above the required



4099 twelve (12) hours, may be carried forward from the previous year.
4100 The content of the course of training and when and where it is to
4101 be conducted shall be determined by the Judicial College. A
4102 certificate of completion shall be furnished to those municipal
4103 court clerks who complete such course, and each certificate shall
4104 be made a permanent record of the minutes of the board of aldermen
4105 or city council in the municipality from which the municipal clerk
4106 is appointed.

4107 (3) Upon the failure of any person appointed as clerk of the
4108 municipal court to file the certificate of completion as provided
4109 in subsection (2) of this section, within the first year of
4110 appointment, such person shall then not be allowed to carry out
4111 any of the duties of the office of clerk of the municipal court
4112 and shall not be entitled to compensation for the period of time
4113 during which such certificate remains unfiled.

4114 (4) After August 1, 2015, and each year thereafter, the
4115 Administrative Office of Courts shall notify the judicial college
4116 of the name of any municipal court clerk who has not complied with
4117 the requirements of Section 2 of this act. The Mississippi
4118 Judicial College shall not provide such clerk with a certificate
4119 of completion of course work until such time that the
4120 Administrative Office of Courts has reported that the clerk is in
4121 compliance with the requirements of Section 2 of this act.
4122 Further, the Administrative Office of Courts shall report the



4123 names of all noncompliant clerks to the State Auditor and to the
4124 mayor of the municipality that employs the clerk.

4125 **SECTION 67.** Section 47-5-28, Mississippi Code of 1972, is
4126 amended as follows:

4127 47-5-28. The commissioner shall have the following powers
4128 and duties:

4129 (a) To implement and administer laws and policy
4130 relating to corrections and coordinate the efforts of the
4131 department with those of the federal government and other state
4132 departments and agencies, county governments, municipal
4133 governments, and private agencies concerned with providing
4134 offender services;

4135 (b) To establish standards, in cooperation with other
4136 state agencies having responsibility as provided by law, provide
4137 technical assistance, and exercise the requisite supervision as it
4138 relates to correctional programs over all state-supported adult
4139 correctional facilities and community-based programs;

4140 (c) To promulgate and publish such rules, regulations
4141 and policies of the department as are needed for the efficient
4142 government and maintenance of all facilities and programs in
4143 accord insofar as possible with currently accepted standards of
4144 adult offender care and treatment * * *;

4145 (d) To provide the Parole Board with suitable and
4146 sufficient office space and support resources and staff necessary



4147 to conducting Parole Board business under the guidance of the
4148 Chairman of the Parole Board;

4149 (e) To contract for transitional re-entry center beds
4150 that will be used as noncorrections housing for offenders released
4151 from the department on parole, probation or post-release
4152 supervision but do not have appropriate housing available upon
4153 release. At least one hundred (100) transitional re-entry center
4154 beds contracted by the department and chosen by the Parole Board
4155 shall be available for the Parole Board to place parolees without
4156 appropriate housing;

4157 (* * * f) To make an annual report to the Governor and
4158 the Legislature reflecting the activities of the department and
4159 make recommendations for improvement of the services to be
4160 performed by the department;

4161 (* * * g) To cooperate fully with periodic independent
4162 internal investigations of the department and to file the report
4163 with the Governor and the Legislature;

4164 (* * * h) To perform such other duties necessary to
4165 effectively and efficiently carry out the purposes of the
4166 department as may be directed by the Governor.

4167 **SECTION 68.** (1) As used in this section, "fiscal impact
4168 statement" means the estimated dollar cost to the state for the
4169 first year and the annual cost thereafter. The term "ten-year
4170 fiscal impact statement" means the estimated dollar cost to the



4171 state over the ten-year period following passage or adoption of
4172 the subject of the fiscal impact statement.

4173 (2) Whenever legislation is introduced in the Legislature,
4174 which would establish a new criminal offense or would amend the
4175 sentencing provisions of an existing criminal offense, the
4176 principal author shall affix a fiscal impact statement and a
4177 ten-year fiscal impact statement of the proposed legislation. The
4178 Office of Budget and Fund Management shall assist the principal
4179 author in preparing the fiscal impact statement.

4180 (3) If the fiscal impact statement is not affixed to the
4181 legislation at the time of introduction, the Office of Budget and
4182 Fund Management shall deliver the fiscal impact statement to the
4183 Senate or House of Representatives committee to which the
4184 legislation is referred within thirty (30) calendar days of
4185 introduction.

4186 (4) The committee shall not take action on the legislation
4187 until it has received the fiscal impact statement and the ten-year
4188 fiscal impact statement.

4189 (5) If the legislation is reported out of the committee, the
4190 committee shall attach the fiscal impact statement and the
4191 ten-year fiscal impact statement to the legislation. If the
4192 legislation has been amended, the committee shall request a
4193 revised fiscal impact statement and the ten-year fiscal impact
4194 statement from the Office of Budget and Fund Management, and shall
4195 attach the revised documents to the legislation.



4196 (6) State agencies and political subdivisions shall
4197 cooperate with the Office of Budget and Fund Management in
4198 preparing fiscal impact statements and the ten-year fiscal impact
4199 statements. Such agencies and political subdivisions shall submit
4200 requested information to the Office of Budget and Fund Management
4201 in a timely fashion.

4202 (7) In preparing fiscal impact statements and the ten-year
4203 fiscal impact statements, the Office of Budget and Fund Management
4204 must accurately report to the Legislature information provided to
4205 the Office of Budget and Fund Management by state agencies and
4206 political subdivisions.

4207 (8) The Office of Budget and Fund Management may request
4208 information from nongovernmental agencies and organizations to
4209 assist in preparing the fiscal impact statement and the ten-year
4210 fiscal impact statement.

4211 **SECTION 69.** (1) There is hereby established a committee to
4212 be known as the Corrections and Criminal Justice Oversight Force,
4213 hereinafter called the oversight task force, which must exercise
4214 the powers and fulfill the duties described in this chapter.

4215 (2) The Oversight Task Force shall be composed of the
4216 following members: the Lieutenant Governor shall appoint two (2)
4217 members of the Senate, one (1) from each political party; the
4218 Speaker of the House shall appoint two (2) members of the House,
4219 one (1) from each political party; the commissioner or his
4220 designee; the Chief Justice shall appoint one (1) member of the



4221 circuit court; and the Governor shall appoint one (1) member from
4222 the Parole Board and one (1) member from the Joint Legislative
4223 Committee on Performance Evaluation and Expenditure Review and one
4224 (1) member representing the victims' community. The Association
4225 of Supervisors shall appoint one (1) person to represent the
4226 association, the District Attorney's Association shall appoint one
4227 (1) person to represent the association, the Sheriffs' Association
4228 shall appoint one (1) person to represent the association and the
4229 Office of the State Public Defender shall appoint one (1) person
4230 to represent the public defenders' office.

4231 (3) The task force shall meet as soon as practicable after
4232 appointment and organize itself by electing one oversight(1) of its
4233 members as chair and such other officers as the ht committee may
4234 consider necessary. Thereafter, the oversight committee shall
4235 meet at least biannually and at the call of the chair or by a
4236 majority of the members. A quorum consists of five (5) members.

4237 (4) The task force shall have the following powers and
4238 duties:

4239 (a) Track and assess outcomes from the recommendations
4240 in the Corrections and Criminal Justice Task Force report of
4241 December 2013;

4242 (b) Prepare and submit an annual report no later than
4243 the first day of the second full week of each regular session of
4244 the Legislature on the outcome and performance measures to the
4245 Legislature, Governor, and Chief Justice. The report shall



4246 include recommendations for improvements, recommendations on
4247 transfers of funding based on the success or failure of
4248 implementation of the recommendations, and a summary of savings.
4249 The report may also present additional recommendations to the
4250 Legislature on future legislation and policy options to enhance
4251 public safety and control corrections costs;

4252 (c) Monitor compliance with sentencing standards,
4253 assess their impact on the correctional resources of the state and
4254 determine if the standards advance the adopted sentencing policy
4255 goals of the state;

4256 (d) Review the classifications of crimes and sentences
4257 and make recommendations for change when supported by information
4258 that change is advisable to further the adopted sentencing policy
4259 goals of the state;

4260 (e) Develop a research and analysis system to determine
4261 the feasibility, impact on resources, and budget consequences of
4262 any proposed or existing legislation affecting sentence length;

4263 (f) Request, review, and receive data and reports on
4264 performance outcome measures as related to this act;

4265 (g) To undertake such additional studies or evaluations
4266 as the Oversight Task Force considers necessary to provide
4267 sentencing reform information and analysis;

4268 (h) Prepare and conduct annual continuing legal
4269 education seminars regarding the sentencing guidelines to be



4270 presented to judges, prosecuting attorneys and their deputies, and
4271 public defenders and their deputies, as so required;

4272 (i) The Oversight Task Force shall use clerical and
4273 professional employees of the Department of Corrections for its
4274 staff;

4275 (j) The Oversight Task Force may employ or retain other
4276 professional staff, upon the determination of the necessity for
4277 other staff;

4278 (k) The Oversight Task Force may employ consultants to
4279 assist in the evaluations and, when necessary, the implementation
4280 of the recommendations of the Corrections and Criminal Justice
4281 Task Force report of December 2013;

4282 (l) The Oversight Task Force is encouraged to apply for
4283 and may expend grants, gifts, or federal funds it receives from
4284 other sources to carry out its duties and responsibilities.

4285 **SECTION 70.** Section 47-5-138, Mississippi Code of 1972, is
4286 brought forward as follows:

4287 47-5-138. (1) The department may promulgate rules and
4288 regulations to carry out an earned time allowance program based on
4289 the good conduct and performance of an inmate. An inmate is
4290 eligible to receive an earned time allowance of one-half (1/2) of
4291 the period of confinement imposed by the court except those
4292 inmates excluded by law. When an inmate is committed to the
4293 custody of the department, the department shall determine a
4294 conditional earned time release date by subtracting the earned



4295 time allowance from an inmate's term of sentence. This subsection
4296 does not apply to any sentence imposed after June 30, 1995.

4297 (2) An inmate may forfeit all or part of his earned time
4298 allowance for a serious violation of rules. No forfeiture of the
4299 earned time allowance shall be effective except upon approval of
4300 the commissioner or his designee, and forfeited earned time may
4301 not be restored.

4302 (3) (a) For the purposes of this subsection, "final order"
4303 means an order of a state or federal court that dismisses a
4304 lawsuit brought by an inmate while the inmate was in the custody
4305 of the Department of Corrections as frivolous, malicious or for
4306 failure to state a claim upon which relief could be granted.

4307 (b) On receipt of a final order, the department shall
4308 forfeit:

4309 (i) Sixty (60) days of an inmate's accrued earned
4310 time if the department has received one (1) final order as defined
4311 herein;

4312 (ii) One hundred twenty (120) days of an inmate's
4313 accrued earned time if the department has received two (2) final
4314 orders as defined herein;

4315 (iii) One hundred eighty (180) days of an inmate's
4316 accrued earned time if the department has received three (3) or
4317 more final orders as defined herein.

4318 (c) The department may not restore earned time
4319 forfeited under this subsection.



4320 (4) An inmate who meets the good conduct and performance
4321 requirements of the earned time allowance program may be released
4322 on his conditional earned time release date.

4323 (5) For any sentence imposed after June 30, 1995, an inmate
4324 may receive an earned time allowance of four and one-half (4-1/2)
4325 days for each thirty (30) days served if the department determines
4326 that the inmate has complied with the good conduct and performance
4327 requirements of the earned time allowance program. The earned
4328 time allowance under this subsection shall not exceed fifteen
4329 percent (15%) of an inmate's term of sentence; however, beginning
4330 July 1, 2006, no person under the age of twenty-one (21) who has
4331 committed a nonviolent offense, and who is under the jurisdiction
4332 of the Department of Corrections, shall be subject to the fifteen
4333 percent (15%) limitation for earned time allowances as described
4334 in this subsection (5).

4335 (6) Any inmate, who is released before the expiration of his
4336 term of sentence under this section, shall be placed under
4337 earned-release supervision until the expiration of the term of
4338 sentence. The inmate shall retain inmate status and remain under
4339 the jurisdiction of the department. The period of earned-release
4340 supervision shall be conducted in the same manner as a period of
4341 supervised parole. The department shall develop rules, terms and
4342 conditions for the earned-release supervision program. The
4343 commissioner shall designate the appropriate hearing officer



4344 within the department to conduct revocation hearings for inmates
4345 violating the conditions of earned-release supervision.

4346 (7) If the earned-release supervision is revoked, the inmate
4347 shall serve the remainder of the sentence, but the time the inmate
4348 served on earned-release supervision before revocation, shall be
4349 applied to reduce his sentence.

4350 **SECTION 71.** Section 47-5-142, Mississippi Code of 1972, is
4351 brought forward as follows:

4352 47-5-142. (1) In order to provide incentive for offenders
4353 to achieve positive and worthwhile accomplishments for their
4354 personal benefit or the benefit of others, and in addition to any
4355 other administrative reductions of the length of an offender's
4356 sentence, any offender shall be eligible, subject to the
4357 provisions of this section, to receive meritorious earned time as
4358 distinguished from earned time for good conduct and performance.

4359 (2) Subject to approval by the commissioner of the terms and
4360 conditions of the program or project, meritorious earned time may
4361 be awarded for the following: (a) successful completion of
4362 educational or instructional programs; (b) satisfactory
4363 participation in work projects; and (c) satisfactory participation
4364 in any special incentive program.

4365 (3) The programs and activities through which meritorious
4366 earned time may be received shall be published in writing and
4367 posted in conspicuous places at all facilities of the department



4368 and such publication shall be made available to all offenders in
4369 the custody of the department.

4370 (4) The commissioner shall make a determination of the
4371 number of days of reduction of sentence which may be awarded an
4372 offender as meritorious earned time for participation in approved
4373 programs or projects; the number of days shall be determined by
4374 the commissioner on the basis of each particular program or
4375 project.

4376 (5) No offender shall be awarded any meritorious earned time
4377 while assigned to the maximum security facilities for disciplinary
4378 purposes.

4379 (6) All meritorious earned time shall be forfeited by the
4380 offender in the event of escape and/or aiding and abetting an
4381 escape.

4382 (7) Any officer or employee of the department who shall
4383 willfully violate the provisions of this section and be convicted
4384 therefor shall be removed from office or employment.

4385 (8) An offender may forfeit all or any part of his
4386 meritorious earned time allowance for just cause upon the written
4387 order of the commissioner or his designee. Any meritorious earned
4388 time allowance forfeited under this section shall not be restored
4389 nor shall it be re-earned by the offender.

4390 **SECTION 72.** Section 97-9-79, Mississippi Code of 1972, is
4391 brought forward as follows:



4392 97-9-79. Any person who shall make or cause to be made any
4393 false statement or representation as to his or another person's
4394 identity, social security account number or other identifying
4395 information to a law enforcement officer in the course of the
4396 officer's duties with the intent to mislead the officer shall be
4397 guilty of a misdemeanor and upon conviction thereof shall be fined
4398 not more than Five Thousand Dollars (\$5,000.00) or imprisoned for
4399 a term not to exceed one (1) year, or both.

4400 **SECTION 73.** Section 97-19-83, Mississippi Code of 1972, is
4401 brought forward as follows:

4402 97-19-83. (1) Whoever, having devised or intending to
4403 devise any scheme or artifice to defraud, or for obtaining money,
4404 property or services, or for unlawfully avoiding the payment or
4405 loss of money, property or services, or for securing business or
4406 personal advantage by means of false or fraudulent pretenses,
4407 representations or promises, or to sell, dispose of, loan,
4408 exchange, alter, give away, distribute, supply, or furnish or
4409 procure for unlawful use any counterfeit or spurious coin,
4410 obligation, security or other article, or anything represented to
4411 be or intimated or held out to be such counterfeit or spurious
4412 article, for the purpose of executing such scheme or artifice or
4413 attempting so to do, transmits or causes to be transmitted by
4414 mail, telephone, newspaper, radio, television, wire,
4415 electromagnetic waves, microwaves, or other means of communication
4416 or by person, any writings, signs, signals, pictures, sounds,



4417 data, or other matter across county or state jurisdictional lines,
4418 shall, upon conviction, be punished by a fine of not more than Ten
4419 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
4420 five (5) years, or by both such fine and imprisonment.

4421 (2) For the purposes of venue under the provisions of this
4422 section, any violation of this section may be prosecuted in the
4423 county in which the delivery or transmission originated, the
4424 county in which the delivery or transmission was made, or the
4425 county in which any act in execution or furtherance of the scheme
4426 occurred.

4427 (3) This section shall not prohibit the prosecution under
4428 any other criminal statute of the state.

4429 **SECTION 74.** Section 97-19-85, Mississippi Code of 1972, is
4430 brought forward as follows:

4431 97-19-85. (1) Any person who shall make or cause to be made
4432 any false statement or representation as to his or another
4433 person's or entity's identity, social security account number,
4434 credit card number, debit card number or other identifying
4435 information for the purpose of fraudulently obtaining or with the
4436 intent to obtain goods, services or any thing of value, shall be
4437 guilty of a felony and upon conviction thereof for a first offense
4438 shall be fined not more than Five Thousand Dollars (\$5,000.00) or
4439 imprisoned for a term not to exceed five (5) years, or both. For
4440 a second or subsequent offense such person, upon conviction, shall
4441 be fined not more than Ten Thousand Dollars (\$10,000.00) or



4442 imprisoned for a term not to exceed ten (10) years, or both. In
4443 addition to the fines and imprisonment provided in this section, a
4444 person convicted under this section shall be ordered to pay
4445 restitution as provided in Section 99-37-1 et seq.

4446 (2) A person is guilty of fraud under subsection (1) who:

4447 (a) Shall furnish false information willfully,
4448 knowingly and with intent to deceive anyone as to his true
4449 identity or the true identity of another person; or

4450 (b) Willfully, knowingly, and with intent to deceive,
4451 uses a social security account number to establish and maintain
4452 business or other records; or

4453 (c) With intent to deceive, falsely represents a number
4454 to be the social security account number assigned to him or
4455 another person, when in fact the number is not the social security
4456 account number assigned to him or such other person; or

4457 (d) With intent to deceive, falsely represents to be a
4458 representative of an entity in order to open banking accounts,
4459 obtain credit cards, or other services and supplies in the
4460 entity's name; or

4461 (e) Knowingly alters a social security card, buys or
4462 sells a social security card or counterfeit or altered social
4463 security card, counterfeits a social security card, or possesses a
4464 social security card or counterfeit social security card with
4465 intent to sell or alter it.



4466 **SECTION 75.** Section 99-19-81, Mississippi Code of 1972, is
4467 brought forward as follows:

4468 99-19-81. Every person convicted in this state of a felony
4469 who shall have been convicted twice previously of any felony or
4470 federal crime upon charges separately brought and arising out of
4471 separate incidents at different times and who shall have been
4472 sentenced to separate terms of one (1) year or more in any state
4473 and/or federal penal institution, whether in this state or
4474 elsewhere, shall be sentenced to the maximum term of imprisonment
4475 prescribed for such felony, and such sentence shall not be reduced
4476 or suspended nor shall such person be eligible for parole or
4477 probation.

4478 **SECTION 76.** Section 99-19-84, Mississippi Code of 1972, is
4479 brought forward as follows:

4480 99-19-84. Whenever probation is a part of a sentence
4481 prescribed for an offense for which registration as a sex offender
4482 is required under Title 45, Chapter 33, the court may include as a
4483 condition of probation that the sex offender be placed on
4484 electronic monitoring. The Department of Corrections shall
4485 promulgate rules and regulations for the implementation of
4486 electronic monitoring of sex offenders on probation.

4487 **SECTION 77.** Section 99-19-87, Mississippi Code of 1972, is
4488 brought forward as follows:



4489 99-19-87. Nothing in Sections 99-19-81 through 99-19-87
4490 shall abrogate or affect punishment by death in any and all crimes
4491 now or hereafter punishable by death.

4492 **SECTION 78.** No person shall be considered for or granted a
4493 nonadjudication, if he or she has previously been granted a
4494 nonadjudication for any crime.

4495 **SECTION 79.** The following shall be codified as Section
4496 97-43-3.1, Mississippi Code of 1972:

4497 97-43-3.1. (1) It shall be unlawful for any person to
4498 conduct, organize, supervise or manage, directly or indirectly, an
4499 organized theft or fraud enterprise. Organized theft or fraud
4500 enterprise applies to conduct proscribed in the following
4501 provisions:

4502 (a) Section 97-23-93, which relates to shoplifting;

4503 (b) Sections 97-45-3 and 97-45-5, which relate to
4504 computer fraud;

4505 (c) Section 97-45-19, which relates to fraudulent use
4506 of identity;

4507 (d) Section 97-9-79, which relates to false
4508 information;

4509 (e) Section 97-19-83, which relates to fraud by mail or
4510 other means of communication;

4511 (f) Section 97-19-85, which relates to the fraudulent
4512 use of a social security number, credit card or debit card number
4513 or other identifying information; and



4514 (g) Section 97-45-19, which relates to obtaining
4515 personal identity information of another person without
4516 authorization.

4517 (2) It shall be unlawful for any person who has, with
4518 criminal intent, received any proceeds or services derived,
4519 directly or indirectly, from an organized theft or fraud
4520 enterprise.

4521 (3) For the purposes of this section, an "organized theft or
4522 fraud enterprise" means any association of two (2) or more persons
4523 who engage in the conduct of or are associated for the purpose of
4524 effectuating the transfer or sale of merchandise, services or
4525 information that has a pecuniary value that causes a loss to the
4526 victim.

4527 (4) The value of the merchandise or services or the
4528 pecuniary loss involved in a violation of this section may be
4529 aggregated in determining the grade of the offense where the acts
4530 or conduct constituting a violation were committed pursuant to one
4531 (1) scheme or course of conduct, whether from the same person or
4532 several persons, or were committed in furtherance of or in
4533 conjunction with an organized theft or fraud enterprise.

4534 (5) Any person convicted under this section shall be, upon
4535 conviction, guilty of a felony and punished by a term of
4536 imprisonment of not more than twenty (20) years or fined not more
4537 than Twenty-five Thousand Dollars (\$25,000.00), or both.



4538 **SECTION 80.** The following shall be codified in Chapter 7,
4539 Title 47, Mississippi Code of 1972:

4540 (1) Notwithstanding Sections 47-5-138, 47-5-139, 47-5-138.1
4541 or 47-5-142, no person convicted of a criminal offense on or after
4542 July 1, 2014, shall be released by the department until he or she
4543 has served no less than fifty percent (50%) of a sentence for a
4544 crime of violence pursuant to Section 97-3-2 or twenty-five
4545 percent (25%) of any other sentence imposed by the court.

4546 (2) This section shall not apply to:

4547 (a) Offenders sentenced to life imprisonment;

4548 (b) Offenders convicted as habitual offenders pursuant
4549 to Sections 99-19-81 through 99-19-87;

4550 (c) Offenders serving a sentence for a sex offense; or

4551 (d) Offenders serving a sentence for trafficking.

4552 (3) Any nonviolent offender, who has served twenty-five
4553 percent (25%) or more of his sentence may be paroled if the
4554 sentencing judge or senior circuit judge, if the sentencing judge
4555 is retired, disabled or incapacitated, recommends such parole to
4556 the Parole Board and the Parole Board approves.

4557 **SECTION 81.** (1) Semiannually, the circuit clerks of each
4558 county, the municipal court clerks of each municipality, and the
4559 justice court clerks of each county shall report to the
4560 Administrative Office of Courts the following information:

4561 (a) Individual misdemeanor and felony case records by
4562 offense, from the circuit clerk for all circuit and county court



4563 criminal proceedings, and from the municipal and justice court
4564 clerks for all misdemeanors, electronically when available,
4565 containing the date on which the criminal charges were filed,
4566 charge code and name of indicted offenses, count number of
4567 indicted offenses, the disposition of the charges, date disposed,
4568 date sentenced, charge code and name of sentenced offenses, and
4569 sentence length.

4570 (b) Data should be kept individually by case number and
4571 misdemeanor charges or indicted felony offense, and include, for
4572 criminal docket purposes, demographic information necessary for
4573 tracking individuals across multiple databases should be
4574 collected, including date of birth, city and state of residence,
4575 race, and gender.

4576 (2) The Administrative Office of Courts shall be empowered
4577 to establish a uniform reporting format for all court clerks
4578 described in subsection (1) of this section. Such reporting
4579 format shall emphasize the need for reporting information in a
4580 sortable, electronic format. All clerks who submit required
4581 information in other formats shall report to the Administrative
4582 Office of Courts a schedule for conversion to technology to enable
4583 the reporting of all required data in a sortable, electronic
4584 format.

4585 (3) Semiannual reports shall be made to the Administrative
4586 Office of Courts by December 31, 2014, or as soon thereafter as
4587 practicable, and every year thereafter, and on June 30, 2015, or



4588 as soon thereafter as practicable, and every year thereafter. On
4589 August 1, 2015, and each year thereafter, the Administrative
4590 Office of Courts shall provide to PEER sortable, electronic copies
4591 of all reports required by this section.

4592 (4) The Administrative Office of Courts shall share the
4593 information required under this section with the Oversight Task
4594 Force.

4595 **SECTION 82.** (1) The Mississippi Department of Corrections
4596 shall collect the following information:

4597 (a) Prison data shall include:

4598 (i) The number of offenders entering prison on a
4599 new offense;

4600 (ii) The number of offenders entering prison as a
4601 revocation of supervision;

4602 (iii) The average sentence length for new prison
4603 sentences by offense type;

4604 (iv) The average sentence length for offenders
4605 entering prison for a probation revocation;

4606 (v) The average sentence length for offenders
4607 entering prison for a parole revocation;

4608 (vi) The average percentage of prison sentence
4609 served in prison by offense type;

4610 (vii) The average length of stay by offense type;



4611 (viii) Recidivism rates. For the purposes of this
4612 report, "recidivism" means conviction of a new felony offense
4613 within three (3) years of release from prison;

4614 1. Recidivism rates by offense type;

4615 2. Recidivism rates by risk level;

4616 (ix) Total prison population;

4617 1. By offense type;

4618 2. By type of admission into prison.

4619 (b) Probation data shall include:

4620 (i) The number of offenders supervised on
4621 probation;

4622 (ii) The number of offenders placed on probation;

4623 (iii) The number of probationers revoked for a
4624 technical violation and sentenced to a term of imprisonment in a
4625 technical violation center;

4626 (iv) The number of probationers revoked for a
4627 technical violation and sentenced to a term of imprisonment in
4628 another type of department of correction;

4629 (v) The number of probationers who are convicted
4630 of a new felony offense and sentenced to a term of imprisonment;

4631 (vi) The number of probationers held on a
4632 violation in a county jail awaiting a revocation hearing; and

4633 (vii) The average length of stay in a county jail
4634 for probationers awaiting a revocation hearing.

4635 (c) Post-release supervision data shall include:



4636 (i) The number of offenders supervised on
4637 post-release supervision;
4638 (ii) The number of offenders placed on
4639 post-release supervision;
4640 (iii) The number of post-release probationers
4641 revoked for a technical violation and sentenced to a term of
4642 imprisonment in a technical violation center;
4643 (iv) The number of post-release probationers
4644 revoked for a technical violation and sentenced to a term of
4645 imprisonment in another type of department of correction facility;
4646 (v) The number of post-release probationers who
4647 are convicted of a new felony offense and sentenced to a term of
4648 imprisonment;
4649 (vi) The number of post-release probationers held
4650 on a violation in a county jail awaiting a revocation hearing; and
4651 (vii) The average length of stay in a county jail
4652 for post-release probationers awaiting a revocation hearing.

4653 (2) The Department of Corrections shall semiannually report
4654 information required in subsection (1) of this section to the
4655 Oversight Task Force, and upon request, shall report the
4656 information to the PEER Committee.

4657 **SECTION 83.** (1) The Parole Board, with the assistance of
4658 the Department of Corrections, shall collect the following
4659 information:

4660 (a) The number of offenders supervised on parole;



4661 (b) The number of offenders released on parole;
4662 (c) The number of parole hearings held;
4663 (d) The parole grant rate for parolees released with
4664 and without a hearing;
4665 (e) The average length of time offenders spend on
4666 parole;
4667 (f) The number and percentage of parolees revoked for a
4668 technical violation and returned for a term of imprisonment in a
4669 technical violation center;
4670 (g) The number and percentage of parolees revoked for a
4671 technical violation and returned for a term of imprisonment in
4672 another type of department of correction facility;
4673 (h) The number and percentage of parolees who are
4674 convicted of a new offense and returned for a term of imprisonment
4675 on their current crime as well as the new crime;
4676 (i) The number of parolees held on a violation in
4677 county jail awaiting a revocation hearing; and
4678 (j) The average length of stay in county jail for
4679 parolees awaiting a revocation hearing.

4680 (2) The Parole Board shall semiannually report information
4681 required in subsection (1) to the Oversight Task Force, and upon
4682 request, shall report such information to the PEER Committee.

4683 **SECTION 84.** This act shall take effect and be in force from
4684 and after July 1, 2014.

