

By: Representatives Gipson, Dixon, Snowden,
Taylor

To: Judiciary B; Corrections

HOUSE BILL NO. 585
(As Passed the House)

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; TO MAKE A STATEMENT OF LEGISLATIVE INTENT
AND PURPOSE TO PROVIDE VETERANS TREATMENT COURTS; TO AUTHORIZE
CREATION OF A VETERANS TREATMENT COURT PROGRAM BY THE CIRCUIT
COURTS; TO PROVIDE CONDITIONS FOR ELIGIBILITY FOR PARTICIPATION IN
A PROGRAM; TO TASK THE ADMINISTRATIVE OFFICE OF COURTS WITH
SUPERVISORY RESPONSIBILITY; TO REQUIRE THE STATE DRUG COURT
ADVISORY COMMITTEE WITH THE RESPONSIBILITY TO DEVELOP STATEWIDE
RULES AND POLICIES FOR VETERANS TREATMENT COURTS; TO CREATE THE
VETERANS TREATMENT COURTS FUNDS; TO PROVIDE FOR IMMUNITY OF THE
STAFF MEMBERS OF VETERANS TREATMENT COURTS FOR THEIR GOOD-FAITH
ACTS; AND FOR RELATED PURPOSES.

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

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

69 9-23-3. (1) The Legislature of Mississippi recognizes the
70 critical need for judicial intervention to reduce the incidence of
71 alcohol and drug use, alcohol and drug addiction, and crimes
72 committed as a result of alcohol and drug use and alcohol and drug
73 addiction. It is the intent of the Legislature to facilitate
74 local drug court alternative orders adaptable to chancery,
75 circuit, county, youth, municipal and justice courts.



76 (2) The goals of the drug courts under this chapter include
77 the following:

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

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

83 (c) To reduce the alcohol-related and other
84 drug-related court workload;

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

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

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

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

97 9-23-5. For the purposes of this chapter, the following
98 words and phrases shall have the meanings ascribed unless the
99 context clearly requires otherwise:



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

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

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

109 (i) Brings together substance abuse professionals,
110 local social programs and intensive judicial monitoring; and
111 (ii) Follows the key components of drug courts
112 published by the Drug Court Program Office of the United States
113 Department of Justice.

114 (d) "Evidence-based practices" means supervision
115 policies, procedures, and practices that scientific research
116 demonstrates reduce recidivism.

117 (e) "Risk and needs assessment" means the determination
118 of a person's risk to re-offend and the characteristics that, if
119 addressed, reduce the risk to re-offend through the use of an
120 actuarial assessment tool validated on a Mississippi corrections
121 population.

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



124 9-23-9. (1) The State Drug Courts Advisory Committee is
125 established to develop and periodically update proposed statewide
126 evaluation plans and models for monitoring all critical aspects of
127 drug courts. The committee must provide the proposed evaluation
128 plans to the Chief Justice and the Administrative Office of
129 Courts. The committee shall be chaired by the Director of the
130 Administrative Office of Courts and shall consist of not less than
131 seven (7) members nor more than eleven (11) members appointed by
132 the Supreme Court and broadly representative of the courts, law
133 enforcement, corrections, juvenile justice, child protective
134 services and substance abuse treatment communities.

135 (2) The State Drug Courts Advisory Committee may also make
136 recommendations to the Chief Justice, the Director of the
137 Administrative Office of Courts and state officials concerning
138 improvements to drug court policies and procedures including the
139 drug court certification process. The committee may make
140 suggestions as to the criteria for eligibility, and other
141 procedural and substantive guidelines for drug court operation.

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

147 (4) The State Drug Court Advisory Committee shall establish
148 through rules and regulations a viable and fiscally responsible



149 plan to expand the number of adult and juvenile drug court
150 programs operating in Mississippi. These rules and regulations
151 shall include plans to increase participation in existing and
152 future programs while maintaining their voluntary nature.

153 (5) The State Drug Courts Advisory Committee shall receive
154 and review the monthly reports submitted to the Administrative
155 Office of Courts by each certified drug court and provide comments
156 and make recommendations, as necessary, to the Chief Justice and
157 the Director of the Administrative Office of Courts.

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

160 9-23-11. (1) * * * The Administrative Office of Courts
161 shall establish, implement and operate a uniform certification
162 process for all drug courts and other problem-solving courts
163 including juvenile courts, veterans courts or any other court
164 designed to adjudicate criminal actions involving an identified
165 classification of criminal defendant to ensure funding for drug
166 courts supports effective and proven practices that reduce
167 recidivism and substance dependency among their participants.

168 * * *

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

172 (a) These standards shall include, but are not limited
173 to:



174 (i) The use of evidence-based practices including,
175 but not limited to, the use of a valid and reliable risk and needs
176 assessment tool to identify participants and deliver appropriate
177 interventions;

178 (ii) Targeting medium to high risk offenders for
179 participation;

180 (iii) The use of current, evidence-based
181 interventions proven to reduce dependency on drugs or alcohol, or
182 both;

183 (iv) Frequent testing for alcohol or drugs;
184 (v) Coordinated strategy between all drug court
185 program personnel involving the use of graduated clinical
186 interventions;

187 (vi) Ongoing judicial interaction with each
188 participant; and

189 (vii) Monitoring and evaluation of drug court
190 program implementation and outcomes through data collection and
191 reporting.

192 (b) Drug court certification applications shall
193 include:

194 (i) A description of the need for the drug court;
195 (ii) The targeted population for the drug court;
196 (iii) The eligibility criteria for drug court
197 participants;



198 (iv) A description of the process for identifying
199 appropriate participants including the use of a risk and needs
200 assessment and a clinical assessment;

201 (v) A description of the drug court intervention
202 components including anticipated budget and implementation plan;
203 (vi) The data collection plan which shall include
204 collecting the following data:

205 1. Total number of participants;
206 2. Total number of successful participants;
207 3. Total number of unsuccessful participants
208 and the reason why each participant did not complete the program;
209 4. Total number of participants who were
210 arrested for a new criminal offense while in the drug court
211 program;

212 5. Total number of participants who were
213 convicted of a new felony or misdemeanor offense while in the drug
214 court program;

215 6. Total number of participants who committed
216 at least one (1) violation while in the drug court program and the
217 resulting sanction(s);

218 7. Results of the initial risk and needs
219 assessment or other clinical assessment conducted on each
220 participant; and

221 8. Any other data or information as required
222 by the Administrative Office of Courts.



223 (c) Every drug court shall be certified under the
224 following schedule:

225 (i) A drug court application submitted after the
226 effective date of this act shall require certification of the drug
227 court based on the proposed drug court plan;

228 (ii) A drug court established after the effective
229 date of this act shall be recertified after its second year of
230 funded operation;

231 (iii) A drug court in existence on the effective
232 date of this act must submit a certification petition within one
233 (1) year of the effective date of this act and be certified
234 pursuant to the requirements of this section prior to expending
235 drug court resources budgeted for fiscal year 2016; and

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

239 (3) * * * All certified drug courts shall measure
240 successful completion of the drug court based on those
241 participants who complete the program without a new criminal
242 conviction.

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

246 (i) Total number of participants at the beginning
247 of the month;



248 (ii) Total number of participants at the end of
249 the month;
250 (iii) The total number of participants beginning
251 the program in the month;
252 (iv) The total number of participants that
253 successfully completed the drug court that month;
254 (v) Total number of participants who left the
255 program in the month;
256 (vi) The total number of participants who were
257 arrested for a new criminal offense while in the drug court
258 program in the month;
259 (vii) The total number of participants who were
260 convicted for a new criminal arrest while in the drug court
261 program in the month; and
262 (viii) The total number of participants who
263 committed at least one (1) violation while in the drug court
264 program and any resulting sanction(s).

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

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



273 (6) * * * A certified drug court may appoint the full- or
274 part-time employees it deems necessary for the work of the drug
275 court and shall fix the compensation of those employees. Such
276 employees shall serve at the will and pleasure of the judge or the
277 judge's designee.

278 (7) * * * The Administrative Office of Courts shall
279 promulgate rules and regulations to carry out the certification
280 and recertification process and make any other policies not
281 inconsistent with this section to carry out this process.

282 * * *

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

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

288 9-23-13. (1) A drug court's alcohol and drug intervention
289 component * * * shall provide for eligible individuals, either
290 directly or through referrals, a range of necessary court
291 intervention services, including, but not limited to, the
292 following:

293 (a) Screening using a valid and reliable assessment
294 tool effective for identifying alcohol and drug dependent persons
295 for eligibility and * * * appropriate services;
296 (b) Clinical assessment;
297 (c) Education;



298 (d) Referral;

299 (e) Service coordination and case management; and

300 (f) Counseling and rehabilitative care.

301 (2) Any inpatient treatment or inpatient detoxification

302 program ordered by the court shall be certified by the Department

303 of Mental Health, other appropriate state agency or the equivalent

304 agency of another state.

305 **SECTION 6.** Section 9-23-15, Mississippi Code of 1972, is

306 amended as follows:

307 9-23-15. (1) In order to be eligible for alternative

308 sentencing through a local drug court, the participant must

309 satisfy each of the following criteria:

310 (a) The participant cannot have had any felony

311 convictions adjudicated by a judge within the previous ten (10)

312 years for any offenses that are crimes of violence as defined in

313 Section 97-3-2 and cannot have had any other intervening

314 convictions adjudicated by a judge within the previous ten (10)

315 years.

316 (b) The crime before the court cannot be a crime of

317 violence as defined in Section 97-3-2.

318 (c) Other criminal proceedings alleging commission of a

319 crime of violence cannot be pending against the participant.

320 (d) The participant cannot * * * be currently charged

321 with burglary of * * * a dwelling under Section 97-17-23(2) or

322 97-17-37.



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

326 * * *

327 (2) Participation in the services of an alcohol and drug
328 intervention component shall be open only to the individuals over
329 whom the court has jurisdiction, except that the court may agree
330 to provide the services for individuals referred from another drug
331 court. In cases transferred from another jurisdiction, the
332 receiving judge shall act as a special master and make
333 recommendations to the sentencing judge.

334 (3) (a) As a condition of participation in a drug court, a
335 participant may be required to undergo a chemical test or a series
336 of chemical tests as specified by the drug court. A participant
337 is liable for the costs of all chemical tests required under this
338 section, regardless of whether the costs are paid to the drug
339 court or the laboratory; however, if testing is available from
340 other sources or the program itself, the judge may waive any fees
341 for testing.

342 (b) A laboratory that performs a chemical test under
343 this section shall report the results of the test to the drug
344 court.

345 (4) A person does not have a right to participate in drug
346 court under this chapter. The court having jurisdiction over a
347 person for a matter before the court shall have the final



348 determination about whether the person may participate in drug
349 court under this chapter.

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

352 9-23-17. With regard to any drug court established under
353 this chapter, the Administrative Office of Courts * * * shall do
354 the following:

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

358 (* * *b) Ensure that the structure of the intervention
359 component complies with rules adopted under this section and
360 applicable federal regulations.

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

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

366 (i) Another department, authority or agency of the
367 state;

368 (ii) Another state;

369 (iii) The federal government;

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

371 (v) A public or private agency, foundation,
372 corporation or individual.



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

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

378 (g) Collect monthly data reports submitted by all
379 certified drug courts and compile an annual report summarizing the
380 data collected and the outcomes achieved by all certified drug
381 courts. Provide monthly data reports to the State Drug Courts
382 Advisory Committee and to the Oversight Task Force.

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

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

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

391 9-23-19. (1) All monies received from any source by the
392 drug court shall be accumulated in a fund to be used only for drug
393 court purposes. Any funds remaining in this fund at the end of a
394 fiscal year shall not lapse into any general fund, but shall be
395 retained in the drug court fund for the funding of further
396 activities by the drug court.

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



398 (a) Gifts, bequests and donations from private sources.
399 (b) Grant and contract money from governmental sources.
400 (c) Other forms of financial assistance approved by the
401 court to supplement the budget of the drug court.

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

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

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

412 99-15-26. (1) (a) In all criminal cases, felony and
413 misdemeanor, other than crimes against the person, a crime of
414 violence as defined in Section 97-3-2 or a violation of Section
415 97-11-31, the circuit or county court shall be empowered, upon the
416 entry of a plea of guilty by a criminal defendant made on or after
417 July 1, 2014, to withhold acceptance of the plea and sentence
418 thereon pending successful completion of such conditions as may be
419 imposed by the court pursuant to subsection (2) of this section.

420 (b) In all misdemeanor criminal cases, other than
421 crimes against the person, the justice or municipal court shall be
422 empowered, upon the entry of a plea of guilty by a criminal



423 defendant, to withhold acceptance of the plea and sentence thereon
424 pending successful completion of such conditions as may be imposed
425 by the court pursuant to subsection (2) of this section.

426 (c) Notwithstanding Section 97-3-2, in all criminal
427 cases charging a misdemeanor of domestic violence as defined in
428 Section 99-3-7(5) or aggravated domestic violence as defined in
429 Section 97-3-7(4), a circuit, county, justice or municipal court
430 shall be empowered, upon the entry of a plea of guilty by the
431 criminal defendant, to withhold acceptance of the plea and
432 sentence thereon pending successful completion of such conditions
433 as may be imposed by the court pursuant to subsection (2) of this
434 section.

435 (d) No person having previously qualified and been
436 granted release under the provisions of this section * * * after
437 pleading guilty to a charge under the same code section for which
438 the person is currently charged shall be eligible to qualify for
439 release in accordance with this section. A person shall not be
440 eligible to qualify for release in accordance with this section if
441 such person has been charged with trafficking of a controlled
442 substance, as provided in Section 41-29-139(g).

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

446 (i) Reasonable restitution to the victim of the
447 crime.



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

450 (iii) Payment of a fine not to exceed the
451 statutory limit.

452 (iv) Successful completion of drug, alcohol,
453 psychological or psychiatric treatment, successful completion of a
454 program designed to bring about the cessation of domestic abuse,
455 or any combination thereof, if the court deems treatment
456 necessary.

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

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

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



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

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

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

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

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



497 Department of Corrections within fifteen (15) days of the court's
498 decision to place the offender on probation. Notice shall be
499 delivered to the central office of the Mississippi Department of
500 Corrections and to the regional office of the department which
501 will be providing supervision to the offender on probation.

502 (3) When any circuit court or county court places a person
503 on probation in accordance with the provisions of this section and
504 that person is ordered to make any payments to his family, if any
505 member of his family whom he is ordered to support is receiving
506 public assistance through the State Department of Public Welfare,
507 the court shall order him to make such payments to the county
508 welfare officer of the county rendering public assistance to his
509 family, for the sole use and benefit of said family.

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

512 47-5-1003. (1) An intensive supervision program may be used
513 as an alternative to incarceration for offenders who are * * * not
514 convicted of a crime of violence pursuant to Section 97-3-2 as
515 selected by the * * * court and for juvenile offenders as provided
516 in Section 43-21-605. Any offender convicted of a sex crime shall
517 not be placed in the program.

518 (2) The court * * * may place the defendant on intensive
519 supervision, except when a death sentence or life imprisonment is
520 the maximum penalty which may be imposed * * * by a court or
521 judge.



522 (3) To protect and to ensure the safety of the state's
523 citizens, any offender who violates an order or condition of the
524 intensive supervision program may be arrested by the correctional
525 field officer and placed in the actual custody of the Department
526 of Corrections. Such offender is under the full and complete
527 jurisdiction of the department and subject to removal from the
528 program by the classification hearing officer.

529 (4) When any circuit or county court places an offender in
530 an intensive supervision program, the court shall give notice to
531 the Mississippi Department of Corrections within fifteen (15) days
532 of the court's decision to place the offender in an intensive
533 supervision program. Notice shall be delivered to the central
534 office of the Mississippi Department of Corrections and to the
535 regional office of the department which will be providing
536 supervision to the offender in an intensive supervision program.

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

540 (5) The Department of Corrections shall * * * provide to the
541 Oversight Task Force all relevant data regarding the offenders
542 participating in the intensive supervision program including the
543 number of offenders admitted to the program annually, the number
544 of offenders who leave the program annually and why they leave,
545 the number of offenders who are arrested or convicted annually and



546 the circumstances of the arrest and any other information
547 requested.

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

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

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



570 (3) The participant shall make the necessary arrangements to
571 allow for correctional officers to visit the participant's place
572 of education or employment at any time, based upon the approval of
573 the educational institution or employer, for the purpose of
574 verifying the participant's compliance with the conditions of his
575 detention.

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

580 (5) The participant shall be responsible for and shall
581 maintain the following:

582 (a) A working telephone line in the participant's home;
583 (b) A monitoring device in the participant's home, or
584 on the participant's person, or both; and
585 (c) A monitoring device in the participant's home and
586 on the participant's person in the absence of a telephone.

587 (6) The participant shall obtain approval from the
588 correctional field officer before the participant changes
589 residence.

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

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



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

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

599 99-15-107. A person shall not be considered for intervention
600 if he or she has * * * been charged with any crime of violence
601 * * * pursuant to Section 97-3-2. A person shall not be eligible
602 for acceptance into the intervention program provided by Sections
603 99-15-101 through 99-15-127 if such person has been charged * * *
604 with an offense pertaining to * * * trafficking in a controlled
605 substance, as provided in Section 41-29-139(* * *f) * * *.

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

608 97-17-39. If any person, by any means whatever, shall
609 willfully or mischievously injure or destroy any of the burial
610 vaults, urns, memorials, vases, foundations, bases or other
611 similar items in a cemetery, or injure or destroy any of the work,
612 materials, or furniture of any courthouse or jail, or other public
613 building, or schoolhouse or church, or deface any of the walls or
614 other parts thereof, or shall write, or make any drawings or
615 character, or do any other act, either on or in said building or
616 the walls thereof, or shall deface or injure the trees, fences,
617 pavements, or soil, on the grounds belonging thereto, or an
618 ornamental or shade tree on any public road or street leading



619 thereto, such person, upon conviction, for such offense, shall be
620 punished as follows:

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

638 (b) If the damage caused by the destruction or
639 defacement of such property has a value * * * of Five Hundred
640 Dollars (\$500.00) or more, but less than Five Thousand Dollars
641 (\$5,000.00), any person who is convicted of * * * this offense
642 shall be fined not more than Five Thousand Dollars (\$5,000.00) or



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

645 (c) If the damage caused by the destruction or
646 defacement of such property has a value of Five Thousand Dollars
647 (\$5,000.00) or more but less than Twenty-five Thousand Dollars
648 (\$25,000.00), any person who is convicted of this offense shall be
649 fined not more than Ten Thousand Dollars (\$10,000.00) or be
650 imprisoned in the Penitentiary for up to ten (10) years.

651 (d) If the damage caused by the destruction or
652 defacement of such property has a value of Twenty-five Thousand
653 Dollars (\$25,000.00) or more, any person who is convicted of this
654 offense shall be fined not more than Ten Thousand Dollars
655 (\$10,000.00) or be imprisoned in the Penitentiary for up to twenty
656 (20) years.

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

659 97-17-41. (1) * * * Any person who shall be convicted of
660 taking and carrying away, feloniously, the personal property of
661 another, of the value of * * * One Thousand Dollars (\$1,000.00) or
662 more, but less than Five Thousand Dollars (\$5,000.00), shall be
663 guilty of grand larceny, and shall be imprisoned in the
664 Penitentiary for a term not exceeding * * * five (5) years; or
665 shall be fined not more than Ten Thousand Dollars (\$10,000.00), or
666 both. The total value of property taken and carried away by the



667 person from a single victim shall be aggregated in determining the
668 gravity of the offense.

669 (2) Any person who shall be convicted of taking and carrying
670 away, feloniously, the personal property of another, of the value
671 of Five Thousand Dollars (\$5,000.00) or more, but less than
672 Twenty-five Thousand Dollars (\$25,000.00), shall be guilty of
673 grand larceny, and shall be imprisoned in the Penitentiary for a
674 term not exceeding ten (10) years; or shall be fined not more than
675 Ten Thousand Dollars (\$10,000.00), or both. The total value of
676 property taken and carried away by the person from a single victim
677 shall be aggregated in determining the gravity of the offense.

678 (3) Any person who shall be convicted of taking and carrying
679 away, feloniously, the personal property of another, of the value
680 of Twenty-five Thousand Dollars (\$25,000.00) or more, shall be
681 guilty of grand larceny, and shall be imprisoned in the
682 Penitentiary for a term not exceeding twenty (20) years; or shall
683 be fined not more than Ten Thousand Dollars (\$10,000.00), or both.
684 The total value of property taken and carried away by the person
685 from a single victim shall be aggregated in determining the
686 gravity of the offense.

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



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

694 (b) Any person who shall be convicted of taking and
695 carrying away, feloniously, the property of a church, synagogue,
696 temple or other established place of worship, of the value of
697 Twenty-five Thousand Dollars (\$25,000.00) or more, shall be guilty
698 of grand larceny, and shall be imprisoned in the Penitentiary for
699 a term not exceeding twenty (20) years, or shall be fined not more
700 than Ten Thousand Dollars (\$10,000.00), or both. The total value
701 of property taken and carried away by the person from a single
702 victim shall be aggregated in determining the gravity of the
703 offense.

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

706 97-17-42. (1) Any person who shall, willfully and without
707 authority, take possession of or take away a motor vehicle of any
708 value belonging to another, with intent to either permanently or
709 temporarily convert it or to permanently or temporarily deprive
710 the owner of possession or ownership, and any person who knowingly
711 shall aid and abet in the taking possession or taking away of the
712 motor vehicle, shall be guilty of * * * larceny and shall be
713 punished * * * based on the value of the motor vehicle involved
714 according to the schedule in Section 97-17-41. If the value of
715 the motor vehicle involved is One Thousand Dollars (\$1,000.00) or



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

718 (2) Any person convicted under this section who causes
719 damage to any motor vehicle shall be ordered by the court to pay
720 restitution to the owner or owners of the motor vehicle or
721 vehicles damaged.

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

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

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

733 97-17-43. (1) If any person shall feloniously take, steal
734 and carry away any personal property of another under the value
735 of * * * One Thousand Dollars (\$1,000.00), he shall be guilty of
736 petit larceny and, upon conviction, * * * may be punished by
737 imprisonment in the county jail not exceeding * * * one (1) year
738 or by fine not exceeding One Thousand Dollars (\$1,000.00), or both
739 if the court finds substantial and compelling reasons why the
740 offender cannot be safely and effectively supervised in the



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

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



766 probation not exceeding one (1) year or a fine not exceeding Two
767 Thousand Dollars (\$2,000.00), or both. Any person convicted of a
768 third or subsequent offense under this section where the value of
769 the property is not less than Five Hundred Dollars (\$500.00),
770 shall be imprisoned in the Penitentiary for a term not exceeding
771 three (3) years or fined an amount not exceeding Two Thousand
772 Dollars (\$2,000.00), or both.

773 (3) Any person who leaves the premises of an establishment
774 at which motor fuel offered for retail sale was dispensed into the
775 fuel tank of a motor vehicle by driving away in that motor vehicle
776 without having made due payment or authorized charge for the motor
777 fuel so dispensed, with intent to defraud the retail
778 establishment, shall be guilty of petit larceny and punished as
779 provided in subsection (1) of this section and, upon any second or
780 subsequent such offense, the driver's license of the person shall
781 be suspended as follows:

782 (a) The person shall submit the driver's license to the
783 court upon conviction and the court shall forward the driver's
784 license to the Department of Public Safety.

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

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



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

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

799 97-17-47. If any person shall sever from the soil of another
800 any produce growing thereon, or shall sever from any building,
801 gate, fence, railing, or other improvement or enclosure any part
802 thereof, and shall take and convert the same to his own use with
803 intent to steal the same, he shall be guilty of larceny in the
804 same manner and of the same degree as if the article so taken had
805 been severed at some previous and different time and shall be
806 punished based on the value of the property involved according to
807 the schedule in Sections 97-17-41 and 97-17-43.

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

810 97-17-60. (1) Any person who acquires, with the consent of
811 an owner, any timber product from that owner and who receives
812 payment for the timber product shall, within thirty (30) days of
813 such receipt, make payment in full to the owner.



814 (2) If the owner has not received payment within the
815 required thirty (30) days, the owner shall notify the offender of
816 his demand for payment at the offender's last known address by
817 certified mail or by personal delivery of the written notice to
818 the offender. The offender shall make payment in full within ten
819 (10) days after the mailing or delivery of the written notice or
820 the offender shall be in violation of this section.

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

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

827 (a) "Timber product" means timber of all kinds, species
828 or sizes, including, but not limited to, logs, lumber, poles,
829 pilings, posts, blocks, bolts, cordwood and pulpwood, pine
830 stumpwood, pine knots or other distillate wood, crossties,
831 turpentine (crude gum), pine straw, firewood and all other
832 products derived from timber or trees which have a sale or
833 commercial value.

834 (b) "Owner" means any person, partnership, corporation,
835 unincorporated association or other legal entity having any
836 interest in any timber product, any land upon which a timber
837 product is growing or any land from which a timber product has
838 been removed.



839 (5) Whoever violates this section, upon conviction thereof,
840 when the value of the timber product is * * * One Thousand Dollars
841 (\$1,000.00) or less, shall be fined not more than One Thousand
842 Dollars (\$1,000.00), or imprisoned for not more than one (1) year,
843 or both. When the value of the timber product is more than * * *
844 One Thousand Dollars (\$1,000.00), the violator, upon conviction
845 thereof, shall be fined not more than Five Thousand Dollars
846 (\$5,000.00), or imprisoned for not more than ten (10) years, or
847 both.

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

850 97-17-62. (1) (a) It is unlawful to obtain custody of
851 personal property or equipment by trick, deceit, fraud or willful
852 false representation with intent to defraud the owner or any
853 person in lawful possession of the personal property or equipment.

854 (b) It is unlawful to hire or lease personal property
855 or equipment from any person who is in lawful possession of the
856 personal property or equipment with intent to defraud that person
857 of the rental due under the rental agreement.

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

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



864 97-17-43, unless the value of the personal property or equipment
865 is of a value of * * * One Thousand Dollars (\$1,000.00) or more;
866 in that event the violation constitutes a felony, * * * and shall
867 be punished based on the property involved according to the
868 schedule in Section 97-17-41.

869 (2) (a) In prosecutions under this section, the following
870 acts are prima facie evidence of fraudulent intent: obtaining the
871 property or equipment under false pretenses; absconding without
872 payment; or removing or attempting to remove the property or
873 equipment from the county without the express written consent of
874 the lessor or the lessor's agent.

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

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

880 (i) Failure to redeliver the property or equipment
881 within five (5) days after hand delivery to or return receipt from
882 the lessee is prima facie evidence of fraudulent intent. Notice
883 that is returned undelivered after mailing to the address given by
884 the lessee at the time of rental shall be deemed equivalent to
885 return receipt from the lessee.

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



889 intent. Amounts due include unpaid rental for the time period
890 during which the property or equipment was not returned, and
891 include the lesser of the cost of repairing or replacing the
892 property or equipment, as necessary, if it has been damaged or not
893 returned.

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

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

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

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



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

918 (c) Fails to contact the owner or his representative to
919 make arrangements to return such property within ten (10) days
920 after proper notice following the expiration of the term for which
921 such person's use, possession or control of such property is
922 authorized.

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

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

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

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

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



939 (a) The defendant was unaware that the property was
940 that of another; or

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

944 (c) The defendant was physically incapacitated and
945 unable to request or obtain permission of the owner to retain the
946 property; or

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

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

952 (a) Guilty of a misdemeanor when the value of the
953 personal property is less than * * * One Thousand Dollars
954 (\$1,000.00) and punished by a fine of not more than Two Hundred
955 Fifty Dollars (\$250.00), or by imprisonment in the county jail for
956 a term of not more than * * * one (1) year if the court finds
957 substantial and compelling reasons why the offender cannot be
958 safely and effectively supervised in the community, is not
959 amenable to community-based treatment, or poses a significant risk
960 to public safety. If such a finding is not made, the court shall
961 suspend the sentence of imprisonment and impose a period of
962 probation not exceeding one (1) year or a fine not exceeding Two
963 Hundred Fifty Dollars (\$250.00), or both. Any person convicted of



964 a third or subsequent offense under this subsection where the
965 value of the property is not less than Five Hundred Dollars
966 (\$500.00), shall be imprisoned in the Penitentiary for a term not
967 exceeding three (3) years or fined an amount not exceeding One
968 Thousand Dollars (\$1,000.00); or

969 (b) Guilty of a felony when the value of the personal
970 property is * * * One Thousand Dollars (\$1,000.00) or more and
971 punished by a fine of not more than One Thousand Dollars
972 (\$1,000.00), or by imprisonment in the State Penitentiary for a
973 term of not more than * * * five (5) years, or by both such fine
974 and imprisonment.

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

977 97-17-67. (1) Every person who shall maliciously or
978 mischievously destroy, disfigure, or injure, or cause to be
979 destroyed, disfigured, or injured, any property of another, either
980 real or personal, shall be guilty of malicious mischief.

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



989 a significant risk to public safety. If such a finding is not
990 made, the court shall suspend the sentence of imprisonment and
991 impose a period of probation not exceeding one (1) year or a fine
992 of not more than One Thousand Dollars (\$1,000.00), or both. Any
993 person convicted of a third or subsequent offense under this
994 subsection where the value of the property is not less than Five
995 Hundred Dollars (\$500.00), shall be imprisoned in the Penitentiary
996 for a term not exceeding three (3) years or fined an amount not
997 exceeding One Thousand Dollars (\$1,000.00), or both.

998 (3) If the value of the property destroyed, disfigured or
999 injured is in excess of * * * One Thousand Dollars (\$1,000.00) but
1000 less than Five Thousand Dollars (\$5,000.00), it shall be a felony
1001 punishable by a fine not exceeding Ten Thousand Dollars
1002 (\$10,000.00) or imprisonment in the Penitentiary not exceeding
1003 five (5) years, or both.

1004 (4) If the value of the property is Five Thousand Dollars
1005 (\$5,000.00) or more but less than Twenty-five Thousand Dollars
1006 (\$25,000.00), it shall be punishable by a fine not more than Ten
1007 Thousand Dollars (\$10,000.00) or imprisonment in the Penitentiary
1008 not exceeding ten (10) years, or both.

1009 (5) If the value of the property is Twenty-five Thousand
1010 Dollars (\$25,000.00) or more, it shall be punishable by a fine not
1011 more than Ten Thousand Dollars (\$10,000.00) or imprisonment in the
1012 Penitentiary not exceeding twenty (20) years, or both.



1013 (* * *6) In all cases restitution to the victim for all
1014 damages shall be ordered. The value of property destroyed,
1015 disfigured or injured by the same party as part of a common crime
1016 against the same or multiple victims may be aggregated together
1017 and if the value exceeds One Thousand Dollars (\$1,000.00), shall
1018 be a felony.

1019 (* * *7) For purposes of this statute, value shall be the
1020 cost of repair or replacement of the property damaged or
1021 destroyed.

1022 (* * *8) Anyone who by any word, deed or act directly or
1023 indirectly urges, aids, abets, suggests or otherwise instills in
1024 the mind of another the will to so act shall be considered a
1025 principal in the commission of said crime and shall be punished in
1026 the same manner.

1027 **SECTION 23.** Section 97-17-70, Mississippi Code of 1972, is
1028 amended as follows:

1029 97-17-70. (1) A person commits the crime of receiving
1030 stolen property if he intentionally possesses, receives, retains
1031 or disposes of stolen property knowing that it has been stolen or
1032 having reasonable grounds to believe it has been stolen, unless
1033 the property is possessed, received, retained or disposed of with
1034 intent to restore it to the owner.

1035 (2) The fact that the person who stole the property has not
1036 been convicted, apprehended or identified is not a defense to a
1037 charge of receiving stolen property.



1038 (3) (a) Evidence that the person charged under this section
1039 stole the property that is the subject of the charge of receiving
1040 stolen property is not a defense to a charge under this section;
1041 however, dual charges of both stealing and receiving the same
1042 property shall not be brought against a single defendant in a
1043 single jurisdiction.

1044 (b) Proof that a defendant stole the property that is
1045 the subject of a charge under this section shall be prima facie
1046 evidence that the defendant had knowledge that the property was
1047 stolen.

1048 (4) Any person who shall be convicted of receiving stolen
1049 property which exceeds * * * One Thousand Dollars (\$1,000.00) or
1050 more, but less than Five Thousand Dollars (\$5,000.00) in value
1051 shall be committed to the custody of the State Department of
1052 Corrections for a term not exceeding * * * five (5) years or by a
1053 fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

1054 (5) Any person who shall be convicted of receiving stolen
1055 property which exceeds Five Thousand Dollars (\$5,000.00) or more,
1056 but less than Twenty-five Thousand Dollars (\$25,000.00) in value
1057 shall be committed to the custody of the State Department of
1058 Corrections for a term not exceeding ten (10) years or a fine not
1059 more than Ten Thousand Dollars (\$10,000.00), or both.

1060 (6) Any person who shall be convicted of receiving stolen
1061 property which exceeds Twenty-five Thousand Dollars (\$25,000.00)
1062 in value shall be committed to the custody of the State Department



1063 of Corrections for a term not exceeding twenty (20) years or a
1064 fine not more than Ten Thousand Dollars (\$10,000.00), or both.
1065 (* * *7) Any person who shall be convicted of receiving
1066 stolen property which does not exceed * * * One Thousand Dollars
1067 (\$1,000.00) in value shall be punished by imprisonment in the
1068 county jail for not more than * * * one (1) year or by a fine of
1069 not more than One Thousand Dollars (\$1,000.00), or both, if the
1070 court finds substantial and compelling reasons why the offender
1071 cannot be safely and effectively supervised in the community, is
1072 not amenable to community-based treatment, or poses a significant
1073 risk to public safety. If such a finding is not made, the court
1074 shall suspend the sentence of imprisonment and impose a period of
1075 probation not exceeding one (1) year or a fine of not more than
1076 One Thousand Dollars (\$1,000.00), or both. Any person convicted
1077 of a third or subsequent offense under this subsection where the
1078 value of the property is not less than Five Hundred Dollars
1079 (\$500.00), shall be imprisoned in the Penitentiary for a term not
1080 exceeding three (3) years or fined an amount not exceeding One
1081 Thousand Dollars (\$1,000.00), or both.

1082 **SECTION 24.** Section 97-17-71, Mississippi Code of 1972, is
1083 amended as follows:

1084 97-17-71. (1) For the purposes of this section, the
1085 following terms shall have the meanings ascribed in this section:



1086 (a) "Railroad materials" means any materials, equipment
1087 and parts used in the construction, operation, protection and
1088 maintenance of a railroad.

1089 (b) "Copper materials" means any copper wire, bars,
1090 rods or tubing, including copper wire or cable or coaxial cable of
1091 the type used by public utilities, common carriers or
1092 communication services providers, whether wireless or wire line,
1093 copper air conditioner evaporator coil or condenser, aluminum
1094 copper radiators not attached to a motor vehicle, or any
1095 combination of these.

1096 (c) "Aluminum materials" means any aluminum cable,
1097 bars, rods or tubing of the type used to construct utility,
1098 communication or broadcasting towers, aluminum utility wire and
1099 aluminum irrigation pipes or tubing. "Aluminum materials" does
1100 not include aluminum cans that have served their original economic
1101 purpose.

1102 (d) "Law enforcement officer" means any person
1103 appointed or employed full time by the state or any political
1104 subdivision thereof, or by the state military department as
1105 provided in Section 33-1-33, who is duly sworn and vested with
1106 authority to bear arms and make arrests, and whose primary
1107 responsibility is the prevention and detection of crime, the
1108 apprehension of criminals and the enforcement of the criminal
1109 traffic laws of this state or the ordinances of any political
1110 subdivision thereof.



1111 (e) "Metal property" means materials as defined in this
1112 section as railroad track materials, copper materials and aluminum
1113 materials and electrical, communications or utility brass, metal
1114 covers for service access and entrances to sewers and storm
1115 drains, metal bridge pilings, irrigation wiring and other metal
1116 property attached to or part of center pivots, grain bins,
1117 stainless steel sinks, catalytic converters not attached to a
1118 motor vehicle and metal beer kegs. Metal property does not
1119 include ferrous materials not listed in this section.

1120 (f) "Person" means an individual, partnership,
1121 corporation, joint venture, trust, limited liability company,
1122 association or any other legal or commercial entity.

1123 (g) "Personal identification card" means any government
1124 issued photographic identification card.

1125 (h) "Photograph" or "photographically" means a still
1126 photographic image, including images captured in digital format,
1127 that are of such quality that the persons and objects depicted are
1128 clearly identifiable.

1129 (i) "Purchase transaction" means a transaction in which
1130 a person gives consideration in exchange for metal property.

1131 (j) "Purchaser" means a person who gives consideration
1132 in exchange for metal property.

1133 (k) "Record" or "records" means a paper, electronic or
1134 other method of storing information.



1135 (1) "Scrap metal dealer" means any person who is
1136 engaged, from a fixed location or otherwise, in the business of
1137 paying compensation for metal property that has served its
1138 original economic purpose, whether or not the person is engaged in
1139 the business of performing the manufacturing process by which
1140 metals are converted into raw material products consisting of
1141 prepared grades and having an existing or potential economic
1142 value.

1143 (2) Every scrap metal dealer or other purchaser shall keep
1144 an accurate and legible record in which he shall enter the
1145 following information for each purchase transaction:

1146 (a) The name, address and age of the person from whom
1147 the metal property is purchased as obtained from the seller's
1148 personal identification card;

1149 (b) The date and place of each acquisition of the metal
1150 property;

1151 (c) The weight, quantity or volume and a general
1152 physical description of the type of metal property, such as wire,
1153 tubing, extrusions or casting, purchased in a purchase
1154 transaction;

1155 (d) The amount of consideration given in a purchase
1156 transaction for the metal property;

1157 (e) The vehicle license tag number, state of issue and
1158 the make and type of the vehicle used to deliver the metal
1159 property to the purchaser;



1160 (f) If a person other than the seller delivers the
1161 metal property to the purchaser, the name, address and age of the
1162 person who delivers the metal property;

1163 (g) A signed statement from the person receiving
1164 consideration in the purchase transaction stating that he is the
1165 rightful owner of the metal property or is entitled to sell the
1166 metal property being sold;

1167 (h) (i) A scanned copy or a photocopy of the personal
1168 identification card of the person receiving consideration in the
1169 purchase transaction; or

1170 (ii) If a person other than the seller delivers
1171 the metal property to the purchaser, a scanned copy or a photocopy
1172 of the personal identification card of the person delivering the
1173 metal property to the purchaser; and

1174 (i) A photograph, videotape or similar likeness of the
1175 person receiving consideration or any person other than the seller
1176 who delivers the metal property to the purchaser in which the
1177 person's facial features are clearly visible and in which the
1178 metal property the person is selling or delivering is clearly
1179 visible.

1180 Such records shall be maintained by the scrap metal dealer or
1181 purchaser for not less than two (2) years from the date of the
1182 purchase transaction, and such records shall be made available to
1183 any law enforcement officer during usual and customary business
1184 hours.



1185 (3) The purchaser of metal property must hold the metal
1186 property separate and identifiable from other purchases for not
1187 less than three (3) business days from the date of purchase. The
1188 purchaser shall also photographically capture the metal property
1189 in the same form, without change, in which the metal property was
1190 acquired, and maintain the photograph for a period of not less
1191 than two (2) years. The time and date shall be digitally recorded
1192 on the photograph, and the identity of the person taking the
1193 photograph shall be recorded. The purchaser shall permit any law
1194 enforcement officer to make an inspection of the metal property
1195 during the holding period, and of all photographs of the metal
1196 property. Any photograph of metal property taken and maintained
1197 pursuant to this subsection shall be admissible in any civil or
1198 criminal proceeding.

1199 (4) During the usual and customary business hours of a scrap
1200 metal dealer or other purchaser, a law enforcement officer, after
1201 proper identification as a law enforcement officer, shall have the
1202 right to inspect all purchased metal property in the possession of
1203 the scrap metal dealer or purchaser.

1204 (5) (a) Whenever a law enforcement officer has reasonable
1205 cause to believe that any item of metal property in the possession
1206 of a scrap metal dealer or other purchaser has been stolen, a law
1207 enforcement officer who has an affidavit from the alleged rightful
1208 owner of the property identifying the property with specificity,
1209 including any identifying markings, may issue and deliver a



1210 written hold notice to the scrap metal dealer or other purchaser.
1211 The hold notice shall specifically identify those items of metal
1212 property that are believed to have been stolen and that are
1213 subject to the hold notice. Upon receipt of the notice, the scrap
1214 metal dealer or other purchaser may not process or remove the
1215 metal property identified in the notice from the place of business
1216 of the scrap metal dealer or purchaser for fifteen (15) calendar
1217 days after receipt of the notice, unless sooner released by a law
1218 enforcement officer.

1219 (b) No later than the expiration of the fifteen-day
1220 period, a law enforcement officer, after receiving additional
1221 substantive evidence beyond the initial affidavit, may issue and
1222 deliver a second written hold notice, which shall be an extended
1223 hold notice. The extended hold notice shall specifically identify
1224 those items of metal property that are believed to have been
1225 stolen and that are subject to the extended hold notice. Upon
1226 receipt of the extended hold notice, the scrap metal dealer or
1227 purchaser may not process or remove the items of metal property
1228 identified in the notice from the place of business of the scrap
1229 metal dealer or purchaser for fifteen (15) calendar days after
1230 receipt of the extended hold notice, unless sooner released by a
1231 law enforcement officer.

1232 (c) At the expiration of the hold period or, if
1233 extended in accordance with this subsection, at the expiration of
1234 the extended hold period, the hold is automatically released, then



1235 the scrap metal dealer or purchaser may dispose of the metal
1236 property unless other disposition has been ordered by a court of
1237 competent jurisdiction.

1238 (d) If the scrap metal dealer or other purchaser
1239 contests the identification or ownership of the metal property,
1240 the party other than the scrap metal dealer or other purchaser
1241 claiming ownership of any metal property in the possession of a
1242 scrap metal dealer or other purchaser, provided that a timely
1243 report of the theft of the metal property was made to the proper
1244 authorities, may bring a civil action in the circuit court of the
1245 county in which the scrap metal dealer or purchaser is located.
1246 The petition for the action shall include the means of
1247 identification of the metal property utilized by the petitioner to
1248 determine ownership of the metal property in the possession of the
1249 scrap metal dealer or other purchaser.

1250 (e) When a lawful owner recovers stolen metal property
1251 from a scrap metal dealer or other purchaser who has complied with
1252 this section, and the person who sold the metal property to the
1253 scrap metal dealer or other purchaser is convicted of a violation
1254 of this section, or theft by receiving stolen property under
1255 Section 97-17-70, the court shall order the convicted person to
1256 make full restitution to the scrap metal dealer or other
1257 purchaser, including, without limitation, attorney's fees, court
1258 costs and other expenses.



1259 (6) This section shall not apply to purchases of metal
1260 property from any of the following:

1261 (a) A law enforcement officer acting in an official
1262 capacity;

1263 (b) A trustee in bankruptcy, executor, administrator or
1264 receiver who has presented proof of such status to the scrap metal
1265 dealer;

1266 (c) Any public official acting under a court order who
1267 has presented proof of such status to the scrap metal dealer;

1268 (d) A sale on the execution, or by virtue of any
1269 process issued by a court, if proof thereof has been presented to
1270 the scrap metal dealer; or

1271 (e) A manufacturing, industrial or other commercial
1272 vendor that generates or sells regulated metal property in the
1273 ordinary course of its business.

1274 (7) It shall be unlawful for any person to give a false
1275 statement of ownership or to give a false or altered
1276 identification or vehicle tag number and receive money or other
1277 consideration from a scrap metal dealer or other purchaser in
1278 return for metal property.

1279 (8) A scrap metal dealer or other purchaser shall not enter
1280 into any cash transactions in payment for the purchase of metal
1281 property. Payment shall be made by check issued to the seller of
1282 the metal, made payable to the name and address of the seller and
1283 mailed to the recorded address of the seller, or by electronic



1284 funds transfer. Payment shall not be made for a period of three
1285 (3) days after the purchase transaction.

1286 (9) If a person acquiring metal property fails to maintain
1287 the records or to hold such materials for the period of time
1288 prescribed by this section, such failure shall be *prima facie*
1289 evidence that the person receiving the metal property received it
1290 knowing it to be stolen in violation of Section 97-17-70.

1291 (10) It shall be unlawful for any person to transport or
1292 cause to be transported for himself or another from any point
1293 within this state to any point outside this state any metal
1294 property, unless the person or entity first reports to the sheriff
1295 of the county from which he departs this state transporting such
1296 materials the same information that a purchaser in this state
1297 would be required to obtain and keep in a record as set forth in
1298 subsection (2) of this section. In such a case the sheriff
1299 receiving the report shall keep the information in records
1300 maintained in his office as a public record available for
1301 inspection by any person at all reasonable times. This section
1302 shall not apply to a public utility, as that term is defined in
1303 Section 77-3-3, engaged in carrying on utility operations; to a
1304 railroad, as that term is defined in Section 77-9-5; to a
1305 communications service provider, whether wireless or wire line; to a
1306 scrap metal dealer; or to a person identified in subsection (6)
1307 as being exempt from the provisions of this section.



1308 (11) It shall be unlawful for a scrap metal dealer or other
1309 purchaser to knowingly purchase or possess a metal beer keg, or a
1310 metal syrup tank generally used by the soft drink industry,
1311 whether damaged or undamaged, or any reasonably recognizable part
1312 thereof, on any premises that the dealer uses to buy, sell, store,
1313 shred, melt, cut or otherwise alter scrap metal. However, it
1314 shall not be unlawful to purchase or possess a metal syrup tank
1315 generally used by the soft drink industry if the scrap metal
1316 dealer or other purchaser obtains a bill of sale at the time of
1317 purchase from a seller if the seller is a manufacturer of such
1318 tanks, a soft drink company or a soft drink distributor.

1319 (12) It shall be unlawful to sell to a scrap metal dealer
1320 any bronze vase and/or marker, memorial, statue, plaque, or other
1321 bronze object used at a cemetery or other location where deceased
1322 persons are interred or memorialized, or for any such dealer to
1323 purchase those objects, unless the source of the bronze is known
1324 and notice is provided to the municipal or county law enforcement
1325 agency where the dealer is located. The notice shall identify all
1326 names, letters, dates and symbols on the bronze and a photograph
1327 of the bronze shall be attached thereto. Written permission from
1328 the cemetery and the appropriate law enforcement agency must be
1329 received before any type of bronze described in this subsection
1330 may be purchased, processed, sold or melted.

1331 (13) It shall be unlawful for any scrap metal dealer to
1332 purchase any manhole cover and other similar types of utility



1333 access covers, including storm drain covers, or any metal property
1334 clearly identified as belonging to a political subdivision of the
1335 state or a municipality, unless that metal property is purchased
1336 from the political subdivision, the municipal utility or the
1337 manufacturer of the metal. Any purchaser who purchases metal
1338 property in bulk shall be allowed twenty-four (24) hours to
1339 determine if any metal property prohibited by this subsection is
1340 included in a bulk purchase. If such prohibited metal property is
1341 included in a bulk purchase, the purchaser shall notify law
1342 enforcement no later than twenty-four (24) hours after the
1343 purchase.

1344 (14) It shall be unlawful for a scrap metal dealer or other
1345 purchaser to purchase metal property from a person younger than
1346 eighteen (18) years of age.

1347 (15) Metal property may not be purchased, acquired or
1348 collected between the hours of 9:00 p.m. and 6:00 a.m.

1349 (16) Except as provided in this subsection, any person
1350 willfully or knowingly violating the provisions of this section
1351 shall, upon conviction thereof, be deemed guilty of a misdemeanor,
1352 and shall be punished by a fine not to exceed One Thousand Dollars
1353 (\$1,000.00) per offense, unless the purchase transaction or
1354 transactions related to the violation, in addition to any costs
1355 which are, or would be, incurred in repairing or in the attempt to
1356 recover any property damaged in the theft of or removal of the
1357 metal property, are in aggregate an amount which exceeds * * * One



1358 Thousand Dollars (\$1,000.00) but less than Five Thousand Dollars
1359 (\$5,000.00), in which case the person shall be guilty of a felony
1360 and shall be imprisoned in the custody of the Department of
1361 Corrections for a term not to exceed * * * five (5) years, fined
1362 not more than Ten Thousand Dollars (\$10,000.00), or both. Any
1363 person found guilty of stealing metal property or receiving metal
1364 property, knowing it to be stolen in violation of Section
1365 97-17-70, shall be ordered to make full restitution to the victim,
1366 including, without limitation, restitution for property damage
1367 that resulted from the theft of the property.

1368 (17) 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 Five Thousand Dollars
1373 (\$5,000.00) but less than Twenty-five Thousand Dollars
1374 (\$25,000.00), the person shall be guilty of a felony and shall be
1375 imprisoned in the custody of the Department of Corrections for a
1376 term not to exceed ten (10) years, fined not more than Ten
1377 Thousand Dollars (\$10,000.00), or both.

1378 (18) If the purchase transaction or transactions related to
1379 the violation, in addition to any costs which are, or would be,
1380 incurred in repairing or in the attempt to recover any property
1381 damaged in the theft of or removal of the metal property, are in
1382 aggregate an amount which exceeds Twenty-five Thousand Dollars



1383 (\$25,000.00), the person shall be guilty of a felony and shall be
1384 imprisoned in the custody of the Department of Corrections for a
1385 term not to exceed twenty (20) years, fined not more than Ten
1386 Thousand Dollars (\$10,000.00), or both.

1387 (* * *19) This section shall not be construed to repeal
1388 other criminal laws. Whenever conduct proscribed by any provision
1389 of this section is also proscribed by any other provision of law,
1390 the provision which carries the more serious penalty shall be
1391 applied.

1392 (* * *20) This section shall apply to all businesses
1393 regulated under this section without regard to the location within
1394 the State of Mississippi.

1395 (* * *21) This section shall not be construed to prohibit
1396 municipalities and counties from enacting and implementing
1397 ordinances, rules and regulations that impose stricter
1398 requirements relating to purchase transactions.

1399 **SECTION 25.** Section 97-21-29, Mississippi Code of 1972, is
1400 amended as follows:

1401 97-21-29. If any person shall, with intent to injure or
1402 defraud, make any instrument in his own name, intended to create,
1403 increase, discharge, defeat, or diminish any pecuniary obligation,
1404 right or interest, or to transfer or affect any property whatever,
1405 and shall utter and pass it under the pretense that it is the act
1406 of another who bears the same name, he shall be guilty of forgery



1407 and shall be punished according to the schedule in Section
1408 97-21-33.

1409 **SECTION 26.** Section 97-21-33, Mississippi Code of 1972, is
1410 amended as follows:

1411 97-21-33. (1) * * * Any person convicted of forgery may be
1412 punished by imprisonment in the county jail for a term of not more
1413 than one (1) year, or by a fine of not more than One Thousand
1414 Dollars (\$1,000.00), or both, if the court finds substantial and
1415 compelling reasons why the offender cannot be safely and
1416 effectively supervised in the community, is not amenable to
1417 community-based treatment, or poses a significant risk to public
1418 safety. If such a finding is not made, the court shall suspend
1419 the sentence of imprisonment and impose a period of probation not
1420 exceeding one (1) year or a fine of not more than One Thousand
1421 Dollars (\$1,000.00), or both. The total value of the forgery by
1422 the person from a single victim shall be aggregated in determining
1423 the gravity of the offense. Any person convicted of a third or
1424 subsequent offense under this subsection where the value of the
1425 property is not less than Five Hundred Dollars (\$500.00), shall be
1426 punished by imprisonment in the Penitentiary for a term not
1427 exceeding three (3) years or by a fine not exceeding One Thousand
1428 Dollars (\$1,000.00), or both.

1429 (2) Any person convicted of forgery for the value of One
1430 Thousand Dollars (\$1,000.00) or more but less than Five Thousand
1431 Dollars (\$5,000.00) shall be punished by imprisonment in the



1432 Penitentiary for a term of not * * * more than * * * five (5)
1433 years, or by a fine of not more than Ten Thousand Dollars
1434 (\$10,000.00), or both, * * * within the discretion of the court.

1435 (3) Any person who shall be convicted of forgery for the
1436 value of Five Thousand Dollars (\$5,000.00) or more, but less than
1437 Twenty-five Thousand Dollars (\$25,000.00) shall be imprisoned in
1438 the Penitentiary for a term not exceeding ten (10) years; or shall
1439 be fined not more than Ten Thousand Dollars (\$10,000.00), or both.

1440 (4) Any person who shall be convicted of forgery for the
1441 value of Twenty-five Thousand Dollars (\$25,000.00) or more, shall
1442 be imprisoned in the Penitentiary for a term not exceeding twenty
1443 (20) years; or shall be fined not more than Ten Thousand Dollars
1444 (\$10,000.00), or both. The total value of the forgery by the
1445 person from a single victim shall be aggregated in determining the
1446 gravity of the offense.

1447 **SECTION 27.** Section 97-21-37, Mississippi Code of 1972, is
1448 amended as follows:

1449 97-21-37. Every person who shall have in his possession any
1450 forged, altered or counterfeited negotiable note, bill, draft, or
1451 other evidence of debt issued or purported to have been issued by
1452 any corporation or company duly authorized for that purpose by the
1453 laws of the United States or of this state, or of any other state,
1454 government, or country, or any other forged, altered, or
1455 counterfeit, instrument the forgery of which is declared by the
1456 provisions of this chapter to be punishable, knowing the same to



1457 be forged, altered, or counterfeited, with intention to utter the
1458 same as true or as false, or to cause the same to be uttered, with
1459 intent to injure or defraud, shall be guilty of forgery and shall
1460 be punished according to the schedule in Section 97-21-33.

1461 **SECTION 28.** Section 97-21-59, Mississippi Code of 1972, is
1462 amended as follows:

1463 97-21-59. Every person who shall be convicted of having
1464 uttered or published as true, and with intent to defraud, any
1465 forged, altered, or counterfeit instrument, or any counterfeit
1466 gold or silver coin, the forgery, altering, or counterfeiting of
1467 which is declared by the provisions of this chapter to be an
1468 offense, knowing such instrument or coin to be forged, altered, or
1469 counterfeited, shall suffer the punishment herein provided for
1470 forgery, pursuant to Section 97-21-33.

1471 **SECTION 29.** Section 97-23-19, Mississippi Code of 1972, is
1472 amended as follows:

1473 97-23-19. If any person shall embezzle or fraudulently
1474 secrete, conceal, or convert to his own use, or make way with, or
1475 secrete with intent to embezzle or convert to his own use, any
1476 goods, rights in action, money, or other valuable security,
1477 effects, or property of any kind or description which shall have
1478 come or been entrusted to his care or possession by virtue of his
1479 office, position, place, or employment, either in mass or
1480 otherwise, he shall be guilty of embezzlement.



1481 (a) Any person guilty of embezzlement of any goods,
1482 rights of action, money, or other valuable security, effects or
1483 property of any kind or description with a value of less than One
1484 Thousand Dollars (\$1,000.00), shall be guilty of misdemeanor
1485 embezzlement, and, upon conviction thereof, may be sentenced to a
1486 term of imprisonment in the county jail not exceeding one (1)
1487 year, or fined not more than One Thousand Dollars (\$1,000.00), or
1488 both, if the court finds substantial and compelling reasons why
1489 the offender cannot be safely and effectively supervised in the
1490 community, is not amenable to community-based treatment, or poses
1491 a significant risk to public safety. If such a finding is not
1492 made, the court shall suspend the sentence of imprisonment and
1493 impose a period of probation not exceeding one (1) year or a fine
1494 of not more than One Thousand Dollars (\$1,000.00). Any person
1495 convicted of a third or subsequent offense under this subsection
1496 where the value of the property is not less than Five Hundred
1497 Dollars (\$500.00), shall be imprisoned in the Penitentiary for a
1498 term not exceeding three (3) years or fined an amount not
1499 exceeding Two Thousand Dollars (\$2,000.00), or both.

1500 (b) Any person guilty of embezzlement of any goods,
1501 rights in action, money, or other valuable security, effects or
1502 property of any kind or description with a value of * * * One
1503 Thousand Dollars (\$1,000.00) or more but less than Five Thousand
1504 Dollars (\$5,000.00), * * * shall be guilty of felony embezzlement,
1505 and, upon conviction thereof, shall be imprisoned in the custody



1506 of the Department of Corrections not more than * * * five (5)
1507 years, or fined not more than Twenty-five Thousand Dollars
1508 (\$25,000.00), or both. If the value of such goods, rights in
1509 action, money or other valuable security, effects, or property of
1510 any kind is less than Five Hundred Dollars (\$500.00), he shall be
1511 guilty of misdemeanor embezzlement, and, upon conviction thereof,
1512 shall be imprisoned in the county jail not more than six (6)
1513 months, or fined not more than One Thousand Dollars (\$1,000.00),
1514 or both.

1515 (c) Any person guilty of embezzlement of any goods,
1516 rights in action, money, or other valuable security, effects or
1517 property of any kind or description with a value of Five Thousand
1518 Dollars (\$5,000.00) or more, but less than Twenty-five Thousand
1519 Dollars (\$25,000.00), shall be guilty of felony embezzlement, and,
1520 upon conviction thereof, shall be imprisoned in the Penitentiary
1521 for not more than ten (10) years, or fined not more than
1522 Twenty-five Thousand Dollars (\$25,000.00), or both.

1523 (d) Any person guilty of embezzlement of any goods,
1524 rights in action, money, or other valuable security, effects or
1525 property of any kind or description with a value of Twenty-five
1526 Thousand Dollars (\$25,000.00) or more, shall be guilty of felony
1527 embezzlement, and, upon conviction thereof, shall be imprisoned in
1528 the Penitentiary not more than twenty (20) years, or fined not
1529 more than Twenty-five Thousand Dollars (\$25,000.00), or both.



1530 **SECTION 30.** Section 97-23-93, Mississippi Code of 1972, is
1531 amended as follows:

1532 97-23-93. (1) Any person who shall willfully and unlawfully
1533 take possession of any merchandise owned or held by and offered or
1534 displayed for sale by any merchant, store or other mercantile
1535 establishment with the intention and purpose of converting such
1536 merchandise to his own use without paying the merchant's stated
1537 price therefor shall be guilty of the crime of shoplifting and,
1538 upon conviction, shall be punished as is provided in this section.

1539 (2) The requisite intention to convert merchandise without
1540 paying the merchant's stated price for the merchandise is
1541 presumed, and shall be prima facie evidence thereof, when such
1542 person, alone or in concert with another person, willfully:

1543 (a) Conceals the unpurchased merchandise;

1544 (b) Removes or causes the removal of unpurchased
1545 merchandise from a store or other mercantile establishment;

1546 (c) Alters, transfers or removes any price-marking, any
1547 other marking which aids in determining value affixed to the
1548 unpurchased merchandise, or any tag or device used in electronic
1549 surveillance of unpurchased merchandise;

1550 (d) Transfers the unpurchased merchandise from one
1551 container to another; or

1552 (e) Causes the cash register or other sales recording
1553 device to reflect less than the merchant's stated price for the
1554 unpurchased merchandise.



1555 (3) Evidence of stated price or ownership of merchandise may
1556 include, but is not limited to:
1557 (a) The actual merchandise or the container which held
1558 the merchandise alleged to have been shoplifted; or
1559 (b) The content of the price tag or marking from such
1560 merchandise; or
1561 (c) Properly identified photographs of such
1562 merchandise.

1563 (4) Any merchant or his agent or employee may testify at a
1564 trial as to the stated price or ownership of merchandise.

1565 (5) A person convicted of shoplifting merchandise for which
1566 the merchant's stated price is less than or equal to * * * One
1567 Thousand Dollars (\$1,000.00) shall be punished as follows:

1568 (a) Upon a first shoplifting conviction the defendant
1569 shall be guilty of a misdemeanor and fined not more than One
1570 Thousand Dollars (\$1,000.00), or punished by imprisonment in the
1571 county jail for a term not to exceed * * * one (1) year, or by
1572 both * * *, if the court finds substantial and compelling reasons
1573 why the offender cannot be safely and effectively supervised in
1574 the community, is not amenable to community-based treatment, or
1575 poses a significant risk to public safety. If such a finding is
1576 not made, the court shall suspend the sentence of imprisonment and
1577 impose a period of probation not exceeding one (1) year or a fine
1578 of not more than One Thousand Dollars (\$1,000.00).



1579 (b) Upon a second shoplifting conviction the defendant
1580 shall be guilty of a misdemeanor and fined not more than One
1581 Thousand Dollars (\$1,000.00) or punished by imprisonment in the
1582 county jail for a term not to exceed * * * one (1) year, or by
1583 both * * *, if the court finds substantial and compelling reasons
1584 why the offender cannot be safely and effectively supervised in
1585 the community, is not amenable to community-based treatment, or
1586 poses a significant risk to public safety. If such a finding is
1587 made, the finding shall be stated on the record at the time of
1588 sentencing.

1589 (6) Upon a third or subsequent shoplifting conviction the
1590 defendant shall be guilty of a felony and fined not more than Five
1591 Thousand Dollars (\$5,000.00), or imprisoned for a term not
1592 exceeding five (5) years, or by both such fine and imprisonment.

1593 (7) A person convicted of shoplifting merchandise for which
1594 the merchant's stated price exceeds * * * One Thousand Dollars
1595 (\$1,000.00) shall be guilty of a felony and, upon conviction,
1596 punished as provided in Section 97-17-41 for the offense of grand
1597 larceny.

1598 (8) In determining the number of prior shoplifting
1599 convictions for purposes of imposing punishment under this
1600 section, the court shall disregard all such convictions occurring
1601 more than seven (7) years prior to the shoplifting offense in
1602 question.



1603 (9) For the purpose of determining the gravity of the
1604 offense under subsection (7) of this section, the prosecutor may
1605 aggregate the value of merchandise shoplifted from three (3) or
1606 more separate mercantile establishments within the same legal
1607 jurisdiction over a period of thirty (30) or fewer days.

1608 **SECTION 31.** Section 97-23-94, Mississippi Code of 1972, is
1609 amended as follows:

1610 97-23-94. (1) In addition to any other offense and penalty
1611 provided by law, it shall be unlawful for any person eighteen (18)
1612 years of age or older to encourage, aid or abet any person under
1613 the age of eighteen (18) years to commit the crime of shoplifting
1614 as defined in Section 97-23-93. In addition to any other penalty
1615 provided by law, any person who violates this section shall be
1616 punished as follows:

1617 (a) Upon a first conviction the defendant shall be
1618 guilty of a misdemeanor and fined not more than Seven Hundred
1619 Fifty Dollars (\$750.00), or punished by imprisonment not to exceed
1620 thirty (30) days, or by both such fine and imprisonment.

1621 (b) Upon a second conviction the defendant shall be
1622 guilty of a misdemeanor and fined not more than One Thousand
1623 Dollars (\$1,000.00) or punished by imprisonment not to exceed
1624 ninety (90) days, or by both such fine and imprisonment.

1625 (c) Upon a third or subsequent conviction the defendant
1626 shall be guilty of a felony and fined One Thousand Dollars



1627 (\$1,000.00), or imprisoned for a term not exceeding * * * three
1628 (3) years, or by both such fine and imprisonment.

1629 (2) In addition to the penalties prescribed in subsection
1630 (1) of this section, the court is authorized to require the
1631 defendant to make restitution to the owner of the property where
1632 shoplifting occurred in an amount equal to twice the value of such
1633 property.

1634 **SECTION 32.** Section 97-45-3, Mississippi Code of 1972, is
1635 amended as follows:

1636 97-45-3. (1) Computer fraud is the accessing or causing to
1637 be accessed of any computer, computer system, computer network or
1638 any part thereof with the intent to:

1639 (a) Defraud;

1640 (b) Obtain money, property or services by means of
1641 false or fraudulent conduct, practices or representations; or
1642 through the false or fraudulent alteration, deletion or insertion
1643 of programs or data; or

1644 (c) Insert or attach or knowingly create the
1645 opportunity for an unknowing and unwanted insertion or attachment
1646 of a set of instructions or a computer program into a computer
1647 program, computer, computer system, or computer network, that is
1648 intended to acquire, alter, damage, delete, disrupt, or destroy
1649 property or otherwise use the services of a computer program,
1650 computer, computer system or computer network.



1651 (2) Whoever commits the offense of computer fraud shall be
1652 punished, upon conviction, by a fine of not more than One Thousand
1653 Dollars (\$1,000.00), or by imprisonment in the county jail for a
1654 term of * * * not more than * * * one (1) year, or by both * * *,
1655 if the court finds substantial and compelling reasons why the
1656 offender cannot be safely and effectively supervised in the
1657 community, is not amenable to community-based treatment, or poses
1658 a significant risk to public safety. If such a finding is not
1659 made, the court shall suspend the sentence of imprisonment and
1660 impose a period of probation not exceeding one (1) year or a fine
1661 of not more than One Thousand Dollars (\$1,000.00), or both. The
1662 total value of property taken, stolen or carried away by the
1663 person from a single victim shall be aggregated in determining the
1664 gravity of the offense. Any person convicted of a third or
1665 subsequent offense under this subsection where the value of the
1666 property is not less than Five Hundred Dollars (\$500.00), shall be
1667 imprisoned in the Penitentiary for a term not exceeding three (3)
1668 years or fined an amount not exceeding Two Thousand Dollars
1669 (\$2,000.00), or both.

1670 (3) * * * Whoever commits the offense of computer fraud when
1671 the damage or loss or attempted damage or loss amounts to a value
1672 of * * * One Thousand Dollars (\$1,000.00) but less than Five
1673 Thousand Dollars (\$5,000.00), the offender may be punished, upon
1674 conviction, by a fine of not more than Ten Thousand Dollars



1675 (\$10,000.00) or by imprisonment for not more than five (5) years,
1676 or by both such fine and imprisonment.

1677 (4) Whoever commits the offense of computer fraud when the
1678 damage or loss or attempted damage or loss amounts to a value of
1679 Five Thousand Dollars (\$5,000.00) or more, but less than
1680 Twenty-five Thousand Dollars (\$25,000.00), the offender may be
1681 punished, upon conviction, by a fine of not more than Ten Thousand
1682 Dollars (\$10,000.00) or by imprisonment for not more than ten (10)
1683 years, or by both such fine and imprisonment.

1684 (5) Whoever commits the offense of computer fraud when the
1685 damage or loss or attempted damage or loss amounts to a value of
1686 Twenty-five Thousand Dollars (\$25.000.00) or more, the offender
1687 may be punished, upon conviction, by a fine of not more than Ten
1688 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
1689 twenty (20) years, or by both such fine and imprisonment.

1690 (* * *6) The definition of the term "computer network"
1691 includes the Internet, as defined in Section 230 of Title II of
1692 the Communications Act of 1934, Chapter 652, 110 Stat. 137,
1693 codified at 47 USCS 230.

1694 **SECTION 33.** Section 97-45-5, Mississippi Code of 1972, is
1695 amended as follows:

1696 97-45-5. (1) An offense against computer users is the
1697 intentional:



1698 (a) Denial to an authorized user, without consent, of
1699 the full and effective use of or access to a computer, a computer
1700 system, a computer network or computer services; or

1701 (b) Use or disclosure to another, without consent, of
1702 the numbers, codes, passwords or other means of access to a
1703 computer, a computer system, a computer network or computer
1704 services.

1705 (2) Whoever commits an offense against computer users shall
1706 be punished, upon conviction, by a fine of not more than One
1707 Thousand Dollars (\$1,000.00), or by imprisonment in the county
1708 jail for a term of * * * not more than * * * one (1) year, or by
1709 both * * *, if the court finds substantial and compelling reasons
1710 why the offender cannot be safely and effectively supervised in
1711 the community, is not amenable to community-based treatment, or
1712 poses a significant risk to public safety. If such a finding is
1713 not made, the court shall suspend the sentence of imprisonment and
1714 impose a period of probation not exceeding one (1) year or a fine
1715 of not more than One Thousand Dollars (\$1,000.00), or both. The
1716 total value of property taken, stolen or carried away by the
1717 person from a single victim shall be aggregated in determining the
1718 gravity of the offense. Any person convicted of a third or
1719 subsequent offense under this subsection where the value of the
1720 property is not less than Five Hundred Dollars (\$500.00), shall be
1721 imprisoned in the Penitentiary for a term not exceeding three (3)



1722 years or fined an amount not exceeding One Thousand Dollars
1723 (\$1,000.00), or both.

1724 (3) * * * Whoever commits an offense against computer users
1725 when the damage or loss amounts to a value of * * * One Thousand
1726 Dollars (\$1,000.00) or more but less than Five Thousand Dollars
1727 (\$5,000.00), * * * may be punished, upon conviction, by a fine of
1728 not more than Ten Thousand Dollars (\$10,000.00), or imprisonment
1729 for not more than five (5) years, or by both such fine and
1730 imprisonment.

1731 (4) Whoever commits an offense against computer users when
1732 the damage or loss amounts to a value of Five Thousand Dollars
1733 (\$5,000.00) or more, but less than Twenty-five Thousand Dollars
1734 (\$25,000.00), may be punished, upon conviction, by a fine of not
1735 more than Ten Thousand Dollars (\$10,000.00), or imprisonment for
1736 not more than ten (10) years, or by both such fine and
1737 imprisonment.

1738 (5) Whoever commits an offense against computer users when
1739 the damage or loss amounts to a value of Twenty-five Thousand
1740 Dollars (\$25,000.00) or more, may be punished, upon conviction, by
1741 a fine of not more than Ten Thousand Dollars (\$10,000.00), or
1742 imprisonment for not more than twenty-five (25) years, or by both
1743 such fine and imprisonment.

1744 **SECTION 34.** Section 97-45-7, Mississippi Code of 1972, is
1745 amended as follows:



1746 97-45-7. (1) An offense against computer equipment or
1747 supplies is the intentional modification or destruction, without
1748 consent, of computer equipment or supplies used or intended to be
1749 used in a computer, computer system or computer network.

1750 (2) Whoever commits an offense against computer equipment or
1751 supplies shall be punished, upon conviction, by a fine of not more
1752 than One Thousand Dollars (\$1,000.00), or by imprisonment in the
1753 county jail for a term of * * * not more than * * * one (1) year,
1754 or both * * *, if the court finds substantial and compelling
1755 reasons why the offender cannot be safely and effectively
1756 supervised in the community, is not amenable to community-based
1757 treatment, or poses a significant risk to public safety. If such
1758 a finding is not made, the court shall suspend the sentence of
1759 imprisonment and impose a period of probation not exceeding one
1760 (1) year or a fine of not more than One Thousand Dollars
1761 (\$1,000.00), or both. The total value of property taken, stolen
1762 or carried away by the person from a single victim shall be
1763 aggregated in determining the gravity of the offense. Any person
1764 convicted of a third or subsequent offense under this subsection
1765 where the value of the property is not less than Five Hundred
1766 Dollars (\$500.00), shall be imprisoned in the Penitentiary for a
1767 term not exceeding three (3) years or fined an amount not
1768 exceeding One Thousand Dollars (\$1,000.00), or both.

1769 (3) * * * Whoever commits an offense against computer
1770 equipment or supplies when the damage or loss amounts to a value



1771 of * * * One Thousand Dollars (\$1,000.00) or more but less than
1772 Five Thousand Dollars (\$5,000.00), * * * may be punished, upon
1773 conviction, by a fine of not more than Ten Thousand Dollars
1774 (\$10,000.00) or by imprisonment for not more than five (5) years,
1775 or by both such fine and imprisonment.

1776 (4) Whoever commits an offense against computer equipment or
1777 supplies when the damage or loss amounts to a value of Five
1778 Thousand Dollars (\$5,000.00) or more, but less than Twenty-five
1779 Thousand Dollars (\$25,000.00), may be punished, upon conviction,
1780 by a fine of not more than Ten Thousand Dollars (\$10,000.00) or by
1781 imprisonment for not more than ten (10) years, or by both such
1782 fine and imprisonment.

1783 (5) Whoever commits an offense against computer equipment or
1784 supplies when the damage or loss amounts to a value of Twenty-five
1785 Thousand Dollars (\$25,000.00) or more, may be punished, upon
1786 conviction, by a fine of not more than Ten Thousand Dollars
1787 (\$10,000.00) or by imprisonment for not more than twenty (20)
1788 years, or by both such fine and imprisonment.

1789 **SECTION 35.** Section 97-45-9, Mississippi Code of 1972, is
1790 amended as follows:

1791 97-45-9. (1) An offense against intellectual property is
1792 the intentional:

1793 (a) Destruction, insertion or modification, without
1794 consent, of intellectual property; or



1795 (b) Disclosure, use, copying, taking or accessing,
1796 without consent, of intellectual property.

1797 (2) Whoever commits an offense against intellectual property
1798 shall be punished, upon conviction, by a fine of not more than One
1799 Thousand Dollars (\$1,000.00), or by imprisonment in the county
1800 jail for not more than * * * one (1) year, or by both * * *, if
1801 the court finds substantial and compelling reasons why the
1802 offender cannot be safely and effectively supervised in the
1803 community, is not amenable to community-based treatment, or poses
1804 a significant risk to public safety. If such a finding is not
1805 made, the court shall suspend the sentence of imprisonment and
1806 impose a period of probation not exceeding one (1) year or a fine
1807 of not more than One Thousand Dollars (\$1,000.00), or both. The
1808 total value of property taken, stolen or carried away by the
1809 person from a single victim shall be aggregated in determining the
1810 gravity of the offense. Any person convicted of a third or
1811 subsequent offense under this subsection where the value of the
1812 property is not less than Five Hundred Dollars (\$500.00), shall be
1813 imprisoned in the Penitentiary for a term not exceeding three (3)
1814 years or fined an amount not exceeding One Thousand Dollars
1815 (\$1,000.00), or by both.

1816 (3) * * * Whoever commits an offense against intellectual
1817 property when the damage or loss amounts to a value of * * * One
1818 Thousand Dollars (\$1,000.00) or more but less than Five Thousand
1819 Dollars (\$5,000.00), the offender may be punished, upon



1820 conviction, by a fine of not more than Ten Thousand Dollars
1821 (\$10,000.00) or by imprisonment for not more than five (5) years,
1822 or by both such fine and imprisonment.

1823 (4) Whoever commits an offense against intellectual property
1824 when the damage or loss amounts to a value of Five Thousand
1825 Dollars (\$5,000.00) or more, but less than Twenty-five Thousand
1826 Dollars (\$25,000.00), may be punished, upon conviction, by a fine
1827 of not more than Ten Thousand Dollars (\$10,000.00) or by
1828 imprisonment for not more than ten (10) years, or by both such
1829 fine and imprisonment.

1830 (5) Whoever commits an offense against intellectual property
1831 when the damage or loss amounts to a value of Twenty-five Thousand
1832 Dollars (\$25,000.00) or more, may be punished, upon conviction, by
1833 a fine of not more than Ten Thousand Dollars (\$10,000.00) or by
1834 imprisonment for not more than twenty (20) years, or by both such
1835 fine and imprisonment.

1836 (* * *6) The provisions of this section shall not apply to
1837 the disclosure, use, copying, taking, or accessing by proper means
1838 as defined in this chapter.

1839 **SECTION 36.** Section 97-45-19, Mississippi Code of 1972, is
1840 brought forward as follows:

1841 97-45-19. (1) A person shall not obtain or attempt to
1842 obtain personal identity information of another person with the
1843 intent to unlawfully use that information for any of the following
1844 purposes without that person's authorization:



1845 (a) To obtain financial credit.

1846 (b) To purchase or otherwise obtain or lease any real

1847 or personal property.

1848 (c) To obtain employment.

1849 (d) To obtain access to medical records or information

1850 contained in medical records.

1851 (e) To commit any illegal act.

1852 (2) (a) A person who violates this section is guilty of a

1853 felony punishable by imprisonment for not less than two (2) nor

1854 more than fifteen (15) years or a fine of not more than Ten

1855 Thousand Dollars (\$10,000.00), or both.

1856 (b) Notwithstanding the provisions of paragraph (a) of

1857 this subsection (2), if the violation involves an amount of less

1858 than Two Hundred Fifty Dollars (\$250.00), a person who violates

1859 this section may be found guilty of a misdemeanor punishable by

1860 imprisonment in the county jail for a term of not more than six

1861 (6) months, or by a fine of not more than One Thousand Dollars

1862 (\$1,000.00), or both, in the discretion of the court.

1863 (c) For purposes of determining the amount of the

1864 violation, the value of all goods, property, services and other

1865 things of value obtained or attempted to be obtained by the use of

1866 an individual's identity information shall be aggregated.

1867 (3) This section does not prohibit the person from being

1868 charged with, convicted of, or sentenced for any other violation



1869 of law committed by that person using information obtained in
1870 violation of this section.

1871 (4) This section does not apply to a person who obtains or
1872 attempts to obtain personal identity information of another person
1873 pursuant to the discovery process of a civil action, an
1874 administrative proceeding or an arbitration proceeding.

1875 (5) Upon the request of a person whose identifying
1876 information was appropriated, the Attorney General may provide
1877 assistance to the victim in obtaining information to correct
1878 inaccuracies or errors in the person's credit report or other
1879 identifying information; however, no legal representation shall be
1880 afforded such person by the Office of the Attorney General.

1881 (6) A person convicted under this section or under Section
1882 97-19-85 shall be ordered to pay restitution as provided in
1883 Section 99-37-1 et seq., and any legal interest in addition to any
1884 other fine or imprisonment which may be imposed.

1885 **SECTION 37.** Section 97-43-5, Mississippi Code of 1972, is
1886 brought forward as follows:

1887 97-43-5. (1) It is unlawful for any person who has with
1888 criminal intent received any proceeds derived, directly or
1889 indirectly, from a pattern of racketeering activity or through the
1890 collection of an unlawful debt to use or invest, whether directly
1891 or indirectly, any part of such proceeds or the proceeds derived
1892 from the investment or use thereof, in the acquisition of any



1893 title to, or any right, interest, or equity in, real property or
1894 in the establishment or operation of any enterprise.

1895 (2) It is unlawful for any person, through a pattern of
1896 racketeering activity or through the collection of an unlawful
1897 debt, to acquire or maintain, directly or indirectly, any interest
1898 in or control of any enterprise or real property.

1899 (3) It is unlawful for any person employed by, or associated
1900 with, any enterprise to conduct or participate, directly or
1901 indirectly, in such enterprise through a pattern of racketeering
1902 activity or the collection of an unlawful debt.

1903 (4) It is unlawful for any person to conspire to violate any
1904 of the provisions of subsections (1), (2) or (3) of this section.

1905 **SECTION 38.** Section 41-29-139, Mississippi Code of 1972, is
1906 amended as follows:

1907 41-29-139. (a) Except as authorized by this article, it is
1908 unlawful for any person knowingly or intentionally:

1909 (1) To sell, barter, transfer, manufacture, distribute,
1910 dispense or possess with intent to sell, barter, transfer,
1911 manufacture, distribute or dispense, a controlled substance; or

1912 (2) To create, sell, barter, transfer, distribute,
1913 dispense or possess with intent to create, sell, barter, transfer,
1914 distribute or dispense, a counterfeit substance.

1915 (b) Except as otherwise provided in * * * Section 41-29-142,
1916 any person who violates subsection (a) of this section in the
1917 following amounts shall be, if convicted, sentenced as follows:



1918 (1) In the case of controlled substances classified in
1919 Schedule I or II, as set out in Sections 41-29-113 and 41-29-115,
1920 except thirty (30) grams or less of marijuana or synthetic
1921 cannabinoids, and except a first offender as defined in Section
1922 41-29-149(e) who violates subsection (a) of this section with
1923 respect to less than one (1) kilogram but more than thirty (30)
1924 grams of marijuana or synthetic cannabinoids, such person may,
1925 upon conviction * * * for an amount of the controlled substance
1926 of:

1927 (A) Less than two (2) grams or ten (10) dosage
1928 units, be imprisoned for not more than five (5) years or fined not
1929 more than Fifty Thousand Dollars (\$50,000.00), or both;

1930 (B) Two (2) grams or ten (10) dosage units or more
1931 but less than ten (10) grams or twenty (20) dosage units, be
1932 imprisoned for not less than three (3) years nor more than twenty
1933 (20) years or fined not more than Two Hundred Fifty Thousand
1934 Dollars (\$ 250,000.00), or both;

1935 (C) Ten (10) grams or twenty (20) dosage units or
1936 more but less than thirty (30) grams or forty (40) dosage units,
1937 be imprisoned for not less five (5) years nor more than thirty
1938 (30) years or fined not more than Five Hundred Thousand Dollars
1939 (\$500,000.00).

1940 (2) In the case of a first offender who violates
1941 subsection (a) of this section with an amount less than one (1)
1942 kilogram but more than thirty (30) grams of marijuana or synthetic



1943 cannabinoids as classified in Schedule I, as set out in Section
1944 41-29-113, such person is guilty of a felony and, upon conviction,
1945 may be imprisoned for not more than * * * five (5) years or fined
1946 not more than Thirty Thousand Dollars (\$30,000.00), or both;
1947 (3) In the case of thirty (30) grams or less of
1948 marijuana or synthetic cannabinoids, such person may, upon
1949 conviction, be imprisoned for not more than three (3) years or
1950 fined not more than Three Thousand Dollars (\$3,000.00), or both;
1951 (4) In the case of controlled substances classified in
1952 Schedules III and IV, as set out in Sections 41-29-117 and
1953 41-29-119, such person may, upon conviction * * * for an amount of
1954 the controlled substance of:
1955 (A) Less than two (2) grams or ten (10) dosage
1956 units, be imprisoned for not more than two (2) years or fined not
1957 more than Five Thousand Dollars (\$5,000.00), or both;
1958 (B) Two (2) grams or ten (10) dosage units or more
1959 but less than ten (10) grams or twenty (20) dosage units, be
1960 imprisoned for not more than eight (8) years or fined not more
1961 than Fifty Thousand Dollars (\$50,000.00), or both;
1962 (C) Ten grams (10) or twenty (20) dosage units or
1963 more but less than thirty (30) grams or forty (40) dosage units,
1964 be imprisoned for not more than fifteen (15) years or fined not
1965 more than One Hundred Thousand Dollars (\$100,000.00).



1966 (5) In the case of controlled substances classified in
1967 Schedule V, as set out in Section 41-29-121, such person may, upon
1968 conviction * * * for an amount of the controlled substance of:
1969 (A) Less than two (2) grams or ten (10) dosage
1970 units, be imprisoned for not more than one (1) year or fined not
1971 more than One Thousand Dollars (\$1,000.00), or both;
1972 (B) Two (2) grams or ten (10) dosage units or more
1973 but less than ten (10) grams or twenty (20) dosage units, be
1974 imprisoned for not more than five years (5) years or fined not
1975 more than Ten Thousand Dollars (\$10,000.00), or both;
1976 (C) Ten grams (10) or twenty (20) dosage units or
1977 more but less than thirty (30) grams or forty (40) dosage units,
1978 be imprisoned for not more than ten (10) years or fined not more
1979 than Twenty Thousand Dollars (\$20,000.00).
1980 (c) It is unlawful for any person knowingly or intentionally
1981 to possess any controlled substance unless the substance was
1982 obtained directly from, or pursuant to, a valid prescription or
1983 order of a practitioner while acting in the course of his
1984 professional practice, or except as otherwise authorized by this
1985 article. The penalties for any violation of this subsection (c)
1986 with respect to a controlled substance classified in Schedule I,
1987 II, III, IV or V, as set out in Section 41-29-113, 41-29-115,
1988 41-29-117, 41-29-119 or 41-29-121, including marijuana or
1989 synthetic cannabinoids, shall be based on dosage unit as defined



1990 herein or the weight of the controlled substance as set forth
1991 herein as appropriate:

1992 "Dosage unit (d.u.)" means a tablet or capsule, or in the
1993 case of a liquid solution, one (1) milliliter. In the case of
1994 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
1995 stamp, square, dot, microdot, tablet or capsule of a controlled
1996 substance.

1997 For any controlled substance that does not fall within the
1998 definition of the term "dosage unit," the penalties shall be based
1999 upon the weight of the controlled substance.

2000 The weight set forth refers to the entire weight of any
2001 mixture or substance containing a detectable amount of the
2002 controlled substance.

2003 If a mixture or substance contains more than one (1)
2004 controlled substance, the weight of the mixture or substance is
2005 assigned to the controlled substance that results in the greater
2006 punishment.

2007 Any person who violates this subsection with respect to:

2008 (1) A controlled substance classified in Schedule I or
2009 II, except marijuana or synthetic cannabinoids, in the following
2010 amounts shall be charged and sentenced as follows:

2011 (A) Less than one-tenth (0.1) gram or * * * two
2012 (2) dosage units * * * shall be charged as a misdemeanor * * *
2013 and, upon conviction, may be imprisoned * * * for up to one (1)



2014 year * * * or fined not more than One Thousand Dollars
2015 (\$1,000.00), or both.

2016 (B) One-tenth (0.1) gram or two (2) dosage units
2017 or more but less than two (2) grams or * * * ten (10) dosage
2018 units, * * * may be imprisoned for not * * * more than * * * three
2019 (3) years * * * or a fine of not more than Fifty Thousand Dollars
2020 (\$50,000.00), or both.

2021 (C) Two (2) grams or ten (10) dosage units or more
2022 but less than ten (10) grams or * * * twenty (20) dosage
2023 units, * * * may be imprisoned for not * * * more than * * * eight
2024 (8) years and * * * fined not more than Two Hundred Fifty Thousand
2025 Dollars (\$250,000.00), or both.

2026 (D) Ten (10) grams or twenty (20) dosage units or
2027 more but less than thirty (30) grams or * * * forty (40) dosage
2028 units, * * * may be imprisoned for not less than * * * three (3)
2029 years nor more than * * * twenty (20) years and * * * fined not2030 more than Five Hundred Thousand Dollars (\$500,000.00), or both.

2031 * * *

2032 (2) Marijuana or synthetic cannabinoids in
2033 the following amounts shall be charged and sentenced as follows:

2034 (A) Thirty (30) grams or less by a fine of not
2035 less than One Hundred Dollars (\$100.00) nor more than Two Hundred
2036 Fifty Dollars (\$250.00). The provisions of this paragraph shall
2037 be enforceable by summons, provided the offender provides proof of
2038 identity satisfactory to the arresting officer and gives written



2039 promise to appear in court satisfactory to the arresting officer,
2040 as directed by the summons. A second conviction under this
2041 section within two (2) years shall be punished by a fine of Two
2042 Hundred Fifty Dollars (\$250.00) and not less than five (5) days
2043 nor more than sixty (60) days in the county jail and mandatory
2044 participation in a drug education program, approved by the
2045 Division of Alcohol and Drug Abuse of the State Department of
2046 Mental Health, unless the court enters a written finding that such
2047 drug education program is inappropriate. A third or subsequent
2048 conviction under this section within two (2) years is a
2049 misdemeanor punishable by a fine of not less than Two Hundred
2050 Fifty Dollars (\$250.00) nor more than Five Hundred Dollars
2051 (\$500.00) and confinement for not less than five (5) days nor more
2052 than six (6) months in the county jail. Upon a first or second
2053 conviction under this section, the courts shall forward a report
2054 of such conviction to the Mississippi Bureau of Narcotics which
2055 shall make and maintain a private, nonpublic record for a period
2056 not to exceed two (2) years from the date of conviction. The
2057 private, nonpublic record shall be solely for the use of the
2058 courts in determining the penalties which attach upon conviction
2059 under this section and shall not constitute a criminal record for
2060 the purpose of private or administrative inquiry and the record of
2061 each conviction shall be expunged at the end of the period of two
2062 (2) years following the date of such conviction;



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



2087 (E) Five hundred (500) grams but less than one (1)
2088 kilogram, by imprisonment for not less than four (4) years nor
2089 more than sixteen (16) years * * * or a fine of less than Two
2090 Hundred Fifty Thousand Dollars (\$250,000.00), or both;
2091 (F) One (1) kilogram but less than five (5)
2092 kilograms, by imprisonment for not less than six (6) years nor
2093 more than twenty-four (24) years * * * or a fine of not more than
2094 Five Hundred Thousand Dollars (\$500,000.00), or both;
2095 (G) Five (5) kilograms or more, by imprisonment
2096 for not less than ten (10) years nor more than thirty (30)
2097 years * * * or a fine of not more than One Million Dollars
2098 (\$1,000,000.00), or both.
2099 (3) A controlled substance classified in Schedule III,
2100 IV or V as set out in Sections 41-29-117 through 41-29-121, upon
2101 conviction, may be punished as follows:
2102 (A) Less than fifty (50) grams or less than one
2103 hundred (100) dosage units is a misdemeanor and punishable by not
2104 more than one (1) year * * * or a fine of not more than One
2105 Thousand Dollars (\$1,000.00), or both.
2106 (B) Fifty (50) grams or one hundred (100) dosage
2107 units or more but less than one hundred fifty (150) grams or * * *
2108 five hundred (500) dosage units, by imprisonment for not less than
2109 one (1) year nor more than four (4) years * * * or a fine of not
2110 more than Ten Thousand Dollars (\$10,000.00), or both.



2111 (C) One hundred fifty (150) grams or Five Hundred
2112 (500) dosage units but less than three hundred (300) grams
2113 or * * * one thousand (1,000) dosage units, by imprisonment for
2114 not less than two (2) years nor more than eight (8) years * * * or
2115 a fine of not more than Fifty Thousand Dollars (\$50,000.00), or
2116 both.

2123 * * *

2124 (d) (1) It is unlawful for a person who is not authorized
2125 by the State Board of Medical Licensure, State Board of Pharmacy,
2126 or other lawful authority to use, or to possess with intent to
2127 use, paraphernalia to plant, propagate, cultivate, grow, harvest,
2128 manufacture, compound, convert, produce, process, prepare, test,
2129 analyze, pack, repack, store, contain, conceal, inject, ingest,
2130 inhale or otherwise introduce into the human body a controlled
2131 substance in violation of the Uniform Controlled Substances Law.
2132 Any person who violates this subsection is guilty of a misdemeanor
2133 and, upon conviction, may be confined in the county jail for not
2134 more than six (6) months, or fined not more than Five Hundred
2135 Dollars (\$500.00), or both; however, no person shall be charged

2136 with a violation of this subsection when such person is also
2137 charged with the possession of one (1) ounce or less of marijuana
2138 or synthetic cannabinoids under subsection (c) (2) (A) of this
2139 section.

2140 (2) It is unlawful for any person to deliver, sell,
2141 possess with intent to deliver or sell, or manufacture with intent
2142 to deliver or sell, paraphernalia, knowing, or under circumstances
2143 where one reasonably should know, that it will be used to plant,
2144 propagate, cultivate, grow, harvest, manufacture, compound,
2145 convert, produce, process, prepare, test, analyze, pack, repack,
2146 store, contain, conceal, inject, ingest, inhale, or otherwise
2147 introduce into the human body a controlled substance in violation
2148 of the Uniform Controlled Substances Law. Any person who violates
2149 this subsection is guilty of a misdemeanor and, upon conviction,
2150 may be confined in the county jail for not more than six (6)
2151 months, or fined not more than Five Hundred Dollars (\$500.00), or
2152 both.

2153 (3) Any person eighteen (18) years of age or over who
2154 violates subsection (d) (2) of this section by delivering or
2155 selling paraphernalia to a person under eighteen (18) years of age
2156 who is at least three (3) years his junior is guilty of a
2157 misdemeanor and, upon conviction, may be confined in the county
2158 jail for not more than one (1) year, or fined not more than One
2159 Thousand Dollars (\$1,000.00), or both.



2160 (4) It is unlawful for any person to place in any
2161 newspaper, magazine, handbill, or other publication any
2162 advertisement, knowing, or under circumstances where one
2163 reasonably should know, that the purpose of the advertisement, in
2164 whole or in part, is to promote the sale of objects designed or
2165 intended for use as paraphernalia. Any person who violates this
2166 subsection is guilty of a misdemeanor and, upon conviction, may be
2167 confined in the county jail for not more than six (6) months, or
2168 fined not more than Five Hundred Dollars (\$500.00), or both.

2169 (e) It shall be unlawful for any physician practicing
2170 medicine in this state to prescribe, dispense or administer any
2171 amphetamine or amphetamine-like anorectics and/or central nervous
2172 system stimulants classified in Schedule II, pursuant to Section
2173 41-29-115, for the exclusive treatment of obesity, weight control
2174 or weight loss. Any person who violates this subsection, upon
2175 conviction, is guilty of a misdemeanor and may be confined for a
2176 period not to exceed six (6) months, or fined not more than One
2177 Thousand Dollars (\$1,000.00), or both.

2178 * * *

2179 (* * *f) (1) Any person trafficking in controlled
2180 substances shall be guilty of a felony and, upon conviction, shall
2181 be imprisoned for a term of * * * not less than ten (10) years nor
2182 more than forty (40) years * * * . The ten-year mandatory
2183 sentence shall not be reduced or suspended * * * . The person
2184 shall not be eligible for probation or parole, the provisions of



2185 Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33, Mississippi Code
2186 of 1972, to the contrary notwithstanding during the sentence and
2187 shall be fined not less than Five Thousand Dollars (\$5,000.00) nor
2188 more than One Million Dollars (\$1,000,000.00).

2189 (2) "Trafficking in controlled substances" as used
2190 herein means: * * *

2191 (A) A violation of subsection (a) of this section
2192 involving thirty (30) grams or forty (40) dosage units or more of
2193 a Schedule I or II substance except marijuana;

2194 (B) Five hundred (500) grams or two thousand five
2195 hundred (2,500) dosage units of a Schedule III, IV or V substance;
2196 or

2197 (C) A violation of subsection (c) of this section
2198 involving thirty (30) grams or forty (40) dosage units or more of
2199 a Schedule I or II substance except marijuana;

2200 (3) * * * The provisions of this subsection shall not
2201 apply to any person who furnishes information and assistance to
2202 the bureau, or its designee, which, in the opinion of the trial
2203 judge objectively should or would have aided in the arrest or
2204 prosecution of others who violate this subsection. The accused
2205 shall have adequate opportunity to develop and make a record of
2206 all information and assistance so furnished.

2207 (g) Any person trafficking in Schedule I or II substances,
2208 except marijuana, of two hundred (200) grams or more shall be
2209 guilty of aggravated trafficking and, upon conviction, shall be



2210 sentenced to a term of not less than twenty-five (25) years nor
2211 more than life in prison. The twenty-five-years sentence shall be
2212 a mandatory sentence and shall not be reduced or suspended. The
2213 person shall not be eligible for probation or parole, the
2214 provisions of Sections 41-29-149, 47-5-139, 47-7-3 and 47-7-33,
2215 Mississippi Code of 1972, to the contrary notwithstanding during
2216 the sentence and shall be fined not less than Five Thousand
2217 Dollars (\$5,000.00) nor more than One Million Dollars
2218 (\$1,000,000.00).

2219 (h) (1) Notwithstanding any provision of this section, a
2220 person who has been convicted of an offense under this section
2221 that requires the judge to impose a prison sentence which cannot
2222 be suspended or reduced and is ineligible for probation or parole
2223 may, at the discretion of the court, receive a sentence of
2224 imprisonment that is no less than twenty-five (25) percent of the
2225 sentence prescribed by the applicable statute. In considering
2226 whether to apply the departure from the sentence prescribed, the
2227 court shall conclude that:

2228 (A) The offender was not a leader of the criminal
2229 enterprise;
2230 (B) The offender did not use violence or a weapon
2231 during the crime;
2232 (C) The offense did not result in a death or
2233 serious bodily injury of a person not a party to the criminal
2234 enterprise; and



2235 (D) The interests of justice are not served by the
2236 imposition of the prescribed mandatory sentence.

2237 (2) If the court reduces the prescribed sentence
2238 pursuant to this subsection, it must specify on the record the
2239 circumstances warranting the departure.

2240 **SECTION 39.** Section 41-29-313, Mississippi Code of 1972, is
2241 amended as follows:

2242 41-29-313. (1) (a) Except as authorized in this section,
2243 it is unlawful for any person to knowingly or intentionally:

2244 (i) Purchase, possess, transfer, manufacture,
2245 attempt to manufacture or distribute any two (2) or more of the
2246 listed precursor chemicals or drugs in any amount with the intent
2247 to unlawfully manufacture a controlled substance;

2248 (ii) Purchase, possess, transfer, manufacture,
2249 attempt to manufacture or distribute any two (2) or more of the
2250 listed precursor chemicals or drugs in any amount, knowing, or
2251 under circumstances where one reasonably should know, that the
2252 listed precursor chemical or drug will be used to unlawfully
2253 manufacture a controlled substance;

2254 (b) The term "precursor drug or chemical" means a drug
2255 or chemical that, in addition to legitimate uses, may be used in
2256 manufacturing a controlled substance in violation of this chapter.
2257 The term includes any salt, optical isomer or salt of an optical
2258 isomer, whenever the existence of a salt, optical isomer or salt
2259 of optical isomer is possible within the specific chemical



2260 designation. The chemicals or drugs listed in this section are
2261 included by whatever official, common, usual, chemical or trade
2262 name designated. A "precursor drug or chemical" includes, but is
2263 not limited to, the following:

- 2264 (i) Ether;
- 2265 (ii) Anhydrous ammonia;
- 2266 (iii) Ammonium nitrate;
- 2267 (iv) Pseudoephedrine;
- 2268 (v) Ephedrine;
- 2269 (vi) Denatured alcohol (Ethanol);
- 2270 (vii) Lithium;
- 2271 (viii) Freon;
- 2272 (ix) Hydrochloric acid;
- 2273 (x) Hydriodic acid;
- 2274 (xi) Red phosphorous;
- 2275 (xii) Iodine;
- 2276 (xiii) Sodium metal;
- 2277 (xiv) Sodium hydroxide;
- 2278 (xv) Muriatic acid;
- 2279 (xvi) Sulfuric acid;
- 2280 (xvii) Hydrogen chloride gas;
- 2281 (xviii) Potassium;
- 2282 (xix) Methanol;
- 2283 (xx) Isopropyl alcohol;
- 2284 (xxi) Hydrogen peroxide;



2285 (xxii) Hexanes;
2286 (xxiii) Heptanes;
2287 (xxiv) Acetone;
2288 (xxv) Toluene;
2289 (xxvi) Xylenes.

2290 (c) Any person who violates this subsection (1), upon
2291 conviction, is guilty of a felony and may be imprisoned for a
2292 period not to exceed * * * five (5) years and shall be fined not
2293 less than Five Thousand Dollars (\$5,000.00) nor more than * * *
2294 Fifty Thousand Dollars (\$50,000.00), or both * * *.

2295 (d) Any person who violates this subsection (1) while
2296 also in possession of two (2) grams or less of a controlled
2297 substance that can be manufactured by using the precursor drugs or
2298 chemicals, upon conviction, is guilty of a felony and may be
2299 imprisoned for a period not to exceed eight (8) years or a fine of
2300 not less than Fifty Thousand Dollars (\$50,000.00), or both.

2301 (e) Any person who violates this subsection (1) while
2302 also in possession of more than two (2) grams but less than ten
2303 (10) grams of a controlled substance that can be manufactured by
2304 using the precursor drugs or chemicals, upon conviction, is guilty
2305 of a felony and may be imprisoned for a period not to exceed ten
2306 (10) years or a fine of not less than Fifty Thousand Dollars
2307 (\$50,000.00), or both.

2308 (f) Any person who violates this subsection (1) while
2309 also in possession of more than ten (10) grams but less than



2310 thirty (30) grams of a controlled substance that can be
2311 manufactured by using the precursor drugs or chemicals, upon
2312 conviction, is guilty of a felony and may be imprisoned for a
2313 period no less than three (3) years nor more than twenty (20)
2314 years or a fine of not less than Two Hundred Fifty Thousand
2315 Dollars (\$250,000.00), or both.

2316 (g) Any person who violates this subsection (1) while
2317 also in possession of a quantity of more than thirty (30) grams of
2318 a controlled substance that can be manufactured by using the
2319 precursor drugs or chemicals, upon conviction, is guilty of a
2320 felony and may be imprisoned for a period no less than three (3)
2321 years nor more than twenty (20) years or a fine of not less than
2322 Two Hundred Fifty Thousand Dollars (\$250,000.00), or both.

2323 (2) (a) It is unlawful for any person to knowingly or
2324 intentionally steal or unlawfully take or carry away any amount of
2325 anhydrous ammonia or to break, cut, or in any manner damage the
2326 valve or locking mechanism on an anhydrous ammonia tank with the
2327 intent to steal or unlawfully take or carry away anhydrous
2328 ammonia.

2329 (b) (i) It is unlawful for any person to purchase,
2330 possess, transfer or distribute any amount of anhydrous ammonia
2331 knowing, or under circumstances where one reasonably should know,
2332 that the anhydrous ammonia will be used to unlawfully manufacture
2333 a controlled substance.



2339 (c) (i) It is unlawful for any person to purchase,
2340 possess, transfer or distribute two hundred fifty (250) dosage
2341 units or fifteen (15) grams in weight (dosage unit and weight as
2342 defined in Section 41-29-139) of pseudoephedrine or ephedrine,
2343 knowing, or under circumstances where one reasonably should know,
2344 that the pseudoephedrine or ephedrine will be used to unlawfully
2345 manufacture a controlled substance.

2354 1. A retail distributor of the drug products
2355 described in this subparagraph possessing a valid business license
2356 or wholesaler:

2357 2. A wholesale drug distributor, or its
2358 agents, licensed by the Mississippi State Board of Pharmacy;



2359 3. A manufacturer of drug products described
2360 in this subparagraph, or its agents, licensed by the Mississippi
2361 State Board of Pharmacy;

2362 4. A pharmacist licensed by the Mississippi
2363 State Board of Pharmacy; or

2364 5. A licensed health care professional
2365 possessing the drug products described in this subparagraph (ii)
2366 in the course of carrying out his profession.

2367 (d) Any person who violates this subsection (2), upon
2368 conviction, is guilty of a felony and may be imprisoned for a
2369 period not to exceed five (5) years and shall be fined not more
2370 than Five Thousand Dollars (\$5,000.00), or both fine and
2371 imprisonment.

2372 (3) Nothing in this section shall preclude any farmer from
2373 storing or using any of the listed precursor drugs or chemicals
2374 listed in this section in the normal pursuit of farming
2375 operations.

2376 (4) Nothing in this section shall preclude any wholesaler,
2377 retailer or pharmacist from possessing or selling the listed
2378 precursor drugs or chemicals in the normal pursuit of business.

2379 (5) Any person who violates the provisions of this section
2380 with children under the age of eighteen (18) years present may be
2381 subject to a term of imprisonment or a fine, or both, of twice
2382 that provided in this section.



2383 (6) Any person who violates the provisions of this section
2384 when the offense occurs in any hotel or apartment building or
2385 complex may be subject to a term of imprisonment or a fine, or
2386 both, of twice that provided in this section. For the purposes of
2387 this subsection (6), the following terms shall have the meanings
2388 ascribed to them:

2389 (a) "Hotel" means a hotel, inn, motel, tourist court,
2390 apartment house, rooming house or any other place where sleeping
2391 accommodations are furnished or offered for pay if four (4) or
2392 more rooms are available for transient guests.

2393 (b) "Apartment building" means any building having four
2394 (4) or more dwelling units, including, without limitation, a
2395 condominium building.

2396 (7) Any person who violates the provisions of this section
2397 who has in his possession any firearm, either at the time of the
2398 commission of the offense or at the time any arrest is made, may
2399 be subject to a term of imprisonment or a fine, or both, of twice
2400 that provided in this section.

2401 (8) Any person who violates the provisions of this section
2402 upon any premises upon which any booby trap has been installed or
2403 rigged may be subject to a term of imprisonment or a fine, or
2404 both, of twice that provided in this section. For the purposes of
2405 this subsection, the term "booby trap" means any concealed or
2406 camouflaged device designed to cause bodily injury when triggered
2407 by any action of a person making contact with the device. The



2408 term includes guns, ammunition or explosive devices attached to
2409 trip wires or other triggering mechanisms, sharpened stakes,
2410 nails, spikes, electrical devices, lines or wires with hooks
2411 attached, and devices designed for the production of toxic fumes
2412 or gases.

2413 **SECTION 40.** The following shall be codified as Section
2414 97-3-2, Mississippi Code of 1972:

2415 97-3-2. (1) With regard to violent crime classification for
2416 purposes of Code Sections 47-7-3, 99-15-107 and 99-19-83, crimes
2417 of violence are:

2418 (a) Driving under the influence as provided in Sections
2419 63-11-30(5) and 63-11-30(12) (d);

2420 (b) Murder and attempted murder as provided in Sections
2421 97-1-7(2), 97-3-19, 97-3-23 and 97-3-25;

2422 (c) Aggravated assault as provided in Sections
2423 97-3-7(2) (a), 97-3-7(2) (b), 97-3-7(2) and 97-3-7(4);

2424 (d) Manslaughter as provided in Sections 97-3-27,
2425 97-3-29, 97-3-31, 97-3-33, 97-3-35, 97-3-39, 97-3-41, 97-3-43,
2426 97-3-45 and 97-3-47;

2427 (e) Killing of an unborn child as provided in Sections
2428 97-3-37(2) (a) and 97-3-37(2) (b);

2429 (f) Kidnapping as provided in Section 97-3-53;

2430 (g) Human trafficking as provided in Section 97-3-54.1;

2431 (h) Poisoning as provided in Section 97-3-61;



2432 (i) Rape as provided in Sections 97-3-65(4)(a) and
2433 97-3-71;

2434 (j) Robbery with a deadly weapon as provided in
2435 Sections 97-3-73 and 97-3-79;

2436 (k) Sexual battery as provided in Sections 97-3-101(1),
2437 97-3-101(2)(b) and 97-3-101(3);

2438 (l) Drive-by shooting or bombing as provided in Section
2439 97-3-109;

2440 (m) Carjacking with a deadly weapon as provided in
2441 Section 97-3-117(2);

2442 (n) Felonious neglect, abuse or battery of a child as
2443 provided in Section 97-5-39(2);

2444 (o) Burglary of a dwelling as provided in Sections
2445 97-17-23(1), 97-17-23(2) and 97-17-37;

2446 (p) Use of explosives or weapons of mass destruction as
2447 provided in Section 97-37-25;

2448 (q) Statutory rape as provided in Section 97-3-65;
2449 however, such classification is rebuttable on hearing by a judge;
2450 and

2451 (r) Shooting into a dwelling as provided in Section
2452 97-37-29.

2453 (2) In any felony offense with a maximum sentence of no less
2454 than five (5) years, upon conviction, the judge may find and place
2455 in the sentencing order, on the record in open court, that the
2456 offense, while not listed in subsection (1) of this section, shall



2457 be classified as a crime of violence if the facts show that the
2458 defendant used physical force, or made a credible attempt or
2459 threat of physical force against another person as part of the
2460 criminal act.

2461 **SECTION 41.** Section 47-7-3, Mississippi Code of 1972, is
2462 amended as follows:

2463 47-7-3. (1) Every prisoner who has been convicted of any
2464 offense against the State of Mississippi, and is confined in the
2465 execution of a judgment of such conviction in the Mississippi
2466 Department of Corrections for a definite term or terms of one (1)
2467 year or over, or for the term of his or her natural life, whose
2468 record of conduct shows that such prisoner has observed the rules
2469 of the department, and who has served not less than one-fourth
2470 (1/4) of the total of such term or terms for which such prisoner
2471 was sentenced * * * may be released on parole as hereinafter
2472 provided, except that:

2473 (a) No prisoner convicted as a confirmed and habitual
2474 criminal under the provisions of Sections 99-19-81 through
2475 99-19-87 shall be eligible for parole;

2476 (b) Any person who shall have been convicted of a sex
2477 crime shall not be released on parole except for a person under
2478 the age of nineteen (19) who has been convicted under Section
2479 97-3-67;

2480 * * *



2481 (* * *c) (i) No person shall be eligible for parole who
2482 shall, on or after January 1, 1977, be convicted of robbery or
2483 attempted robbery through the display of a firearm until he shall
2484 have served ten (10) years if sentenced to a term or terms of more
2485 than ten (10) years or if sentenced for the term of the natural
2486 life of such person. If such person is sentenced to a term or
2487 terms of ten (10) years or less, then such person shall not be
2488 eligible for parole. The provisions of this paragraph * * *
2489 (c) (i) shall also apply to any person who shall commit robbery or
2490 attempted robbery on or after July 1, 1982, through the display of
2491 a deadly weapon. This paragraph * * * (c) (i) shall not apply to
2492 persons convicted after September 30, 1994;

2493 (ii) No person shall be eligible for parole who
2494 shall, on or after October 1, 1994, be convicted of robbery,
2495 attempted robbery or carjacking as provided in Section 97-3-115 et
2496 seq., through the display of a firearm or drive-by shooting as
2497 provided in Section 97-3-109. The provisions of this paragraph
2498 (d) (ii) shall also apply to any person who shall commit robbery,
2499 attempted robbery, carjacking or a drive-by shooting on or after
2500 October 1, 1994, through the display of a deadly weapon. This
2501 paragraph (c) (ii) shall not apply to persons convicted after July
2502 1, 2014;

2503 (* * *d) No person shall be eligible for parole who,
2504 on or after July 1, 1994, is charged, tried, convicted and



2505 sentenced to life imprisonment without eligibility for parole
2506 under the provisions of Section 99-19-101;

2507 (* * *e) No person shall be eligible for parole who is
2508 charged, tried, convicted and sentenced to life imprisonment under
2509 the provisions of Section 99-19-101;

2510 * * *

2511 (* * *f) No person shall be eligible for parole who is
2512 convicted or whose suspended sentence is revoked after June 30,
2513 1995, except that an offender convicted of only nonviolent crimes
2514 after June 30, 1995, may be eligible for parole if the offender
2515 meets the requirements in subsection (1) and this paragraph. In
2516 addition to other requirements, if an offender is convicted of a
2517 drug or driving under the influence felony, the offender must
2518 complete a drug and alcohol rehabilitation program prior to parole
2519 or the offender may be required to complete a post-release drug
2520 and alcohol program as a condition of parole. For purposes of
2521 this paragraph, "nonviolent crime" means a felony other than
2522 homicide, robbery, manslaughter, sex crimes, arson, burglary of an
2523 occupied dwelling, aggravated assault, kidnapping, felonious abuse
2524 of vulnerable adults, felonies with enhanced penalties, the sale
2525 or manufacture of a controlled substance under the Uniform
2526 Controlled Substances Law, felony child abuse, or exploitation or
2527 any crime under Section 97-5-33 or Section 97-5-39(2) or
2528 97-5-39(1) (b), 97-5-39(1) (c) or a violation of Section
2529 63-11-30(5). An offender convicted of a violation under Section



2530 41-29-139(a), not exceeding the amounts specified under Section
2531 41-29-139(b), may be eligible for parole. In addition, an
2532 offender incarcerated for committing the crime of possession of a
2533 controlled substance under the Uniform Controlled Substances Law
2534 after July 1, 1995, shall be eligible for parole. This paragraph
2535 (f) shall not apply to persons convicted on or after July 1, 2014;
2536 (g) No person who, on or after July 1, 2014, is
2537 convicted of a crime of violence pursuant to Section 97-3-2, a sex
2538 crime or an offense that specifically prohibits parole release,
2539 shall be eligible for parole. All persons convicted of any other
2540 offense on or after July 1, 2014, are eligible for parole after
2541 they have served one-fourth (1/4) of the sentence or sentences
2542 imposed by the trial court.

2543 (2) Notwithstanding any other provision of law, an inmate
2544 shall not be eligible to receive earned time, good time or any
2545 other administrative reduction of time which shall reduce the time
2546 necessary to be served for parole eligibility as provided in
2547 subsection (1) of this section * * *.

2548 (3) The State Parole Board shall, by rules and regulations,
2549 establish a method of determining a tentative parole hearing date
2550 for each eligible offender taken into the custody of the
2551 Department of Corrections. The tentative parole hearing date
2552 shall be determined within ninety (90) days after the department
2553 has assumed custody of the offender. * * * The parole hearing
2554 date shall occur when the offender is within thirty (30) days of



2555 the month of his parole eligibility date. The parole eligibility
2556 date is no earlier than one-fourth (1/4) of the prison sentence or
2557 sentences imposed by the court.

2558 (4) Any inmate within twenty-four (24) months of his parole
2559 eligibility date and who meets the criteria established by the
2560 classification board shall receive priority for placement in any
2561 educational development and job training programs that are part of
2562 his or her parole case plan. Any inmate refusing to participate
2563 in an educational development or job training program that is part
2564 of the case plan may be * * * in jeopardy of noncompliance with
2565 the case plan and may be denied parole.

2566 **SECTION 42.** Section 47-5-138.1, Mississippi Code of 1972, is
2567 amended as follows:

2568 47-5-138.1. (1) In addition to any other administrative
2569 reduction of sentence, an offender in trusty status as defined by
2570 the classification board of the Department of Corrections may be
2571 awarded a trusty time allowance of thirty (30) days' reduction of
2572 sentence for each thirty (30) days of participation during any
2573 calendar month in an approved program while in trusty status,
2574 including satisfactory participation in education or instructional
2575 programs, satisfactory participation in work projects and
2576 satisfactory participation in any special incentive program.

2577 (2) An offender in trusty status shall not be eligible for a
2578 reduction of sentence under this section if:

2579 (a) The offender was sentenced to life imprisonment;



2580 (b) The offender was convicted as an habitual offender
2581 under Sections 99-19-81 through 99-19-87;
2582 (c) The offender was convicted of a sex crime;
2583 (d) The offender has not served the mandatory time
2584 required for parole eligibility, as prescribed under Section
2585 47-7-3, for a conviction of robbery or attempted robbery through
2586 the display of a deadly weapon, carjacking through the display of
2587 a deadly weapon or a drive-by shooting; or

2588 * * *

2589 (* * *e) The offender was convicted of trafficking in
2590 controlled substances under Section 41-29-139.

2591 **SECTION 43.** The following shall be codified in Chapter 7,
2592 Title 47, Mississippi Code of 1972:

2593 (1) In consultation with the Parole Board, the department
2594 shall develop a case plan for all parole eligible inmates to guide
2595 an inmate's rehabilitation while in the department's custody and
2596 to reduce the likelihood of recidivism after release.

2597 (2) Within ninety (90) days of admission, the department
2598 shall complete a case plan on all inmates which shall include, but
2599 not limited to:

2600 (a) Programming and treatment requirements based on the
2601 results of a risk and needs assessment;
2602 (b) Any programming or treatment requirements contained
2603 in the sentencing order; and



2604 (c) General behavior requirements in accordance with
2605 the rules and policies of the department.

2606 (3) The department shall provide the inmate with a written
2607 copy of the case plan and the inmate's caseworker shall explain
2608 the conditions set forth in the case plan.

2609 (a) Within ninety (90) days of admission, the
2610 caseworker shall notify the inmate of their parole eligibility
2611 date as calculated in accordance with Section 47-7-3(3).

2612 (b) At the time parole eligible inmate receives the
2613 case plan, the department shall send the case plan to the Parole
2614 Board for approval.

2615 (4) The department shall ensure that the case plan is
2616 achievable prior to inmate's parole eligibility date.

2617 (5) The caseworker shall meet with the inmate every eight
2618 (8) weeks from the date the offender received the case plan to
2619 review the inmate's case plan progress.

2620 (6) Every four (4) months the department shall submit a
2621 progress report on each parole-eligible inmate's case plan to the
2622 Parole Board. The board may provide written input to the
2623 caseworker on the inmate's progress toward completion of the case
2624 plan.

2625 (7) The Parole Board shall provide semiannually to the
2626 Oversight Task Force the number of parole hearings held, the
2627 number of prisoners released to parole without a hearing and the
2628 number of parolees released after a hearing.



2629 **SECTION 44.** The following shall be codified in Chapter 7,

2630 Title 47, Mississippi Code of 1972:

2631 (1) Each inmate eligible for parole pursuant to Section
2632 47-7-3, shall be released from incarceration to parole supervision
2633 on the inmate's parole eligibility date, without a hearing before
2634 the board, if:

2635 (a) The inmate has met the requirements of the parole
2636 case plan authorized by this act;

2637 (b) A victim of the offense has not requested the board
2638 conduct a hearing;

2639 (c) The inmate has not received a serious or major
2640 violation report within the past six (6) months;

2641 (d) The inmate has agreed to the conditions of
2642 supervision; and

2643 (e) The inmate has a discharge plan approved by the
2644 board.

2645 (2) At least thirty (30) days prior to an inmate's parole
2646 eligibility date, the department shall notify the board in writing
2647 of the inmate's compliance or noncompliance with the case plan.
2648 If an inmate fails to meet a requirement of the case plan, prior
2649 to the parole eligibility date, he or she shall have a hearing
2650 before the board to determine if completion of the case plan can
2651 occur while in the community.



2652 (3) Any inmate for whom there is insufficient information
2653 for the department to determine compliance with the case plan
2654 shall have a hearing with the board.

2655 (4) A hearing shall be held with the board if requested by
2656 the victim following notification of the inmate's parole release
2657 date pursuant to Section 47-5-177.

2658 (5) A hearing shall be held by the board if a law
2659 enforcement official from the community to which the inmate will
2660 return contacts the board or the department and requests a hearing
2661 to consider information relevant to public safety risks posed by
2662 the inmate if paroled at the initial parole eligibility date. The
2663 law enforcement official shall submit an explanation documenting
2664 these concerns for the board to consider.

2665 (6) If a parole hearing is held, the board may determine the
2666 inmate has sufficiently complied with the case plan or that the
2667 incomplete case plan is not the fault of the inmate and that
2668 granting parole is not incompatible with public safety, the board
2669 may then parole the inmate with appropriate conditions. If the
2670 board determines that the inmate has sufficiently complied with
2671 the case plan but the discharge plan indicates that the inmate
2672 does not have appropriate housing immediately upon release, the
2673 board may parole the inmate to a transitional re-entry center with
2674 the condition that the inmate spends no more than six (6) months
2675 in the center. If the board determines that the inmate has not
2676 substantively complied with the requirement(s) of the case plan it



2677 may deny parole. If the board denies parole, the board may
2678 schedule a subsequent parole hearing and, if a new date is
2679 scheduled, the board shall identify the corrective action the
2680 inmate will need to take in order to be granted parole. Any
2681 inmate not released at the time of the inmate's initial parole
2682 date shall have a parole hearing at least every year.

2683 **SECTION 45.** Section 47-7-17, Mississippi Code of 1972, is
2684 amended as follows:

2685 47-7-17. Within one (1) year after his admission and at such
2686 intervals thereafter as it may determine, the board shall secure
2687 and consider all pertinent information regarding each offender,
2688 except any under sentence of death or otherwise ineligible for
2689 parole, including the circumstances of his offense, his previous
2690 social history, his previous criminal record, including any
2691 records of law enforcement agencies or of a youth court regarding
2692 that offender's juvenile criminal history, his conduct, employment
2693 and attitude while in the custody of the department, the case plan
2694 created to prepare the offender for parole, and the reports of
2695 such physical and mental examinations as have been made. The
2696 board shall furnish at least three (3) months' written notice to
2697 each such offender of the date on which he is eligible for parole.

2698 Before ruling on the application for parole of any offender,
2699 the board may * * * require * * * a parole eligible offender to
2700 have a hearing pursuant to Sections 53 and 54 of this act appear
2701 before it and interview him or her. The hearing shall be held



2702 * * * no later than thirty (30) months prior to the month of
2703 eligibility * * *. No application for parole of a person
2704 convicted of a capital offense shall be considered by the board
2705 unless and until notice of the filing of such application shall
2706 have been published at least once a week for two (2) weeks in a
2707 newspaper published in or having general circulation in the county
2708 in which the crime was committed. The board shall, within thirty
2709 (30) days prior to the scheduled hearing, also give notice of the
2710 filing of the application for parole to the victim of the offense
2711 for which the prisoner is incarcerated and being considered for
2712 parole or, in case the offense be homicide, a designee of the
2713 immediate family of the victim, provided the victim or designated
2714 family member has furnished in writing a current address to the
2715 board for such purpose. * * * Parole release shall, at the
2716 hearing, be ordered only for the best interest of society, not as
2717 an award of clemency; it shall not be considered to be a reduction
2718 of sentence or pardon. An offender shall be placed on parole only
2719 when arrangements have been made for his proper employment or for
2720 his maintenance and care, and when the board believes that he is
2721 able and willing to fulfill the obligations of a law-abiding
2722 citizen. When the board determines that the offender will need
2723 transitional housing upon release in order to improve the
2724 likelihood of him or her becoming a law-abiding citizen, the board
2725 may parole the offender with the condition that the inmate spends
2726 no more than six (6) months in a transitional re-entry center.



2727 * * * At least fifteen (15) days prior to the release of an
2728 offender on parole, the Director of Records of the department
2729 shall give the written notice which is required pursuant to
2730 Section 47-5-177. Every offender while on parole shall remain in
2731 the legal custody of the department from which he was released and
2732 shall be amenable to the orders of the board. * * * Upon
2733 determination by the board that an offender is eligible for
2734 release by parole, notice shall also be given within at least
2735 fifteen (15) days before release, by the board to the victim of
2736 the offense or the victim's family member, as indicated above,
2737 regarding the date when the offender's release shall occur,
2738 provided a current address of the victim or the victim's family
2739 member has been furnished in writing to the board for such
2740 purpose.

2741 Failure to provide notice to the victim or the victim's
2742 family member of the filing of the application for parole or of
2743 any decision made by the board regarding parole shall not
2744 constitute grounds for vacating an otherwise lawful parole
2745 determination nor shall it create any right or liability, civilly
2746 or criminally, against the board or any member thereof.

2747 A letter of protest against granting an offender parole shall
2748 not be treated as the conclusive and only reason for not granting
2749 parole.

2750 The board may adopt such other rules not inconsistent with
2751 law as it may deem proper or necessary with respect to the



2752 eligibility of offenders for parole, the conduct of parole
2753 hearings, or conditions to be imposed upon parolees, including a
2754 condition that the parolee submit, as provided in Section 47-5-601
2755 to any type of breath, saliva or urine chemical analysis test, the
2756 purpose of which is to detect the possible presence of alcohol or
2757 a substance prohibited or controlled by any law of the State of
2758 Mississippi or the United States. The board shall have the
2759 authority to adopt rules * * * related to the placement of certain
2760 offenders * * * on unsupervised parole and for the operation of
2761 transitional re-entry centers. However, in no case shall an
2762 offender be placed on unsupervised parole before he has served a
2763 minimum of * * * fifty percent (50%) of the period of supervised
2764 parole.

2765 **SECTION 46.** Section 47-5-157, Mississippi Code of 1972, is
2766 amended as follows:

2767 47-5-157. When an offender is entitled to a discharge from
2768 the custody of the department, or is released therefrom on parole,
2769 pardon, or otherwise, the commissioner or his designee shall
2770 prepare and deliver to him a written discharge or release, as the
2771 case may be, dated and signed by him with seal annexed, giving the
2772 offender's name, the name of the offense or offenses for which he
2773 was convicted, the term of sentence imposed and the date thereof,
2774 the county in which he was sentenced, the amount of commutation
2775 received, if any, the trade he has learned, if any, his
2776 proficiency in same, and such description of the offender as may



2777 be practicable and the discharge plan developed pursuant to
2778 Sections 53 and 54 of this act. * * * At least fifteen (15) days
2779 prior to the release of an offender as described herein, the
2780 director of records of the department shall give the written
2781 notice which is required pursuant to Section 47-5-177. * * * The
2782 offender shall be furnished, if needed, suitable civilian clothes,
2783 a Mississippi driver's license, or a state identification card
2784 that is not a department-issued identification card and all money
2785 held to his credit by any official of the correctional system
2786 shall be delivered to him.

2787 The amount of money which an offender is entitled to receive
2788 from the State of Mississippi when he is discharged from the state
2789 correctional system shall be determined as follows:

2790 (a) If he has continuously served his sentence in one
2791 (1) year or less flat time, he shall be given Fifteen Dollars
2792 (\$15.00).

2793 (b) If he has served his sentence in more than one (1)
2794 year flat time and in less than ten (10) years flat time, he shall
2795 be given Twenty-five Dollars (\$25.00).

2796 (c) If he has continuously served his sentence in ten
2797 (10) or more years flat time, he shall be given Seventy-five
2798 Dollars (\$75.00).

2799 (d) If he has continuously served his sentence in
2800 twenty (20) or more years flat time, he shall be given One Hundred
2801 Dollars (\$100.00).



2802 There shall be given in addition to the above specified
2803 moneys in subsections (a), (b), (c) and (d), a bus ticket to the
2804 county of conviction or to a state line of Mississippi.

2805 **SECTION 47.** Section 47-5-139, Mississippi Code of 1972, is
2806 amended as follows:

2807 47-5-139. (1) An inmate shall not be eligible for the
2808 earned time allowance if:

2809 (a) The inmate was sentenced to life imprisonment; but
2810 an inmate, except an inmate sentenced to life imprisonment for
2811 capital murder or convicted as a habitual offender under Sections
2812 99-19-81 through 99-19-87, who has reached the age of * * * sixty
2813 (60) or older and who has served at least * * * ten (10) years may
2814 petition the * * * parole board for conditional release;

2815 (b) The inmate was convicted as a habitual offender
2816 under Sections 99-19-81 through 99-19-87;

2817 (c) The inmate has forfeited his earned time allowance
2818 by order of the commissioner;

2819 (d) The inmate was convicted of a sex crime; or

2820 (e) The inmate has not served the mandatory time
2821 required for parole eligibility for a conviction of robbery or
2822 attempted robbery with a deadly weapon.

2823 (2) An offender under two (2) or more consecutive sentences
2824 shall be allowed commutation based upon the total term of the
2825 sentences.



2826 (3) All earned time shall be forfeited by the inmate in the
2827 event of escape and/or aiding and abetting an escape. The
2828 commissioner may restore all or part of the earned time if the
2829 escapee returns to the institution voluntarily, without expense to
2830 the state, and without act of violence while a fugitive from the
2831 facility.

2832 (4) Any officer or employee who shall willfully violate the
2833 provisions of this section and be convicted therefor shall be
2834 removed from office or employment.

2835 **SECTION 48.** Section 47-7-2, Mississippi Code of 1972, is
2836 amended as follows:

2837 47-7-2. For purposes of this chapter, the following words
2838 shall have the meaning ascribed herein unless the context shall
2839 otherwise require:

2840 (a) "Adult" means a person who is seventeen (17) years
2841 of age or older, or any person convicted of any crime not subject
2842 to the provisions of the youth court law, or any person
2843 "certified" to be tried as an adult by any youth court in the
2844 state.

2845 (b) "Board" means the State Parole Board.

2846 (c) "Parole case plan" means an individualized,
2847 accountability and behavior change strategy developed by the
2848 department in collaboration with the parole board to prepare
2849 offenders for release on parole at the parole eligibility date.



2850 The case plan shall focus on the offender's criminal risk factors
2851 that, if addressed, reduce the likelihood of re-offending.

2852 (* * *d) "Commissioner" means the Commissioner of
2853 Corrections.

2854 (* * *e) "Correctional system" means the facilities,
2855 institutions, programs and personnel of the department utilized
2856 for adult offenders who are committed to the custody of the
2857 department.

2858 (f) "Criminal risk factors" means characteristics that
2859 increase a person's likelihood of re-offending. These
2860 characteristics include: antisocial behavior; antisocial
2861 personality; criminal thinking; criminal associates; dysfunctional
2862 family; low levels of employment or education; poor use of leisure
2863 and recreation; and substance abuse.

2864 (* * *g) "Department" means the Mississippi Department
2865 of Corrections.

2866 (* * *h) "Detention" means the temporary care of
2867 juveniles and adults who require secure custody for their own or
2868 the community's protection in a physically restricting facility
2869 prior to adjudication, or retention in a physically restricting
2870 facility upon being taken into custody after an alleged parole or
2871 probation violation.

2872 (i) "Discharge plan" means an individualized written
2873 document that provides information to support the offender in
2874 meeting the basic needs identified in the pre-release assessment.



2875 This information shall include, but is not limited to: contact
2876 names, phone numbers, and addresses of referrals and resources.

2877 (j) "Evidence-based practices" means supervision
2878 policies, procedures, and practices that scientific research
2879 demonstrates reduce recidivism.

2880 (* * *k) "Facility" or "institution" means any
2881 facility for the custody, care, treatment and study of offenders
2882 which is under the supervision and control of the department.

2883 (* * *l) "Juvenile," "minor" or "youthful" means a
2884 person less than seventeen (17) years of age.

2885 (* * *m) "Offender" means any person convicted of a
2886 crime or offense under the laws and ordinances of the state and
2887 its political subdivisions.

2888 (n) "Pre-release assessment" means a determination of
2889 an offender's ability to attend to basic needs, including, but not
2890 limited to, transportation, clothing and food, financial
2891 resources, personal identification documents, housing, employment,
2892 education, and health care, following release.

2893 (* * *o) "Special meetings" means those meetings
2894 called by the chairman with at least twenty-four (24) hours'
2895 notice or a unanimous waiver of notice.

2896 (p) "Supervision plan" means a plan developed by the
2897 community corrections department to manage offenders on probation
2898 and parole in a way that reduces the likelihood they will commit a
2899 new criminal offense or violate the terms of supervision and that



2900 increases the likelihood of obtaining stable housing, employment
2901 and skills necessary to sustain positive conduct.

2902 (q) "Technical violation" means an act or omission by
2903 the probationer that violates a condition or conditions of
2904 probation placed on the probationer by the court or the probation
2905 officer.

2906 (r) "Transitional re-entry center" means a
2907 state-operated or state-contracted facility used to house
2908 offenders leaving the physical custody of the Department of
2909 Corrections on parole, probation or post-release supervision who
2910 are in need of temporary housing and services that reduce their
2911 risk to re-offend.

2912 (* * *s) "Unit of local government" means a county,
2913 city, town, village or other general purpose political subdivision
2914 of the state.

2915 (t) "Risk and needs assessment" means the determination
2916 of a person's risk to re-offend an actuarial assessment tool
2917 validated on Mississippi corrections populations and the needs
2918 that, when addressed, reduce the risk to re-offend.

2919 **SECTION 49.** The following shall be codified in Chapter 7,
2920 Title 47, Mississippi Code of 1972:

2921 (1) The department shall create a discharge plan for any
2922 offender returning to the community, regardless of whether the
2923 person will discharge from the custody of the department, or is
2924 released on parole, pardon, or otherwise. At least ninety (90)



2925 days prior to an offender's earliest release date, the
2926 commissioner shall conduct a pre-release assessment and complete a
2927 written discharge plan based on the assessment results. The
2928 discharge plan for parole eligible offenders shall be sent to the
2929 Parole Board at least thirty (30) days prior to the offender's
2930 parole eligibility date for approval. The board may suggest
2931 changes to the plan that it deems necessary to ensure a successful
2932 transition.

2933 (2) The pre-release assessment shall identify whether an
2934 inmate requires assistance obtaining the following basic needs
2935 upon release: transportation, clothing and food, financial
2936 resources, identification documents, housing, employment
2937 education, health care and support systems. The discharge plan
2938 shall include information necessary to address these needs and the
2939 steps being taken by the department to assist in this process.
2940 Based on the findings of the assessment, the commissioner shall:

2941 (a) Arrange transportation for inmates from the
2942 correctional facility to their release destination;

2943 (b) Ensure inmates have clean, seasonally appropriate
2944 clothing, and provide inmates with a list of food providers and
2945 other basic resources immediately accessible upon release;

2946 (c) Ensure inmates have a Mississippi driver's license
2947 or a state-issued identification card or an identification card
2948 that is not a Department of Corrections identification card;



2949 (d) Assist inmates in identifying safe, affordable
2950 housing upon release. If accommodations are not available,
2951 determine whether temporary housing is available for at least ten
2952 (10) days after release. If temporary housing is not available,
2953 the discharge plan shall reflect that satisfactory housing has not
2954 been established and the person may be a candidate for
2955 transitional re-entry center placement;

2956 (e) Refer inmates without secured employment to
2957 employment opportunities;

2958 (f) Provide inmates with contact information of a
2959 health care facility/provider in the community in which they plan
2960 to reside;

2961 (g) Notify family members of the release date and
2962 release plan, if inmate agrees;

2963 (h) Refer inmates to a community or a faith-based
2964 organization that can offer support within the first twenty-four
2965 (24) hours of release;

2966 (3) A written discharge plan shall be provided to the
2967 offender and supervising probation officer or parole officer, if
2968 applicable.

2969 (4) A discharge plan created for a parole-eligible offender
2970 shall also include supervision conditions and the intensity of
2971 supervision based on the assessed risk to recidivate and whether
2972 there is a need for transitional housing. The board shall approve



2973 discharge plans before an offender is released on parole pursuant
2974 to this act.

2975 **SECTION 50.** Section 47-5-173, Mississippi Code of 1972, is
2976 amended as follows:

2977 47-5-173. The commissioner, or his designees, may grant
2978 leave to an offender and may take into consideration sickness or
2979 death in the offender's family or the seeking of employment by the
2980 offender in connection with application for parole, for a period
2981 of time not to exceed ten (10) days. * * * At least fifteen (15)
2982 days prior to the release of an offender on leave, the director of
2983 records of the department shall give the written notice required
2984 pursuant to Section 47-5-177. However, if an offender is granted
2985 leave because of sickness or death in the offender's family,
2986 written notice shall not be required but the inmate shall be
2987 accompanied by a correctional officer or a law enforcement
2988 officer. In all other cases the commissioner, or his designees,
2989 shall provide required security when deemed necessary. The
2990 commissioner, or his designees, in granting leave, shall take into
2991 consideration the conduct and work performance of the offender.

2992 **SECTION 51.** Section 47-5-177, Mississippi Code of 1972, is
2993 amended as follows:

2994 47-5-177. * * * At least fifteen (15) days prior to the
2995 release of an offender from the custody of the department because
2996 of discharge, parole, pardon, temporary personal leave or pass, or
2997 otherwise, except for sickness or death in the offender's family,



2998 the Director of Records of the department shall give written or
2999 electronic notice of such release to the sheriff of the county and
3000 to the chief of police of the municipality where the offender was
3001 convicted. If the offender is paroled to a county other than the
3002 county of conviction, the Director of Records shall give written
3003 or electronic notice of the release to the sheriff, district
3004 attorney and circuit judge of the county and to the chief of
3005 police of the municipality where the offender is paroled and to
3006 the sheriff of the county and to the chief of police of the
3007 municipality where the offender was convicted. The department
3008 shall notify the parole officer of the county where the offender
3009 is paroled or discharged to probation of any chronic mental
3010 disorder incurred by the offender, of any type of infectious
3011 disease for which the offender has been examined and treated, and
3012 of any medications provided to the offender for such conditions.

3013 The commissioner shall require the Director of Records to
3014 clearly identify the notice of release of an offender who has been
3015 convicted of arson at any time. The fact that the offender to be
3016 released had been convicted of arson at any time shall appear
3017 prominently on the notice of release and the sheriff shall notify
3018 all officials who are responsible for investigation of arson
3019 within the county of such offender's release and the chief of
3020 police shall notify all such officials within the municipality of
3021 such offender's release.



3022 **SECTION 52.** Section 47-7-5, Mississippi Code of 1972, is
3023 amended as follows:

3024 47-7-5. (1) The State Parole Board, created under former
3025 Section 47-7-5, is hereby created, continued and reconstituted and
3026 shall be composed of five (5) members. The Governor shall appoint
3027 the members with the advice and consent of the Senate. All terms
3028 shall be at the will and pleasure of the Governor. Any vacancy
3029 shall be filled by the Governor, with the advice and consent of
3030 the Senate. The Governor shall appoint a chairman of the board.

3031 (2) Any person who is appointed to serve on the board shall
3032 possess at least a bachelor's degree or a high school diploma and
3033 four (4) years' work experience. Each member shall devote his
3034 full time to the duties of his office and shall not engage in any
3035 other business or profession or hold any other public office. A
3036 member shall not receive compensation or per diem in addition to
3037 his salary as prohibited under Section 25-3-38. Each member shall
3038 keep such hours and workdays as required of full-time state
3039 employees under Section 25-1-98. Individuals shall be appointed
3040 to serve on the board without reference to their political
3041 affiliations. Each board member, including the chairman, may be
3042 reimbursed for actual and necessary expenses as authorized by
3043 Section 25-3-41. Each member of the board shall complete annual
3044 training developed based on guidance from the National Institute
3045 of Corrections, the Association of Paroling Authorities
3046 International, or the American Probation and Parole Association.



3047 Each first-time appointee of the board shall, within sixty (60)
3048 days of appointment, complete training for first-time parole
3049 members developed in consideration of information from the
3050 National Institute of Corrections, the Association of Paroling
3051 Authorities International, or the American Probation and Parole
3052 Association.

3053 (3) The board shall have exclusive responsibility for the
3054 granting of parole as provided by Sections 47-7-3 and 47-7-17 and
3055 shall have exclusive authority for revocation of the same. The
3056 board shall have exclusive responsibility for investigating
3057 clemency recommendations upon request of the Governor.

3058 (4) The board, its members and staff, shall be immune from
3059 civil liability for any official acts taken in good faith and in
3060 exercise of the board's legitimate governmental authority.

3061 (5) The budget of the board shall be funded through a
3062 separate line item within the general appropriation bill for the
3063 support and maintenance of the department. Employees of the
3064 department which are employed by or assigned to the board shall
3065 work under the guidance and supervision of the board. There shall
3066 be an executive secretary to the board who shall be responsible
3067 for all administrative and general accounting duties related to
3068 the board. The executive secretary shall keep and preserve all
3069 records and papers pertaining to the board.

3070 (6) The board shall have no authority or responsibility for
3071 supervision of offenders granted a release for any reason,



3072 including, but not limited to, probation, parole or executive
3073 clemency or other offenders requiring the same through interstate
3074 compact agreements. The supervision shall be provided exclusively
3075 by the staff of the Division of Community Corrections of the
3076 department.

3077 (7) (a) The Parole Board is authorized to select and place
3078 offenders in an electronic monitoring program under the conditions
3079 and criteria imposed by the Parole Board. The conditions,
3080 restrictions and requirements of Section 47-7-17 and Sections
3081 47-5-1001 through 47-5-1015 shall apply to the Parole Board and
3082 any offender placed in an electronic monitoring program by the
3083 Parole Board.

3084 (b) Any offender placed in an electronic monitoring
3085 program under this subsection shall pay the program fee provided
3086 in Section 47-5-1013. The program fees shall be deposited in the
3087 special fund created in Section 47-5-1007.

3088 (c) The department shall have absolute immunity from
3089 liability for any injury resulting from a determination by the
3090 Parole Board that an offender be placed in an electronic
3091 monitoring program.

3092 (8) (a) The Parole Board shall maintain a central registry
3093 of paroled inmates. The Parole Board shall place the following
3094 information on the registry: name, address, photograph, crime for
3095 which paroled, the date of the end of parole or flat-time date and
3096 other information deemed necessary. The Parole Board shall



3097 immediately remove information on a parolee at the end of his
3098 parole or flat-time date.

3099 (b) When a person is placed on parole, the Parole Board
3100 shall inform the parolee of the duty to report to the parole
3101 officer any change in address ten (10) days before changing
3102 address.

3103 (c) The Parole Board shall utilize an Internet website
3104 or other electronic means to release or publish the information.

3105 (d) Records maintained on the registry shall be open to
3106 law enforcement agencies and the public and shall be available no
3107 later than July 1, 2003.

3108 (9) An affirmative vote of at least four (4) members of the
3109 Parole Board shall be required to grant parole to an inmate
3110 convicted of capital murder or a sex crime.

3111 * * *

3112 **SECTION 53.** Section 47-7-9, Mississippi Code of 1972, is
3113 amended as follows:

3114 47-7-9. (1) The circuit judges and county judges in the
3115 districts to which Division of Community Corrections personnel
3116 have been assigned shall have the power to request of the
3117 department transfer or removal of the division personnel from
3118 their court.

3119 (2) (a) Division personnel shall investigate all cases
3120 referred to them for investigation by the board, the division or
3121 by any court in which they are authorized to serve. They shall



3122 furnish to each person released under their supervision a written
3123 statement of the conditions of probation, parole, earned-release
3124 supervision, post-release supervision or suspension and shall
3125 instruct * * * the person regarding the same. They shall
3126 administer a risk and needs assessment on each person under their
3127 supervision to measure criminal risk factors and individual needs.
3128 They shall use the results of the risk and needs assessment to
3129 guide supervision responses consistent with evidence-based
3130 practices as to the level of supervision and the practices used to
3131 reduce recidivism. They shall develop a supervision plan for each
3132 person assessed as moderate to high risk to reoffend. They shall
3133 keep informed concerning the conduct and conditions of persons
3134 under their supervision and use all suitable methods that are
3135 consistent with evidence-based practices to aid and encourage them
3136 and to bring about improvements in their conduct and condition and
3137 to reduce the risk of recidivism. They shall keep detailed
3138 records of their work and shall make such reports in writing as
3139 the court or the board may require.

3140 (b) Division personnel shall complete annual training
3141 on evidence-based practices and criminal risk factors, as well as
3142 instructions on how to target these factors to reduce recidivism.

3143 (* * *c) The division personnel duly assigned to court
3144 districts are hereby vested with all the powers of police officers
3145 or sheriffs to make arrests or perform any other duties required
3146 of policemen or sheriffs which may be incident to the division



3147 personnel responsibilities. All probation and parole officers
3148 hired on or after July 1, 1994, will be placed in the Law
3149 Enforcement Officers Training Program and will be required to meet
3150 the standards outlined by that program.

3151 (* * *d) It is the intention of the Legislature that
3152 insofar as practicable the case load of each division personnel
3153 supervising offenders in the community (hereinafter field
3154 supervisor) shall not exceed the number of cases that may be
3155 adequately handled.

3156 (3) (a) Division personnel shall be provided to perform
3157 investigation for the court as provided in this subsection.
3158 Division personnel shall conduct presentence investigations on all
3159 persons convicted of a felony in any circuit court of the state,
3160 prior to sentencing and at the request of the circuit court judge
3161 of the court of conviction. The presentence evaluation report
3162 shall consist of a complete record of the offender's criminal
3163 history, educational level, employment history, psychological
3164 condition and such other information as the department or judge
3165 may deem necessary. Division personnel shall also prepare written
3166 victim impact statements at the request of the sentencing judge as
3167 provided in Section 99-19-157.

3168 (b) In order that offenders in the custody of the
3169 department on July 1, 1976, may benefit from the kind of
3170 evaluations authorized in this section, an evaluation report to
3171 consist of the information required hereinabove, supplemented by



3172 an examination of an offender's record while in custody, shall be
3173 compiled by the division upon all offenders in the custody of the
3174 department on July 1, 1976. After a study of such reports by the
3175 State Parole Board those cases which the board believes would
3176 merit some type of executive clemency shall be submitted by the
3177 board to the Governor with its recommendation for the appropriate
3178 executive action.

3179 (c) The department is authorized to accept gifts,
3180 grants and subsidies to conduct this activity.

3181 **SECTION 54.** The following shall be codified in Chapter 7,
3182 Title 47, Mississippi Code of 1972:

3183 (1) The department shall have the authority to impose
3184 graduated sanctions as an alternative to judicial modification or
3185 revocation, as provided in Sections 47-7-27 and 47-7-37, for
3186 offenders on probation, parole, or post-release supervision who
3187 commit technical violations of the conditions of supervision as
3188 defined by Section 47-7-2.

3189 (2) The commissioner shall develop a standardized graduated
3190 sanctions system, which shall include a grid to guide field
3191 officers in determining the suitable response to a technical
3192 violation. The commissioner shall promulgate rules and
3193 regulations for the development and application of the system of
3194 sanctions. Field officers shall be required to conform to the
3195 sanction grid developed.



3196 (3) The system of sanctions shall include a list of
3197 sanctions for the most common types of violations. When
3198 determining the sanction to impose, the field officer shall take
3199 into account the offender's assessed risk level, previous
3200 violations and sanctions, and severity of the current and prior
3201 violations.

3202 (4) Field officers shall notify the sentencing court when a
3203 probationer has committed a technical violation or the parole
3204 board when a parolee has committed a technical violation of the
3205 type of violation and the sanction imposed. When the technical
3206 violation is an arrest for a new criminal offense, the field
3207 officer shall notify the court within forty-eight (48) hours of
3208 becoming aware of the arrest.

3209 (5) The graduated sanctions that the department may impose
3210 include, but shall not be limited to:

3211 (a) Verbal warnings;
3212 (b) Increased reporting;
3213 (c) Increased drug and alcohol testing;
3214 (d) Mandatory substance abuse treatment;
3215 (e) Loss of earned discharge credits; and
3216 (f) Incarceration in a county jail for no more than two
3217 days. Incarceration as a sanction shall not be used more than
3218 two (2) times per month for a total period incarcerated of no more
3219 than four (4) days.



3220 (6) The system shall also define positive reinforcements
3221 that offenders will receive for compliance with conditions of
3222 supervision. These positive reinforcements shall include, but not
3223 limited to:

3224 (a) Verbal recognition;
3225 (b) Reduced reporting; and
3226 (c) Credits for earned discharge which shall be awarded
3227 pursuant to this act.

3228 (7) The Department of Corrections shall provide
3229 semi-annually to the Oversight Task Force the number and
3230 percentage of offenders who have one or more violations during the
3231 year, the average number of violations per offender during the
3232 year and the total and average number of incarceration sanctions
3233 as defined in Section (4)(f) imposed during the year.

3234 **SECTION 55.** The following shall be codified in Chapter 7,
3235 Title 47, Mississippi Code of 1972:

3236 (1) The commissioner shall establish rules and regulations
3237 for implementing the earned discharge program that allows
3238 offenders on probation and parole to reduce the period of
3239 supervision for complying with conditions of probation. The
3240 department shall have the authority to award earned discharge
3241 credits to all offenders placed on probation, parole, or
3242 post-release supervision who are in compliance with the terms and
3243 conditions of supervision.



3244 (a) An offender serving a Mississippi sentence for an
3245 eligible offense in any jurisdiction under the Interstate Compact
3246 for Adult Offender Supervision shall be eligible for earned
3247 discharge credits under this section.

3248 (2) For each full calendar month of compliance with the
3249 conditions of supervision, earned discharge credits equal to the
3250 number of days in that month shall be deducted from the offenders
3251 sentence discharge date established in this act. Credits begin to
3252 accrue for eligible offenders after the first full calendar month
3253 of compliance supervision conditions. For the purposes of this
3254 section, an offender is deemed to be in compliance with the
3255 conditions of supervision if there was no violation of the
3256 conditions of supervision.

3257 (3) No earned discharge credits may accrue for a calendar
3258 month in which a violation report has been submitted, the offender
3259 has absconded from supervision, the offender is serving a term of
3260 imprisonment in a technical violation center, or for the months
3261 between the submission of the violation report and the final
3262 action on the violation report by the court or the board.

3263 (4) Earned discharge credits shall be applied to the
3264 sentence within thirty (30) days of the end of the month in which
3265 the credits were earned. At least every six (6) months, an
3266 offender who is serving a sentence eligible for earned discharge
3267 credits shall be notified of the current sentence discharge date.



3268 (5) Once the combination of time served on probation, parole
3269 or post-release supervision, and earned discharge credits satisfy
3270 the term of probation, parole, or post-release supervision, the
3271 board or sentencing court shall order final discharge of the
3272 offender. No less than sixty (60) days prior to the date of final
3273 discharge, the department shall notify the sentencing court and
3274 the board of the impending discharge.

3275 (6) The department shall provide semiannually to the
3276 Oversight Task Force the number and percentage of offenders who
3277 qualify for earned discharge in one or more months of the year and
3278 the average amount of credits earned within the year.

3279 **SECTION 56.** Section 47-7-27, Mississippi Code of 1972, is
3280 amended as follows:

3281 47-7-27. (1) The board may, at any time and upon a showing
3282 of probable violation of parole, issue a warrant for the return of
3283 any paroled offender to the custody of the department. The
3284 warrant shall authorize all persons named therein to return the
3285 paroled offender to actual custody of the department from which he
3286 was paroled. * * *

3287 (2) Any field supervisor may arrest an offender without a
3288 warrant or may deputize any other person with power of arrest by
3289 giving him a written statement setting forth that the offender
3290 has, in the judgment of that field supervisor, violated the
3291 conditions of his parole or earned-release supervision. The
3292 written statement delivered with the offender by the arresting



3293 officer to the official in charge of the department facility from
3294 which the offender was released or other place of detention
3295 designated by the department shall be sufficient warrant for the
3296 detention of the offender.

3297 (3) The field supervisor, after making an arrest, shall
3298 present to the detaining authorities a similar statement of the
3299 circumstances of violation. The field supervisor shall at once
3300 notify the board or department of the arrest and detention of the
3301 offender and shall submit a written report showing in what manner
3302 the offender has violated the conditions of parole or
3303 earned-release supervision. An offender for whose return a
3304 warrant has been issued by the board shall, after the issuance of
3305 the warrant, be deemed a fugitive from justice.

3306 (4) Whenever an offender is arrested on a warrant for an
3307 alleged violation of parole as herein provided, the board shall
3308 hold an informal preliminary hearing within seventy-two (72) hours
3309 to determine whether there is reasonable cause to believe the
3310 person has violated a condition of parole. A preliminary hearing
3311 shall not be required when the offender is not under arrest on a
3312 warrant or the offender signed a waiver of a preliminary hearing.
3313 The preliminary hearing may be conducted electronically.

3314 (* * *5) The right of the State of Mississippi to extradite
3315 persons and return fugitives from justice, from other states to
3316 this state, shall not be impaired by this chapter and shall remain
3317 in full force and effect. An offender convicted of a felony



3318 committed while on parole, whether in the State of Mississippi or
3319 another state, shall immediately have his parole revoked upon
3320 presentment of a certified copy of the commitment order to the
3321 board. If an offender is on parole and the offender is convicted
3322 of a felony for a crime committed prior to the offender being
3323 placed on parole, whether in the State of Mississippi or another
3324 state, the offender may have his parole revoked upon presentment
3325 of a certified copy of the commitment order to the board.

3326 ~~(* * *6) * * *~~ (a) The board shall hold a hearing for any
3327 parolee who is detained as a result of a warrant or a violation
3328 report within twenty-one (21) days of the parolee's admission to
3329 detention. The board may, in its discretion, terminate the parole
3330 or modify the terms and conditions thereof. If the board revokes
3331 parole for a technical violation the board shall impose a period
3332 of imprisonment to be served in a technical violation center
3333 operated by the department not to exceed ninety (90) days for the
3334 first technical violation and not to exceed one hundred twenty
3335 (120) days for the second technical violation. For the third
3336 technical violation, the board may impose a period of imprisonment
3337 to be served in a technical violation center for up to one hundred
3338 and eighty (180) days or the board may impose the remainder of the
3339 suspended portion of the sentence. For the fourth and any
3340 subsequent technical violation, the board may impose up to the
3341 remainder of the suspended portion of the sentence. The period of



3342 imprisonment in a technical violation center imposed under this
3343 section shall not be reduced in any manner.

3344 (b) If the board does not hold a hearing or does not
3345 take action on the violation within the 21-day time frame in
3346 paragraph (a) of this subsection, the parolee shall be released
3347 from detention and shall return to parole status. The board may
3348 subsequently hold a hearing and may revoke parole or may continue
3349 parole and modify the terms and conditions of parole. If the
3350 board revokes parole for a technical violation the board shall
3351 impose a period of imprisonment to be served in a technical
3352 violation center operated by the department not to exceed ninety
3353 (90) days for the first technical violation and not to exceed one
3354 hundred twenty (120) days for the second technical violation. For
3355 the third technical violation, the board may impose a period of
3356 imprisonment to be served in a technical violation center for up
3357 to one hundred eighty (180) days or the board may impose the
3358 remainder of the suspended portion of the sentence. For the
3359 fourth and any subsequent technical violation, the board may
3360 impose up to the remainder of the suspended portion of the
3361 sentence. The period of imprisonment in a technical violation
3362 center imposed under this section shall not be reduced in any
3363 manner.

3364 (c) For a parolee charged with a technical violation
3365 who has not been detained awaiting the revocation hearing, the
3366 board may hold a hearing within a reasonable time. The board may



3367 revoke parole or may continue parole and modify the terms and
3368 conditions of parole. If the board revokes parole for a technical
3369 violation the board shall impose a period of imprisonment to be
3370 served in a technical violation center operated by the department
3371 not to exceed ninety (90) days for the first technical violation
3372 and not to exceed one hundred twenty (120) days for the second
3373 technical violation. For the third technical violation, the board
3374 may impose a period of imprisonment to be served in a technical
3375 violation center for up to one hundred eighty (180) days or the
3376 board may impose the remainder of the suspended portion of the
3377 sentence. For the fourth and any subsequent technical violation,
3378 the board may impose up to the remainder of the suspended portion
3379 of the sentence. The period of imprisonment in a technical
3380 violation center imposed under this section shall not be reduced
3381 in any manner.

3382 (7) Unless good cause for the delay is established in the
3383 record of the proceeding, the parole revocation charge shall be
3384 dismissed if the revocation hearing is not held within the thirty
3385 (30) days of the issuance of the warrant.

3386 (* * *⁸) The chairman and each member of the board and the
3387 designated parole revocation hearing officer may, in the discharge
3388 of their duties, administer oaths, summon and examine witnesses,
3389 and take other steps as may be necessary to ascertain the truth of
3390 any matter about which they have the right to inquire.



3391 (9) The board shall provide semiannually to the Oversight
3392 Task Force the number of warrants issued for an alleged violation
3393 of parole, the average time between detention on a warrant and
3394 preliminary hearing, the average time between detention on a
3395 warrant and revocation hearing, the number of ninety-day sentences
3396 in a technical violation center issued by the board, the number of
3397 one hundred twenty-day sentences in a technical violation center
3398 issued by the board, the number of one hundred eighty-day
3399 sentences issued by the board, and the number and average length
3400 of the suspended sentences imposed by the board in response to a
3401 violation.

3402 **SECTION 57.** Section 47-7-34, Mississippi Code of 1972, is
3403 amended as follows:

3404 47-7-34. (1) When a court imposes a sentence upon a
3405 conviction for any felony committed after June 30, 1995, the
3406 court, in addition to any other punishment imposed if the other
3407 punishment includes a term of incarceration in a state or local
3408 correctional facility, may impose a term of post-release
3409 supervision. However, the total number of years of incarceration
3410 plus the total number of years of post-release supervision shall
3411 not exceed the maximum sentence authorized to be imposed by law
3412 for the felony committed. The defendant shall be placed under
3413 post-release supervision upon release from the term of
3414 incarceration. The period of supervision shall be established by
3415 the court.



3416 (2) The period of post-release supervision shall be
3417 conducted in the same manner as a like period of supervised
3418 probation, including a requirement that the defendant shall abide
3419 by any terms and conditions as the court may establish. Failure
3420 to successfully abide by the terms and conditions shall be grounds
3421 to terminate the period of post-release supervision and to
3422 recommit the defendant to the correctional facility from which he
3423 was previously released. Procedures for termination and
3424 recommitment shall be conducted in the same manner as procedures
3425 for the revocation of probation and imposition of a suspended
3426 sentence as required pursuant to Section 47-7-37.

3427 (3) Post-release supervision programs shall be operated
3428 through the probation and parole unit of the Division of Community
3429 Corrections of the department. The maximum amount of time that
3430 the Mississippi Department of Corrections may supervise an
3431 offender on the post-release supervision program is five (5)
3432 years.

3433 **SECTION 58.** Section 47-7-37, Mississippi Code of 1972, is
3434 amended as follows:

3435 47-7-37. (1) The period of probation shall be fixed by the
3436 court, and may at any time be extended or terminated by the court,
3437 or judge in vacation. Such period with any extension thereof
3438 shall not exceed five (5) years, except that in cases of desertion
3439 and/or failure to support minor children, the period of probation



3440 may be fixed and/or extended by the court for so long as the duty
3441 to support such minor children exists.

3442 (2) At any time during the period of probation, the court,
3443 or judge in vacation, may issue a warrant for violating any of the
3444 conditions of probation or suspension of sentence and cause the
3445 probationer to be arrested. Any probation and parole officer may
3446 arrest a probationer without a warrant, or may deputize any other
3447 officer with power of arrest to do so by giving him a written
3448 statement setting forth that the probationer has, in the judgment
3449 of the probation and parole officer, violated the conditions of
3450 probation. Such written statement delivered with the probationer
3451 by the arresting officer to the official in charge of a county
3452 jail or other place of detention shall be sufficient warrant for
3453 the detention of the probationer.

3454 (3) Whenever an offender is arrested on a warrant for an
3455 alleged violation of probation as herein provided, the department
3456 shall hold an informal preliminary hearing within seventy-two (72)
3457 hours of the arrest to determine whether there is reasonable cause
3458 to believe the person has violated a condition of probation. A
3459 preliminary hearing shall not be required when the offender is not
3460 under arrest on a warrant or the offender signed a waiver of a
3461 preliminary hearing. The preliminary hearing may be conducted
3462 electronically. If reasonable cause is found, the offender may be
3463 confined no more than twenty-one (21) days from the admission to
3464 detention until a revocation hearing is held. If the revocation



3465 hearing is not held within twenty-one (21) days, the probationer
3466 shall be released from custody and returned to probation status.

3467 (4) If a probationer or offender is subject to registration
3468 as a sex offender, the court must make a finding that the
3469 probationer or offender is not a danger to the public prior to
3470 release with or without bail. In determining the danger posed by
3471 the release of the offender or probationer, the court may consider
3472 the nature and circumstances of the violation and any new offenses
3473 charged; the offender or probationer's past and present conduct,
3474 including convictions of crimes and any record of arrests without
3475 conviction for crimes involving violence or sex crimes; any other
3476 evidence of allegations of unlawful sexual conduct or the use of
3477 violence by the offender or probationer; the offender or
3478 probationer's family ties, length of residence in the community,
3479 employment history and mental condition; the offender or
3480 probationer's history and conduct during the probation or other
3481 supervised release and any other previous supervisions, including
3482 disciplinary records of previous incarcerations; the likelihood
3483 that the offender or probationer will engage again in a criminal
3484 course of conduct; the weight of the evidence against the offender
3485 or probationer; and any other facts the court considers relevant.

3486 (5) (a) The probation and parole officer after making an
3487 arrest shall present to the detaining authorities a similar
3488 statement of the circumstances of violation. The probation and
3489 parole officer shall at once notify the court of the arrest and



3490 detention of the probationer and shall submit a report in writing
3491 showing in what manner the probationer has violated the conditions
3492 of probation. * * * Within twenty-one (21) days of arrest and
3493 detention by warrant as herein provided, the court * * * shall
3494 cause the probationer to be brought before it and may continue or
3495 revoke all or any part of the probation or the suspension of
3496 sentence * * *. If the court revokes probation for a technical
3497 violation, the court may place the offender within the legal
3498 custody of a restitution center within the state or may impose a
3499 period of imprisonment to be served in a technical violation
3500 center not to exceed ninety (90) days for the first technical
3501 violation and not to exceed one hundred twenty (120) days for the
3502 second technical violation. For the third technical violation,
3503 the court may place the offender within the legal custody of a
3504 restitution center within the state or may impose a period of
3505 imprisonment to be served in a technical violation center for up
3506 to one hundred eighty (180) days or the court may impose the
3507 remainder of the suspended portion of the sentence. For the
3508 fourth and any subsequent technical violation, the court may place
3509 the offender within the legal custody of a restitution center
3510 within the state or may impose up to the remainder of the
3511 suspended portion of the sentence. The period of imprisonment in
3512 a technical violation center imposed under this section shall not
3513 be reduced in any manner except as otherwise provided in this
3514 paragraph.



3515 (b) If the offender is not detained as a result of the
3516 warrant, the court shall cause the probationer to be brought
3517 before it within a reasonable time and may continue or revoke all
3518 or any part of the probation or the suspension of sentence, and
3519 may cause the sentence imposed to be executed or may impose any
3520 part of the sentence which might have been imposed at the time of
3521 conviction. If the court revokes probation for a technical
3522 violation, the court may place the offender within the legal
3523 custody of a restitution center within the state or may impose a
3524 period of imprisonment to be served in a technical violation
3525 center not to exceed ninety (90) days for the first technical
3526 violation and not to exceed one hundred twenty (120) days for the
3527 second technical violation. For the third technical violation,
3528 the court may place the offender within the legal custody of a
3529 restitution center within the state or may impose a period of
3530 imprisonment to be served in a technical violation center for up
3531 to one hundred eighty (180) days or the court may impose the
3532 remainder of the suspended portion of the sentence. For the
3533 fourth and any subsequent technical violation, the court may place
3534 the offender within the legal custody of a restitution center
3535 within the state or may impose up to the remainder of the
3536 suspended portion of the sentence. The period of imprisonment in
3537 a technical violation center imposed under this section shall not
3538 be reduced except as otherwise provided in this paragraph.



3539 (c) If the court does not hold a hearing or does not
3540 take action on the violation within the 21-day timeframe, the
3541 offender shall be released from detention and shall return to
3542 probation status. The court may subsequently hold a hearing and
3543 may revoke probation or may continue probation and modify the
3544 terms and conditions of probation. If the court revokes probation
3545 for a technical violation, the court may place the offender within
3546 the legal custody of a restitution center within the state or may
3547 impose a period of imprisonment to be served in a technical
3548 violation center operated by the department not to exceed ninety
3549 (90) days for the first technical violation and not to exceed one
3550 hundred twenty (120) days for the second technical violation. For
3551 the third technical violation, the court may place the offender
3552 within the legal custody of a restitution center within the state
3553 or may impose a period of imprisonment to be served in a technical
3554 violation center for up to one hundred and eighty (180) days or
3555 the court may impose the remainder of the suspended portion of the
3556 sentence. For the fourth and any subsequent technical violation,
3557 the court may place the offender within the legal custody of a
3558 restitution center within the state or may impose up to the
3559 remainder of the suspended portion of the sentence. The period of
3560 imprisonment in a technical violation center imposed under this
3561 section shall not be reduced in any manner.

3562 (d) For an offender charged with a technical violation
3563 who has not been detained awaiting the revocation hearing, the



3564 court may hold a hearing within a reasonable time. The court may
3565 revoke probation or may continue probation and modify the terms
3566 and conditions of probation. If the court revokes probation for a
3567 technical violation the court may place the offender within the
3568 legal custody of a restitution center within the state or may
3569 impose a period of imprisonment to be served in a technical
3570 violation center operated by the department not to exceed ninety
3571 (90) days for the first technical violation and not to exceed one
3572 hundred twenty (120) days for the second technical violation. For
3573 the third technical violation, the court may place the offender
3574 within the legal custody of a restitution center within the state
3575 or may impose a period of imprisonment to be served in a technical
3576 violation center for up to one hundred eighty (180) days or the
3577 court may impose the remainder of the suspended portion of the
3578 sentence. For the fourth and any subsequent technical violation,
3579 the court may place the offender within the legal custody of a
3580 restitution center within the state or may impose up to the
3581 remainder of the suspended portion of the sentence. The period of
3582 imprisonment in a technical violation center imposed under this
3583 section shall not be reduced in any manner.

3584 (7) If the probationer is arrested in a circuit court
3585 district in the State of Mississippi other than that in which he
3586 was convicted, the probation and parole officer, upon the written
3587 request of the sentencing judge, shall furnish to the circuit
3588 court or the county court of the county in which the arrest is



3589 made, or to the judge of such court, a report concerning the
3590 probationer, and such court or the judge in vacation shall have
3591 authority, after a hearing, to continue or revoke all or any part
3592 of probation or all or any part of the suspension of sentence, and
3593 may in case of revocation proceed to deal with the case as if
3594 there had been no probation. In such case, the clerk of the court
3595 in which the order of revocation is issued shall forward a
3596 transcript of such order to the clerk of the court of original
3597 jurisdiction, and the clerk of that court shall proceed as if the
3598 order of revocation had been issued by the court of original
3599 jurisdiction. Upon the revocation of probation or suspension of
3600 sentence of any offender, such offender shall be placed in the
3601 legal custody of the State Department of Corrections and shall be
3602 subject to the requirements thereof.

3603 (8) Any probationer who removes himself from the State of
3604 Mississippi without permission of the court placing him on
3605 probation, or the court to which jurisdiction has been
3606 transferred, shall be deemed and considered a fugitive from
3607 justice and shall be subject to extradition as now provided by
3608 law. No part of the time that one is on probation shall be
3609 considered as any part of the time that he shall be sentenced to
3610 serve.

3611 (9) The arresting officer, except when a probation and
3612 parole officer, shall be allowed the same fees as now provided by



3613 law for arrest on warrant, and such fees shall be taxed against
3614 the probationer and paid as now provided by law.

3615 (10) The arrest, revocation and recommitment procedures of
3616 this section also apply to persons who are serving a period of
3617 post-release supervision imposed by the court.

3618 (11) Unless good cause for the delay is established in the
3619 record of the proceeding, the probation revocation charge shall be
3620 dismissed if the revocation hearing is not held within thirty (30)
3621 days of the warrant being issued.

3622 (12) The Department of Corrections shall provide
3623 semiannually to the Oversight Task Force the number of warrants
3624 issued for an alleged violation of probation or post-release
3625 supervision, the average time between detention on a warrant and
3626 preliminary hearing, the average time between detention on a
3627 warrant and revocation hearing, the number of ninety-day sentences
3628 in a technical violation center issued by the court, the number of
3629 one hundred twenty-day sentences in a technical violation center
3630 issued by the court, the number of one hundred eighty-day
3631 sentences issued by the court, and the number and average length
3632 of the suspended sentences imposed by the court in response to a
3633 violation.

3634 **SECTION 59.** Section 47-5-901, Mississippi Code of 1972, is
3635 amended as follows:

3636 47-5-901. (1) Any person committed, sentenced or otherwise
3637 placed under the custody of the Department of Corrections, on



3638 order of the sentencing court and subject to the other conditions
3639 of this subsection, may serve all or any part of his sentence in
3640 the county jail of the county wherein such person was convicted if
3641 the Commissioner of Corrections determines that physical space is
3642 not available for confinement of such person in the state
3643 correctional institutions. Such determination shall be promptly
3644 made by the Department of Corrections upon receipt of notice of
3645 the conviction of such person. The commissioner shall certify in
3646 writing that space is not available to the sheriff or other
3647 officer having custody of the person. Any person serving his
3648 sentence in a county jail shall be classified in accordance with
3649 Section 47-5-905.

3650 (2) If state prisoners are housed in county jails due to a
3651 lack of capacity at state correctional institutions, the
3652 Department of Corrections shall determine the cost for food and
3653 medical attention for such prisoners. The cost of feeding and
3654 housing offenders confined in such county jails shall be based on
3655 actual costs or contract price per prisoner. In order to maximize
3656 the potential use of county jail space, the Department of
3657 Corrections is encouraged to negotiate a reasonable per day cost
3658 per prisoner, which in no event may exceed Twenty Dollars (\$20.00)
3659 per day per offender.

3660 (3) (a) Upon vouchers submitted by the board of supervisors
3661 of any county housing persons due to lack of space at state
3662 institutions or due to practical considerations such as location



3663 or scheduling related to pending hearings, the Department of
3664 Corrections shall pay to such county, out of any available funds,
3665 the actual cost of food, or contract price per prisoner, not to
3666 exceed Twenty Dollars (\$20.00) per day per offender, as determined
3667 under subsection (2) of this section for each day an offender is
3668 so confined beginning the day that the Department of Corrections
3669 receives a certified copy of the sentencing order and will
3670 terminate on the date on which the offender is released or
3671 otherwise removed from the custody of the county jail. The
3672 department, or its contracted medical provider, will pay to a
3673 provider of a medical service for any and all incarcerated persons
3674 from a correctional or detention facility an amount based upon
3675 negotiated fees as agreed to by the medical care service providers
3676 and the department and/or its contracted medical provider. In the
3677 absence of negotiated discounted fee schedule, medical care
3678 service providers will be paid by the department, or its
3679 contracted medical service provider, an amount no greater than the
3680 reimbursement rate applicable based on the Mississippi Medicaid
3681 reimbursement rate. The board of supervisors of any county shall
3682 not be liable for any cost associated with medical attention for
3683 prisoners who are pretrial detainees or for prisoners who have
3684 been convicted that exceeds the Mississippi Medicaid reimbursement
3685 rate or the reimbursement provided by the Department of
3686 Corrections, whichever is greater. This limitation applies to all
3687 medical care services, durable and nondurable goods, prescription



3688 drugs and medications. Such payment shall be placed in the county
3689 general fund and shall be expended only for food and medical
3690 attention for such persons.

3691 (b) Upon vouchers submitted by the board of supervisors
3692 of any county housing offenders in county jails pending a
3693 probation or parole revocation hearing, the department shall
3694 pay * * * the reimbursement costs provided in paragraph (a).

3695 (c) If the probation or parole of an offender is
3696 revoked, the additional cost of housing the offender pending the
3697 revocation hearing shall be assessed as part of the offender's
3698 court cost and shall be remitted to the department.

3699 (4) A person, on order of the sentencing court, may serve
3700 not more than twenty-four (24) months of his sentence in a county
3701 jail if the person is classified in accordance with Section
3702 47-5-905 and the county jail is an approved county jail for
3703 housing state inmates under federal court order. The sheriff of
3704 the county shall have the right to petition the Commissioner of
3705 Corrections to remove the inmate from the county jail. The county
3706 shall be reimbursed in accordance with subsection (2).

3707 (5) The Attorney General of the State of Mississippi shall
3708 defend the employees of the Department of Corrections and
3709 officials and employees of political subdivisions against any
3710 action brought by any person who was committed to a county jail
3711 under the provisions of this section.



3712 (6) This section does not create in the Department of
3713 Corrections, or its employees or agents, any new liability,
3714 express or implied, nor shall it create in the Department of
3715 Corrections any administrative authority or responsibility for the
3716 construction, funding, administration or operation of county or
3717 other local jails or other places of confinement which are not
3718 staffed and operated on a full-time basis by the Department of
3719 Corrections. The correctional system under the jurisdiction of
3720 the Department of Corrections shall include only those facilities
3721 fully staffed by the Department of Corrections and operated by it
3722 on a full-time basis.

3723 (7) An offender returned to a county for post-conviction
3724 proceedings shall be subject to the provisions of Section 99-19-42
3725 and the county shall not receive the per day allotment for such
3726 offender after the time prescribed for returning the offender to
3727 the Department of Corrections as provided in Section 99-19-42.

3728 **SECTION 60.** Section 47-5-911, Mississippi Code of 1972, is
3729 amended as follows:

3730 47-5-911. Sections 47-5-901 through 47-5-911 shall stand
3731 repealed on July 1, * * * 2016.

3732 **SECTION 61.** The following shall be codified in Chapter 7, of
3733 Title 47, Mississippi Code of 1972:

3734 (1) The Department of Corrections shall establish technical
3735 violation centers to detain probation and parole violators revoked
3736 by the court or parole board.



3737 (2) The department shall place an offender in a violation
3738 center for a technical violation as ordered by the board pursuant
3739 to Section 47-7-27 and the sentencing court pursuant to Section
3740 47-7-37.

3741 (3) The violation centers shall be equipped to address the
3742 underlying factors that led to the offender's violation as
3743 identified based on the results of a risk and needs assessment.
3744 At a minimum each violation center shall include substance abuse
3745 services shown to reduce recidivism and a reduction in the use of
3746 illicit substances or alcohol, education programs, employment
3747 preparation and training programs and behavioral programs.

3748 (4) As required by Section 47-5-20(b), the department shall
3749 notify, by certified mail, each member of the board of supervisors
3750 of the county in which the violation center shall be located of
3751 the department's intent to convert an existing department facility
3752 to a technical violation center.

3753 (5) The department shall establish rules and regulations for
3754 the implementation and operation of the technical violation
3755 centers.

3756 (6) The Department of Corrections shall provide to the
3757 Oversight Task Force semiannually the average daily population of
3758 the technical violation centers, the number of admissions to the
3759 technical violation centers, and the average time served in the
3760 technical violation centers.



3761 **SECTION 62.** Section 47-5-10, Mississippi Code of 1972, is
3762 amended as follows:

3763 47-5-10. The department shall have the following powers and
3764 duties:

3765 (a) To accept adult offenders committed to it by the
3766 courts of this state for incarceration, care, custody, treatment
3767 and rehabilitation;

3768 (b) To provide for the care, custody, study, training,
3769 supervision and treatment of adult offenders committed to the
3770 department;

3771 (c) To maintain, administer and exercise executive and
3772 administrative supervision over all state correctional
3773 institutions and facilities used for the custody, training, care,
3774 treatment and after-care supervision of adult offenders committed
3775 to the department; provided, however, that such supervision shall
3776 not extend to any institution or facility for which executive and
3777 administrative supervision has been provided by law through
3778 another agency;

3779 (d) To plan, develop and coordinate a statewide,
3780 comprehensive correctional program designed to train and
3781 rehabilitate offenders in order to prevent, control and retard
3782 recidivism;

3783 (e) To maintain records of persons committed to it, and
3784 to establish programs of research, statistics and planning:



3810 subpoenas and compel the attendance of witnesses and the
3811 production of writings and papers, and may examine under oath any
3812 witnesses who may appear before it;

3813 (g) To administer programs of training and development
3814 of personnel of the department;

3815 (h) To develop and implement diversified programs and
3816 facilities to promote, enhance, provide and assure the
3817 opportunities for the successful custody, training and treatment
3818 of adult offenders properly committed to the department or
3819 confined in any facility under its control. Such programs and
3820 facilities may include but not be limited to institutions, group
3821 homes, halfway houses, diagnostic centers, work and educational
3822 release centers, technical violation centers, restitution centers,
3823 counseling and supervision of probation, parole, suspension and
3824 compact cases, presentence investigating and other state and local
3825 community-based programs and facilities;

3826 (i) To receive, hold and use, as a corporate body, any
3827 real, personal and mixed property donated to the department, and
3828 any other corporate authority as shall be necessary for the
3829 operation of any facility at present or hereafter;

3830 (j) To provide those personnel, facilities, programs
3831 and services the department shall find necessary in the operation
3832 of a modern correctional system for the custody, care, study and
3833 treatment of adult offenders placed under its jurisdiction by the
3834 courts and other agencies in accordance with law;



- 3835 (k) To develop the capacity and administrative network
3836 necessary to deliver advisory consultation and technical
3837 assistance to units of local government for the purpose of
3838 assisting them in developing model local correctional programs for
3839 adult offenders;
- 3840 (l) To cooperate with other departments and agencies
3841 and with local communities for the development of standards and
3842 programs for better correctional services in this state;
- 3843 (m) To administer all monies and properties of the
3844 department;
- 3845 (n) To report annually to the Legislature and the
3846 Governor on the committed persons, institutions and programs of
3847 the department;
- 3848 (o) To cooperate with the courts and with public and
3849 private agencies and officials to assist in attaining the purposes
3850 of this chapter and Chapter 7 of this title. The department may
3851 enter into agreements and contracts with other departments of
3852 federal, state or local government and with private agencies
3853 concerning the discharge of its responsibilities or theirs. The
3854 department shall have the authority to accept and expend or use
3855 gifts, grants and subsidies from public and private sources;
- 3856 (p) To make all rules and regulations and exercise all
3857 powers and duties vested by law in the department;
- 3858 (q) The department may require a search of all persons
3859 entering the grounds and facilities at the correctional system;



3860 (r) To submit, in a timely manner, to the Oversight
3861 Task Force established in Section 76 of this act any reports
3862 required by law or regulation or requested by the committee.

3863 (* * *s) To discharge any other power or duty imposed
3864 or established by law.

3865 **SECTION 63.** Section 47-5-26, Mississippi Code of 1972, is
3866 amended as follows:

3867 47-5-26. (1) The commissioner shall employ the following
3868 personnel:

3869 (a) A Deputy Commissioner for Administration and
3870 Finance, who shall supervise and implement all fiscal policies and
3871 programs within the department, supervise and implement all hiring
3872 and personnel matters within the department, supervise the
3873 department's personnel director, supervise and implement all
3874 purchasing within the department and supervise and implement all
3875 data processing activities within the department, and who shall
3876 serve as the Chief Executive Officer of the Division of
3877 Administration and Finance. He shall possess either:

3878 (i) A master's degree from an accredited four-year
3879 college or university in public or business administration,
3880 accounting, economics or a directly related field, and four (4)
3881 years of experience in work related to the above-described duties,
3882 one (1) year of which must have included line or functional
3883 supervision; or



(b) A Deputy Commissioner for Community Corrections, who shall initiate and administer programs, including, but not limited to, supervision of probationers, parolees and suspensioners, counseling, community-based treatment, interstate compact administration and enforcement, prevention programs, halfway houses and group homes, technical violation centers, restitution centers, presentence investigations, and work and educational releases, and shall serve as the Chief Executive Officer of the Division of Community Services. The Deputy Commissioner for Community Corrections is charged with full and complete cooperation with the State Parole Board and shall make monthly reports to the Chairman of the Parole Board in the form and type required by the chairman, in his discretion, for the proper performance of the probation and parole functions. After a plea or verdict of guilty to a felony is entered against a person and before he is sentenced, the Deputy Commissioner for Community Corrections shall procure from any available source and shall file



3909 in the presentence records any information regarding any criminal
3910 history of the person such as fingerprints, dates of arrests,
3911 complaints, civil and criminal charges, investigative reports of
3912 arresting and prosecuting agencies, reports of the National Crime
3913 Information Center, the nature and character of each offense,
3914 noting all particular circumstances thereof and any similar data
3915 about the person. The Deputy Commissioner for Community
3916 Corrections shall keep an accurate and complete duplicate record
3917 of this file and shall furnish the duplicate to the department.
3918 This file shall be placed in and shall constitute a part of the
3919 inmate's master file. The Deputy Commissioner for Community
3920 Corrections shall furnish this file to the State Parole Board when
3921 the file is needed in the course of its official duties. He shall
3922 possess either: (i) a master's degree in counseling, corrections
3923 psychology, guidance, social work, criminal justice or some
3924 related field and at least four (4) years' full-time experience in
3925 such field, including at least one (1) year of supervisory
3926 experience; or (ii) a bachelor's degree in a field described in
3927 subparagraph (i) of this paragraph and at least six (6) years'
3928 full-time work in corrections, one (1) year of which shall have
3929 been at the supervisory level.

3930 (c) A Deputy Commissioner for Institutions, who shall
3931 administer institutions, reception and diagnostic centers,
3932 prerelease centers and other facilities and programs provided
3933 therein, and shall serve as the Chief Executive Officer of the



3934 Division of Institutions. He shall possess either: (i) a
3935 master's degree in counseling, criminal justice, psychology,
3936 guidance, social work, business or some related field, and at
3937 least four (4) years' full-time experience in corrections,
3938 including at least one (1) year of correctional management
3939 experience; or (ii) a bachelor's degree in a field described in
3940 subparagraph (i) of this paragraph and at least six (6) years'
3941 full-time work in corrections, four (4) years of which shall have
3942 been at the correctional management level.

3943 (2) The commissioner shall employ an administrative
3944 assistant for parole matters, who shall be an employee of the
3945 department assigned to the State Parole Board and who shall work
3946 under the guidance and supervision of the board.

3947 (3) The administrative assistant for parole matters shall
3948 receive an annual salary to be established by the Legislature.
3949 The salaries of department employees not established by the
3950 Legislature shall receive an annual salary established by the
3951 State Personnel Board.

3952 (4) The commissioner shall employ a superintendent for the
3953 Parchman facility, Central Mississippi Correctional Facility and
3954 South Mississippi Correctional Institution of the Department of
3955 Corrections. The Superintendent of the Mississippi State
3956 Penitentiary shall reside on the grounds of the Parchman facility.
3957 Each superintendent shall appoint an officer in charge when he is
3958 absent.



3959 Each superintendent shall develop and implement a plan for
3960 the prevention and control of an inmate riot and shall file a
3961 report with the Chairman of the Senate Corrections Committee and
3962 the Chairman of the House Penitentiary Committee on the first day
3963 of each regular session of the Legislature regarding the status of
3964 the plan.

3965 In order that the grievances and complaints of inmates,
3966 employees and visitors at each facility may be heard in a timely
3967 and orderly manner, each superintendent shall appoint or designate
3968 an employee at the facility to hear grievances and complaints and
3969 to report grievances and complaints to the superintendent. Each
3970 superintendent shall institute procedures as are necessary to
3971 provide confidentiality to those who file grievances and
3972 complaints.

3973 **SECTION 64.** Section 9-7-122, Mississippi Code of 1972, is
3974 amended as follows:

3975 9-7-122. (1) Except as otherwise provided herein, no
3976 circuit clerk elected for a full term of office commencing on or
3977 after January 1, 1996, shall exercise any functions of office or
3978 be eligible to take the oath of office unless and until the
3979 circuit clerk has filed in the office of the chancery clerk a
3980 certificate of completion of a course of training and education
3981 conducted by the Mississippi Judicial College of the University of
3982 Mississippi Law Center within six (6) months of the beginning of
3983 the term for which such circuit clerk is elected. A circuit clerk



3984 who has completed the course of training and education and has
3985 satisfied his annual continuing education course requirements, and
3986 who is then elected for a succeeding term of office subsequent to
3987 the initial term for which he completed the training course, shall
3988 not be required to repeat the training and education course upon
3989 reelection. A circuit clerk that has served either a full term of
3990 office or part of a term of office before January 1, 1996, shall
3991 be exempt from the requirements of this subsection.

3992 (2) In addition to meeting the requirements of subsection
3993 (1) of this section, after taking office by election or otherwise,
3994 each circuit clerk shall be required to file annually in the
3995 office of the chancery clerk a certificate of completion of a
3996 course of continuing education conducted by the Mississippi
3997 Judicial College. No circuit clerk shall have to comply with this
3998 subsection unless he will have been in office for five (5) months
3999 or more during a calendar year.

4000 (3) Each circuit clerk elected for a term commencing on or
4001 after January 1, 1992, shall be required to file annually the
4002 certificate required in subsection (2) of this action commencing
4003 January 1, 1993.

4004 (4) The requirements for obtaining the certificates in this
4005 section shall be as provided in subsection (6) of this section.

4006 (5) Upon the failure of any circuit clerk to file with the
4007 chancery clerk the certificates of completion as provided in this
4008 section, such circuit clerk shall, in addition to any other fine



4009 or punishment provided by law for such conduct, not be entitled to
4010 any fee, compensation or salary, from any source, for services
4011 rendered as circuit clerk, for the period of time during which
4012 such certificate remains unfiled.

4013 (6) The Mississippi Judicial College of the University of
4014 Mississippi Law Center shall prepare and conduct courses of
4015 training for basic and continuing education for circuit clerks of
4016 this state. The basic course of training shall be known as the
4017 "Circuit Clerks Training Course" and shall consist of at least
4018 thirty-two (32) hours of training. The continuing education
4019 course shall be known as the "Continuing Education Course for
4020 Circuit Clerks" and shall consist of at least eighteen (18) hours
4021 of training. The content of the basic and continuing education
4022 courses and when and where such courses are to be conducted shall
4023 be determined by the judicial college. The judicial college shall
4024 issue certificates of completion to those circuit clerks who
4025 complete such courses.

4026 (7) The expenses of the training, including training of
4027 those elected as circuit clerk who have not yet begun their term
4028 of office, shall be borne as an expense of the office of the
4029 circuit clerk.

4030 (8) Circuit clerks shall be allowed credit toward their
4031 continuing education course requirements for attendance at circuit
4032 court proceedings if the presiding circuit court judge certifies
4033 that the circuit clerk was in actual attendance at a term or terms



4034 of court; provided, however, that at least twelve (12) hours per
4035 year of the continuing education course requirements must be
4036 completed at a regularly established program or programs conducted
4037 by the Mississippi Judicial College.

4038 (9) By August 1, 2015, and each year thereafter, the
4039 Administrative Office of the Courts shall certify to the
4040 Mississippi Judicial College the names of all circuit clerks who
4041 have failed to provide the information required by Section 2 of
4042 this act. The judicial college shall not issue a certificate of
4043 continuing education required by subsection (2) of this section to
4044 any such clerk, and shall report to the State Auditor, and the
4045 board of supervisors of the county the clerk is elected from that
4046 the clerk shall not be entitled to receive the compensation set
4047 out in subsection (5) of this section. A clerk may be certified
4048 after coming into compliance with the requirements of Section 2 of
4049 this act.

4050 **SECTION 65.** Section 9-11-27, Mississippi Code of 1972, is
4051 amended as follows:

4052 9-11-27. (1) The board of supervisors of each county shall,
4053 at its own expense, appoint one (1) person to serve as clerk of
4054 the justice court system of the county, and may appoint such other
4055 employees for the justice court of the county as it deems
4056 necessary, including a person or persons to serve as deputy clerk
4057 or deputy clerks. The board of supervisors of each county with
4058 two (2) judicial districts may, at its own expense, appoint two



4059 (2) persons to serve as clerks of the justice court system of the
4060 county, one (1) for each judicial district, and may appoint such
4061 other employees for the justice court system of the county as it
4062 deems necessary including persons to serve as deputy clerks. The
4063 clerk and deputy clerks shall be empowered to file and record
4064 actions and pleadings, to receive and receipt for monies, to
4065 acknowledge affidavits, to issue warrants in criminal cases upon
4066 direction by a justice court judge in the county, to approve the
4067 sufficiency of bonds in civil and criminal cases, to certify and
4068 issue copies of all records, documents and pleadings filed in the
4069 justice court and to issue all process necessary for the operation
4070 of the justice court. The clerk or deputy clerks may refuse to
4071 accept a personal check in payment of any fine or cost or to
4072 satisfy any other payment required to be made to the justice
4073 court. All orders from the justice court judge to the clerk of
4074 the justice court shall be written. All cases, civil and
4075 criminal, shall be assigned by the clerk to the justice court
4076 judges of the county in the manner provided in Section 11-9-105
4077 and Section 99-33-2. A deputy clerk who works in an office
4078 separate from the clerk and who is the head deputy clerk of the
4079 separate office may be designated to be trained as a clerk as
4080 provided in Section 9-11-29.

4081 (2) By August 1, 2015, and each year thereafter, the
4082 Administrative Office of Courts shall report the names of all
4083 justice court clerks who have failed to comply with the reporting



4084 requirements of Section 2 of this act to the boards of supervisors
4085 that selected them. Each clerk shall be given three (3) months
4086 from the date on which the board was given notice to come into
4087 compliance with the requirements of Section 2 of this act. The
4088 Administrative Office of Courts shall notify the board of
4089 supervisors of any justice court clerk who fails to come into
4090 compliance after the three-month notice required in this
4091 subsection. Any noncompliant clerks shall be terminated for
4092 failure to comply with Section 2 of this act reporting
4093 requirement.

4094 **SECTION 66.** Section 21-23-12, Mississippi Code of 1972, is
4095 amended as follows:

4096 21-23-12. (1) Every person appointed as clerk of the
4097 municipal court shall be required annually to attend and complete
4098 a comprehensive course of training and education conducted or
4099 approved by the Mississippi Judicial College of the University of
4100 Mississippi Law Center. Attendance shall be required beginning
4101 with the first training seminar conducted after said clerk is
4102 appointed.

4103 (2) The Mississippi Judicial College of the University of
4104 Mississippi Law Center shall prepare and conduct a course of
4105 training and education for municipal court clerks of the state.
4106 The course shall consist of at least twelve (12) hours of training
4107 per year. After completion of the first year's requirement, a
4108 maximum of six (6) hours training, over and above the required



4109 twelve (12) hours, may be carried forward from the previous year.
4110 The content of the course of training and when and where it is to
4111 be conducted shall be determined by the Judicial College. A
4112 certificate of completion shall be furnished to those municipal
4113 court clerks who complete such course, and each certificate shall
4114 be made a permanent record of the minutes of the board of aldermen
4115 or city council in the municipality from which the municipal clerk
4116 is appointed.

4117 (3) Upon the failure of any person appointed as clerk of the
4118 municipal court to file the certificate of completion as provided
4119 in subsection (2) of this section, within the first year of
4120 appointment, such person shall then not be allowed to carry out
4121 any of the duties of the office of clerk of the municipal court
4122 and shall not be entitled to compensation for the period of time
4123 during which such certificate remains unfiled.

4124 (4) After August 1, 2015, and each year thereafter, the
4125 Administrative Office of Courts shall notify the judicial college
4126 of the name of any municipal court clerk who has not complied with
4127 the requirements of Section 2 of this act. The Mississippi
4128 Judicial College shall not provide such clerk with a certificate
4129 of completion of course work until such time that the
4130 Administrative Office of Courts has reported that the clerk is in
4131 compliance with the requirements of Section 2 of this act.
4132 Further, the Administrative Office of Courts shall report the



4133 names of all noncompliant clerks to the State Auditor and to the
4134 mayor of the municipality that employs the clerk.

4135 **SECTION 67.** Section 47-5-28, Mississippi Code of 1972, is
4136 amended as follows:

4137 47-5-28. The commissioner shall have the following powers
4138 and duties:

4139 (a) To implement and administer laws and policy
4140 relating to corrections and coordinate the efforts of the
4141 department with those of the federal government and other state
4142 departments and agencies, county governments, municipal
4143 governments, and private agencies concerned with providing
4144 offender services;

4145 (b) To establish standards, in cooperation with other
4146 state agencies having responsibility as provided by law, provide
4147 technical assistance, and exercise the requisite supervision as it
4148 relates to correctional programs over all state-supported adult
4149 correctional facilities and community-based programs;

4150 (c) To promulgate and publish such rules, regulations
4151 and policies of the department as are needed for the efficient
4152 government and maintenance of all facilities and programs in
4153 accord insofar as possible with currently accepted standards of
4154 adult offender care and treatment * * *;

4155 (d) To provide the Parole Board with suitable and
4156 sufficient office space and support resources and staff necessary



4157 to conducting Parole Board business under the guidance of the
4158 Chairman of the Parole Board;

4159 (e) To contract for transitional re-entry center beds
4160 that will be used as noncorrections housing for offenders released
4161 from the department on parole, probation or post-release
4162 supervision but do not have appropriate housing available upon
4163 release. At least one hundred (100) transitional re-entry center
4164 beds contracted by the department and chosen by the Parole Board
4165 shall be available for the Parole Board to place parolees without
4166 appropriate housing;

4167 (* * *f) To make an annual report to the Governor and
4168 the Legislature reflecting the activities of the department and
4169 make recommendations for improvement of the services to be
4170 performed by the department;

4171 (* * *g) To cooperate fully with periodic independent
4172 internal investigations of the department and to file the report
4173 with the Governor and the Legislature;

4174 (* * *h) To perform such other duties necessary to
4175 effectively and efficiently carry out the purposes of the
4176 department as may be directed by the Governor.

4177 **SECTION 68.** (1) As used in this section, "fiscal impact
4178 statement" means the estimated dollar cost to the state for the
4179 first year and the annual cost thereafter. The term "ten-year
4180 fiscal impact statement" means the estimated dollar cost to the



4181 state over the ten-year period following passage or adoption of
4182 the subject of the fiscal impact statement.

4183 (2) Whenever legislation is introduced in the Legislature,
4184 which would establish a new criminal offense or would amend the
4185 sentencing provisions of an existing criminal offense, the
4186 principal author shall affix a fiscal impact statement and a
4187 ten-year fiscal impact statement of the proposed legislation. The
4188 Office of Budget and Fund Management shall assist the principal
4189 author in preparing the fiscal impact statement.

4190 (3) If the fiscal impact statement is not affixed to the
4191 legislation at the time of introduction, the Office of Budget and
4192 Fund Management shall deliver the fiscal impact statement to the
4193 Senate or House of Representatives committee to which the
4194 legislation is referred within thirty (30) calendar days of
4195 introduction.

4196 (4) The committee shall not take action on the legislation
4197 until it has received the fiscal impact statement and the ten-year
4198 fiscal impact statement.

4199 (5) If the legislation is reported out of the committee, the
4200 committee shall attach the fiscal impact statement and the
4201 ten-year fiscal impact statement to the legislation. If the
4202 legislation has been amended, the committee shall request a
4203 revised fiscal impact statement and the ten-year fiscal impact
4204 statement from the Office of Budget and Fund Management, and shall
4205 attach the revised documents to the legislation.



4206 (6) State agencies and political subdivisions shall
4207 cooperate with the Office of Budget and Fund Management in
4208 preparing fiscal impact statements and the ten-year fiscal impact
4209 statements. Such agencies and political subdivisions shall submit
4210 requested information to the Office of Budget and Fund Management
4211 in a timely fashion.

4212 (7) In preparing fiscal impact statements and the ten-year
4213 fiscal impact statements, the Office of Budget and Fund Management
4214 must accurately report to the Legislature information provided to
4215 the Office of Budget and Fund Management by state agencies and
4216 political subdivisions.

4217 (8) The Office of Budget and Fund Management may request
4218 information from nongovernmental agencies and organizations to
4219 assist in preparing the fiscal impact statement and the ten-year
4220 fiscal impact statement.

4221 **SECTION 69.** (1) There is hereby established a committee to
4222 be known as the Corrections and Criminal Justice Oversight Force,
4223 hereinafter called the oversight task force, which must exercise
4224 the powers and fulfill the duties described in this chapter.

4225 (2) The Oversight Task Force shall be composed of the
4226 following members: the Lieutenant Governor shall appoint two (2)
4227 members of the Senate, one (1) from each political party; the
4228 Speaker of the House shall appoint two (2) members of the House,
4229 one (1) from each political party; the commissioner or his
4230 designee; the Chief Justice shall appoint one (1) member of the



4231 circuit court; and the Governor shall appoint one (1) member from
4232 the Parole Board and one (1) member from the Joint Legislative
4233 Committee on Performance Evaluation and Expenditure Review and one
4234 (1) member representing the victims' community. The Association
4235 of Supervisors shall appoint one (1) person to represent the
4236 association, the District Attorney's Association shall appoint one
4237 (1) person to represent the association, the Sheriffs' Association
4238 shall appoint one (1) person to represent the association and the
4239 Office of the State Public Defender shall appoint one (1) person
4240 to represent the public defenders' office.

4241 (3) The task force shall meet as soon as practicable after
4242 appointment and organize itself by electing one oversig(1) of its
4243 members as chair and such other officers as the ht committee may
4244 consider necessary. Thereafter, the oversight committee shall
4245 meet at least biannually and at the call of the chair or by a
4246 majority of the members. A quorum consists of five (5) members.

4247 (4) The task force shall have the following powers and
4248 duties:

4249 (a) Track and assess outcomes from the recommendations
4250 in the Corrections and Criminal Justice Task Force report of
4251 December 2013;

4252 (b) Prepare and submit an annual report no later than
4253 the first day of the second full week of each regular session of
4254 the Legislature on the outcome and performance measures to the
4255 Legislature, Governor, and Chief Justice. The report shall



4256 include recommendations for improvements, recommendations on
4257 transfers of funding based on the success or failure of
4258 implementation of the recommendations, and a summary of savings.
4259 The report may also present additional recommendations to the
4260 Legislature on future legislation and policy options to enhance
4261 public safety and control corrections costs;

4262 (c) Monitor compliance with sentencing standards,
4263 assess their impact on the correctional resources of the state and
4264 determine if the standards advance the adopted sentencing policy
4265 goals of the state;

4266 (d) Review the classifications of crimes and sentences
4267 and make recommendations for change when supported by information
4268 that change is advisable to further the adopted sentencing policy
4269 goals of the state;

4270 (e) Develop a research and analysis system to determine
4271 the feasibility, impact on resources, and budget consequences of
4272 any proposed or existing legislation affecting sentence length;

4273 (f) Request, review, and receive data and reports on
4274 performance outcome measures as related to this act;

4275 (g) To undertake such additional studies or evaluations
4276 as the Oversight Task Force considers necessary to provide
4277 sentencing reform information and analysis;

4278 (h) Prepare and conduct annual continuing legal
4279 education seminars regarding the sentencing guidelines to be



4280 presented to judges, prosecuting attorneys and their deputies, and
4281 public defenders and their deputies, as so required;

4282 (i) The Oversight Task Force shall use clerical and
4283 professional employees of the Department of Corrections for its
4284 staff;

4285 (j) The Oversight Task Force may employ or retain other
4286 professional staff, upon the determination of the necessity for
4287 other staff;

4288 (k) The Oversight Task Force may employ consultants to
4289 assist in the evaluations and, when necessary, the implementation
4290 of the recommendations of the Corrections and Criminal Justice
4291 Task Force report of December 2013;

4292 (l) The Oversight Task Force is encouraged to apply for
4293 and may expend grants, gifts, or federal funds it receives from
4294 other sources to carry out its duties and responsibilities.

4295 **SECTION 70.** Section 47-5-138, Mississippi Code of 1972, is
4296 brought forward as follows:

4297 47-5-138. (1) The department may promulgate rules and
4298 regulations to carry out an earned time allowance program based on
4299 the good conduct and performance of an inmate. An inmate is
4300 eligible to receive an earned time allowance of one-half (1/2) of
4301 the period of confinement imposed by the court except those
4302 inmates excluded by law. When an inmate is committed to the
4303 custody of the department, the department shall determine a
4304 conditional earned time release date by subtracting the earned



4305 time allowance from an inmate's term of sentence. This subsection
4306 does not apply to any sentence imposed after June 30, 1995.

4307 (2) An inmate may forfeit all or part of his earned time
4308 allowance for a serious violation of rules. No forfeiture of the
4309 earned time allowance shall be effective except upon approval of
4310 the commissioner or his designee, and forfeited earned time may
4311 not be restored.

4312 (3) (a) For the purposes of this subsection, "final order"
4313 means an order of a state or federal court that dismisses a
4314 lawsuit brought by an inmate while the inmate was in the custody
4315 of the Department of Corrections as frivolous, malicious or for
4316 failure to state a claim upon which relief could be granted.

4317 (b) On receipt of a final order, the department shall
4318 forfeit:

4319 (i) Sixty (60) days of an inmate's accrued earned
4320 time if the department has received one (1) final order as defined
4321 herein;

4322 (ii) One hundred twenty (120) days of an inmate's
4323 accrued earned time if the department has received two (2) final
4324 orders as defined herein;

4325 (iii) One hundred eighty (180) days of an inmate's
4326 accrued earned time if the department has received three (3) or
4327 more final orders as defined herein.

4328 (c) The department may not restore earned time
4329 forfeited under this subsection.



4330 (4) An inmate who meets the good conduct and performance
4331 requirements of the earned time allowance program may be released
4332 on his conditional earned time release date.

4333 (5) For any sentence imposed after June 30, 1995, an inmate
4334 may receive an earned time allowance of four and one-half (4-1/2)
4335 days for each thirty (30) days served if the department determines
4336 that the inmate has complied with the good conduct and performance
4337 requirements of the earned time allowance program. The earned
4338 time allowance under this subsection shall not exceed fifteen
4339 percent (15%) of an inmate's term of sentence; however, beginning
4340 July 1, 2006, no person under the age of twenty-one (21) who has
4341 committed a nonviolent offense, and who is under the jurisdiction
4342 of the Department of Corrections, shall be subject to the fifteen
4343 percent (15%) limitation for earned time allowances as described
4344 in this subsection (5).

4345 (6) Any inmate, who is released before the expiration of his
4346 term of sentence under this section, shall be placed under
4347 earned-release supervision until the expiration of the term of
4348 sentence. The inmate shall retain inmate status and remain under
4349 the jurisdiction of the department. The period of earned-release
4350 supervision shall be conducted in the same manner as a period of
4351 supervised parole. The department shall develop rules, terms and
4352 conditions for the earned-release supervision program. The
4353 commissioner shall designate the appropriate hearing officer



4354 within the department to conduct revocation hearings for inmates
4355 violating the conditions of earned-release supervision.

4356 (7) If the earned-release supervision is revoked, the inmate
4357 shall serve the remainder of the sentence, but the time the inmate
4358 served on earned-release supervision before revocation, shall be
4359 applied to reduce his sentence.

4360 **SECTION 71.** Section 47-5-142, Mississippi Code of 1972, is
4361 brought forward as follows:

4362 47-5-142. (1) In order to provide incentive for offenders
4363 to achieve positive and worthwhile accomplishments for their
4364 personal benefit or the benefit of others, and in addition to any
4365 other administrative reductions of the length of an offender's
4366 sentence, any offender shall be eligible, subject to the
4367 provisions of this section, to receive meritorious earned time as
4368 distinguished from earned time for good conduct and performance.

4369 (2) Subject to approval by the commissioner of the terms and
4370 conditions of the program or project, meritorious earned time may
4371 be awarded for the following: (a) successful completion of
4372 educational or instructional programs; (b) satisfactory
4373 participation in work projects; and (c) satisfactory participation
4374 in any special incentive program.

4375 (3) The programs and activities through which meritorious
4376 earned time may be received shall be published in writing and
4377 posted in conspicuous places at all facilities of the department



4378 and such publication shall be made available to all offenders in
4379 the custody of the department.

4380 (4) The commissioner shall make a determination of the
4381 number of days of reduction of sentence which may be awarded an
4382 offender as meritorious earned time for participation in approved
4383 programs or projects; the number of days shall be determined by
4384 the commissioner on the basis of each particular program or
4385 project.

4386 (5) No offender shall be awarded any meritorious earned time
4387 while assigned to the maximum security facilities for disciplinary
4388 purposes.

4389 (6) All meritorious earned time shall be forfeited by the
4390 offender in the event of escape and/or aiding and abetting an
4391 escape.

4392 (7) Any officer or employee of the department who shall
4393 willfully violate the provisions of this section and be convicted
4394 therefor shall be removed from office or employment.

4395 (8) An offender may forfeit all or any part of his
4396 meritorious earned time allowance for just cause upon the written
4397 order of the commissioner or his designee. Any meritorious earned
4398 time allowance forfeited under this section shall not be restored
4399 nor shall it be re-earned by the offender.

4400 **SECTION 72.** Section 97-9-79, Mississippi Code of 1972, is
4401 brought forward as follows:



4402 97-9-79. Any person who shall make or cause to be made any
4403 false statement or representation as to his or another person's
4404 identity, social security account number or other identifying
4405 information to a law enforcement officer in the course of the
4406 officer's duties with the intent to mislead the officer shall be
4407 guilty of a misdemeanor and upon conviction thereof shall be fined
4408 not more than Five Thousand Dollars (\$5,000.00) or imprisoned for
4409 a term not to exceed one (1) year, or both.

4410 **SECTION 73.** Section 97-19-83, Mississippi Code of 1972, is
4411 brought forward as follows:

4412 97-19-83. (1) Whoever, having devised or intending to
4413 devise any scheme or artifice to defraud, or for obtaining money,
4414 property or services, or for unlawfully avoiding the payment or
4415 loss of money, property or services, or for securing business or
4416 personal advantage by means of false or fraudulent pretenses,
4417 representations or promises, or to sell, dispose of, loan,
4418 exchange, alter, give away, distribute, supply, or furnish or
4419 procure for unlawful use any counterfeit or spurious coin,
4420 obligation, security or other article, or anything represented to
4421 be or intimated or held out to be such counterfeit or spurious
4422 article, for the purpose of executing such scheme or artifice or
4423 attempting so to do, transmits or causes to be transmitted by
4424 mail, telephone, newspaper, radio, television, wire,
4425 electromagnetic waves, microwaves, or other means of communication
4426 or by person, any writings, signs, signals, pictures, sounds,



4427 data, or other matter across county or state jurisdictional lines,
4428 shall, upon conviction, be punished by a fine of not more than Ten
4429 Thousand Dollars (\$10,000.00) or by imprisonment for not more than
4430 five (5) years, or by both such fine and imprisonment.

4431 (2) For the purposes of venue under the provisions of this
4432 section, any violation of this section may be prosecuted in the
4433 county in which the delivery or transmission originated, the
4434 county in which the delivery or transmission was made, or the
4435 county in which any act in execution or furtherance of the scheme
4436 occurred.

4437 (3) This section shall not prohibit the prosecution under
4438 any other criminal statute of the state.

4439 **SECTION 74.** Section 97-19-85, Mississippi Code of 1972, is
4440 brought forward as follows:

4441 97-19-85. (1) Any person who shall make or cause to be made
4442 any false statement or representation as to his or another
4443 person's or entity's identity, social security account number,
4444 credit card number, debit card number or other identifying
4445 information for the purpose of fraudulently obtaining or with the
4446 intent to obtain goods, services or any thing of value, shall be
4447 guilty of a felony and upon conviction thereof for a first offense
4448 shall be fined not more than Five Thousand Dollars (\$5,000.00) or
4449 imprisoned for a term not to exceed five (5) years, or both. For
4450 a second or subsequent offense such person, upon conviction, shall
4451 be fined not more than Ten Thousand Dollars (\$10,000.00) or



4452 imprisoned for a term not to exceed ten (10) years, or both. In
4453 addition to the fines and imprisonment provided in this section, a
4454 person convicted under this section shall be ordered to pay
4455 restitution as provided in Section 99-37-1 et seq.

4456 (2) A person is guilty of fraud under subsection (1) who:

4457 (a) Shall furnish false information willfully,
4458 knowingly and with intent to deceive anyone as to his true
4459 identity or the true identity of another person; or

4460 (b) Willfully, knowingly, and with intent to deceive,
4461 uses a social security account number to establish and maintain
4462 business or other records; or

4463 (c) With intent to deceive, falsely represents a number
4464 to be the social security account number assigned to him or
4465 another person, when in fact the number is not the social security
4466 account number assigned to him or such other person; or

4467 (d) With intent to deceive, falsely represents to be a
4468 representative of an entity in order to open banking accounts,
4469 obtain credit cards, or other services and supplies in the
4470 entity's name; or

4471 (e) Knowingly alters a social security card, buys or
4472 sells a social security card or counterfeit or altered social
4473 security card, counterfeits a social security card, or possesses a
4474 social security card or counterfeit social security card with
4475 intent to sell or alter it.



4476 **SECTION 75.** Section 99-19-81, Mississippi Code of 1972, is
4477 brought forward as follows:

4478 99-19-81. Every person convicted in this state of a felony
4479 who shall have been convicted twice previously of any felony or
4480 federal crime upon charges separately brought and arising out of
4481 separate incidents at different times and who shall have been
4482 sentenced to separate terms of one (1) year or more in any state
4483 and/or federal penal institution, whether in this state or
4484 elsewhere, shall be sentenced to the maximum term of imprisonment
4485 prescribed for such felony, and such sentence shall not be reduced
4486 or suspended nor shall such person be eligible for parole or
4487 probation.

4488 **SECTION 76.** Section 99-19-84, Mississippi Code of 1972, is
4489 brought forward as follows:

4490 99-19-84. Whenever probation is a part of a sentence
4491 prescribed for an offense for which registration as a sex offender
4492 is required under Title 45, Chapter 33, the court may include as a
4493 condition of probation that the sex offender be placed on
4494 electronic monitoring. The Department of Corrections shall
4495 promulgate rules and regulations for the implementation of
4496 electronic monitoring of sex offenders on probation.

4497 **SECTION 77.** Section 99-19-87, Mississippi Code of 1972, is
4498 brought forward as follows:



4499 99-19-87. Nothing in Sections 99-19-81 through 99-19-87
4500 shall abrogate or affect punishment by death in any and all crimes
4501 now or hereafter punishable by death.

4502 **SECTION 78.** No person shall be considered for or granted a
4503 nonadjudication, if he or she has previously been granted a
4504 nonadjudication for any crime.

4505 **SECTION 79.** The following shall be codified as Section
4506 97-43-3.1, Mississippi Code of 1972:

4507 97-43-3.1. (1) It shall be unlawful for any person to
4508 conduct, organize, supervise or manage, directly or indirectly, an
4509 organized theft or fraud enterprise. Organized theft or fraud
4510 enterprise applies to conduct proscribed in the following
4511 provisions:

4512 (a) Section 97-23-93, which relates to shoplifting;

4513 (b) Sections 97-45-3 and 97-45-5, which relate to
4514 computer fraud;

4515 (c) Section 97-45-19, which relates to fraudulent use
4516 of identity;

4517 (d) Section 97-9-79, which relates to false
4518 information;

4519 (e) Section 97-19-83, which relates to fraud by mail or
4520 other means of communication;

4521 (f) Section 97-19-85, which relates to the fraudulent
4522 use of a social security number, credit card or debit card number
4523 or other identifying information; and



4524 (g) Section 97-45-19, which relates to obtaining
4525 personal identity information of another person without
4526 authorization.

4527 (2) It shall be unlawful for any person who has, with
4528 criminal intent, received any proceeds or services derived,
4529 directly or indirectly, from an organized theft or fraud
4530 enterprise.

4531 (3) For the purposes of this section, an "organized theft or
4532 fraud enterprise" means any association of two (2) or more persons
4533 who engage in the conduct of or are associated for the purpose of
4534 effectuating the transfer or sale of merchandise, services or
4535 information that has a pecuniary value that causes a loss to the
4536 victim.

4537 (4) The value of the merchandise or services or the
4538 pecuniary loss involved in a violation of this section may be
4539 aggregated in determining the grade of the offense where the acts
4540 or conduct constituting a violation were committed pursuant to one
4541 (1) scheme or course of conduct, whether from the same person or
4542 several persons, or were committed in furtherance of or in
4543 conjunction with an organized theft or fraud enterprise.

4544 (5) Any person convicted under this section shall be, upon
4545 conviction, guilty of a felony and punished by a term of
4546 imprisonment of not more than twenty (20) years or fined not more
4547 than Twenty-five Thousand Dollars (\$25,000.00), or both.



4548 **SECTION 80.** The following shall be codified in Chapter 7,
4549 Title 47, Mississippi Code of 1972:

4550 (1) Notwithstanding Sections 47-5-138, 47-5-139, 47-5-138.1
4551 or 47-5-142, no person convicted of a criminal offense on or after
4552 July 1, 2014, shall be released by the department until he or she
4553 has served no less than fifty percent (50%) of a sentence for a
4554 crime of violence pursuant to Section 97-3-2 or twenty-five
4555 percent (25%) of any other sentence imposed by the court.

4556 (2) This section shall not apply to:

4557 (a) Offenders sentenced to life imprisonment;
4558 (b) Offenders convicted as habitual offenders pursuant
4559 to Sections 99-19-81 through 99-19-87;
4560 (c) Offenders serving a sentence for a sex offense; or
4561 (d) Offenders serving a sentence for trafficking.

4562 (3) Any nonviolent offender, who has served twenty-five
4563 percent (25%) or more of his sentence may be paroled if the
4564 sentencing judge or senior circuit judge, if the sentencing judge
4565 is retired, disabled or incapacitated, recommends such parole to
4566 the Parole Board and the Parole Board approves.

4567 **SECTION 81.** (1) Semiannually, the circuit clerks of each
4568 county, the municipal court clerks of each municipality, and the
4569 justice court clerks of each county shall report to the
4570 Administrative Office of Courts the following information:

4571 (a) Individual misdemeanor and felony case records by
4572 offense, from the circuit clerk for all circuit and county court



4573 criminal proceedings, and from the municipal and justice court
4574 clerks for all misdemeanors, electronically when available,
4575 containing the date on which the criminal charges were filed,
4576 charge code and name of indicted offenses, count number of
4577 indicted offenses, the disposition of the charges, date disposed,
4578 date sentenced, charge code and name of sentenced offenses, and
4579 sentence length.

4580 (b) Data should be kept individually by case number and
4581 misdemeanor charges or indicted felony offense, and include, for
4582 criminal docket purposes, demographic information necessary for
4583 tracking individuals across multiple databases should be
4584 collected, including date of birth, city and state of residence,
4585 race, and gender.

4586 (2) The Administrative Office of Courts shall be empowered
4587 to establish a uniform reporting format for all court clerks
4588 described in subsection (1) of this section. Such reporting
4589 format shall emphasize the need for reporting information in a
4590 sortable, electronic format. All clerks who submit required
4591 information in other formats shall report to the Administrative
4592 Office of Courts a schedule for conversion to technology to enable
4593 the reporting of all required data in a sortable, electronic
4594 format.

4595 (3) Semiannual reports shall be made to the Administrative
4596 Office of Courts by December 31, 2014, or as soon thereafter as
4597 practicable, and every year thereafter, and on June 30, 2015, or



4598 as soon thereafter as practicable, and every year thereafter. On
4599 August 1, 2015, and each year thereafter, the Administrative
4600 Office of Courts shall provide to PEER sortable, electronic copies
4601 of all reports required by this section.

4602 (4) The Administrative Office of Courts shall share the
4603 information required under this section with the Oversight Task
4604 Force.

4605 **SECTION 82.** (1) The Mississippi Department of Corrections
4606 shall collect the following information:

4607 (a) Prison data shall include:
4608 (i) The number of offenders entering prison on a
4609 new offense;
4610 (ii) The number of offenders entering prison as a
4611 revocation of supervision;
4612 (iii) The average sentence length for new prison
4613 sentences by offense type;
4614 (iv) The average sentence length for offenders
4615 entering prison for a probation revocation;
4616 (v) The average sentence length for offenders
4617 entering prison for a parole revocation;
4618 (vi) The average percentage of prison sentence
4619 served in prison by offense type;
4620 (vii) The average length of stay by offense type;



4621 (viii) Recidivism rates. For the purposes of this
4622 report, "recidivism" means conviction of a new felony offense
4623 within three (3) years of release from prison;

4624 1. Recidivism rates by offense type;

2. Recidivism rates by risk level;

4626 (ix) Total prison population;

4627 1. By offense type;

4629 (b) Probation data shall include:

4630 (i) The number of offenders supervised on

4631 probation;

4632 (ii) The number of offenders placed on probation;

4633 (iii) The number of probationers revoked for a
4634 technical violation and sentenced to a term of imprisonment in
4635 technical violation center;

4636 (iv) The number of probationers revoked for a
4637 technical violation and sentenced to a term of imprisonment in
4638 another type of department of correction;

4639 (v) The number of probationers who are convicted
4640 of a new felony offense and sentenced to a term of imprisonment;

4641 (vi) The number of probationers held on a

4642 violation in a county jail awaiting a revocation hearing; and

4643 (vii) The average length of stay in a county jail
4644 for probationers awaiting a revocation hearing.

(c) Post-release supervision data shall include:



4663 (2) The Department of Corrections shall semiannually report
4664 information required in subsection (1) of this section to the
4665 Oversight Task Force, and upon request, shall report the
4666 information to the PEER Committee.

4667 **SECTION 83.** (1) The Parole Board, with the assistance of
4668 the Department of Corrections, shall collect the following
4669 information:

4670 (a) The number of offenders supervised on parole;

4671 (b) The number of offenders released on parole;

4672 (c) The number of parole hearings held;

4673 (d) The parole grant rate for parolees released with

4674 and without a hearing;

4675 (e) The average length of time offenders spend on

4676 parole;

4677 (f) The number and percentage of parolees revoked for a

4678 technical violation and returned for a term of imprisonment in a

4679 technical violation center;

4680 (g) The number and percentage of parolees revoked for a

4681 technical violation and returned for a term of imprisonment in

4682 another type of department of correction facility;

4683 (h) The number and percentage of parolees who are

4684 convicted of a new offense and returned for a term of imprisonment

4685 on their current crime as well as the new crime;

4686 (i) The number of parolees held on a violation in

4687 county jail awaiting a revocation hearing; and

4688 (j) The average length of stay in county jail for

4689 parolees awaiting a revocation hearing.

4690 (2) The Parole Board shall semiannually report information

4691 required in subsection (1) to the Oversight Task Force, and upon

4692 request, shall report such information to the PEER Committee.

4693 **SECTION 84.** (1) The Legislature recognizes that our

4694 military veterans have provided an invaluable service to our

4695 country. In doing so, many may have suffered the effects of,



4696 including, but not limited to, post-traumatic stress disorder,
4697 traumatic brain injury and depression, and may also suffer drug
4698 and alcohol dependency or addiction and co-occurring mental
4699 illness and substance abuse problems. As a result of this, some
4700 veterans come into contact with the criminal justice system and
4701 are charged with felony offenses. There is a critical need for
4702 the justice system to recognize these veterans, provide
4703 accountability for their wrongdoing, provide for the safety of the
4704 public, and provide for the treatment of our veterans. It is the
4705 intent of the Legislature to create a framework for which
4706 specialized veterans treatment courts may be established at the
4707 circuit court level and at the discretion of the circuit court
4708 judge.

4709 (2) **Authorization.** A circuit court judge may establish a
4710 Veterans Treatment Court program. The Veterans Treatment Court
4711 may, at the discretion of the circuit court judge, be a separate
4712 court program or as a component of an existing drug court program.
4713 At the discretion of the circuit court judge, the Veterans
4714 Treatment Court may be operated in one (1) county within the
4715 circuit court district, and allow veteran participants from all
4716 counties within the circuit court district to participate.

4717 (3) **Eligibility.** (a) In order to be eligible to
4718 participate in a Veterans Treatment Court program established
4719 under this section, the attorney representing the state must
4720 consent to the defendant's participation in the program. Further,



4721 the court in which the criminal case is pending must have found
4722 that the defendant is a veteran of the United States Armed Forces
4723 as defined in Title 38 USCS.

4724 (b) Participation in the services of an alcohol and
4725 drug intervention component shall only be open to the individuals
4726 over whom the court has jurisdiction, except that the court may
4727 agree to provide the services for individuals referred from
4728 another Veterans Treatment Court. In cases transferred from
4729 another jurisdiction, the receiving judge shall act as a special
4730 master and make recommendations to the sentencing judge.

4731 (c) (i) As a condition of participation in a Veterans
4732 Treatment Court, a participant may be required to undergo a
4733 chemical test or a series of chemical tests as specified by the
4734 Veterans Treatment Court program. A participant may be held
4735 liable for costs associated with all chemical tests required under
4736 this section. However, a judge may waive any fees for testing.

4737 (ii) A laboratory that performs chemical tests
4738 under this section shall report the results of the tests to the
4739 Veterans Treatment Courts.

4740 (d) A person does not have the right to participate in
4741 a Veterans Treatment Court program under this article. The court
4742 having jurisdiction over a person for a matter before the court
4743 shall have the final determination about whether the person may
4744 participate in the Veterans Treatment Court program.



4745 (e) A defendant shall be excluded from participating in
4746 a Veterans Treatment Court program if any one (1) of the following
4747 applies:

4748 (i) The crime before the court is a crime of
4749 violence as set forth in paragraph (c) of this subsection.

4750 (ii) The defendant does not demonstrate a
4751 willingness to participate in a treatment program.

4752 (iii) The defendant has been previously convicted
4753 of a felony crime of violence including, but not limited to:
4754 murder, rape, sexual battery, statutory rape of a child under the
4755 age of sixteen (16), armed robbery, arson, aggravated kidnapping,
4756 aggravated assault, stalking, or any offense involving the
4757 discharge of a firearm or where serious bodily injury or death
4758 resulted to any person.

4759 (f) The court in which the criminal case is pending
4760 shall allow an eligible defendant to choose whether to proceed
4761 through the Veterans Treatment Court program or otherwise through
4762 the justice system.

4763 (g) Proof of matters under this section may be
4764 submitted to the court in which the criminal case is pending in
4765 any form the court determines to be appropriate, including
4766 military service and medical records, previous determinations of a
4767 disability by a veteran's organization or by the United States
4768 Department of Veterans Affairs, testimony or affidavits of other



4769 veterans or service members, and prior determinations of
4770 eligibility for benefits by any state or county veterans office.

4771 (4) **Administrative Office of Courts.** With regard to any
4772 Veterans Treatment Court established under this article, the
4773 Administrative Office of Courts may do the following:

4774 (a) Ensure that the structure of the intervention
4775 component complies with rules adopted under this article and
4776 applicable federal regulations.

4777 (b) Revoke the authorization of a program upon a
4778 determination that the program does not comply with rules adopted
4779 under this article and applicable federal regulations.

4780 (c) Enter into agreements and contracts to effectuate
4781 the purposes of this article with:

4782 (i) Another department, authority, or agency of
4783 the state;

4784 (ii) Another state;

4785 (iii) The federal government;

4786 (iv) A state-supported or private university; or

4787 (v) A public or private agency, foundation,
4788 corporation, or individual.

4789 (d) Directly, or by contract, approve and certify any
4790 intervention component established under this article.

4791 (e) Require, as a condition of operation, that each
4792 veterans court created or funded under this article be certified
4793 by the Administrative Office of Courts.



4794 (f) Adopt rules to implement this article.

4795 (5) **State Drug Court Advisory Committee.** (a) The State
4796 Drug Court Advisory Committee shall be responsible for developing
4797 statewide rules and policies as they relate to Veterans Treatment
4798 Court programs.

4799 (b) The State Drug Court Advisory Committee may also
4800 make recommendations to the Chief Justice, the Director of the
4801 Administrative Office of Courts and state officials concerning
4802 improvements to Veterans Treatment Court policies and procedures.

4803 (c) The State Drug Court Advisory Committee shall act
4804 as an arbiter of disputes arising out of the operation of Veterans
4805 Treatment Court programs established under this article and make
4806 recommendations to improve the Veterans Treatment Court programs.

4807 (6) **Funding for Veterans Treatment Courts.** (a) All monies
4808 received from any source by the Veterans Treatment Court program
4809 shall be accumulated in a fund to be used only for Veterans
4810 Treatment Court purposes. Any funds remaining in this fund at the
4811 end of the fiscal year shall not lapse into the General Fund, but
4812 shall be retained in the Veterans Treatment Court fund for the
4813 funding of further activities by the Veterans Treatment Court
4814 program.

4815 (b) A Veterans Treatment Court program may apply for
4816 and receive the following:

4817 (i) Gifts, bequests and donations from private
4818 sources.



4824 (7) **Immunity.** The coordinator and members of the
4825 professional and administrative staff of the Veterans Treatment
4826 Court program who perform duties in good faith under this article
4827 are immune from civil liability for:

4828 (a) Acts or omissions in providing services under this
4829 article; and

4830 (b) The reasonable exercise of discretion in
4831 determining eligibility to participate in the Veterans Treatment
4832 Court program.

4833 (8) This section shall be codified as a separate article in
4834 Title 9, Mississippi Code of 1972.

4835 **SECTION 85.** This act shall take effect and be in force from
4836 and after July 1, 2014, and shall stand repealed on June 30, 2014.

